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
Michael Long
Jonathan Stevens
Brad Rabinowitz
Missa Aloisi
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A.J. LaRosa
Alexandra Zipparo (Alt.)
Jim Drummond (Alt.)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday, July 7, 2015
PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on **Tuesday July 7, 2015 at 5:00 p.m. in Contois Auditorium, City Hall.**

1. **15-1219AP; 111 Colchester Ave (UC, Ward 1) Fletcher Allen Health Care, Inc.**
   Appeal for Code Enforcement Decision of an unsubstantiated complaint pertaining to the construction by the Medical Center on an acre of land zoned for university use.

2. **15-0922CA/MA; 451 Appletree Point Road (RL, Ward 4N) Alfred Senecal**
   Re-opened. Demolition of existing structures, construct new duplex, associated site improvements and lot line adjustment. (Project Manager, Scott Gustin)

3. **15-0923CA/MA; 465 Appletree Point Road (RL, Ward 4N) Alfred Senecal**
   Re-opened. New residential duplex, utilities and driveway (Project Manager, Scott Gustin)

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

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

This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/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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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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Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary

TO: Development Review Board
FROM: Scott Gustin
DATE: July 7, 2015
RE: 15-0922CA; 451 Appletree Point Road

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

Zone: WRL Ward: 4N

Owner/Applicant: Al Senecal / Brad Rabinowitz

Request: Demo existing structures, construct new duplex and associated site improvements. Lot line adjustment included.

Applicable Regulations:
Article 3 (Applications and Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking), Article 10 (Subdivision)

Background Information:
The applicant is seeking approval to demolish an existing seasonal camp and boathouse and to construct a new duplex, driveway, and related site improvements. As something other than a single family home, the project's location along the lakeshore requires "major impact" review with the Development Review Board. The proposed duplex also requires "conditional use" review. Note that the proposed duplex is essentially a single family home with a small accessory apartment; however, the applicant wishes to seek approval as a duplex for flexibility in ownership.

Note that this property received variance approval from the front yard setback. Based on the average of neighboring properties, the front yard setback was in the lake. That variance approval, granted July 1, 2014, resulted in a 25' front yard setback for the proposed construction. Finally, note that a boundary line adjustment with the neighboring 465 Appletree Point Road is also included in this application.

The Conservation Board reviewed this application April 6, 2015 and unanimously recommended approval as presented.

The Design Advisory Board reviewed this application April 14, 2015 and unanimously recommended approval as presented.

The Development Review Board reviewed this application at their May 19, 2015 meeting, closed the hearing, and deliberated on June 1. At the deliberative meeting, the Board found a discrepancy

in lot coverage between the application materials and those associated with the related stormwater review. Lot coverage within the 75' waterfront setback is particularly important for this application. The DRB moved to reopen the public hearing to allow the applicant an opportunity to present calculations and a site plan showing the amount of existing and proposed lot coverage within the 75' waterfront setback. The applicant has submitted supplemental information per the DRB's action. This new information is addressed in Sec. 4.4.5 (d) 1 B *(i)* of these findings. No other changes have been made.

Previous zoning actions for this property are as follows:

- 7/1/14, Approval of front yard setback variance
- 7/26/04, Approval of 2-lot subdivision
- 1/13/04, Denial of 3-lot subdivision

Recommendation: <u>Major Impact & Certificate of Appropriateness approval</u> as per, and subject to, the following findings and conditions:

I. Findings
Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
Sec. 3.5.6, Review Criteria
(a) Conditional Use Review Standards
1. The capacity of existing or planned community facilities;
The proposed development will require municipal water and sewer service. A municipal water line already runs by the property. A new pump station and force main will be installed to connect to the municipal wastewater system. Review and approval by the Department of Public Works will be required. Public Works will also need to verify adequate capacity to serve the development. A State of Vermont wastewater permit has already been obtained. **(Affirmative finding as conditioned)**

2. The character of the area affected;
The property is located on the east-facing side of Appletree Point within the Waterfront Residential Low Density (WRL) zone. There is an existing vacant camp structure on the property and several homes along the western side of the point; however, much of the peninsula is undeveloped. As with the Residential Low Density zone, the WRL zone is primarily intended for low density residential development in the form of detached single family homes and duplexes. The WRL zone is distinguished by its close proximity to the lake and a greater consideration of public views from the lake and stormwater runoff. The proposed duplex is consistent with the intent of the WRL zone. The proposed home will be set back 35' – 45' from the 100' lakeshore elevation, and much of the existing vegetation along the lakeshore will be retained. Stormwater management has been reviewed and approved by the Stormwater Administrator. **(Affirmative finding)**

3. Traffic on roads and highways in the vicinity;
No traffic information has been provided; however, traffic associated with the new duplex is expected to be minimal. **(Affirmative finding)**

4. Bylaws then in effect;

The project as conditioned is in compliance with all applicable bylaws as reflected in these findings. **(Affirmative finding)**

5. Utilization of renewable energy resources;
The utilization of alternative energy has not been incorporated into this proposal. The proposed construction does not preclude such utilization in the future. **(Affirmative finding)**

6. Cumulative impacts of the proposed use;
Residential homes are allowed in the WRL zone. As a result, this criterion requires that cumulative impacts be considered negligible. **(Affirmative finding)**

7. Functional family;
There is no request to exceed 4 unrelated adults within either duplex unit. **(Not applicable)**

8. Vehicular access points;
The duplex will be served by a private driveway with access onto Appletree Point Road. **(Affirmative finding)**

9. Signs;
No signs are included in this proposal.

10. Mitigation measures;
The proposed development is not expected to generate any noxious effects such as excessive noise, glare, or emissions. **(Affirmative finding)**

11. Time limits for construction;
The project is to be constructed within the standard 2-year time frame. **(Affirmative finding as conditioned)**

12. Hours of operation and construction;
Hours of operation do not apply to the proposed duplex. No construction schedule is proposed. Other projects with nearby residences have days and hours of construction limited to Monday-Friday 7:00 am – 6:00 pm. Limited work may extend outside this schedule to extend to Saturday 9:00 AM – 5:00 PM only after obtaining approval from the Development Review Board through correspondence rather than a scheduled hearing. No construction on Sunday. **(Affirmative finding as conditioned)**

13. Future enlargement or alterations;
As with anything else, any future enlargement or alteration to the development will require zoning review under the regulations in effect at that time. **(Affirmative finding)**

14. Performance standards;
Performance standards relating to outdoor lighting and erosion control are addressed under Article 5 of these findings.

15. Conditions and safeguards;
Approval of this project will be conditioned to implement the purposes of the zoning regulations. **(Affirmative finding)**

(b) Major Impact Review Standards

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

A stormwater management plan has been submitted and approved by the Stormwater Administrator (see Sec. 5.5.3). No significant air or noise pollution is anticipated as a result of the proposed duplex. **(Affirmative finding)**

2. Have sufficient water available for its needs;

Sufficient municipal water service is available to serve the development. **(Affirmative finding)**

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

See item 2 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;

See Sec 5.5.3.

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

See Sec. 3.5.6 (a) 3 for traffic information. The proposed duplex is expected to have minimal impacts on the city's transportation infrastructure. Impact fees will be paid to help offset what impacts there are. **(Affirmative finding as conditioned)**

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

School age children may, or may not, live in the duplex. In any event, no unreasonable burden on the city's ability to provide educational services are expected. Impact fees will be paid to help offset what impacts there are. **(Affirmative finding as conditioned)**

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

The proposed development will generate minor additional impacts on city services; however, those impacts can be accommodated. Impact fees will be paid to help offset impacts generated. **(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 or any part of the city;

The subject property contains no rare or irreplaceable natural communities. The Lake Champlain shoreline is identified as a significant natural area and is protected by the Riparian & Littoral Conservation Zone (see Sec. 4.5.4 for details). The camp on the property is not historically significant, and its demolition will not adversely impact Burlington's historic resources. Appletree Point generally is an archeologically sensitive area; however, the subject property contains no identified points of archaeological significance. Lastly, the demolition of the existing camp immediately along the shoreline and replacement with a new structure set further inland will not have an undue adverse impact on the scenic or natural beauty of the area. **(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;

The proposed duplex will replace a vacant camp on a property zoned for low density residential development. The proposed construction will have no adverse impact on the city's present or future growth patterns. **(Affirmative finding)**

10. Be in substantial conformance with the city's municipal development plan;
The proposed development is very small in scale and "major impact" in name only. Insofar as the duplex is consistent with the intent of the WRL zone, is of a scale consistent with other homes in the area (City of Neighborhoods, pg. I-24), and will comply with the city's current energy efficiency standards (Sec. VIII), it can be found in substantial conformance with the city's municipal development plan. **(Affirmative finding)**

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 proposed duplex will provide two new housing units in an area of the city zoned for low density residential development. Its construction will have no adverse impact on the present or projected housing needs of the city. **(Affirmative finding)**

12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.
Minimal impacts on the city's park and recreation needs are anticipated as a result of the duplex. Impact fees will be paid to help offset these impacts. **(Affirmative finding as conditioned)**

Article 4: Maps & Districts
Sec. 4.4.5, Residential Districts:
(a) Purpose
(2) Waterfront Residential Low Density (WRL)
The subject property is located in the WRL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes with consideration given to design review. The proposed duplex is consistent with this purpose. **(Affirmative finding)**

(b) Dimensional Standards & Density
The property, with the lot line adjustment with neighboring 465 Appletree Point Rd, will have 150' of road frontage and 22,043 sf area. Both well above the 100' and 15,840 sf, respectively, needed for a duplex in the Larger Lot Overlay that affects this property.

The 2 residential units proposed on the 0.5 acre lot is acceptable. For duplexes, residential density is limited to 5.5 units per acre in the Larger Lot Overlay.

Lot coverage will come to 19.8%, well below the 35% limit permitted.

The proposed front yard setback is 25' as approved via previously granted variance. Side yard setbacks vary between 15' and 17.5' with the slightly tapered lot. As proposed, the home is 40' at its closest to a side property line. There is no rear yard setback; rather, there is a waterfront setback. The standard waterfront setback requirement is 75'; however, as noted during review of the July 2014 variance request, there are exceptions as noted in (d) *District Specific Regulations*, 1 below. As proposed, the new duplex would be set back an acceptable 35' – 45' from the 100' elevation, depending on the curvature of the shoreline.

The multiple roof planes and dormers make a clear height measurement to the midpoint of the roof rise elusive. It appears to be about 20.' The very peak of the structure is 33', below the 35' height limit. **(Affirmative finding)**

(c) Permitted & Conditional Uses
The proposed duplex is a conditional use in the WRL zone. Conditional use criteria are addressed under Article 3 above. **(Affirmative finding)**

(d) District Specific Regulations
1. Setbacks
B. Encroachment into the Waterfront Setback.
(i) Replacement of Existing Structure
The existing camp structure on the subject property sits about 17' from the 100' lakeshore elevation. As noted above, the standard setback requirement is 75.' This provision allows replacement structures to encroach into the standard 75' setback so long as the area or extent of encroachment does not increase. As noted above, the new duplex will be set back 35' – 45' from the 100' elevation and is acceptable.

The area of existing structural encroachment (the camp and boathouse buildings) within the 75' waterfront setback is 1,347 sf. The proposed building area (the new home) is 1,342 sf and is acceptable. Note that this retention (and slight lessening) of nonconformity is further supported by Sec. 5.3.5, *Nonconforming Structures* (b) *Demolition*. This section specifically allows for demolition of nonconforming structures and replacement thereof within 1 year so long as the degree of nonconformity does not increase. Such is the case here.

The previous discrepancy in lot coverage numbers between the application materials and the related stormwater information was due to the segment of existing roadway through the property. As the road is private, the front property line sits approximately in the middle of it. The area of roadway is noted in the revised project plans and will not change.

The proposed development complies with this criterion. **(Affirmative finding)**

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

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

4. Accessory Residential Structures and Uses
The attached garage has a 275 sf footprint; less than 50% of the main home's 1,342 sf footprint. **(Affirmative finding)**

5. Residential Density
The duplex is subject to the functional family provisions of the Comprehensive Development Ordinance. **(Affirmative finding)**

6. Uses

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

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

Sec. 4.5.4, Natural Resource Protection Overlay (NR) District
(c) District Specific Regulations: Riparian and Littoral Conservation Zone
The subject property is wholly affected by the Riparian and Littoral Conservation Zone (250' width from the 100' lakeshore elevation). This overlay zone limits the clearing of vegetation and new stormwater outfalls. As proposed, some dead or dying trees will be removed, but most of the existing vegetation along the lakeshore will be retained. The project plans clearly depict vegetation to be removed or retained. No new stormwater outfalls are proposed. A basic stormwater management plan has been reviewed and approved by the Stormwater Administrator (see Sec. 5.5.3). As noted previously, the Conservation Board reviewed this project under this criterion and recommended project approval as proposed. **(Affirmative finding)**

(f) District Specific Regulations: Special Flood Hazard Area
This lakeshore property is partially affected by the special flood hazard area (SFHA). All areas along the lakeshore under the 102' elevation are within the SFHA. Except for a new stairway to the water, none of the proposed construction will take place within the SFHA. **(Affirmative finding)**

Article 5: Citywide General Regulations
Sec. 5.2.3, Lot Coverage Requirements
See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation
(Not applicable)

Sec. 5.2.5, Setbacks
See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits
See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations
See Sec. 4.4.5 (b) above.

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

Sec. 5.5.2, Outdoor Lighting
New outdoor lighting is proposed and consists of building mounted fixtures to illuminate building entries and post and bollard fixtures to illuminate the circulation area and new stairs to the lakeshore. Locations are noted, and cutsheets have been provided. All are acceptable residential fixtures generating low levels of illumination. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control
As more than 400 sf of earth disturbance is proposed, a "small project erosion control" form has been provided. A residential stormwater management plan has also been provided. Stormwater management is basic and amounts to directing runoff onto pervious surfaces for infiltration. Both have been reviewed and approved by Conservation Board and the Stormwater Administrator. Those approvals are incorporated into this permit. **(Affirmative finding as conditioned)**

Article 6: Development Review Standards
Part 1, Land Division Design Standards
No land division is included in this proposal; however, a lot line adjustment between this property and neighboring 465 Appletree Point Road is proposed. The proposed adjustment is of the common side property boundary and will not affect any of the criteria under this section. **(Affirmative finding)**

Part 2, Site Plan Design Standards
Sec. 6.2.2, Review Standards
(a) Protection of important natural features
This lakeshore site is lightly wooded. Most of the trees are concentrated along the shoreline. Some tree removal is proposed as noted on the landscape and planting plan; however, a number of the existing trees will remain. The lakeshore itself is a significant natural feature and is protected by the riparian and littoral conservation zone. This overlay limits tree clearing and also requires stormwater management. The stormwater management plan has been reviewed and approved by the Conservation Board and the Stormwater Administrator. **(Affirmative finding)**

(b) Topographical alterations
The property slopes gently towards the lake and then drops significantly down to the lake along the immediate shoreline. The site of the proposed duplex is generally flat and will remain so. A soils analysis has been done, and no blasting is included in this proposal. Removal of the existing camp and boathouse along the shoreline will require some grading. That work will result in grades reflecting the existing grades on either side of these structures. **(Affirmative finding)**

(c) Protection of important public views
The subject property is not affected by any identified public view corridor. This criterion is typically applied to developments fronting such corridors. An individual interested in this application has asserted that, in light of the design review considerations of the WRL zone, views of the construction from the lake should be considered. This criterion is written broadly enough that that assertion may be well based. The proposed home will indeed be visible from the lake. Virtually any construction would be. The new home will be set back and at least partially behind lakeshore vegetation. The existing camp structure is set closer to the lakeshore with little vegetative screening. **(Affirmative finding)**

(d) Protection of important cultural resources
The property is within an archaeologically sensitive area; however, there are no specifically identified archaeologic sites on the property. This archaeological sensitivity stems from the property's lakeshore location. If, during construction, artifacts are unearthed, it is the applicant's responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance. **(Affirmative finding as conditioned)**

(e) Supporting the use of alternative energy
There is no indication that the proposed home will utilize alternative energy. Solar energy utilization is encouraged. In any event, the home will not adversely impact the actual or potential use of alternative energies by neighboring properties. **(Affirmative finding)**

(f) Brownfield sites
The subject property is not an identified brownfield. **(Affirmative finding)**

(g) Provide for nature's events
As total lot coverage will exceed 2,500 sf, a residential stormwater plan has been provided. All of the impervious surface associated with this project is disconnected from the municipal stormwater system, and stormwater will infiltrate into the ground as it does now. As noted above, the city's stormwater program has reviewed the proposed stormwater management.

The front entrance into the home is sheltered, and ample room is available onsite for seasonal snow storage. **(Affirmative finding)**

(h) Building location and orientation
The proposed duplex is relatively far from existing homes on Appletree Point Road (~ 360' from 395 Appletree Point Rd and ~ 220' from 440 Appletree Point Rd). It will be set 25' from the road – the same front setback as that of the to-be-built neighboring home at 465 Appletree Point Road. Its main entrance faces the road and is clearly identifiable. The small front porch accentuates the primary entrance. The secondary entrance (into the 2nd unit) is set off to the side but also faces the road. The garage is set back more than the minimum required 25' from the road and is set behind the front plane of the home. The width of the garage is 12' or 19.7% of the total building width of 61'. The width of the garage complies with the maximum permissible 35% of the width of the entire structure. **(Affirmative finding)**

(i) Vehicular access
A private driveway will provide adequate access to the duplex. It will access the attached garage and surface parking to the side. A turn-around is provided in front of the home; however, it remains behind the front yard setback. **(Affirmative finding)**

(j) Pedestrian access
A stone front walkway is proposed and will connect to the private road. **(Affirmative finding)**

(k) Accessibility for the handicapped
No handicap accessibility is evident or required with this proposal. **(Affirmative finding)**

(l) Parking and circulation
Four parking spaces are provided; three in the driveway and one in the attached garage. These spaces meet the minimum parking requirement of 2 spaces per dwelling unit. Circulation is simple with access provided to the garage and surface parking spaces. **(Affirmative finding)**

(m) Landscaping and fences
Clearing limits are depicted. Much of the existing vegetation will be retained. New landscaping is proposed and consists of a variety of shrubs and one new peach tree. Much of the new landscaping is proposed along the roadside and will provide some buffering between the new home and the

road. No new fencing is proposed; however, a boulder wall will be installed to help shore up the slope where the existing camp will be removed. Topographic information indicates the bottom of this wall will be above the 102' elevation and out of the lake's flood zone. New concrete stairs will provide access to the lakeshore. **(Affirmative finding)**

(n) Public plazas and open space
No public plaza or open space is included or required in this proposal. **(Not applicable)**

(o) Outdoor lighting
See Sec. 5.5.2.

(p) Integrate infrastructure into the design
New utility lines must be buried. No mechanical equipment is depicted on the plan; however, the applicant has noted that an AC compressor will be located behind the building. This item must be depicted on the site plan. **(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 duplex are consistent with that of existing homes along Appletree Point Road. The proposed gross floor area (GFA) is 2,461 sf. Some nearby homes include 395 Appletree Point Rd at 3,432 sf GFA, 440 Appletree Point Rd at 3,989 sf GFA, 490 Appletree Point Rd at 3,831 sf GFA, and 554 Appletree Point Rd at 4,724 sf GFA. The proposed home affords ample living space while staying within the constraints established by the existing structures within the lakeshore setback. The front façade includes a well-defined symmetrical front entry. Varying rooflines, dormers, and eve projections serve to articulate separate volumes within the overall structure. **(Affirmative finding)**

2. Roofs and Rooflines
As noted above, the proposed structure incorporates numerous rooflines. Generally, however, it may be seen as a gable roof, particularly as viewed from the road. The proposed roof is appropriate as part of this residential building. **(Affirmative finding)**

3. Building Openings
The primary front entrance is clearly articulated and is sheltered by a small front porch. Fenestration is appropriately scaled and placed in consistent rhythm throughout the building. **(Affirmative finding)**

(b) Protection of important architectural resources
The seasonal camp structure proposed for demolition is not historically significant. Its removal will not adversely impact Burlington's wealth of historic buildings. **(Affirmative finding)**

(c) Protection of important public views
See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

As noted above, the front entry to the proposed home is clearly articulated. There are no large blank walls or expanses of roof. Fenestration, roof variations, and architectural detailing work successfully to provide an active and inviting street elevation. **(Affirmative finding)**

(e) Quality of materials
The proposed home will be clad in cedar shingles with tongue-and-grove siding accents. Painted white AZEK trim is noted. Asphalt shingles will be installed. Combination fiberglass and wood windows will be installed. Railing materials are composite. The materials proposed are of acceptable quality and durability. **(Affirmative finding)**

(f) Reduce energy utilization
The proposed building must comply with the current energy efficiency standards of Burlington and the State of Vermont. **(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 appropriately located on a side elevation near the entrance to the apartment. **(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 as conditioned)**

Article 8: Parking
Sec. 8.1.8, Minimum Off-Street Parking Requirements
The subject property is located in the neighborhood parking district. As such, the duplex requires 4 parking spaces (2 per dwelling unit). All four parking spaces will be provided onsite; 1 in the garage and 3 within the driveway. **(Affirmative finding)**

Article 10: Subdivision
No subdivision of land is included in this proposal; however, a lot line adjustment with neighboring 465 Appletree Point Rd is included. A boundary line adjustment plan clearly depicts the proposed boundary adjustment. The required endorsement block for the Administrative Officer's signature per Sec. 10.1.5, *Lot Line Adjustments*, (a) is missing. All of the signature blocks provided relate to subdivisions and should be deleted (except for the surveyor's endorsement). **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, revised plans shall be submitted subject to staff review and approval. Revised plans shall depict:
    a. The proposed AC compressor; and,
    b. The required Administrative Officer's signature block per Sec. 10.1.5.
2. **Prior to release of the zoning permit**, the new pump station and force main shall be reviewed and approved by the Department of Public Works. Verification of wastewater capacity to serve the proposed duplex shall also be obtained from Public Works.

3. This permit incorporates the EPSC and Stormwater Management approvals issued by the Stormwater Administrator on April 3, 2015.
4. Days and hours of construction shall be limited to Monday-Friday 7:00 am – 6:00 pm. Limited work may extend outside this schedule to extend to Saturday 9:00 AM – 5:00 PM only after obtaining approval from the Development Review Board through correspondence rather than a scheduled hearing. No construction on Sunday
5. In the event that artifacts are uncovered during excavation, it is the applicant's responsibility to contact the Vermont Division for Historic Preservation for further guidance.
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 of the city and state as required.
7. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the net new square footage of the proposed development.
8. Standard permit conditions 1-15.

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

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TO: Development Review Board
FROM: Scott Gustin
DATE: July 7, 2015
RE: 15-0923CA; 465 Appletree Point Road

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Zone: WRL Ward: 4N

Owner/Applicant: Al Senecal / Brad Rabinowitz

Request: Construct new duplex and associated site improvements. Lot line adjustment included.

Applicable Regulations:
Article 3 (Applications and Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking), Article 10 (Subdivision)

Background Information:
The applicant is seeking approval to construct a new duplex, driveway, and related site improvements on a vacant property. The proposed duplex's location along the lakeshore requires "major impact" review with the Development Review Board. The proposed duplex also require conditional use review. Note that this property received variance approval from the front yard setback. Based on the average of neighboring properties, the front yard setback was nearly in the lake. That variance approval, granted July 1, 2014, resulted in a 25' front yard setback for the proposed construction. A boundary line adjustment with the neighboring 451 Appletree Point Road is also included in this application. As with the proposal at 451 Appletree Point Rd, the proposed duplex is essentially a single family home with a small accessory apartment; however, the applicant wishes to seek approval as a duplex for flexibility in ownership.

The Conservation Board reviewed this application April 6, 2015 and unanimously recommended approval as presented.

The Design Advisory Board reviewed this application April 14, 2015 and unanimously recommended approval as presented.

The Development Review Board reviewed this application at their May 19, 2015 meeting, closed the hearing, and deliberated on June 1. At the deliberative meeting, the Board found a discrepancy in lot coverage between the application materials and those associated with the related stormwater review. The DRB moved to reopen the public hearing to allow the applicant an opportunity to present calculations and a site plan showing the amount of existing and proposed lot coverage

within the 75' waterfront setback. The applicant has submitted supplemental information per the DRB's action. This new information is addressed in Sec. 4.4.5 (d) 1 B *(i)* of these findings. No other changes have been made.

Previous zoning actions for this property are as follows:

- 7/1/14, Approval of front yard setback variance
- 7/26/04, Approval of 2-lot subdivision
- 1/13/04, Denial of 3-lot subdivision

Recommendation: <u>Major Impact & Certificate of Appropriateness approval</u> as per, and subject to, the following findings and conditions:

I. Findings
Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
Sec. 3.5.6, Review Criteria
(a) Conditional Use Review Standards
1. The capacity of existing or planned community facilities;
The proposed development will require municipal water and sewer service. A municipal water line already runs by the property. A new pump station and force main will be installed to connect to the municipal wastewater system. Review and approval by the Department of Public Works will be required. Public Works will also need to verify adequate capacity to serve the development. A State of Vermont wastewater permit has already been obtained. **(Affirmative finding as conditioned)**

2. The character of the area affected;
The property is located on the east-facing side of Appletree Point within the Waterfront Residential Low Density (WRL) zone. The subject property is presently vacant. Several homes are located along the western side of the point; however, much of the peninsula is undeveloped. As with the Residential Low Density zone, the WRL zone is primarily intended for low density residential development in the form of detached single family homes and duplexes. The WRL zone is distinguished by its close proximity to the lake and a greater consideration of public views from the lake and stormwater runoff. The proposed duplex is consistent with the intent of the WRL zone. Most of the proposed home will be set back 20' – 40' from the 100' lakeshore elevation (a rear porch will reach as close at 17'), and much of the existing vegetation along the lakeshore will be retained. Stormwater management has been reviewed and approved by the Stormwater Administrator. **(Affirmative finding)**

3. Traffic on roads and highways in the vicinity;
No traffic information has been provided; however, traffic associated with the new duplex is expected to be minimal. **(Affirmative finding)**

4. Bylaws then in effect;
The project as conditioned is in compliance with all applicable bylaws as reflected in these findings. **(Affirmative finding)**

5. Utilization of renewable energy resources;

The utilization of alternative energy has not been incorporated into this proposal. The proposed construction does not preclude such utilization in the future. **(Affirmative finding)**

6. Cumulative impacts of the proposed use;
Residential homes are allowed in the WRL zone. As a result, this criterion requires that cumulative impacts be considered negligible. **(Affirmative finding)**

7. Functional family;
There is no request to exceed 4 unrelated adults within either duplex unit. **(Not applicable)**

8. Vehicular access points;
The duplex will be served by a private driveway with access onto Appletree Point Road. **(Affirmative finding)**

9. Signs;
No signs are included in this proposal.

10. Mitigation measures;
The proposed development is not expected to generate any noxious effects such as excessive noise, glare, or emissions. **(Affirmative finding)**

11. Time limits for construction;
The project is to be constructed within the standard 2-year time frame. **(Affirmative finding as conditioned)**

12. Hours of operation and construction;
Hours of operation do not apply to the proposed duplex. No construction schedule is proposed. Other projects with nearby residences have days and hours of construction limited to Monday-Friday 7:00 am – 6:00 pm. Limited work may extend outside this schedule to extend to Saturday 9:00 AM – 5:00 PM only after obtaining approval from the Development Review Board through correspondence rather than a scheduled hearing. No construction on Sunday. **(Affirmative finding as conditioned)**

13. Future enlargement or alterations;
As with anything else, any future enlargement or alteration to the development will require zoning review under the regulations in effect at that time. **(Affirmative finding)**

14. Performance standards;
Performance standards relating to outdoor lighting and erosion control are addressed under Article 5 of these findings.

15. Conditions and safeguards;
Approval of this project will be conditioned to implement the purposes of the zoning regulations. **(Affirmative finding)**

(b) Major Impact Review Standards
1. Not result in undue water, air, or noise pollution;

A stormwater management plan has been submitted and approved by the Stormwater Administrator (see Sec. 5.5.3). No significant air or noise pollution is anticipated as a result of the proposed duplex. **(Affirmative finding)**

2. Have sufficient water available for its needs;
Sufficient municipal water service is available to serve the development. **(Affirmative finding)**

3. Not unreasonably burden the city's present or future water supply or distribution system;
See item 2 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;
See Sec 5.5.3.

5. Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;
See Sec. 3.5.6 (a) 3 for traffic information. The proposed duplex is expected to have minimal impacts on the city's transportation infrastructure. Impact fees will be paid to help offset what impacts there are. **(Affirmative finding as conditioned)**

6. Not cause an unreasonable burden on the city's ability to provide educational services;
School age children may, or may not, live in the duplex. In any event, no unreasonable burden on the city's ability to provide educational services are expected. Impact fees will be paid to help offset what impacts there are. **(Affirmative finding as conditioned)**

7. Not place an unreasonable burden on the city's ability to provide municipal services;
The proposed development will generate minor additional impacts on city services; however, those impacts can be accommodated. Impact fees will be paid to help offset impacts generated. **(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 or any part of the city;
The vacant property contains no rare or irreplaceable natural communities. The Lake Champlain shoreline is identified as a significant natural area and is protected by the Riparian & Littoral Conservation Zone (see Sec. 4.5.4 for details). Appletree Point generally is an archeologically sensitive area; however, the subject property contains no identified points of archaeological significance. Lastly, construction of a new home set behind existing lakeshore vegetation will not have an undue adverse impact on the scenic or natural beauty of the area. **(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;
The proposed duplex will be constructed on a property zoned for low density residential development. The proposed construction will have no adverse impact on the city's present or future growth patterns. **(Affirmative finding)**

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

The proposed development is very small in scale and "major impact" in name only. Insofar as the duplex is consistent with the intent of the WRL zone, is of a scale consistent with other homes in the area (City of Neighborhoods, pg. I-24), and will comply with the city's current energy efficiency standards (Sec. VIII), it can be found in substantial conformance with the city's municipal development plan. **(Affirmative finding)**

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 proposed duplex will provide two new housing units in an area of the city zoned for low density residential development. Its construction will have no adverse impact on the present or projected housing needs of the city. **(Affirmative finding)**

12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.
Minimal impacts on the city's park and recreation needs are anticipated as a result of the duplex. Impact fees will be paid to help offset these impacts. **(Affirmative finding as conditioned)**

Article 4: Maps & Districts
Sec. 4.4.5, Residential Districts:
(a) Purpose
(2) Waterfront Residential Low Density (WRL)
The subject property is located in the WRL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes with consideration given to design review. The proposed duplex is consistent with this purpose. **(Affirmative finding)**

(b) Dimensional Standards & Density
The property, with the lot line adjustment with neighboring 451 Appletree Point Rd, will have 180' of road frontage and 17,417 sf area. Both well above the 100' and 15,840 sf, respectively, needed for a duplex in the Larger Lot Overlay that affects this property.

The 2 residential units proposed on the 0.4 acre lot is acceptable. For duplexes, residential density is limited to 5.5 units per acre in the Larger Lot Overlay.

Lot coverage will come to 29.8%, well below the 35% limit permitted.

The proposed front yard setback is 25' as approved via previously granted variance. The minimum side yard setback is 18.' As proposed, the home is 30' at its closest to a side property line. There is no rear yard setback; rather, there is a waterfront setback. The standard waterfront setback requirement is 75'; however, as noted during review of the July 2014 variance request, there are exceptions as noted in (d) *District Specific Regulations*, 1 below. As proposed, the new duplex would be set back an acceptable 17' from the 100' elevation, depending on the curvature of the shoreline.

The midpoint of the roof appears to be about 25.' The very peak of the structure is 31', below the 35' height limit. **(Affirmative finding)**

(c) Permitted & Conditional Uses

The proposed duplex is a conditional use in the WRL zone. Conditional use criteria are addressed under Article 3 above. **(Affirmative finding)**

(d) District Specific Regulations
1. Setbacks
B. Encroachment into the Waterfront Setback.
(ii) Averaging of Setbacks of Existing Structures
This criterion allows new construction to observe a waterfront setback based on the average waterfront setback of existing principal structures within 150.' In this case, the existing camp on neighboring 451 Appletree Point Rd is set back 17' from the 100' lakeshore elevation. The proposed duplex will be set back 17.' As noted previously, this 17' setback will be for the waterfront porch. The bulk of the structure will be set further back (20' – 40').

While the degree of encroachment into the 75' waterfront setback is particularly important for the neighboring property at 451 Appletree Point Road, it is not as important for this property. On 451, the new building footprint is limited to the area of existing building footprints. On this vacant property; however, the new building must only be located behind the 17' waterfront setback established by the existing camp at 451. There is no limitation on the area of encroachment. Of course, standard lot coverage limits apply and have been adhered to.

As with 451, the prior discrepancy in lot coverage numbers between the application materials and the related stormwater information was due to the segment of existing roadway through the property. As the road is private, the front property line sits approximately in the middle of it. The area of roadway is noted in the revised project plans and will not change.

The proposed development complies with this criterion. **(Affirmative finding)**

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

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

4. Accessory Residential Structures and Uses
The attached garage has a footprint of ~720 sf; less than 50% of the main home's 2,512 sf footprint. **(Affirmative finding)**

5. Residential Density
The duplex is subject to the functional family provisions of the Comprehensive Development Ordinance. **(Affirmative finding)**

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

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

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

(c) District Specific Regulations: Riparian and Littoral Conservation Zone
The subject property is wholly affected by the Riparian and Littoral Conservation Zone (250' width from the 100' lakeshore elevation). This overlay zone limits the clearing of vegetation and new stormwater outfalls. As proposed, some dead or dying trees will be removed, but most of the existing vegetation along the lakeshore will be retained. The project plans clearly depict vegetation to be removed or retained. No new stormwater outfalls are proposed. A basic stormwater management plan has been reviewed and approved by the Stormwater Administrator (see Sec. 5.5.3). As noted previously, the Conservation Board reviewed this project under this criterion and recommended project approval as proposed. **(Affirmative finding)**

(f) District Specific Regulations: Special Flood Hazard Area
This lakeshore property is partially affected by the special flood hazard area (SFHA). All areas along the lakeshore under the 102' elevation are within the SFHA. Except for a new stairway to the water, none of the proposed construction will take place within the SFHA. **(Affirmative finding)**

Article 5: Citywide General Regulations
Sec. 5.2.3, Lot Coverage Requirements
See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation
(Not applicable)

Sec. 5.2.5, Setbacks
See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits
See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations
See Sec. 4.4.5 (b) above.

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

Sec. 5.5.2, Outdoor Lighting
New outdoor lighting is proposed and mirrors that at 451 Appletree Point Road. It consists of building mounted fixtures to illuminate building entries and post and bollard fixtures to illuminate the circulation area and new stairs to the lakeshore. Locations are noted, and cutsheets have been provided. All are acceptable residential fixtures generating low levels of illumination.
(Affirmative finding)

Sec. 5.5.3, Stormwater and Erosion Control
As more than 400 sf of earth disturbance is proposed, a "small project erosion control" form has been provided. A residential stormwater management plan has also been provided. Stormwater management is basic and amounts to directing runoff onto pervious surfaces for infiltration. Both

have been reviewed and approved by Conservation Board and the Stormwater Administrator. Those approvals are incorporated into this permit. **(Affirmative finding as conditioned)**

Article 6: Development Review Standards
Part 1, Land Division Design Standards
No land division is included in this proposal; however, a lot line adjustment between this property and neighboring 451 Appletree Point Road is proposed. The proposed adjustment is of the common side property boundary and will not affect any of the criteria under this section. **(Affirmative finding)**

Part 2, Site Plan Design Standards
Sec. 6.2.2, Review Standards
(a) Protection of important natural features
As with neighboring 451 Appletree Point Road, this lakeshore site is lightly wooded. Some tree removal is proposed as noted on the landscape and planting plan; however, a number of the existing trees will remain. The lakeshore itself is a significant natural feature and is protected by the riparian and littoral conservation zone. This overlay limits tree clearing and also requires stormwater management. Stormwater management information has been provided. As required, the proposed construction has been reviewed and approved by the Conservation Board and the city's stormwater program staff. **(Affirmative finding)**

(b) Topographical alterations
The property slopes gently towards the lake and then drops significantly down to the lake along the immediate shoreline. The site of the proposed duplex is generally flat and will remain so. A soils analysis has been done, and no blasting is proposed. **(Affirmative finding)**

(c) Protection of important public views
The subject property is not affected by any identified public view corridor. This criterion is typically applied to developments fronting such corridors. An individual interested in this application has asserted that, in light of the design review considerations of the WRL zone, views of the construction from the lake should be considered. This criterion is written broadly enough that that assertion may be well based. The proposed home will indeed be visible from the lake. Virtually any construction would be. The new home will be set back and behind existing lakeshore vegetation. **(Affirmative finding)**

(d) Protection of important cultural resources
The property is within an archaeologically sensitive area; however, there are no specifically identified archaeologic sites on the property. This archaeological sensitivity stems from the property's lakeshore location. If, during construction, artifacts are unearthed, it is the applicant's responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance. **(Affirmative finding**

(e) Supporting the use of alternative energy
There is no indication that the proposed home will utilize alternative energy. Solar energy utilization is encouraged. In any event, the home will not adversely impact the actual or potential use of alternative energies by neighboring properties. **(Affirmative finding**

(f) Brownfield sites

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

(g) Provide for nature's events
As total lot coverage will exceed 2,500 sf, a residential stormwater plan has been provided. All of the impervious surface associated with this project is disconnected from the municipal stormwater system, and stormwater will infiltrate into the ground as it does now. As noted above, the city's stormwater program has reviewed the proposed stormwater management.

The front entrance into the home is sheltered within an open porch, and ample room is available onsite for seasonal snow storage. **(Affirmative finding)**

(h) Building location and orientation
The proposed duplex is relatively far from existing homes on Appletree Point Road (~ 360' from 395 Appletree Point Rd and ~ 220' from 440 Appletree Point Rd). It will be set 25' from the road – the same front setback as that of the to-be-built neighboring home at 451 Appletree Point Road. Its main entrance faces the road and is clearly identifiable. The open front porch provides an obvious and welcoming entry into the home. The secondary entrance (into the 2nd unit) is also within the front porch but oriented towards the north. The attached garage faces north, to the side. It is not oriented towards the road. **(Affirmative finding)**

(i) Vehicular access
A private driveway will provide adequate access to the duplex. It will access the two-bay attached garage. A turn-around is provided within the driveway and is set to the side of the home. **(Affirmative finding)**

(j) Pedestrian access
A stone front walkway is proposed and will connect to the private road. **(Affirmative finding)**

(k) Accessibility for the handicapped
No handicap accessibility is evident or required with this proposal. **(Affirmative finding)**

(l) Parking and circulation
Four parking spaces are provided; two in the driveway and two in the attached garage. These spaces meet the minimum parking requirement of 2 spaces per dwelling unit. Circulation is simple with access provided to the garage and surface parking spaces. **(Affirmative finding)**

(m) Landscaping and fences
Clearing limits are depicted. Much of the existing vegetation will be retained. New landscaping is proposed and consists of a variety of shrubs and two new cherry trees on either side of the driveway. As with the neighboring property to the north, much of the new landscaping is proposed along the roadside and will provide some buffering between the new home and the road. No new fencing is proposed; however, a boulder wall will be installed along a portion of the lakeshore. Topographic information indicates the bottom of this wall will be above the 102' elevation and out of the lake's flood zone. New concrete stairs will provide access to the lakeshore. **(Affirmative finding)**

(n) Public plazas and open space
No public plaza or open space is included or required in this proposal. **(Not applicable)**

(o) Outdoor lighting
See Sec. 5.5.2.

(p) Integrate infrastructure into the design
New utility lines must be buried. No mechanical equipment is depicted on the plan; however, the applicant has noted that an AC compressor will be located behind the building. This item must be depicted on the site plan. **(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 duplex are consistent with that of existing homes along Appletree Point Road. The proposed home is larger than that proposed at 451 Appletree Point Road but remains within the scale established by existing waterfront homes along Appletree Bay. The proposed gross floor area (GFA) is 3,659 sf. Some nearby homes include 395 Appletree Point Rd at 3,432 sf GFA, 440 Appletree Point Rd at 3,989 sf GFA, 490 Appletree Point Rd at 3,831 sf GFA, and 554 Appletree Point Rd at 4,724 sf GFA. The proposed shingle style home faces the road with a well-defined front entry. Varying rooflines, dormers, and distinct building sections serve to articulate separate volumes within the overall structure. **(Affirmative finding)**

2. Roofs and Rooflines
Gable roofs are proposed, albeit on different plans. Several dormers project from the upper roofs. The proposed roof forms are appropriately residential. **(Affirmative finding)**

3. Building Openings
The primary front entrance is clearly articulated and is sheltered by an open front porch. Fenestration is appropriately scaled and placed in consistent rhythm throughout the building. **(Affirmative finding)**

(b) Protection of important architectural resources
There are no historic structures on the subject property or nearby. Construction of the proposed duplex will have no adverse impacts on Burlington's historic structures. **(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 proposed home is clearly articulated and faces the road. There are no large blank walls or expanses of roof. Fenestration, roof variations, and architectural detailing work successfully to provide an active and inviting street elevation. **(Affirmative finding)**

(e) Quality of materials
The proposed home will be clad in cedar shingles with tongue-and-grove siding accents. Painted white AZEK trim is noted. Asphalt shingles will be installed on most of the roofs; however, standing seam metal will be installed on the dormers. Combination fiberglass and wood windows

will be installed. A natural stone veneer will be installed along the base of the attached garage. The materials proposed are of acceptable quality and durability. **(Affirmative finding)**

(f) Reduce energy utilization
The proposed building must comply with the current energy efficiency standards of Burlington and the State of Vermont. **(Affirmative finding as conditioned)**

(g) Make advertising features complimentary to the site
No advertising is included in this proposal. **(Not applicable)**

(h) Integrate infrastructure into the building design
Utility meters will be appropriately located on a side elevation near the entrance to the apartment. **(Affirmative finding)**

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

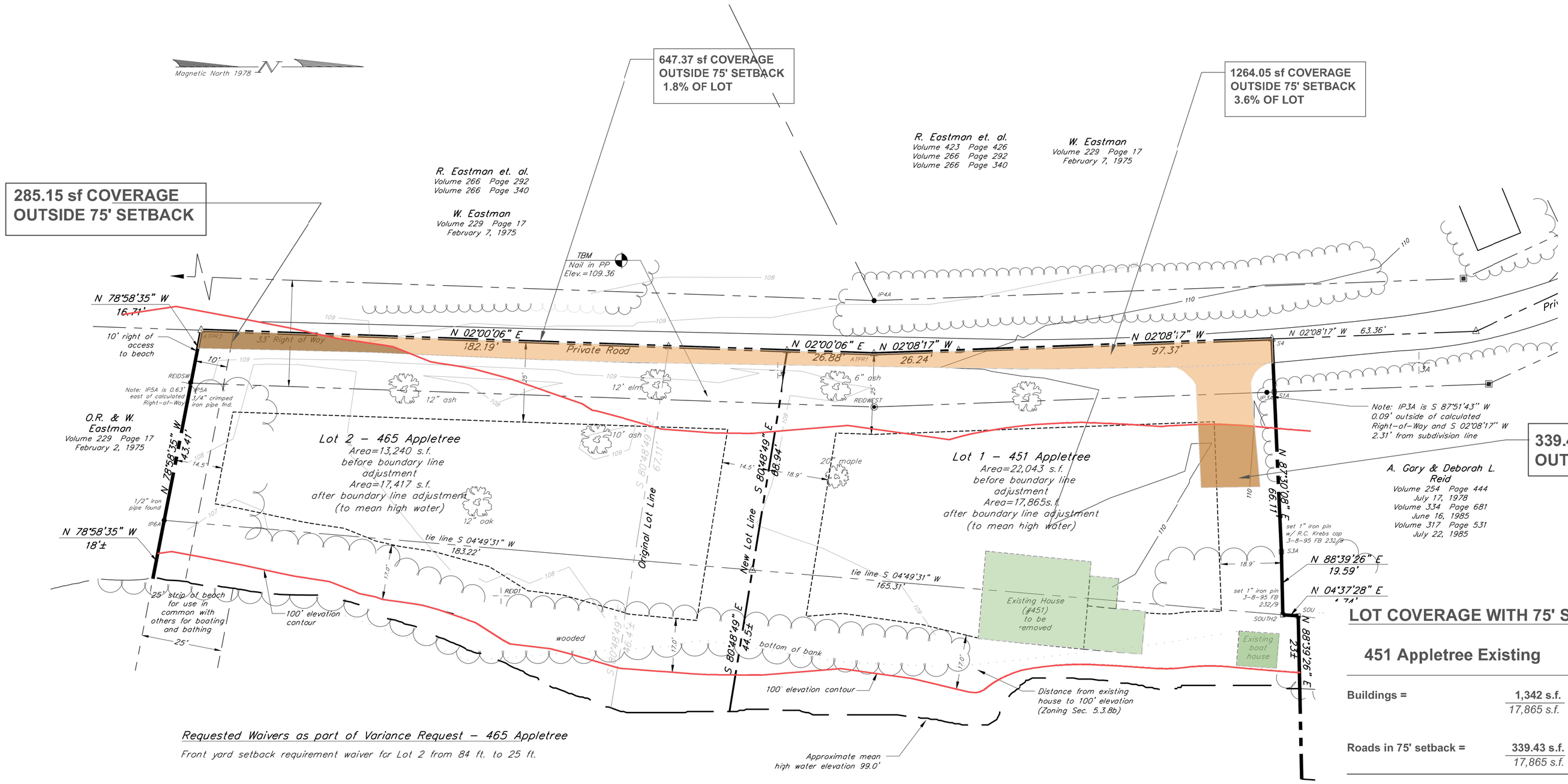
Article 8: Parking
Sec. 8.1.8, Minimum Off-Street Parking Requirements
The subject property is located in the neighborhood parking district. As such, the duplex requires 4 parking spaces (2 per dwelling unit). All four parking spaces will be provided onsite; 2 in the garage and 2 within the driveway. **(Affirmative finding)**

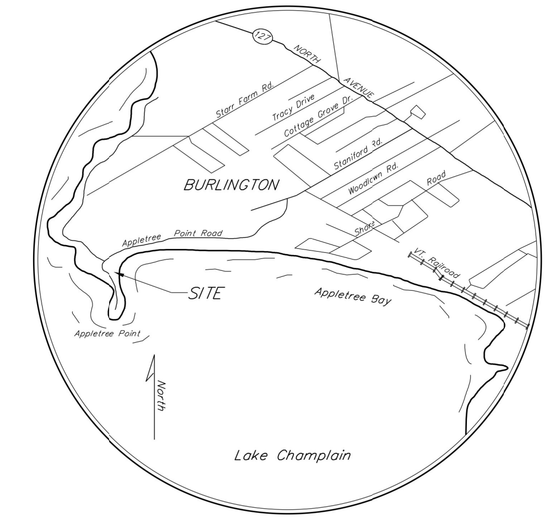
Article 10: Subdivision
No subdivision of land is included in this proposal; however, a lot line adjustment with neighboring 451 Appletree Point Rd is included. A boundary line adjustment plan clearly depicts the proposed boundary adjustment. The required endorsement block for the Administrative Officer's signature per Sec. 10.1.5, *Lot Line Adjustments*, (a) is missing. All of the signature blocks provided relate to subdivisions and should be deleted (except for the surveyor's endorsement). **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, revised plans shall be submitted subject to staff review and approval. Revised plans shall depict:
    a. The proposed AC compressor; and,
    b. The required Administrative Officer's signature block per Sec. 10.1.5.
2. **Prior to release of the zoning permit**, the new pump station and force main shall be reviewed and approved by the Department of Public Works. Verification of wastewater capacity to serve the proposed duplex shall also be obtained from Public Works.
3. This permit incorporates the EPSC and Stormwater Management approvals issued by the Stormwater Administrator on April 3, 2015.
4. Days and hours of construction shall be limited to Monday-Friday 7:00 am – 6:00 pm. Limited work may extend outside this schedule to extend to Saturday 9:00 AM – 5:00 PM only after obtaining approval from the Development Review Board through correspondence rather than a scheduled hearing. No construction on Sunday

5. In the event that artifacts are uncovered during excavation, it is the applicant's responsibility to contact the Vermont Division for Historic Preservation for further guidance.
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 of the city and state as required.
7. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the new square footage of the proposed development.
8. Standard permit conditions 1-15.





LOCATION MAP

Requested Waivers as part of Variance Request – 465 Appletree

Front yard setback requirement waiver for Lot 2 from 84 ft. to 25 ft.

Requested Waivers as part of Variance Request – 451 Appletree

Front yard setback requirement waiver for Lot 1 from 196 ft. to 25 ft.

LOT COVERAGE WITH 75' SETBACK

451 Appletree Existing

Buildings =	1,342 s.f. / 17,865 s.f.	= 7.5% of Lot 1
Roads in 75' setback =	339.43 s.f. / 17,865 s.f.	= 1.9% of Lot 1
	7.5% + 1.9%	= 9.4% within 75' of Lot 1
Roads Outside 75' setback =	1,264.05 s.f. / 17,865 s.f.	= 7.1% of Lot 1
	9.4% + 7.1%	= 16.5% Total coverage of Lot 1

465 Appletree Existing

Buildings =	0 / 17,417 s.f.	= 0% of Lot 2
Roads in 75' setback =	285.15 s.f. / 17,417 s.f.	= 1.6% of Lot 2
	0% + 1.6%	= 1.6% within 75' of Lot 2
Roads Outside 75' setback =	647.37 s.f. / 17,417 s.f.	= 3.7% of Lot 2
	1.6% + 3.7%	= 5.3% Total coverage of Lot 2

0' 10' 20' 40' 60' 80' 100'

BAR SCALE 1" = 20'

Engineer's certification as follows:

It is hereby certified that, to the best of my knowledge, plat fully complies with all engineering requirements set forth in the subdivision regulations of the City of Burlington and all other published engineering requirements of Burlington, Vermont:

Scott W. Homsted P.E. #7893

Surveyor's certification as follows:

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or persons under my supervision; that all monuments shown hereon actually exist or are marked as "future" and their location, size type and materials are correctly shown.

Ian A. Jewkes L.L.S. 639

Applicant's certification as follows:

State of Vermont, County of Chittenden, City of Burlington

"The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, certifies taht this plat was made from an actual survey"

Agent/Owner Date

Certificate of City Engineer, as follows:

"I, _____, City Engineer, do hereby certify that the subject plat has been examined by me and found to comply with the engineering requirements set forth in the regulations governing plats of subdivided land adopted by the City Council, with the following exceptions: "

City Engineer

Certificate of the Superintendent of City Parks, as follows:

"I, _____, Superintendent of Parks do hereby certify that the subject plat has been examined by me and found to comply with the street planting requirements and park area requirements set forth in the regulations governing plats of subdivided land adopted by the City Council with the following exceptions: "

City Superintendent of Parks

Certification of the City Fire Marshal as follows:

"I, _____, Fire Marshal, do hereby certify that the subject plat has been examined by me and found to comply with the fire prevention requirements set forth in this chapter governing plats of subdivided land adopted by the City Council with the following exceptions: "

City Fire Marshal

Approved by resoution of the City of Burlington Development Review Board on the _____ day of _____, 20____. Subject to all requirements and conditions of The Comprehensive Development Ordinance of the City of Burlington, Vermont." Signed this _____ day of _____, 20____ by

Witness DRB Chair

Zoning Permit/Certificate of Appropriateness # _____

Survey Notes:

1. All bearings are calculated and referenced to magnetic north. Magnetic north is based on a survey plat entitled, Boundary Survey, Strathmore at Appletree Point, Krebs & Lansing, Job No. 78122. Astronomic north is 15°23'43" east of magnetic north as determined from a solar observation taken at ROWPCIN backsighting Point 3 on September 18, 1991.
2. A closed traverse was completed in September 1991 using a theodolite (Wild T-2 S/N 286841), and electronic distance meter (AGA Geodometer 112 S/N 23164) and a steel tape.
3. The plat of survey is for the sole use of David & Brianne Chase, and use by other property owners, private or municipal, is specifically unauthorized.
4. Any boundary determination, based on deeds or documents recorded in the public records by which title or rights were conveyed to David & Brianne Chase or rights or title in lands of David & Brianne Chase were otherwise delineated, is subject to the accuracy and legality of those deeds or documents. Where those deeds or documents are improperly executed as a matter of law or contain errors or omissions in fact, or contain or are based upon erroneous conclusions of law, then the indicated boundaries may not be valid.
5. In addition to this plat of survey, keys to the title of the lands of David & Brianne Chase were prepared. These documents include chains of title for David & Brianne Chase and adjacent property owners as well as a Surveyor's Report delineating the logic, analysis and decision making process for boundary determination. The Surveyor's Report is part of this survey.

Deed References

Grantor		Grantee	Volume	Page	Recording Date
Susan Shepherd	to	David S. & Brianne E. Chase	705	329	November 11, 2001
A. Gary and Deborah L. Reid	to	Susan Shepherd	669	144	January 25, 2001
Andrew Michael Shepherd	to	Susan Shepherd	669	140	January 17, 2001
A. Gary and Deborah L. Reid	to	Andrew M. & Susan Reid Shepherd	519	405	December 28, 1994
A. Gary and Deborah L. Reid	to	Andrew M. & Susan Reid Shepherd	499	255	December 29, 1993
Oliver R. Eastman, et. al.	to	A. Gary and Deborah L. Reid	334	681	June 16, 1986
Ethel E. Reid	to	A. Gary and Deborah L. Reid	317	531	July 22, 1985

Planning and Zoning Information

Owner/Applicant:
Alfred R. & Cheryl L. Senecal
60 Upper Main Street
Essex Junction, VT 05452

Area:
0.81 acres (to mean high water elevation – 99')

Zoned:
Waterfront Residential (WR.)
Tax Map ID: 030-3-006-002
The proposed subdivision will be served by municipal water and sewer.

Existing Lot Coverage

Buildings =	1,347 s.f. / 35,283 s.f.	= 3.8% of total lot area
Roads/Driveways: =	2,536 s.f. / 35,283 s.f.	= 7.2% of total lot area
Total Coverage =	(1,347 + 2,536) / 35,283 s.f.	= 12.0% of total lot area

Proposed Lot Coverage

451 Appletree

Buildings =	1,342 s.f. / 17,865 s.f.	= 7.5% of Lot 1
Roads/Driveways: =	2,190 s.f. / 17,865 s.f.	= 12.3% of Lot 1
Total Coverage =	(1,342 + 2,190) / 17,865 s.f.	= 19.8% of Lot 1

465 Appletree

Buildings =	2,512 s.f. / 17,417 s.f.	= 14.4% of Lot 2
Roads/Driveways: =	2,680 s.f. / 17,417 s.f.	= 15.4% of Lot 2
Total Coverage =	(2,512 + 2,680) / 17,417 s.f.	= 29.8% of Lot 2

Boundary Notes

1. The original boundary of the property conveyed to David & Brianne Chase by Susan Reid Shepherd was surveyed by Krebs & Lansing Consulting Engineers. See Map Reference #1.

Map References

1. Plan entitled "Subdivision Plat, A. Gary & Deborah L. Reid", by Krebs & Lansing Consulting Engineers, Project #91124, dated December 9, 1991.

Legend

- Property line / right of way
- Setback line
- High water elevation 99.0
- Bottom of lake shore bank
- Edge of woods
- Traverse point
- Iron pipe or rebar recovered
- 3/4" iron pipe found
- Concrete monument recovered
- 1" iron pin set
- Calculated point

Progress Print 2-18-15

Date revised	Description	Checked	Date

Surveyed MRT/DJS
Drawn FMP/SWH
Checked SWH
Scale 1" = 20'
Date Feb. 17, 2015
Project 14132

Boundary Line Adjustment

Property of
Alfred R. & Cheryl Senecal

451 & 465 Appletree Point Road Burlington, Vermont

KREBS & LANSING Consulting Engineers, Inc.
164 Main Street, Colchester, Vermont 05446

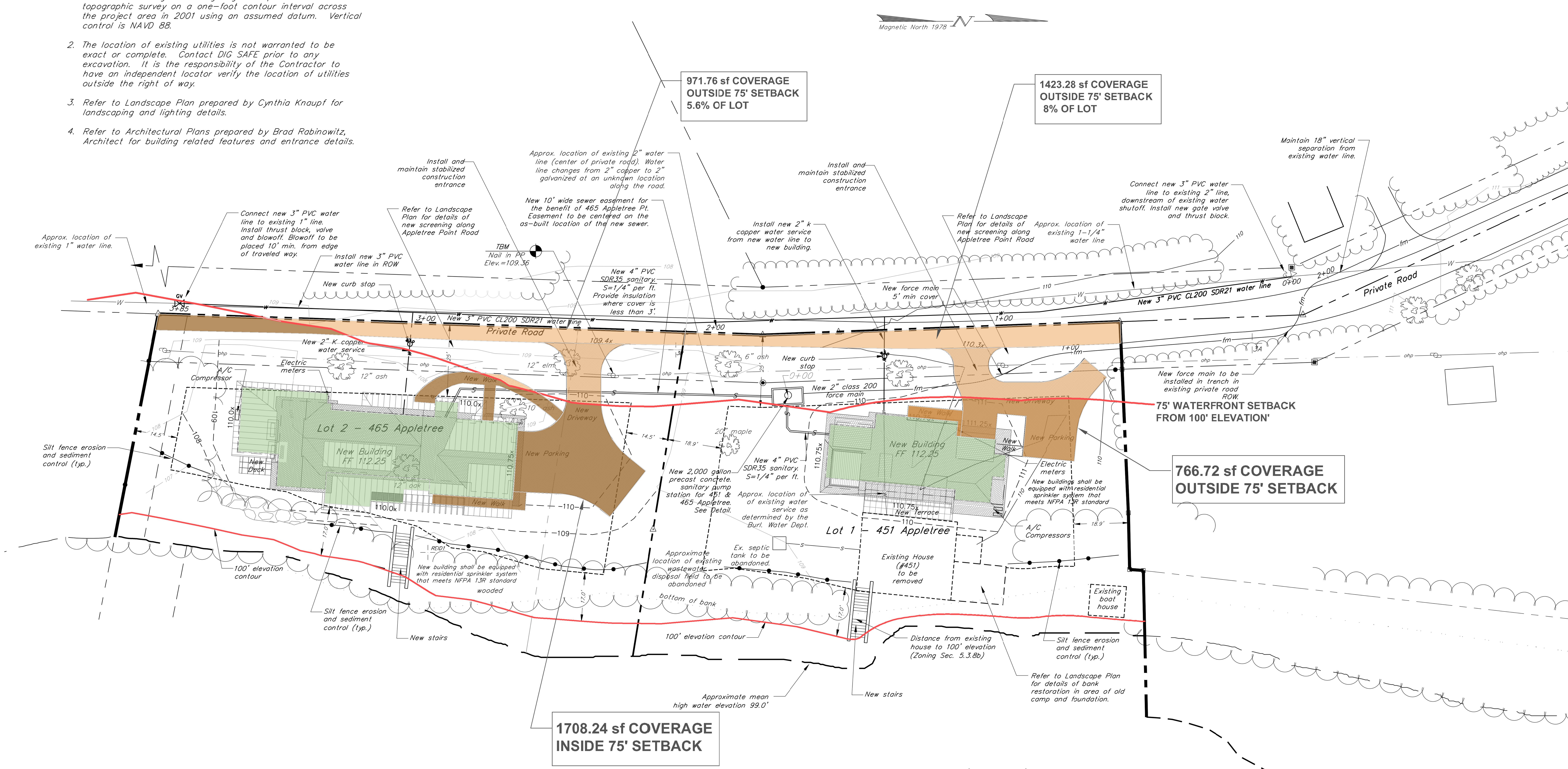
Field Book 185
451-465 appletree

1

ANNOTATED SUBMITTAL TO ADDRESS DRB QUESTIONS OF JUNE 1. 2015

NOTES:

1. Krebs and Lansing Consulting Engineers performed a topographic survey on a one-foot contour interval across the project area in 2001 using an assumed datum. Vertical control is NAVD 88.
2. The location of existing utilities is not warranted to be exact or complete. Contact DIG SAFE prior to any excavation. It is the responsibility of the Contractor to have an independent locator verify the location of utilities outside the right of way.
3. Refer to Landscape Plan prepared by Cynthia Knaupf for landscaping and lighting details.
4. Refer to Architectural Plans prepared by Brad Rabinowitz, Architect for building related features and entrance details.



LOT COVERAGE WITH 75' SETBACK

451 Appletree

Buildings = 1,342 s.f. / 17,865 s.f. = 7.5% of Lot 1

Roads in 75' setback = 766.72 s.f. / 17,865 s.f. = 4.29% of Lot 1

7.5% + 4.29% = 11.8% within 75' of Lot 1

Roads Outside 75' setback = 1,423.28 s.f. / 17,865 s.f. = 8% of Lot 1

11.8% + 8% = 19.8% Total coverage of Lot 1

465 Appletree

Buildings = 2,512 s.f. / 17,417 s.f. = 14.4% of Lot 2

Roads in 75' setback = 1,708.24 s.f. / 17,417 s.f. = 9.8% of Lot 2

14.4% + 9.8% = 24.2% within 75' of Lot 2

Roads Outside 75' setback = 971.76 s.f. / 17,417 s.f. = 5.6% of Lot 2

24.2% + 5.6% = 29.8% Total coverage of Lot 2

EROSION PREVENTION & SEDIMENT CONTROL NOTES:

1. The limit of disturbance shall be clearly defined by the Contractors survey prior to clearing. All sediment control measures must be installed ahead of initiating principal earthwork activities for the project.
2. All erosion controls shall be installed as detailed in the publication ***Vermont Standards and Specifications for Erosion Prevention & Sediment Control*** and in accordance with these project plans.
   The site shall then be cleared and grubbed. All roots, stumps and deleterious materials shall be removed from the site. The Contractor shall minimize the amount of disturbed land at any given time.
3. All erosion control shall be placed as shown on the drawings or as ordered by the Engineer. The Contractor shall maintain the erosion control measures until the Engineer is satisfied that permanent ground cover is established and that further measures are not required. It shall be the responsibility of the On-site Plan Coordinator to employ appropriate erosion control as shown on these drawings and any other measures as necessary to trap sediment on site.
4. All operational stormwater treatment practices (e.g. ponds, grass lined swales) must be completely stabilized prior to directing runoff to them.
5. All areas of disturbance must have temporary or final stabilization within 7 days of initial disturbance. After this time any disturbance in the area must be stabilized at the end of each work day. The following exceptions apply: i) Stabilization is not required if work is to continue in the area within 24 hours and there is no precipitation forecast for the next 24 hours. ii) Stabilization is not required if the work is occurring in a self-contained excavation (i.e. no outlet) with a depth of 2 feet or greater (e.g. house foundation excavation, utility trenches).
6. The Contractor shall stabilize any portion of the site that is being worked and disturbed prior to beginning construction at another area of the site. At no time during construction shall there be more than 5 acres of exposed soil on site. Complete stabilization of each phase shown on the plans is necessary prior to moving on to the next phase.
7. Contractor shall be responsible for all erosion control measures necessary to comply with the approved Erosion & Sediment Control Plan and Narrative for this project. This plan indicates specific erosion control measures that must be installed to stabilize specific locations of the site. All necessary erosion control measures needed to minimize the discharge of sediment from site are not necessarily shown on the drawing.
8. Inspections of erosion prevention and sediment controls shall be conducted at least every seven (7) calendar days and within twenty-four (24) hours of the end off a storm event resulting in a discharge of stormwater from the construction site. Inspections shall be done by or under the direction of the On-Site Plan Coordinator. Any necessary repairs or modifications shall be immediately completed by the Contractor.
9. All excess material and topsoil to be re-used on-site shall be stockpiled in areas approved by the Engineer. These stockpiles shall be surrounded by silt fence and shall be seeded and temporarily stabilized to minimize wind and stormwater erosion potential. Contractor shall minimize disturbance at all times. All areas shall be seeded and mulched within 48 hours of final grading. Temporary stabilization, including stockpiles, shall be necessary for all disturbed areas that are not worked for 7 days or more. Seeding and mulching shall be necessary for disturbed areas that are not worked for 14 days or more.
10. All areas of disturbance shall be permanently or temporarily stabilized as soon as possible and generally within 48 hours of the beginning of excavation. All disturbed areas shall be seeded and stabilized to minimize wind and stormwater erosion potential. Stabilization measures shall include mulch and netting, North American Green erosion control matting, crushed stone or gravel, or pavement.
11. Acceptable methods of stabilization shall include, hay mulching (with netting) (1.5–2 tons per acre), bark mulch, erosion control matting, crushed stone, crushed gravel, all paving surfaces (concrete, asphalt, etc.), weighted impermeable barriers, and other materials as approved by the Engineer.
12. The Contractor shall use water for dust control.
13. When Engineer determines erosion control measures are deemed no longer necessary, all materials detained, including silts and construction runoff debris, shall be collected and disposed of in a manner acceptable to the Engineer.
14. The Contractor shall provide inlet protection around all catch basins (existing or new) that collect construction site stormwater runoff. Inlet protection for new catch basins shall be created immediately after installation.
15. The Contractor shall sweep and water all existing roadways and new pavement DAILY to maintain dust control. Crushed stone truck washes and stabilized construction entrances will be required at all site access points to prevent sediment from tracking off-site. Crushed stone will need to be added and/or replaced as sediment builds up and minimizes or reduces the effectiveness of the stone.

Legend

Property line / right of way	
Setback line	
Existing waterline	w
Existing sewer line	s
Existing gas service	gas
Existing power pole / line	ohp
High water elevation 99.0	
Bottom of lake shore bank	
Edge of woods	
Traverse point	3A
New water service	w
New gravity sanitary line	s
New sanitary force main	fm
Existing sewer manhole	(S)
Existing storm manhole	(St)
Silt Fence	

Existing Lot Coverage

Buildings = 1,347 s.f. — 1,347 s.f. / 35,283 s.f. = 3.8% of total lot area

Roads/Driveways: = 2,536 s.f. — 2,536 s.f. / 35,283 s.f. = 7.2% of total lot area

Total Coverage = (1,347 + 2,536) / 35,283 s.f. = 12.0% of total lot area

Proposed Lot Coverage

451 Appletree

Buildings = 1,342 s.f. — 1,342 s.f. / 17,865 s.f. = 7.5% of Lot 1

Roads/Driveways: = 2,190 s.f. — 2,190 s.f. / 17,865 s.f. = 12.3% of Lot 1

Total Coverage = (1,342 + 2,190) / 17,865 s.f. = 19.8% of Lot 1

465 Appletree

Buildings = 2,512 s.f. — 2,512 s.f. / 17,417 s.f. = 14.4% of Lot 2

Roads/Driveways: = 2,680 s.f. — 2,680 s.f. / 17,417 s.f. = 15.4% of Lot 2

Total Coverage = (2,512 + 2,680) / 17,417 s.f. = 29.8% of Lot 2

For Permit Review

STATE OF VERMONT — SCOTT W. HOMSTED — No. 7683 — Civil — LICENSED PROFESSIONAL ENGINEER

0' 10' 20' 40' 60' 80' 100'

BAR SCALE 1" = 20'

Date revised	Description	Checked	Date
April 13, 2015	A/C units, electric meters	swh	4-13-15

Design	SWH
Drawn	FMP/SWH
Checked	
Scale	1" = 20'
Date	Feb. 17, 2015
Project	14132

Site & EPSC Plan

Property of
Alfred R. & Cheryl Senecal

451 & 465 Appletree Point Road — Burlington, Vermont

KREBS & LANSING Consulting Engineers, Inc.
164 Main Street, Colchester, Vermont 05446

Field Book 185 451-465 appletree

2

ANNOTATED SUBMITTAL TO ADDRESS DRB QUESTIONS OF JUNE 1, 2015

This memo and accompanying documents are intended to address the questions raised and provide clarity as regards the site plan, lot coverage, setbacks, etc. for the 2 referenced properties as requested by the DRB in their Findings of June 1, 2015

Overview to the Request for Clarity and Further Information:

1. The Board requested additional information to provide clarity as regards existing and proposed lot coverage on the 2 properties- specifically within the 75' waterfront setback and that information is provided below and in the attached documents.
2. The 75' setback (measured from the 100' elevation) is shown in RED on the attached site plans.
    a. Note that both houses are entirely within the 75' setback.
    b. Given the required 25' setback off the road side, there is virtually no buildable area that is not within the 75' setback.
3. As regards lot coverage (building and impermeable area) within this setback- this is also shown on the attached plans.
    a. 451 Existing, there is 9.4% coverage within this 75' setback of the existing 16.5% coverage.
        i. The entire existing buildings (1,347SF) at 7.5% and 1.9% of the roads are within the 75' setback.
    b. 465 Existing there is 1.6% coverage within the existing 75' setback of the existing 5.3% coverage.
        i. In the existing lot there is no coverage within the 75' setback/
    c. 451 Proposed, there is 11.8% of the total 19.8% within this 75' setback.
        i. The entire building at 7.5% and roads at 4.29% are within the setback
    d. 465 Proposed, there is 24.2% of the total 29.8% within this setback.
        i. The entire building at 14.4% and roads 9.8% are within the setback.
4. It should also be noted that "Lot Coverage" is not at issue on either property as both lots as proposed are well within the limits of the Zoning District.
    a. As noted in the original approval of July 2014 for these lots there are restrictions only on the size of the structure on 451 Appletree Point and those are explained below and have been adhered to.
    b. The setbacks were also clarified in that approval of 2014 and they also have been adhered to in these proposals.

Engineered Site Plans and Lot Coverage Calculations:

1. Accuracy of the plans: these are engineered survey documents and are certified by the engineer.
    a. At the time of submittal there were a few loose ends to address so the sheet was not stamped. A stamped drawing (Sheet #2) is now attached. More notes have been added as regards the survey, but the data, lot coverage numbers etc. are identical to what was submitted with the application.
2. There was some confusion as regards the Existing Lot Coverage- Roads and Driveways.
    a. This seemed odd as there were no apparent driveways existing- they had grown over even though some gravel remains exposed. (The existing partially grown over

gravel drive is shown on the annotated drawing and was included in the submitted calculations.)

b. However, the property line is actually in the middle of the roadway so that the existing road counts as lot coverage and that is what the 2,536 SF of existing coverage was in reference to-part of the existing road and the remnant of the existing gravel drive.- as a single lot. See Sheet #1.
c. This roadway coverage was allocated to each lot as part of the data shown for Proposed Lot Coverage –Roads/Driveways, on Sheet #2.

Site Area Limitations and Setbacks:

1. As narrow lots- between 80' and 120' in depth setbacks were an obvious issue to address.
2. These lots were submitted in 2014 for DRB review "seeking a variance…..on setbacks".
    a. DRB #14-1108VR and #14-1109VR.
    b. Findings of Fact were issued on July 1, 2014. (These are attached).
3. This review established the setbacks for these lots- and these are what is shown on the engineering Site & Utility Plan Sheet #2.
    a. Setback from the front yard property line was established as 25'.
    b. Sideyard setbacks would be as per the zoning ordinance.
    c. Lake front setback was established based on the existing camp as 17'.
4. The only area limitation imposed was that the new structure at 451 could not exceed the existing structure.
    a. The Findings of July 2014 noted an area of 1,215 SF. The survey noted that area of the house and boathouse as 1,347 SF and that is the area used for 451.
    b. Note that there was no restriction on the size of the structure at 465 other than meeting the specified setbacks and RL-W overall lot coverage limit of 35%.
5. Note that Structure is defined in the zoning ordinance buildings and other constructions but driveways and roadways are not structures. (Zoning definition is attached.)
    a. Lot coverage was not restricted on either lot other than the typical coverage of the RL-W District which is 35%. Both lots area well under that area at 19.8% and 29.8%.

Attachments:

Sheet #1: Boundary Line Adjustment
This is colored to show the exiting lot coverages and areas.

Sheet #2: Site and EPSC Plan
This is colored to show the proposed coverage areas.
Note that this is a stamped and signed document.

14-1108VR Findings of Fact- 451 Appletree Point

14-1109VR Findings of Fact- 465 Appletree Point

Article 13- Structure Definition.

Street Classification: Hierarchy of streets based on use and connectivity.

Streetscape: The physical elements that combine to create a public street and together define its character, including but not limited to, building frontages, landscaping, signs, and lighting.

Structure: Any construction, erection, assemblage or other combination of materials to form a construction that is stable, including but not limited to, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way, footings or a foundation attachment to the land and swimming pools necessitating pilings. The term "structure" shall be construed as if followed by the words: "or part thereof."

Subdivision: A division of a parcel of land into two (2) or more lots, or other divisions. (Also see Lot Merger and Lot Line Adjustment.)

Substantial Rehabilitation: For the purposes of this ordinance any rehabilitation of an existing structure that requires an investment equal to at least fifty percent (50%) of the structure's total replacement cost as approved by the City.

Surface parking: See Parking, Surface.

T

Tailor Shop: An establishment for the repair, alteration, and/or custom making of garments such as suits, coats, and dresses.

Temporary structures: A building or structure intended for removal or demolition within a prescribed time. See Article 5.

Tenant(s): Any person, group of individuals or family who occupies a single dwelling unit or commercial space pursuant to a lawful lease or rental agreement, whether oral or written, expressed or implied.

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
Michael Long
Jonathan Stevens
Brad Rabinowitz
Bob Schwartz
Missa Aloisi
Jim Drummond
Israel Smith (Alt.)
Alexandra Zipparo (Alt.)

Burlington Development Review Board

Minutes/Findings of Fact
July 1, 2014

In RE: 14-1108VR; 451 Appletree Point Rd. (Ward 4, WRL) (Tax Lot No. 030-3-017-000)

Owner/Representative: David & Brianne Chase / Al Senecal

Request: Variance from front yard setback to construct new single family residence in place of existing camp

Members Present:

Jonathan Stevens
Michael Long
Jim Drummond
Brad Rabinowitz
Alexandra Zipparo
Israel Smith

Evidence Presented:

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

I. FINDINGS

Background Information:

The applicant is seeking a variance from applicable front yard and waterfront setbacks on a lot containing a seasonal camp. The lot was created in 2004 under the previous zoning and subdivision regulations. These previous regulations contained standards different from those in effect today. The front yard setback at the time was 15', and the waterfront setback was 50'. Today's front yard setback is based on the average of neighboring properties (in this case 106' +/- 5'), and the waterfront setback is 75'. The requested variance seeks a 25' front yard setback (~ 22' from the road's edge) and an 18' waterfront setback.

Written public comment has been submitted that asserts the property owners were aware of the waterfront setback restrictions at the time of subdivision under the prior subdivision regulations and should not be granted relief from this setback by way of variance. Indeed, there was a 50' waterfront setback in place at the time of subdivision as noted above. However, as noted in these findings, the variance from the waterfront setback is unnecessary and unwarranted.

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

Previous zoning actions for this property are as follows:

- 1/13/04, Denial of 3-lot subdivision
- 7/26/04, Approval of 2-lot subdivision

Article 12: Variances and Appeals
Sec. 12.1.1 Variances
(a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located.

The lot is not especially small at about ½ acre, nor is it particularly irregular. As with the neighboring property at 465 Appletree Point Road, the problem stems entirely from the way the front yard setback is calculated per Table 4.4.5-3: *Residential District Dimensional Standards*. The front yard setback is based on the average of 2 adjacent lots on both sides of the subject lot, +/- 5'. In this case, the front yard setback is based solely on 395 Appletree Point Rd to the east. The next lot further east is vacant, and the two lots to the west are vacant. The application indicates an applicable front yard setback of 100'. Staff measurements based on the boundary survey of 395 Appletree Point Rd shows an applicable setback of 106', +/- 5'. This discrepancy needs to be resolved. A front yard setback of 106' places any potential new development into the lake. Compliance with the front yard setback is impossible.

The key difference between this property and neighboring 465 Appletree Point Rd is the presence of a camp structure on this lot whereas 465 is vacant. There is an argument that the existing structure, even though nonconforming relative to the front yard setback, allows for reasonable use of the property and negates variance approval. Conversely, the building is a seasonal camp. Any renovations to the structure that affect its existing envelope would be prohibited by the 106' front yard setback. The camp structure is effectively frozen as is. The requested variance would allow for a 25' front yard setback like that requested at 465 Appletree Point Road and would allow for reasonable redevelopment of the property with a single family home. **(Affirmative finding as conditioned)**

The requested variance from the 75' waterfront setback is unnecessary. While the 75' waterfront setback overlaps substantially with the 106' front yard setback, the waterfront setback is considerably more flexible. Sec. 4.4.5, *Residential Districts*, (d) 1, B, *Encroachments into the Waterfront Setback*, (i) allows replacement of a principle structure with a new structure in the same location so long as the new structure does not increase the extent or area of encroachment. The existing structure is 17' – 4' from the waterfront, varying with the 100' elevation. The requested 18' setback complies with this criterion by not increasing the extent of encroachment. So as to avoid increasing the area of encroachment (the 75' setback reaches close to the road), the new structure would be limited to the 1,215 sf footprint of the existing primary structure.

Such a footprint enables construction of a reasonably sized single family home. No variance is needed. **(Adverse finding)**

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

As noted above, the 106' front yard setback reaches across the entire property and into the lake. Any new construction or renovation outside of the existing building envelope would be prohibited. Compliance with the front yard setback is impossible. **(Affirmative finding)**

As noted above, no variance from the waterfront setback is necessary. The provisions of Sec. 4.4.5 allow retention of the existing extent and area of encroachment. **(Adverse finding)**

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

The hardship relative to the front yard setback is related to the difference between the pre-existing lot and the setbacks in effect at the time it was created and the present setback requirements. It is not a lot newly created by the applicant under the current regulations. **(Affirmative finding)**

There is no unnecessary hardship relative to the waterfront setback. Retention of a 1,215 sf footprint at or behind the exiting camp structure is sufficient for a new single family home. **(Adverse finding)**

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

The variance from the requirements of the front yard setback would not alter the essential character of the neighborhood or district in which the subject property is located. The variance would enable the construction of a single family home on a ~1/2 acre lot. Such is the predominant development pattern in this area of the city. **(Affirmative finding)**

The variance from the waterfront setback is unnecessary as noted before. **(Adverse finding)**

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

The requested 25' front yard setback allows room for a reasonable building envelope and continues to reflect the neighborhood pattern of homes set relatively far back from the road and relatively close to the shoreline. **(Affirmative finding)**

No variance from the waterfront setback is necessary. **(Adverse finding)**

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

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

If granted, the variance from the waterfront setback would result in the extension of a noncomplying situation, specifically the area of encroachment into the waterfront setback. It would not, however, allow a nonconforming use of land. **(Adverse finding)**

II. MINUTES

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

III. MOTION

Motion: Brad Rabinowitz
I move that the Board grant Variance approval for the front yard setback for the property at 451 Appletree Point Road in the WRL zone in accordance with Article 12. Approval is subject to the following conditions:

1. This variance approval is for relief from the front yard setback requirement of Table 4.4.5-3, *Residential District Dimensional Standards*. No variance is granted for the waterfront setback.
2. Prior to permit application for construction on the property, the front yard setback shall be verified, subject to staff review and approval.
3. No development is included in this approval. All development is subject to a separate zoning permit.
4. Per Sec. 12.1.3, *Filing a Request, Public Hearing, and DRB Decision*, this variance approval shall be valid for a period of 2 years.

Seconded: Michael Long

Vote: 6-0-0, motion carried

Dated at Burlington, Vermont, this ____ day of July, 2014

Respectfully Submitted,

_____
Jonathan H. Stevens, Development Review Board Vice Chair

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
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Senior Planner
Mary O'Neil, AICP, Senior Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary

MEMORANDUM

To: Development Review Board
From: Ken Lerner
Date: July 7, 2015
RE: 111 Colchester Avenue; 15-1219AP

File: 15-1219AP
Location: 111 Colchester Avenue
Zone: Institutional; Core Campus Overlay (ICC-UVM) **Ward**: 1
Date appeal accepted: May 27, 2015
Date of administrative decision: May 12, 2015
Owner/Appellant: UVM-Medical Center/Martha Lang
Request: Appeal of Administrative Determination by Code Enforcement of an unsubstantiated complaint pertaining to the construction by the Medical Center on an acre of land zoned for university use.

Appeal

The appellant's statement is attached.

Appellant argues that the hospital addition is within the UVM Core Overlay (ICC-UVM) and thus requires a zoning change as hospital uses are not permitted in that overlay. Appellant is requesting that the permit approved for the hospital expansion be revoked due to the requirement for a "major impact" review. Appellant also points out that this is a use change.

Background Facts/Overview:

- Zoning Permit 14-1321CA, a request to build a new approximately 208,000 sq. ft. Inpatient Building west of the Ambulatory Care Center building at the Medical Center Campus with parking lot improvements, was approved by the Development Review Board on September 8, 2014.
- No appeal of ZP 14-1321CA was taken.
- A condition of approval of ZP 14-1321CA required, "A boundary line adjustment will need to be secured to allow for development under this approval. All requirements as noted in Section 10.1.5 for filing a plat/mylar will be in effect."
- On December 22, 2014, Fletcher Allen Heath Care, Inc. received approval for Zoning Permit ZP# 15-0664LL for a proposed lot line adjustment with the UVM Main Campus.
- On December 23, 2014, University of Vermont and State Agricultural College received approval for Zoning Permit ZP# 15-0665LL for a proposed lot line adjustment with the UVM Main Campus and UVM Medical Center.
- On January 5, 2015, appeals of ZP# 15-0664LL and ZP# 15-0664LL were filed.
- On February 10, 2015, the appeals of ZP# 15-0664LL and ZP# 15-0665LL were withdrawn.
- On April 8, 2015 a complaint was filed that hospitals are not permitted in UVM-ICC, and that the zoning map must be changed to extend FAHC-ICC before the request to build a

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new approximately 208,000 sq. ft. Inpatient Building west of the Ambulatory Care Center building at the Medical Center Campus with parking lot improvements can be approved.

- After review of the matter, Code was not able to substantiate the complaint. Zoning Permit 14-1321CA, including the findings, was not appealed and is now final pursuant to 24 V.S.A. §4472(d). The current and purposed use and location of the project were clearly identified in the application materials as indicated by the staff report and findings of the Board.

Response to Appellant

Zoning Permit #14-1321CA to build a new approximately 208,000 sq. ft. Inpatient Building west of the Ambulatory Care Center building at the Medical Center Campus with parking lot improvements was approved by the DRB on September 8, 2014. As noted above, no appeal of this action was taken by any party. Pursuant to 24 VSA §4472 (d):

> *Exclusivity of remedy; finality:*
> *Upon the failure of any interested person to appeal to an appropriate municipal panel under section 4465 of this title, or to appeal to the Environmental Division under section 4471 of this title, all interested persons affected shall be bound by that decision or act of that officer, the provisions, or the decisions of the panel, as the case may be, and shall not thereafter contest, either directly or indirectly, the decision or act, provision, or decision of the panel in any proceeding, including any proceeding brought to enforce this chapter. (Added 1967, No. 334 (Adj. Sess.), § 1, eff. March 23, 1968; amended 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974; 1973, No. 255 (Adj. Sess.), § 3, eff. April 9, 1974; 1973, No. 261, (Adj. Sess.), § 8, 1993, No. 232 (Adj. Sess.), § 49, eff. March 15, 1995; 2003, No. 115 (Adj. Sess.), § 107; 2009, No. 154 (Adj. Sess.), § 236.)*

And CDO Section 12.5.2:

> *"Finality":*
> *Upon the failure of any interested person to appeal to the DRB or to the environmental court, all interested persons affected shall be bound by such decision or act of such administrative officer, such provisions or such decisions of the DRB, as the case may be, and shall not thereafter contest, either directly or indirectly, such decision or act, such provision, or such decision in any proceeding, including without limitation, any proceeding brought to enforce this ordinance.*

Thus, the approved zoning permit cannot now be contested directly or indirectly and all persons are bound by that decision. The current and purposed use, and location, of the project were clearly identified in the application materials as indicated by the staff report and findings of the Board.

Request:
Deny the appeal and **uphold the administrative determination** per the above facts and the finality status of the approval of the new inpatient wing for the UVM Medical Center.

Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195
www.burlingtonvt.gov/pz

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Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 111 Colchester Avenue

Subject Property Owner: UVM Medical Center

Appellant: Martha R. Lang

Agent/Representative: Martha R. Lang

Mailing Address: 138 Colchester Avenue

City, St, Zip: Burlington, VT 05401

Day Phone (802) 862-1094 Email: MarthaLang@aol.com

Appellant Signature: Martha R. Lang Date: 5/21/15

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

- ☑ The Appeal **fee of $250**;
- ☑ Description of the decision under appeal;
- ☑ Description of the property subject to the appeal;
- ☑ Reference to the regulatory provisions applicable to the appeal;
- ☑ Relief requested by the appellant;
- ☑ Alleged grounds why such requested relief is believed proper under the circumstances.

Office Use Only:

Check No. 1735 Amount Paid 250 Zoning Permit # 14-1321CA

MARTHA R. LANG, PH.D.
138 COLCHESTER AVENUE
BURLINGTON, VERMONT 05401
802-862-1094

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Hand Delivered

May 21, 2015

ATTACHMENT to APPEAL TO DRB OF ADMINSTRATIVE DECISION REQUEST

Pursuant to Section 2.7.11 of Article 2, Part 7, of the City of Burlington's Comprehensive Development Ordinance (the "Ordinance"), I appeal the May 12, 2015 "Martha Lang Complaint Decision" issued by Jeanne Francis (the "Zoning Officer") on behalf of the City's Code Enforcement Office. I ask you to exercise your authority under the Ordinance to reverse the Zoning Officer's decision and stop construction of the Medical Center's project pending its satisfaction of the Ordinance, as specified below.

My Interest in This

The Medical Center proposes to commence construction of its latest project, i.e., its inpatient building, west of its ambulatory care center, contrary to the Ordinance. The project includes 1.02 acres that the Medical Center recently acquired from UVM. The project is immediately across the street from the properties that I own and occupy—I live at 138 Colchester Avenue and own 146, 140, 132, 128 Colchester Avenue, and 20 Fletcher Place in Burlington, Vermont. I will be able to hear from my properties the loud demolition and construction noise that will generated at the site. Likewise, the project calls for vehicles to enter and exit from the site onto Colchester Avenue and then drive immediately by my properties, where I'll experience the loud and sustained noise, vibrations, pollution and traffic congestion that will be attributable to trucks of this nature. I therefore have a special interest in seeing that the Ordinance's requirements are properly enforced.

Overlay/Use Issues

The primary problem that I'd like the city to address is that this additional land remains within the UVM Central Campus overlay and therefore is not eligible for inclusion in the project because the Medical Center thus far has failed to obtain a change of the overlay to allow for its hospital use. The city therefore should immediately invite the Medical Center to seek the requisite change and caution the Medical Center that, absent the change, construction of the project cannot commence.

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Ordinance § 4.3.2 says that land within the overlays "may be used and altered in a manner permitted in the underlying district *only if and to the extent such use or alteration is permitted in the applicable overlay district*." The 1.02 acres that the Medical Center acquired from UVM is in the UVM Central Campus (ICC-UVM) overlay. Hospital use isn't allowed in the ICC-UVM overlay, whose purpose is "to support continued growth and expansion of the state's flagship academic institution." Ordinance § 4.5.2(b)(1). The sole "permitted" use in the ICC-UVM overlay is "schools." "Schools" is defined in Article 13. "Schools" means "colleges, community colleges, universities, or continuing education," not "hospitals" or "medical centers," which are defined elsewhere. Clearly, then, the 1.02 acres is not presently available for the uses to which the Medical Center proposes to put it. (It'd make no sense to treat the school and hospital overlays as interchangeable, as to uses, of course, which is why in his 2/3/15 memo to the DRB, Ken Lerner, the city's zoning administrator, distinguishes between schools and hospitals at various points.)

Notably, too, "on-site parking is expected to play a larger role [in the hospital's overlay, i.e., ICC-FAHC] than otherwise would be expected for other institutional campus overlays [e.g., ICC-UVM] in order to accommodate the needs of patients and visitors." Ordinance § 4.5.2(b)(1). So, there are two, solid reasons why it would be appropriate for you to instruct the Medical Center that it needs to apply for a change to the overlay, through proper procedures: (1) the existing overlay doesn't allow hospital use and (2) the existing overlay has greater restrictions on parking. Further reason may exist because of differences concerning height and density in the overlays.

As you well know, the appropriate procedure for the Medical Center to follow, regarding conversion of the 1.02 acre to the hospital overlay, is to petition the Planning Commission for a change. You well know, too, that neither the Zoning Administrator nor DRB are empowered to change uses. *See* Ordinance § 12.1.1 "Variances: Use variances shall not be allowed under this ordinance." To emphasize that neither the ZA nor DRB has, in fact, addressed the change in use, I analyze below the two existing permits that the Medical Center has obtained for the project. Indeed, as I will show, inaccuracies in these permits are such that it would appear appropriate for the city to rescind at least the zoning permit and require the Medical Center to reapply.

Zoning Permit

The Zoning Officer's decision, which I'm appealing, is predicated on her assumption that a use variance was approved by virtue of one or more of the zoning permits that the Medical Center has obtained. While the Zoning Officer is correct that I did not appeal those decisions, her assumption about what the permits authorized is patently incorrect. The Zoning Officer's position that such permits approved a use change belies not only the permits and the

corresponding applications (which, as I will show, did not purport to approve any such change), but likewise the intelligence of the City's staff and the DRB itself, which surely are aware of Ordinance § 12.1.1, which says plainly, "Use variances shall not be allowed under this ordinance." This is probably why nowhere in the Zoning Officer's decision does she address head on any of the points I'm about to make below (and which I made to her when I requested help).

The file for the zoning permit that the Medical Center obtained on 9/8/14 (#14-1321CA/MA) reveals that neither the zoning administrator nor DRB was asked to approve, or approved, a use change. On page two of the Medical Center's 6/30/14 application for that permit, the Medical Center checks, under "existing" and "proposed" use of the project site, on page two, "Hospital/Medical Center." In the "Final Site Plan Narrative" that is attached to the application, the Medical Center states, at page four, that the project "does ***not*** involve a change of use" and that "the use on the Fletcher Allen Medical Center campus ***is*** and will remain a hospital." At page five, it says, "this project does not involve a change in use." **So, a change of use wasn't sought.**

A change of use wasn't granted, either. In the DRB's 9/8/14 findings of fact, the DRB recognized the need for a boundary line adjustment (for the 1.02 acres to go from UVM ownership to Medical Center ownership), but it plainly said no change of use was involved. At page five, the DRB states, "There is no change of use." So, in addition to it being a fact that the DRB wasn't authorized to approve a change of use, it didn't purport to exceed its authority and approve one. Therefore, the Zoning Officer's decision is plainly misguided. No use change has been approved. Consequently, the fact that the permits were not appealed is irrelevant to enforcement. The City can and should enforce the Ordinance to require the Medical Center to obtain a use change.

Boundary Adjustment Permit

The file for the related boundary adjustment permit that the Medical Center initially obtained on 12/23/14 (#15-0665LL) likewise reveals that **neither the ZA nor DRB was asked to approve, or approved, a use change**. On page two of the Medical Center's 11/25/14 application for that permit, the Medical Center checks, under "existing" and "proposed" use of the project site, on page two, "Hospital/Medical Center." In Ken Lerner's 2/3/15 memo to the DRB on the application, at the top of page six, he states in two places that there is "**no change in use**" contemplated by the project. So, a change of use was neither sought nor granted as part of the boundary adjustment permit.

Revisiting Zoning Officer's Decision

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Returning to the Zoning Officer's decision, you will find that she's ignoring that a use change was neither sought by the Medical Center nor granted by the City in any of the permits to which she cites. Despite that fact, and despite that neither the Zoning Administrator nor DRB are *empowered* by the Ordinance to change uses, she effectively gives the Medical Center a free pass. She's effectively saying, more or less, that because she can glean from the permit applications that a use change would be needed, the Medical Center gets one even without asking for it and even though the only authorized body who can grant a use change is the Planning Commission. That surely is not the kind of government of which we can be proud. This isn't Boss Tweed's Manhattan surely, where the rules are bent to accommodate the whims of the mighty.

Indeed, to know that the Medical Center can reasonably held to account, all one need look at are the standard permit conditions on the existing permits. Condition number one says, "The owner is solely responsible for obtaining all other required City … approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions." So, there's no justification for the City's covering up the Medical Center's failure, thus far, to obtain a proper approval for a use change.

Revocation of Zoning Permit

If there were no harm in the erroneous statements made by the Medical Center in its applications, i.e., that the project didn't contemplate a change of use, then perhaps all that would be necessary would be for the city to point out that construction cannot begin unless and until the overlay is changed. But, in this case, there is reason for the city to revoke the zoning permit and require reapplication. That follows because a project requiring a change of use must undergo Major Impact Review. In its "Final Site Plan Narrative," part of its application for the zoning permit, the Medical Center plainly stated at page four that its project "qualifies" for an exemption from Major Impact Review because "*it does not involve a change of use.*" In the DRB's 9/8/14 findings of fact, at page five, the DRB states that the project "meets the exemption from Major Impact review" because there is "no change of use." Therefore, the omission is material, and the city therefore should revoke the zoning permit and require the Medical Center to reapply after it obtains approval of the overlay change, or other necessary use changes, from the Planning Commission.

Thank you.

Sincerely,

Martha R. Lang

Martha R. Lang.

Sent Electronically
cc:
Gene Bergman, Assistant City Attorney
Burlington Planning Commissioners
Jeanne Francis, Zoning Enforcement Specialist
Spencer Knapp, General Counsel, Medical Center
William Ward, Director of Code Enforcement
David E. White, Director of Planning and Zoning

With Attachments

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

May 12, 2015

MARTHA R. LANG
138 COLCHESTER AVENUE
BURLINGTON, VT 05401

Dear Ms. Lang,

This letter is in response to your complaint of April 8, 2015 pertaining to construction by the Medical Center on an acre of land zoned for university use. The address associated with the violations is 111 Colchester Avenue. Upon review of your complaint and the file we understand the facts to be as follows:

- Zoning Permit 14-1321CA, a request to build a new, approximately 208,000 sq. ft. In-patient Building west of the Ambulatory Care Center building at the Medical Center Campus, with parking lot improvements, was approved by the Development Review Board on September 8, 2014.
- No appeal of ZP 14-1321CA was taken.
- A condition of approval of ZP 14-1321CA required, "A boundary line adjustment will need to be secured to allow for development under this approval. All requirements as noted in Section 10.1.5 for filing a plat/Mylar will be in effect."
- On December 22, 2014, Fletcher Allen Heath Care, Inc. received approval for Zoning Permit ZP# 15-0664LL for a proposed lot line adjustment with the UVM Main Campus.
- On December 23, 2014, University of Vermont and State Agricultural College received approval for Zoning Permit ZP# 15-0665LL for a proposed lot line adjustment with the UVM Main Campus and UVM Medical Center.
- On January 5, 2015, you filed appeals of ZP# 15-0664LL and ZP# 15-0664LL.
- On February 10, 2015, you withdrew your appeals of ZP# 15-0664LL and ZP# 15-0665LL.
- On April 8, 2015 you filed a complaint, with our office, that hospitals are not permitted in UVM-ICC and that the zoning map must be changed to extend FAHC-ICC before the request to build a new approximately 208,000 sq. ft. In-patient Building west of the Ambulatory Care Center building at the Medical Center Campus with parking lot improvements can, be approved.

After review of the matter, we are not able to substantiate the complaint. Zoning Permit 14-1321CA, including the findings, was not appealed and is now final; pursuant to 24 V.S.A. §4472(d). The current and purposed use and location, of the project were clearly identified in the application materials as indicated by the staff report and findings of the Board.

Information available in alternative media forms for people with disabilities.
For disability access information call (802) 865-7121 or (802) 863-0450 TTY.
An Equal Opportunity Employer

A decision by the Administrative Officer regarding an alleged zoning violation may be appealed to the Burlington Development Review Board in accordance with the provisions of Articles 1 and 17 of the Burlington Zoning Ordinance provided that the appeal is filed within fifteen (15) days of the decision (within 15 days of the date of this letter). Your appeal must be accompanied by the appropriate fee in accordance with Article Sec. 1.1.8 of the ordinance. The fee and a completed application form must be filed with the City's Department of Planning and Zoning. For more information regarding an appeal, contact Planning and Zoning Office at 865-7188. Your appeal may not be considered valid if the complete application and fee are not received within the 15 days.

Please feel free to contact our office at (802) 863-0442 if you have any questions or concerns.

Sincerely,

Jeanne Francis, Zoning Specialist

Information available in alternative media forms for people with disabilities.
For disability access information call (802) 865-7121 or (802) 863-0450 TTY.
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MARTHA R. LANG, PH.D.
138 COLCHESTER AVENUE
BURLINGTON, VERMONT 05401
802-862-1094

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May 21, 2015

Burlington Development Review Board
Burlington City Hall
149 Church Street
Burlington, VT 05401

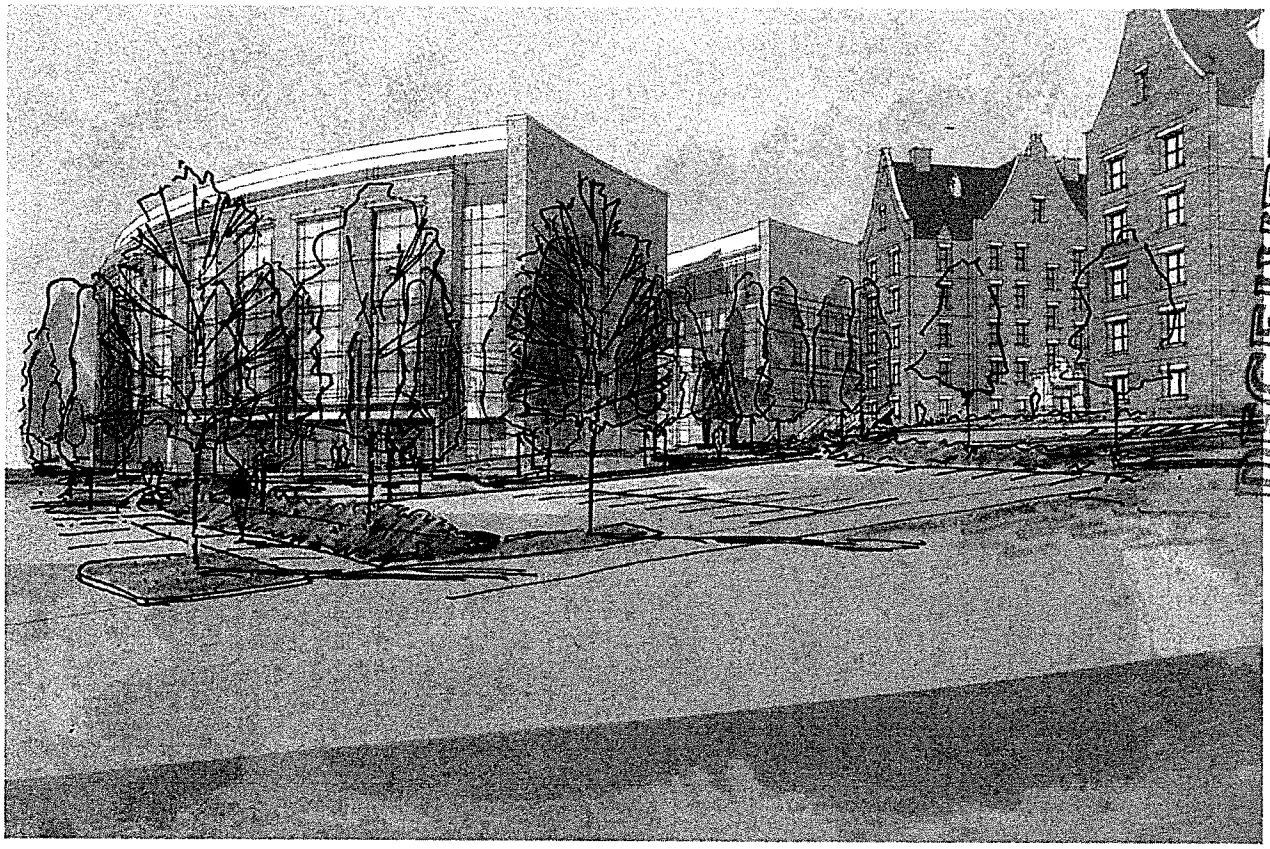
To Whom It May Concern:

For scheduling purposes please note I will not be in Burlington June 14h - 30th, July 9th - 30th , and August 6th - 30th. Thank you for your time and consideration. Please contact me if you have any questions.

Sincerely,

Martha R. Lang

Martha R. Lang



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Inpatient Building

Fletcher Allen Health Care

Burlington, Vermont

City of Burlington
Final Site Plan Application

June 30, 2014

Fletcher Allen
HEALTH CARE
In alliance with The University of Vermont

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

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Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 111 Colchester Avenue

PROPERTY OWNER*: FAHC, c/o Dave Keelty UVM, c/o Linda Seavey *If condominium unit, written approval from the Association is also required	**APPLICANT:** Co-Applicant: FAHC c/o Dave Keelty Co-Applicant: UVM c/o Linda Seavey
POSTAL ADDRESS: UVM 109 South Prospect Street	POSTAL ADDRESS: FAHC 199 Main Street, Suite 150
CITY, ST, ZIP: Burlington, VT 05405	CITY, ST, ZIP: Burlington, VT 05401
DAY PHONE: 802.656.0215	DAY PHONE: 802.847.8443
EMAIL: linda.seavey@uvm.edu	EMAIL: Dave.Keelty@vtmednet.org
*SIGNATURE: Linda Seavey for the University of Vermont 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: Linda Seavey for the University of Vermont

Description of Proposed Project: New approximately 208,000 sq. ft. Inpatient Building west of the Ambulatory Care Center building at the Medical Center Campus with associated parking, lighting and landscaping.

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

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

Will 400 sq ft or more of land be disturbed, exposed and/or developed? Yes ☒ No ☐
(If yes, you will need to provide 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 provide 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)*: $ 104 million
(*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: ___ Eligible for Design Review? ___ Age of House: ___ Lot Size: ___
Type: SN ___ AW ___ FC ___ BA ___ COA 1 ___ COA 2 ___ COA 3 ___ CU ___ MA ___ VR ___ HO ___ SP ___ DT ___ MP ___
Check No. ___ Amount Paid ___ Zoning Permit # ___

Fletcher Allen Health Care
Inpatient Building Project
Final Site Plan Narrative
June 30, 2014

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I. Overview

Fletcher Allen Health Care (Fletcher Allen) is proposing an approximately 208,000 square foot (sq. ft.) inpatient building project (the Project) to be located next to the Emergency Department on the west side of its Medical Center Campus. The Project will consist of approximately 128 inpatient replacement beds to be hosted in single rooms with connections to the McClure Building and the West Pavilion of the Ambulatory Care Center. The Project includes a small boundary line adjustment with the University of Vermont.

This Project has been anticipated and discussed with the City and Fletcher Allen's neighbors over the past six years. The factors that influenced the need for and the design of this Project are as follows:

- The replacement of outdated infrastructure to meet the needs of current medical practices. Fletcher Allen's oldest inpatient buildings are more than 50 years old. The beds that will be replaced in Shepardson are located in facilities that were built in 1961. New facilities are needed to provide care that is consistent with today's hospital design standards and match the high-quality care provided by Fletcher Allen's physicians and staff;
- The replacement of double rooms to private single rooms to meet the 2010 or most recent edition of the FGI Guidelines for Design and Construction of Health Care Facilities which are current hospital design standards within the industry and State Hospital licensing agencies including the Vermont Green Mountain Care Board. Currently, 60% of Fletcher Allen's inpatient rooms are double or multiple bed rooms that do not meet contemporary standards for patient care;
- By creating more single bed rooms, Fletcher Allen can provide sufficient space for medical equipment and more effectively practice infection prevention; and
- Offering more single rooms will help Fletcher Allen create a healing environment that is patient-centered, provides quiet and comfort to patients and their families, and offers more privacy and confidentiality.

Introduction to the Project

The Project as currently planned consists of an approximately 208,000 sq. ft. seven-story building (two lower circulation and mechanical floors, four inpatient bed floors and a mechanical penthouse) with related site work, utility/MEP upgrades and extensions, renovations and interfacing within the existing ACC and McClure Buildings. The Project would be constructed above the existing Emergency Department parking lot and would connect with the existing ACC and McClure buildings in several locations.

The Project's exterior elements will consist of a combination of thin clad masonry, glass curtain wall and "punched window" openings employing some aspects of the architectural vocabulary of the adjoining ACC building. The Project will apply for LEED certification.

Site improvements will consist of a realignment of the Emergency Department access road – Hospital Drive, with circulation and drop off areas beneath and next to the new building. Vehicular access will be maintained from Colchester Avenue. New pedestrian walkways provide connections to the existing network of sidewalks and multi-use path. Exterior lighting and landscaping will be included consistent with current standards used on the FAHC Medical Center Campus and the University's exterior lighting standards. Landscape plantings along the access driveway, pedestrian walkways and parking area will provide shading and soften the hardscape. Rain gardens within the parking area and along Hospital Drive will help address stormwater treatment.

FAHC and the University of Vermont currently have 136 parking spaces in the project area. The project parking for both will be reconfigured with no net change in the number of spaces. There are no plans to add medical or clinical full time equivalent (FTE) staff. There may be some additional support staff, but it is unclear at this phase of design. Regardless, no additional parking spaces are proposed and parking will continue to be managed within the 2,094 cap for Fletcher Allen on-campus parking spaces.

The Project includes minor modifications to the Emergency Department entrance on Level 1, an extension of the utility tunnel on Level L from the existing ACC building to the Project, installation of a new 1,400 ton centrifugal chiller, related cooling tower infill in the Central Plant, a new boiler, and related MEP extensions from the ACC utility tunnel to the Project. The Project also includes footings and utility pathways to enable future additional vertical expansion.

The Project is replacing existing beds in Shepardson 3North and Shepardson 4North. This replacement, as outlined in the Fletcher Allen Master Facility Plan, is the first of several planned bed replacement facilities at the Medical Center Campus which may occur over the coming

decades. The vacated space in Shepardson 3North and Shepardson 4North will be used for decompressing overcrowding within the existing campus. There will be no new office or clinical programs.

The total proposed square footage (208,000 sq. ft.) includes unoccupied and low-occupancy areas such as mechanical spaces (including the mechanical penthouse), vertical circulation spaces, and the skybridge connector to McClure.

The proposed square footage also includes several possible add-alternates which are being studied. For the purposes of this application we are assuming all of these add-alternates will be constructed and are requesting approval of them. In the event any of these add-alternates are deleted the final project square footage may be less. In such event we will seek any required project amendments.

A boundary line adjustment will be needed with UVM in order to accommodate the building and associated parking improvements. The proposed boundary line is shown on the plans and a separate application will be submitted for this.

Schedule for Design and Construction
Fletcher Allen has an approved Certificate of Need (CON) from the Green Mountain Care Board that allows for planning only, no construction has been approved. Fletcher Allen has retained a design team and a construction manager to assist with pre-construction planning, and will continue to coordinate with UVM on their housing master plan and on landscaping between their planned STEM project and the Project. Fletcher Allen anticipates submitting a construction CON for the Project by the end of September 2014. If approved, construction is planned for the spring of 2015 subject to the issuance of City and State permits. The estimated timetable for completion of the Project is to commence construction in the Spring of 2015 with anticipated completion in Fall of 2018. The total estimated construction cost is $104,585,229. The total project cost, including construction, equipment and furnishings, will be higher.

II. Initial Planning, Sketch Plan Review

Fletcher Allen has been involved in master planning for its Medical Center Campus and for inpatient bed replacement options since 2006 with extensive discussions with the Burlington Planning Commission and with the Combined City Council / Planning Commission Institutional Development Committee. The Project is consistent with Fletcher Allen's Master Facility Plan as discussed with the City during this process.

Fletcher Allen met with the City Planning and Zoning Staff in the fall of 2013 to receive early input regarding the conceptual design of the Project. In November of 2013, Fletcher Allen met with the City Technical Review Committee to present and discuss the project. Several issues that staff felt need to be addressed as the design of the Project progresses included stormwater mitigation, possible impacts to Converse Hall, and fire truck access. A sketch plan application was submitted to the City in March 2014. The Design Advisory Board (DAB) and Development Review Board (DRB) held hearings in March and April 2014. In March 2014, Fletcher Allen met with the Ward 1 Neighborhood Planning Assembly (NPA) and a letter has been submitted by the Steering Committee of the NPA and is included in this application. Comments received from the DAB, DRB, City Planning and Zoning Staff and the Ward 1 NPA are focused on the relationship of the Project design and Converse Hall, the demolition of the UVM dorms and how this will be addressed, and views of the Project from Colchester Avenue. Each of these comments has been considered in the final site plan design.

III. City Development Review Criteria

We have provided information on the Project that addresses the City's Development Review Criteria in conformance with The Comprehensive Development Ordinance.

Exemption Request

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

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

The Inpatient Building project qualifies for this exemption because a) it does not involve a change of use and, b) will not increase overall parking demand on campus. The first of these is clear: the use on the Fletcher Allen medical center campus is and will remain a hospital. The beds that are planned for the Inpatient Building exist on the campus today as part of the hospital use and will simply be relocated on campus as a result of this project.

During planning and permitting for the Renaissance Project, Fletcher Allen agreed to a cap of 2,094 parking spaces on the Medical Center Hospital (MCHV) campus. All on-campus parking demand must be met within this number. The calculations that arrived at this number assumed various factors, including pre-existing uses, new or expanded uses in the ambulatory care center, growth in services over time, occasional peak demands, off campus parking, a dynamic transportation demand management (TDM) program, and a built-in on-campus vacancy factor of approximately 10%. This built-in vacancy factor allows for occasional surges of demand and for easier flow at all times. Less vacancy than this results in delays in finding spaces (a problem when people are trying to make appointments on time) and increased frustration for all concerned.

As part of this 2,094 space cap, Fletcher Allen actively manages its parking through its TDM programs to ensure that increases in parking needs over time are offset by TDM efforts that reduce demand among other users. This is what Fletcher Allen committed to during permitting for the Renaissance Project and remains committed to today.

As previously stated, the Inpatient Build project will not increase the number of parkers over the course of a typical day because it will not result in an increase in beds on the campus. The parking for the Inpatient Building will be accommodated within the 2,094 parking space cap as part of Fletcher Allen's ongoing management of its parking facilities and TDM programs. No increase in parking spaces is proposed as part of this project.

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

Building Design

The overall approach to the design of the Inpatient Building is that the addition is conceived as a continuation of the architectural language established by the existing ACC. The existing Fletcher Allen campus, having been built over many decades, is comprised of a variety of disparate architectural styles and materials. The Inpatient Building is designed to help unify and extend the most recent major architectural development on the campus rather than adding yet another language to the mix. The use of the similar materials, proportions and façade gestures will allow the Inpatient Building to be viewed in this manner.

The massing and scale of the Inpatient Building seeks to blend with the existing ACC. The south façade will read as an extension of the ACC entrance arc that provides the main entry face for

Fletcher Allen. The main mass of the building forms a gentle curve that works with this arc and foreshortens the views from many angles of the western façade thus reducing its perceived size.

At the base of the Inpatient Building highly articulated columns faced in thin clad masonry, similar to those at the existing ACC, will front the vehicular access drive and provide a consistent campus architectural statement for vehicular drop off areas as cars approach the building and drive underneath for Emergency Department access. The west façade will feature a series of vertical glazed elements set in a thin clad masonry façade. The glazing will reflect the functional layout of the plan where paired patient room windows provide views towards the lake. Projecting brows at the top of each glazed area will recall similar features on the existing ACC building.

The Inpatient Building will have a flat roof with a fully adhered roof membrane utilizing tapered insulation sloped to interior roof drains. The uppermost level of the building will be an enclosed mechanical penthouse clad in articulated metal panel with louvers for air movement integrated into the façade design. There will be no exposed mechanical equipment viewable from the ground or adjacent buildings.

There will be two main entry points at the ground level of the building. One will be the public entrance to the emergency department which will be entered directly from a vehicular drop off area sheltered by the new building above. Glass areas will allow for visibility into the public waiting area of the Emergency Department during the day and provide a lighted beacon for way finding in the evening. Prominent and appropriate signage will also be present. The other main entry point will be the ambulance entrance, which will remain in its current location with existing canopy and signage.

The building fenestration will be a reflection of the hierarchy of the programmatic uses inside. The largest glazed areas will be at the locations of the patient rooms and the family visitor lounge to allow as much daylight and exposure to views for these areas as practical to promote an evidence-based design healing environment. These will be consistent from floor to floor and provide for a vertical emphasis to the façade fenestration. Opportunities for natural light in other areas such as ends of corridors and elevator lobbies will be provided to aid in orientation to the outside and way finding utilizing less prominent glazed areas.

The Project will incorporate various features which will allow it to be an example of energy efficiency for the Fletcher Allen campus. The building's exterior will feature triple glazed windows for greater thermal efficiency. The mechanical system will incorporate chilled beam

technology allowing for a more efficient distribution of cooling loads through the building. Energy efficient LED lighting will also be utilized throughout the facility.

The Inpatient Building will have an enclosed mechanical penthouse with a roof elevation of 101' above grade or 459' – 4" above mean sea level. This complies with the Institutional Core Campus Overlay District height restriction of no greater than 540' above mean sea level as well as the ICC-UVM central campus height overlay district height restriction of no greater than 140' above grade.

The Inpatient Building will be only briefly visible from Colchester Avenue and from University Place. The most prominent view of the Inpatient Building will be from the UVM Central Quad. Each of these views of the Inpatient Building will be softened with landscape plantings.

Relationship to Converse Hall

The immediate vicinity of the project area includes several buildings that are 50 or more years old including Converse Hall and the: Chittenden-Buckham-Wills Residential Complex (CBW). Converse Hall is considered to be a significant historic resource. The design process for the Inpatient Building project carefully considered the potential impacts on these buildings. The initial design attempted to balance impacts on all of the buildings and could have been constructed with all four remaining. Feedback from City staff, Fletcher Allen's historic preservation consultant and others suggested that it was more important to further reduce impacts on the historic building of greater value: Converse Hall. Furthermore the University's 2006 Campus Master Plan and 2013 Housing Master Plan calls for future demolition of CBW Residential Complex since the structures are not feasible to renovate to modern standards primarily due to the pre-cast concrete construction. Doing so resulted in moving the Inpatient Building further away from Converse Hall at the expense of greater impacts on the buildings of lesser historic value: Chittenden-Buckham-Wills Residential Complex.

Numerous elements in the proposed design reflect the efforts to preserve the visual prominence of Converse Hall as an important historic resource. The original proposed location of the Inpatient Building has been moved northerly away from Converse Hall in order to provide more space between the two structures and protect views to the west and east. The historic walkway from Converse Hall's main entrance westerly to the UVM campus will be retained and enhanced, preserving the historic link between the residence hall and the UVM Central Quad.

The materials and design elements selected for the Inpatient Building respond to the existing features of the Ambulatory Care Center (ACC) and Converse Hall in the proposed use of similarly hued thin clad masonry, and the design esthetic that employs curved forms to

strengthen the relationship between Converse Hall, the ACC and the Inpatient Building. In addition, the vertical windows that will be regularly spaced across the south elevation of the Inpatient Building reflect similar fenestration patterns of both Converse Hall and the south elevation of the ACC.

Lot Coverage Calculations

Fletcher Allen is allowed up to 65% total lot coverage under Section 4.5.2(C)(2) of the Comprehensive Development Ordinance. This section of the ordinance provides an incentive for Fletcher Allen to maintain substantial green space in a "transitional buffer" along Colchester Ave. and East Ave. For every 1% that lot coverage in the transitional buffer is below 40%, Fletcher Allen gains 1% in allowable overall lot coverage up to a maximum 65%.

The boundary line adjustment will increase the entire Fletcher Allen campus from 32.34 acres to 33.37 acres. The campus "transitional buffer" lot coverage does not change: the total buffer is 8.74 acres with 2.24 acres of impermeable area for a total of 26%, which is below the 40% maximum. The proposed overall lot coverage, including the Inpatient Building and associated parking, on the Fletcher Allen campus will increase slightly from 19.02 acres to 19.71 acres, and will increase slightly from 58% to 59%. This is under the total maximum lot coverage of 65%.

UVM's lot coverage before the land transfer is 48.09%. The UVM lot coverage changes after the land transfer (exclusive of UVM projects: removal of the CBW residence halls and installation of the Green Mountain Walkway) to 48.04%. They will still be under the total maximum lot coverage of 65%.

Circulation and Parking

Traffic access to the site will remain from Colchester Avenue with an adjusted Hospital Drive. The Inpatient Building does not have direct pedestrian access to the site: it is internally connected to the ACC West Pavilion and to McClure with a skybridge. Vehicular access is associated with the Emergency Department for Fletcher Allen and UVM's parking as described below.

The proposed site plan incorporates a turnaround directly the north of the Inpatient Building for fire truck access and movement. We have worked with the Fire Marshall to insure that the proposed design meets the needs of public safety. The existing ambulance entry to the Emergency Department will remain in its present location with reconfigured access and ambulance drop off.

There are no changes to the total count of 136 parking spaces available in the project area, spanning both UVM and Fletcher Allen property, 6 of which are handicapped accessible spaces. The parking area has adjusted to accommodate the Inpatient Building, and there are 47 spaces are allocated to Fletcher Allen for the Emergency Department and 89 spaces for UVM as exists today. The proposed Inpatient Building will not add additional bed capacity nor will there be any increase in on campus parking.

Existing City permits limit Fletcher Allen's on-campus parking to a maximum of 2,094 spaces. Existing permits also allow Fletcher Allen to vary the number of physical parking spaces on site at any given time based on its ongoing dynamic management of parking, which includes limiting on-campus parking permits for staff and other Transportation Demand Management (TDM) programs, so long as the quantity does not exceed the 2,094 parking space cap. Parking will continue to be managed within the 2094 cap for on-campus parking spaces. As always, from time to time there may be fewer physical spaces on campus, depending on Fletcher Allen's ongoing management of parking.

Pedestrian and bicycle access routes to and from the site are updated with the multi-use path shifted to the west side of Hospital Drive to avoid conflicts with the Emergency Department. Sidewalks connect the parking area with the Emergency Department and to the existing sidewalks around Converse Hall, ACC and the UVM campus. Bike racks are provided near the Emergency Department entrance. The Inpatient Building, site parking, and pedestrian sidewalks and multi-use path are handicapped accessible meeting the Americans with Disabilities Act (ADA) requirements.

Landscape

Thoughtful landscape design has been incorporated into the project. As one approaches the Inpatient Building from Colchester Avenue, shade trees line Hospital Drive. Within the parking lot adjacent to Converse Hall is a central, colorful raingarden that collects surface water for treatment. A second raingarden is placed in the interior of the fire truck turnaround north of the Inpatient Building. A paved walk radiates out from the covered plaza by the Emergency Department through a shaded tree grove to the Fletcher Allen parking, across the Converse Hall axial walk, through the UVM parking area adjacent to the raingarden, and south to the UVM campus and beyond. Columnar, shade and specimen trees provide shade throughout the parking areas and along pathways, and tree and shrub plantings along the western edge of the parking area screen paved areas visible from the UVM campus. Tree and raingarden plantings are prominently visible from the Inpatient Building patient rooms and intended to provide a gentle transition to the UVM campus.

Stormwater and Erosion Control

The project causes only a small increase in impervious area from 19.02 acres to 19.71 acres. Stormwater control will be accomplished using two approaches. One approach will be connecting to the existing collection system that conveys runoff to the North Campus Treatment and Detention Facility. The North campus Facility provides treatment to both UVM and Fletcher Allen. The Facility is designed, permitted and constructed in accordance with the State of Vermont's unified sizing criteria. Additionally, some on-site treatment will be included to the extent practicable. These on-site measures will likely include rain garden or bio-retention type systems located at some of the grass median areas as well as the vegetated down gradient edge of some of the parking areas.

For erosion prevention and sediment control, the project will follow best practices to prevent and or minimize erosion during construction. Currently Fletcher Allen has hired a construction manager that is working on a detailed logistics/phasing plan. Due to the size of the project as well as constructing the building over an active Emergency Department, there are a series complex steps the contractor will have to undertake in order to construct the project while maintaining access to the Emergency Department. Once the logistics plan is completed and signed off on, a detailed Erosion Prevention and Sediment Control Plan set will be developed and submitted to the State Agency of Natural Resources as part of their construction general permit program (CGP). This plan will take into account the phases/steps that will be required for construction and reflect the measures that will be applied as part of each phase of the project. The City's Stormwater Program Manager will be consulted with as part of this plan development as well as receiving copies of the final plan.

Outdoor Lighting

Energy efficient LED lighting will be utilized throughout the site and is proposed to coordinate with Fletcher Allen's and UVM's existing lighting. Pole-mounted LED light fixtures, identical to those currently used on the FAHC campus, are placed along Hospital Drive, throughout the parking areas, and along walkways to provide safe, efficient lighting conditions.

All areas under the Inpatient Building for vehicular drop off and public access to the Emergency Room will be adequately lit during the evening hours. The relocated parking lot for the Emergency Department will also get appropriate lighting utilizing fixtures consistent with types already in use on the Fletcher Allen campus.

Infrastructure

The Inpatient Building project will disrupt a number of existing utilities including, water, sewer, storm drains, power (both Fletcher Allen and BED) and Fletcher Allen Communication duct

banks. Measures are being taken to reroute impacted utilities as well as servicing the Project with water, sewer and power.

RSG

MEMO

TO:	Dave Keelty
FROM:	Dave Saladino, PE & Mark Smith, PE
DATE:	June 28, 2014
SUBJECT:	FAHC Inpatient Building – Traffic Assessment

On behalf of Fletcher Allen Health Care (FAHC), RSG has conducted the following assessment of expected traffic impacts related to the proposed Inpatient Building project in Burlington, Vermont.

1.0 SUMMARY OF KEY FINDINGS

We offer the following summary of key findings based on the analysis presented in this memorandum:

- Existing traffic conditions at key entry points to the main FAHC campus are within acceptable norms during peak conditions.
- Traffic generated by the Medical Center is dictated almost entirely by the number of employees and beds within the facility and can be reduced by extensive Transportation Demand Management Programs a key element of which is limited on-campus parking.
- No net change in the total number of beds or maximum parking spaces are expected at the Medical Center as a result of the new Inpatient Building.
- No net increase in vehicle traffic or parking demand is expected due to the proposed Inpatient Building project.

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

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

Burlington
Planning and Zoning

TO: Development Review Board
FROM: Scott Gustin & Mary O'Neil
DATE: July 7, 2015
RE: Training topics

Over the course of fiscal year 2016, four work sessions are proposed for the Development Review Board. At least one of those sessions will be a joint meeting with the Planning Commission. Dates are to be determined, but ideally, the work sessions would occur quarterly and on regularly scheduled DRB meeting dates or deliberative dates. The idea is to delve into topics of interest to the Board and to address recurrent items such as parking, Bianchi, and appeals procedures. In conjunction with the Chair and Vice Chair, the following preliminary list of topics has been put together. We may narrow or expand this list per our discussion on July 7.

- DRB's role/procedures/packets/staff support/deliberative meetings/site visits
- Meeting procedures
    - Who is an "interested party?"
    - Per person time limits for oral testimony
- Bianchi
    - Grandfathering versus unenforceable violation
    - 15-year statute of limitations and exceptions
- Open meeting law
- Appeals
    - Burden of proof
    - Demonstration of how appellant's property is affected
- Parking
    - Parking waivers assessment
    - Downtown and neighborhood parking studies
- Character of the area criterion
- Plan BTV South End
- Slide show of and/or site visit to completed project sites

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
Michael Long
Jonathan Stevens
Brad Rabinowitz
Missa Aloisi
Israel Smith
A. J. LaRosa
Alexandra Zipparo (Alt.)
Jim Drummond (Alt.)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday, June 16, 2015, 5:00 p.m.
Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
MINUTES

Board Members Present: Austin Hart, Jonathan Stevens, Israel Smith, A.J.LaRosa, Alexandra Zipparo
Board Member Absent: Missa Aliosi
Staff Members Present: Ken Lerner, Scott Gustin, Mary O'Neil, and Anita Weber

I. Agenda
No changes to Agenda.

II. Communications

III. **Minutes;** discussion after meeting

IV. Sketch Plan

1. **15-1213SP; 351 North Ave, (RM-W, Ward 4N) Burlington College and Eric Farrell**
Sketch plan review of proposal to convert orphanage building into residential units. Also establish common spaces and assembly space for existing college. (Project Manager, Scott Gustin)

B.Rabinowitz; questioned if presentation was about housing or college.
E.Farrell; only about housing and no changes to college.
B.Rabinowitz; wondered if only half the project was being presented.
S.Gustin; looking only at conversion to residential use.
E.Farrell; Slide presentation of previous and existing pictures of the old orphanage building; working with 90,000 square feet;; Orphanage was completed in 1882; Mostly vacant since 1980's; the cupola is not the original; spoke about current elevations; service areas; Plan is to disconnect orphanage internally from college adding 62 residential units Redoing curb cuts.
Discussion on pedestrian and landscaped area in front of building; Working on a front streetscape; North side will provide emergency vehicle access in combination with a pedestrian path; West side will remove service area placing pavers for emergency vehicles; West wing will provide an1800 sq ft connector for assembly and patio area combining indoor/outdoor space. South side has no changes; Not prepared to advance plan for additional development on 28 acres; possibly late summer/fall for more plans and phases of the other acres; ownership of orphanage building is separate from land ownership; shared oversight and maintenance costs between Eric and College.
E. Farrell; Starting project in the Fall and completion date late summer 2016 was proposed; will include market rate and inclusionary residential units including student housing; Wants to discuss plans on further development pertaining parking spaces and stormwater drainage; heavily landscaped areas will occur where to prevent parking from being visible from the street.

Elevation pictures were shown of the orphanage; additional skylights added; 24% of the units are located in the attic space; the 5th floor offers an enormous space; two levels of dormers; existing and upper; 5th floor does not meet code unless supplemented with skylights; Mentioned reconstitution of historic entrance.
North elevation is a lower grade for new entrance and easier access.
On West side, porches will be removed.
South profile doesn't show windows as they exist today.
New elevator in existing shaft will be expanded in the rear of building over 5' to west; Another elevator will be removed and placed in right corner near classrooms on the west elevation.
New landscaping was shown on the plan; building's slate roof may need replacement with new slate or salvage old slate.
A.Hart, asked about skylights.
E.Farrell; said skylights will not be noticeable.
AZipparo; asked how many buildings are new
E.Farrell; said almost all; said he intends to rebuild entrance with flat roof providing for a wider pedestrian area 18" and space for the Fire Marshall requirements; boiler room will be converted to lounge area; an internal connection to main sections will provide open space for the interior, but the college and orphanage building will be separated and an additional upper floor elevator will be added. The building provides bike storage area of 63 interior rack spaces for students and nonstudents, storage and repair, laundry, pet friendly wash, fitness area; a boiler will service both.
Windows that are large and heavy, difficult to reach, and leaking will have energy efficient in kind windows; may do single hung; still looking at various type of windows with 2 or 3 companies.
M.Long; asked if windows would look the same or if they would lose light.
E.Farrell; yes they should look the same.
J.Stevens; asked about agreement to purchase orphanage.
E.Farrell; said he will own the orphanage building and college will own its own building; land will be held in common.
A.Hart; asks about the mix of units.
E.Farrell; said there will be one bedroom and studio bedrooms; one bedrooms will be 850 sq ft.
A.Hart: asks about affordable units.
A.Hart; said a great job restoring historic building; asked for more information regarding windows particularly from street frontage; north side parking can be resolved at later date
E.Farrell; said he would keep parking lot.
A.Hart; asked about proposal for grave lot.
J.Stevens; said there were no notes about historic features.
M.ONeil; said plan included skylights; could talk to Caitlin Corklin.
E.Farrell; said his economic process was not valuable for tax credits; did not have time to investigate; wanted a person knowledgeable in historic places to investigate The entrance will only be available to residents of the building.
A.J.LaRosa; asked about inclusionary units.
E.Farrell; said he was not permitting as straight up; students may be either market rent or eligible for inclusionary units.
J.Stevens; said usually permits are issued.
E.Farrell; said he will still own the land.
A.Hart; explained that permit runs with land.
M.Long; asked about college.
E.Farrell; said he will give students first choice.
A.Hart: asked if there was a standard for parking.
M.Oneil; confirmed this.
A.Hart; asked if more thought could be given to parking.
E.Farrell; may be able to move parking to west side and would be mindful of parking locations.
A.Zipparo; great job with proposal and the addition of skylights.

E.Farrell; said there are no practical alternatives for the windows and that economics will not allow ignoring the space in the attic.
A.Zipparo; asked if some units could be 350 sq ft.
E.Farrell; said there is a market for small units at lower price point; most people don't want to live in 'crappy' housing, but may want to live in smaller units.
A.Zipparo; questioned the market rate for units.
E.Farrell; said units will offer heat, hot water, free laundry, storage in first new building; but not in orphanage, which will have fitness and pet friendly, all of which is free.
I.Smith; asked why not go for tax credits and consider lakeside.
E.Farrell; said he was trying to be practical and respectful of building and decided to be sensitive; proposing fixed lights; trying to deliver affordable and mix and keep costs low.
ISmith; asked if units were reasonable for the market of 2 bedroom units.
E.Farrell; said it was more appropriate for one unit dwelling for a lot of reasons.
I Smith; questioned about insulation.
E.Farrell; said he may strip and fully insulate but checking with Bob.
B.Duncan; spoke to brick character; balance; 2" of foam; building strapped for lathe and plaster which may be removed; insulation to brick.
AZipparo; asked about window frames.
B.Duncan; frames in good condition; insert window that's functional with higher rates; reduce pockets; attic skylights; heat loss; only area in attic insulated cap walls; cannot be in attic with/out skylights.
B.Rabinowitz; great project; asked for more information on windows; questioned roof skylights on street side.
B.Duncan; looking at fixing awnings having shadow reveal; overhung needs check rail; might be noticeable; looking at retrofit windows too; affordable options; polling board has been critical to rehab
B.Rabinowitz; asked if buildings were being removed.
E.Farrell; the garage and condensing unit needs to be replaced to service other areas.
B.Rabinowitz; said separation between college and residential should be considered; expects more interpretation of the site not the buildings.
B.Duncan; courtyard will be accessible to all residents of building.
B.Rabinowitz; questioned about shared space.
B.Duncan; confirmed there would be a shared space between residential and college
E.Farrell; only access will be among residents and college students living in both buildings sharing site amenities.
B.Rabinowtitz; expressed concerns that use overlap will be challenging
E.Farrell; said non students living in units will be a young demographic and should will not be an impact but not concerned.
A.Zipparo; questioned handicap accessible for front entrance.
E.Farrell; said not sure handicap access was possible for the front entrance.
A.Zipparo; spoke of Smith Hall example of how an older 1871 building can accommodate handicap access for a front entrance.
E.Farrell; probably won't consider since he thought it was not worth the effort.
A.Zipparo; said handicap access to the front of building is important.
Bob; said set-back change would be 100' change and understands about entering from the front entrance.
A.Zipparo; said she was surprised there is access without an overhang.
B.Rabinowitz; asked about rear land access and street tree options.
E.Farrell: city arborist asked them to set back trees; will consider this afterward.
S.Guston; said required minimum is not met with side lot and front line; noted in staff report about sloped areas if reductions were made for site calculations.
E.Farrell; said 6 acre parcel ordinance does not count slopes in access of 30%; only steep slopes behind building; not close to density; not asking DRB to waive requirements.
S.Guston; reads from code ordinance.
E.Farrell; asked if doesn't say in ordinance that DRB can wave requirement that reduce between 50 and 30%; doesn't think the ordinance reads that way.
S.Guston; spoke about possibly a significant parking waiver.

K.Lerner; asked about the big flat area and whether amenities would be provided for residents.
E.Farrell; said he was not proposing to do any amenities.
K.Lerner; suggested looking at the outdoor spaces for residents.
E.Farrell; said he was not building amenities; said he would be interested in providing for pets, but not interested into pool, tennis, basketball as amenities.
B.Rabinowitz; suggested a dog park.
A.Hart; asked if there was anything else new or different.
E.Farrell; said sketch is very important and that the project will be a show stopper.
A.Hart; said the application and project was good and recognized the constraints; skylights on roof and more housing is good thing.
A.J. LaRosa; asked about structured parking.
E.Farrell; said there would be substantial structured parking; shared concern about open parking and would liket to avoid it.
B.Rabinowitz; questioned the window sills dimensions.
B.Duncan; said windows were10ft floor to floor.
E.Farrell; said biggest challenge with historic building is cost containment.
AZipparo; questioned if west elevation was a viewshed.
E.Farrell; said he was taking porches off, but not doing anything different with west side.
A.Zipparo; suggested being mindful of view in area.
I.Smith; suggested being more liberal on the west side.
A.Hart; said the major public view is north side.
E.Farrell; said the property will be enjoyed more than it is today.
B.Rabinowitz; said it would be helpful to see notations on the viewsheds.
A.Hart; Closed sketch plan at 6:35pm.

Discussions on other business took place pertaining to signatures required for the Annual Report of the Burlington Conservation Board is due at end of month and everyone needs to sign according to S.Guston.
No deliberation was scheduled.
No comments on previous minutes.
Meeting was adjourned at 6:37pm.

V. Other Business
VI. Adjournment

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

All staff comments, plans and supporting documents will be available on the Planning and Zoning website at: www.burlingtonvt.gov/pz/drb/agendas approximately one week before the hearing.

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 and Development Review Board is considered public and cannot be kept confidential.

This agenda is distributed to: adjacent property owners of projects before the Development Review Board, Neighborhood Planning Assemblies, City Councilors, City Departments and interested parties. You may direct written comments to the Planning and Zoning Department, at the above address. Inquiries may be made by calling 865-7188. Oral comments may be given at the meeting by any persons on any project listed on the Agenda.

_____ _____
A.Hart, - Chair, Development Review Board Date

_____ _____
Anita Wade, Zoning Clerk Date

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

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Burlington
Planning and Zoning

Burlington Development Review Board

Minutes/Findings of Fact
July 1, 2014

In RE: 14-1109VR; 465 Appletree Point Rd. (Ward 4, WRL) (Tax Lot No. 030-3-018-000)

Owner/Representative: David & Brianne Chase / Al Senecal

Request: Variance from front yard setback on existing vacant lot

Members Present:
Jonathan Stevens
Michael Long
Jim Drummond
Brad Rabinowitz
Alexandra Zipparo
Israel Smith

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

I. FINDINGS

Background Information:
The applicant is seeking a variance from applicable front yard and waterfront setbacks on an existing vacant lot. The subject property was created in 2004 under the previous zoning and subdivision regulations. These previous regulations contained standards different from those in effect today. The front yard setback at the time was 15', and the waterfront setback was 50'. Today's front yard setback is based on the average of neighboring properties (in this case 84' +/- 5'), and the waterfront setback is 75'. The requested variance seeks a 25' front yard setback (~ 17' from the road's edge) and a 20' waterfront setback.

Written public comment has been submitted that asserts the property owners were aware of the waterfront setback restrictions at the time of subdivision under the prior subdivision regulations and should not be granted relief from this setback by way of variance. Indeed, there was a 50' waterfront setback in place at the time of subdivision as noted above. However, as noted in these findings, the variance from the waterfront setback is unnecessary and unwarranted.

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

Previous zoning actions for this property are as follows:

- 7/26/04, Approval of 2-lot subdivision

Article 12: Variances and Appeals
Sec. 12.1.1 Variances
(a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located.

The lot is not especially small at 13,240 sf, nor is it particularly irregular. The problem stems entirely from the way the front yard setback is calculated per Table 4.4.5-3: *Residential District Dimensional Standards*. The front yard setback is based on the average of 2 adjacent lots on both sides of the subject lot, +/- 5'. In this case, the front yard setback is based on the average of 395 Appletree Point Rd and 451 Appletree Point Rd to the east. The two lots to the west are vacant. The application indicates an applicable front yard setback of 100'. Staff measurements based on boundary surveys of both 395 and 451 Appletree Point Rd show an applicable setback of 84', +/- 5' (106' + 62' / 2 = 84'). This discrepancy needs to be resolved. In any event, an 84' front yard setback puts any potential construction either in the lake or on the lakeshore slope immediately adjacent to the water. Compliance with the front yard setback is impossible. **(Affirmative finding as conditioned)**

The requested variance from the 75' waterfront setback is unnecessary. While the 75' waterfront setback overlaps substantially with the 84' front yard setback, the waterfront setback is considerably more flexible. Sec. 4.4.5, *Residential Districts*, (d) 1, B, *Encroachments into the Waterfront Setback*, (ii) allows the waterfront setback to be reduced to the average setback of existing structures within 150' of the subject lot. In this case, the abutting property at 451 Appletree Point Rd is within 150' and contains an existing camp structure at just 17' from the waterfront. The requested 20'waterfont setback is compliant with this standard. No variance is needed. **(Adverse finding)**

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

As noted above, an 84' front yard setback places any would-be construction in the lake or on the slope immediately adjacent to the lake. Compliance with the front yard setback is impossible. **(Affirmative finding)**

As noted above, no variance from the waterfront setback is necessary. The provisions of Sec. 4.4.5 allow encroachments up to 17' in this case. The requested 20' waterfront setback requires no variance. **(Adverse finding)**

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

The hardship relative to the front yard setback is related to the difference between the pre-existing lot and the setbacks in effect at the time it was created and the present setback requirements. It is not a lot newly created by the applicant under the current regulations. **(Affirmative finding)**

There is no unnecessary hardship relative to the waterfront setback. **(Adverse finding)**

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

The variance from the requirements of the front yard setback would not alter the essential character of the neighborhood or district in which the subject property is located. The variance would enable the construction of a single family home on a ~1/4 acre lot. Such is the predominant development pattern in this area of the city. **(Affirmative finding)**

The variance from the waterfront setback is unnecessary as noted before. **(Adverse finding)**

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

The requested 25' front yard setback allows for a reasonable building envelope and continues to reflect the neighborhood pattern of homes set relatively far back from the road and relatively close to the shoreline. **(Affirmative finding)**

No variance from the waterfront setback is necessary. **(Adverse finding)**

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

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

If granted, the variance from the waterfront setback would not result in the extension of a noncomplying situation or allow a nonconforming use of land. The requested building envelope complies with the encroachment provisions for the waterfront setback. As such, no variance is needed. **(Adverse finding)**

II. MINUTES

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

III. MOTION

Motion: Brad Rabinowitz
I move that the Board grant Variance approval for the front yard setback for the property at 465 Appletree Point Road in the WRL zone in accordance with Article 12. Approval is subject to the following conditions:

1. This variance approval is for relief from the front yard setback requirement of Table 4.4.5-3, *Residential District Dimensional Standards*. No variance is granted for the waterfront setback.
2. Prior to permit application for construction on the property, the front yard setback shall be verified, subject to staff review and approval.
3. No development is included in this approval. All development is subject to a separate zoning permit.
4. Per Sec. 12.1.3, *Filing a Request, Public Hearing, and DRB Decision*, this variance approval shall be valid for a period of 2 years.

Seconded: Jonathan Stevens

Vote: 6-0-0, motion carried

Dated at Burlington, Vermont, this 1st day of July, 2014

Respectfully Submitted,

Jonathan H. Stevens, 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.

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

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday, July 7, 2015, 5:00 p.m.
Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
AGENDA

I. Agenda
II. Communications
III. Minutes

IV. Public Hearing

1. **15-1219AP; 111 Colchester Ave (UC, Ward 1) Fletcher Allen Health Care, Inc.**
   Appeal for Code Enforcement Decision of an unsubstantiated complaint pertaining to the construction by the Medical Center on an acre of land zoned for university use. (Project Manager, Ken Lerner)

2. **15-0922CA/MA; 451 Appletree Point Road (RL, Ward 4N) Alfred Senecal**
   Re-opened. Demolition of existing structures, construct new duplex, associated site improvements and lot line adjustment. (Project Manager, Scott Gustin)

3. **15-0923CA/MA; 465 Appletree Point Road (RL, Ward 4N) Alfred Senecal**
   Re-opened. New residential duplex, utilities and driveway (Project Manager, Scott Gustin)

V. Other Business

1. Annual Organizational Meeting
2. Training Topics Discussion

VI. Adjournment

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

All staff comments, plans and supporting documents will be available on the Planning and Zoning website at: www.burlingtonvt.gov/pz/drb/agendas approximately one week before the hearing.

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 and Development Review Board is considered public and cannot be kept confidential.

This agenda is distributed to: adjacent property owners of projects before the Development Review Board, Neighborhood Planning Assemblies, City Councilors, City Departments and interested parties. You may direct written comments to the Planning and Zoning Department, at the above address. Inquiries may be made by calling 865-7188. Oral comments may be given at the meeting by any persons on any project listed on the Agenda.

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
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