

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

Telephone: (802) 865-7188

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



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday May 16, 2017, 5:00 PM

PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on
Tuesday May 16, 2017 at 5:00pm in Contois Auditorium, City Hall.

1. **17-0914CA; 212 Elmwood Ave (RM, Ward 2C) Champlain Housing Trust**
Demolish existing 3 bedroom single family home and rebuild new 3 bedroom single family home. (Project Manager, Ryan Morrison)
2. **17-0955CA/CU ; 76 Chase Street (RL, Ward 1E) Eva Sollberger**
Request for accessory apartment and parking arrangement.
(Project Manager, Scott Gustin)
3. **17-0952AP ; 41 South Willard Street (RH, Ward 8E) Vista K Properties, LLC**
Appeal of a zoning violation notice #323518 relative to parking, occupancy, and certificates of occupancy. (Project Manager, Jeanne Francis)
4. **17-0974CA/CU; 2 King Street (DW-PT, Ward 3C,5S) Lake Champlain Transportation Co**
Install exterior removable interconnected deck panels. Install retractable awning over patio area. Remove three windows in front of building and fill in with firewall on interior. Match siding on exterior of building. This property is within the Special Flood Hazard Area.
(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/drdb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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

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BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, May 16, 2017, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT AGENDA

- I. Agenda**
- II. Communications**
- III. Minutes**
- IV. Consent**
 - 1. 14-0753CA; 210 South Union Street (I, Ward 6S) Chad Tyler**
Add one residential unit to existing accessory structure, increasing total units for property from four to five; add one surface parking space. (Project Manager, Ryan Morrison)
 - 2. 17-0914CA; 212 Elmwood Avenue (RM, Ward 2C) Champlain Housing Trust**
Demolish existing 3 bedroom single family home and rebuild new 3 bedroom single family home. (Project Manager, Ryan Morrison)
 - 3. 17-0955CA/CU; 76 Chase Street (RL, Ward 1E) Eva Sollberger**
Request for accessory apartment and parking arrangement.
(Project Manager, Scott Gustin)
- V. Public Hearing**
 - 1. 17-0974CA/CU; 2 King Street (DW-PT, Ward 3C,5S) Lake Champlain Transportation Co**
Install exterior removable interconnected deck panels. Install retractable awning over patio area. Remove three windows in front of building and fill in with firewall on interior. Match siding on exterior of building. This property is within the Special Flood Hazard Area.
(Project Manager, Scott Gustin)
 - 2. 17-0786AP; 220 Pine St (RM, Ward 5S) Nicholas Papaseraphim**
Continuation of an appeal of Notice of Zoning Violation #320536 relative to expanded parking and lack of certificates of occupancy. (Project Manager, Jeanne Francis)
 - 3. 17-0952AP; 41 South Willard Street (RH, Ward 8E) Vista K Properties, LLC**
Appeal of a zoning violation notice #323518 relative to parking, occupancy, and certificates of occupancy. (Project Manager, Jeanne Francis)
- VI. Other Business**
- VII. Adjournment**

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Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

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



TO: Development Review Board
FROM: Scott Gustin
DATE: May 16, 2017
RE: 17-0955CA/CU; 76 Chase Street

=====

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

Zone: RL Ward: 1E

Owner/Applicant: Eva Sollberger

Request: Construct new addition to establish accessory apartment

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, & Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking)

Background Information:

The applicant is seeking approval to create an accessory dwelling unit. Presently, the site contains a single family dwelling, driveway, and detached garage. An existing rear addition will be removed and replaced with a somewhat larger addition containing the proposed apartment. As a result, conditional use review is triggered. The existing garage will be demolished, and a new patio and deck will be constructed.

Previous zoning actions for this property are noted below:

- 12/14/11, Approval to install metal stovepipe
- 9/3/10, Approval to convert rear storage room into living space (not acted upon)
- 5/12/08, Approval to remove second chimney
- 9/24/07, Approval to remove chimney
- 7/10/00, Approval of rear retaining wall

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

I. Findings

Article 2: Administrative Mechanisms

Part 7: Enforcement

Sec. 2.7.8, Withhold Permit

A number of zoning permits have been approved for the subject property. Most, but not all, have final certificates of occupancy. Per this section, prior to issuance of a final certificate of

occupancy for this project, any zoning permits not yet closed out with final certificates of occupancy must be addressed. **(Affirmative finding as conditioned)**

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards

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

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

The property is served by municipal utilities. Sufficient water and sewer service are available. A State of Vermont wastewater permit will be required. A capacity letter issued by the Dept. of Public Works will be required prior to issuance. **(Affirmative finding as conditioned)**

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

The property is located within an established residential neighborhood in the low density residential zoning (RL) district. The RL zoning district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history. The proposed accessory dwelling unit is consistent with this intent. The MDP provides the following support:

- Support the development of additional housing opportunities within the city... (MDP, Housing Plan, Page IX-1.
- Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning. (MDP, Housing Plan, Page IX-12.) **(Affirmative finding)**

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

The proposed apartment is not expected to generate nuisance impacts from noise, odor, dust, and the like that may be more typically associated with industrial uses. **(Affirmative finding)**

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

No traffic analysis has been provided or is required for this application. The proposed accessory apartment is expected to generate minimal additional traffic. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

No renewable energy utilization is included in this proposal. Future incorporation is not precluded by the project design. **(Affirmative finding)**

and,

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

City building and energy efficiency codes will apply as conditioned.

(b) Major Impact Review Standards

Not applicable.

(c) Conditions of Approval:

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

1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.

The proposed apartment is not expected to produce offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

2. Time limits for construction.

No construction timeline or phasing are included in the project plans. The standard 2-year timeframe for zoning permits will apply. **(Affirmative finding)**

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

Hours of operation are not applicable to this residential use.

Construction hours are not noted in the application. Typical construction hours are Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request. No work on Sunday. **(Affirmative finding as conditioned)**

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

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

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

See the recommended conditions.

Article 4: Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

(1) Residential Low Density (RL)

The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhood's development history. As noted previously, the single family dwelling and proposed accessory apartment are consistent with this intent. **(Affirmative finding)**

(b) Dimensional Standards and Density

Residential density remains unchanged. Accessory dwelling units specifically do not count towards allowable residential density per Sec. 5.4.5, *Accessory Dwelling Units*.

Lot coverage is presently nonconforming at 74.5%. As proposed, there will be no increase in this degree of nonconformity.

The front yard setback will remain unchanged. The right (east) side yard setback is presently nonconforming as to the building location. The replacement structure will not increase the degree of nonconformity. The left (west) side yard setback is conforming and will remain so. The existing rear storage addition and the accessory apartment that will replace it are both at, or below, 15' in height and, therefore, require a 5' rear yard setback. The proposed construction complies with this minimum rear setback. Existing driveway nonconformity along the western side yard setback will remain unchanged.

Overall building height will remain unchanged. As noted above, the proposed accessory apartment addition will be 15' tall. **(Affirmative finding)**

(c) Permitted and Conditional Uses

An accessory dwelling unit is a permitted use; however, new construction triggers conditional use review. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Article 4 above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable to the subject property.

Sec. 5.2.5, Setbacks

See Article 4 above.

Sec. 5.2.6, Building Height Limits

See Article 4 above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Article 4 above.

Sec. 5.3.5, Nonconforming Structures

(a) Changes and Modifications:

Nothing in this Part shall be deemed to prevent normal maintenance and repair or structural repair, or moving of a non-complying structure pursuant to any applicable provisions of this Ordinance.

Any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

1. *Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below.*

Within the residential districts, and subject to Development Review Board approval, existing nonconforming single family homes and community centers (existing enclosed spaces only) that project into side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure. Such expansion shall be of the existing nonconformity (i.e. setback) and shall:

- i) *Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development);*
The proposed accessory apartment addition sits within the western side yard setback. Height will increase, but the building footprint will not come any closer to the side yard. Lot coverage is also nonconforming but will not increase. (Affirmative finding)
- ii) *Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,*
The height of the accessory apartment addition will be slightly taller than that of the existing storage room. It will not exceed 15' and will have no undue adverse impact on adjoining properties or public interests. (Affirmative finding)
- iii) *Be compatible with the character and scale of surrounding structures.*
The proposed construction entails a minor increase in height within the side yard setback. It is insufficient in size to have any appreciable impact as perceived from the street or the greater neighborhood area. (Affirmative finding)

Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.

As noted above, the new addition will be 15' tall. (Affirmative finding)

2. *Such a change or modification shall not create any new nonconformity; and,*
No new nonconformity results from the accessory apartment addition. (Affirmative finding)
3. *Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.*
See Article 6.

Sec. 5.4.5, Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses

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

The proposed apartment is accessory to the existing detached single family home and is laid out as an efficiency unit. **(Affirmative finding)**

Additionally, there must be compliance with all the following:

1. *The property has sufficient wastewater capacity as certified by the Department of Public Works;*

The applicant shall obtain a letter of adequate capacity from DPW for wastewater.

(Affirmative finding as conditioned)

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

The apartment will be small at just 294 sf, or 27.3% of the total 1,075 sf habitable area of the existing home. **(Affirmative finding)**

3. *Applicable setback and coverage requirements are met;*
See Article 4.

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

One onsite parking space will be provided for the accessory apartment. **(Affirmative finding)**
and

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

This provision will be included as a condition of approval. **(Affirmative finding)**

(c) Discontinuance of Accessory Units

Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit

is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

As with A. 5 above, this provision will be included as a condition of approval. **(Affirmative finding)**

Sec. 5.5.1, Nuisance Regulations

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

Sec. 5.5.2, Outdoor Lighting

A single new outdoor lighting fixture is proposed. It will illuminate the exterior entry into the proposed apartment. The fixture is appropriately downshielded with acceptable wattage. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control

Not applicable. Insufficient earthwork and resultant lot coverage to require EPSC or stormwater management forms.

Article 6: Development Review Standards:

Part 1, Land Division Design Standards

Sec. 6.1.2, Review Standards

Not applicable.

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

The rear portion of the property is affected by the Riparian & Littoral Conservation zone paralleling the Winooski River; however, development in the form of existing parking lots sits between the property and the protected resource. No tree clearing or new stormwater outfalls are included in this proposal. No adverse impacts to the river are anticipated. **(Affirmative finding)**

(b) Topographical alterations

The property slopes down and away from the road. No significant topographic alterations are included in this proposal. **(Affirmative finding)**

(c) Protection of important public views

There are no identified view corridors near the subject property. The proposed construction will have no impact on the city's regulated view corridors. **(Affirmative finding)**

(d) Protection of important cultural resources

The subject property is not listed on an historic register, nor has it been surveyed to determine eligibility. The property is not located within an identified archaeologically sensitive area, nor

does it contain any archaeologically significant site points. The proposed construction will not adversely affect Burlington's historic or cultural resources. **(Affirmative finding)**

(e) Supporting the use of alternative energy

No alternative energies are incorporated into the project design. Construction of the project will have no adverse impact on potential use of alternative energies onsite. **(Affirmative finding)**

(f) Brownfield sites

The subject property is not included on the Vermont DEC Hazardous Site List. **(Affirmative finding)**

(g) Provide for nature's events

A small overhang will provide shelter for those entering the doorway into the proposed accessory apartment. **(Affirmative finding)**

(h) Building location and orientation

(Not applicable)

(i) Vehicular access

The existing driveway will serve the new accessory apartment as well as the detached single family home. **(Affirmative finding)**

(j) Pedestrian access

The existing home connects directly to the public sidewalk along Chase Street. The very small lot size and existing lot coverage nonconformity preclude a new walkway for the proposed apartment. A new set of steps will afford access to the apartment's exterior doorway. **(Affirmative finding)**

(k) Accessibility for the handicapped

Not applicable.

(l) Parking and circulation

See Article 8.

(m) Landscaping and fences

Not applicable.

(n) Public plazas and open space

Not applicable.

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

No exterior mechanical equipment is included in this proposal. Any new utility lines must be buried. **(Affirmative finding as conditioned)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

The new construction for the accessory apartment is minimally different from present conditions. Height and roof form will differ somewhat, but the overall massing and scale are similar. Given its very small size and position behind the existing home, little effect on the streetscape is anticipated. Note that exterior building materials are not labeled on the elevation plans and must be.

(Affirmative finding as conditioned)

Article 8: Parking

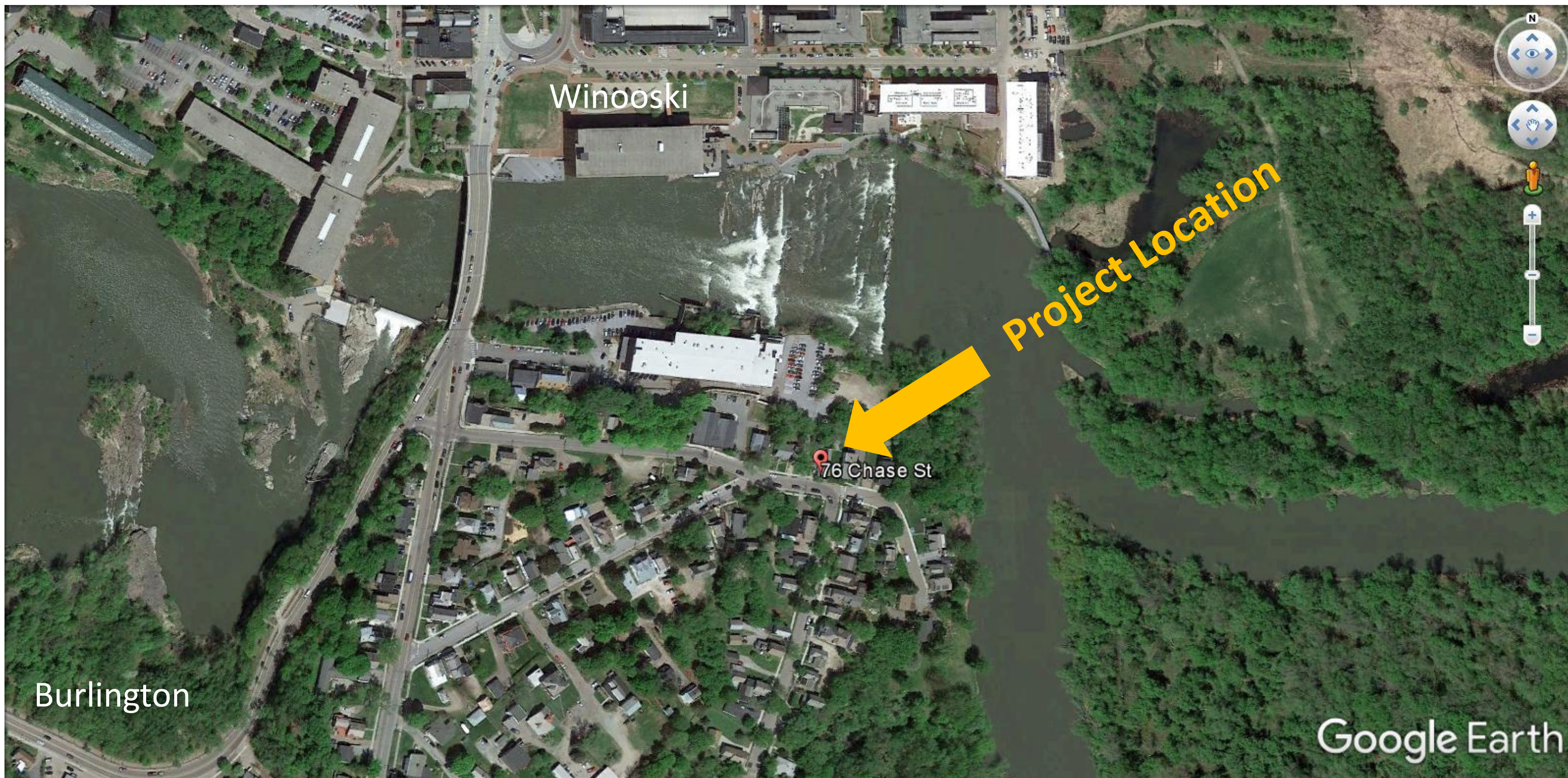
Sec. 8.1.8, Minimum Off-Street Parking Requirements

Total onsite parking required is 3 spaces (2 for the existing home and 1 for the apartment). As proposed, all 3 spaces will be provided onsite. The 2 spaces for the single family home are in tandem arrangement with access via existing connection to the neighboring Chace Mill driveway. The applicant has an easement for use of this neighboring driveway. Tandem parking is acceptable for single family homes. The 1 parking space for the accessory apartment will be located at the top of the driveway with direct access onto the street. **(Affirmative finding)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, revised elevation drawings labeling all exterior building materials shall be submitted, subject to staff review and approval.
2. **Prior to release of the zoning permit**, the applicant shall receive written verification of adequate wastewater capacity from the Department of Public Works.
3. **Prior to issuance of a final certificate of occupancy**, all outstanding zoning permits for the subject property shall be closed out.
4. Days and hours of construction are limited to Monday – Friday 7:00 AM – 5:00 PM. Saturday construction within those hours may be allowed upon request to the DRB. No construction activity on Sunday.
5. The accessory dwelling unit shall be occupied by no more than 2 adults.
6. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit **prior to the issuance of the certificate of occupancy** for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.
7. Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.
8. A State of Vermont wastewater permit is required.

9. All new utility lines shall be buried.
10. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
11. Standard Conditions 1-15.



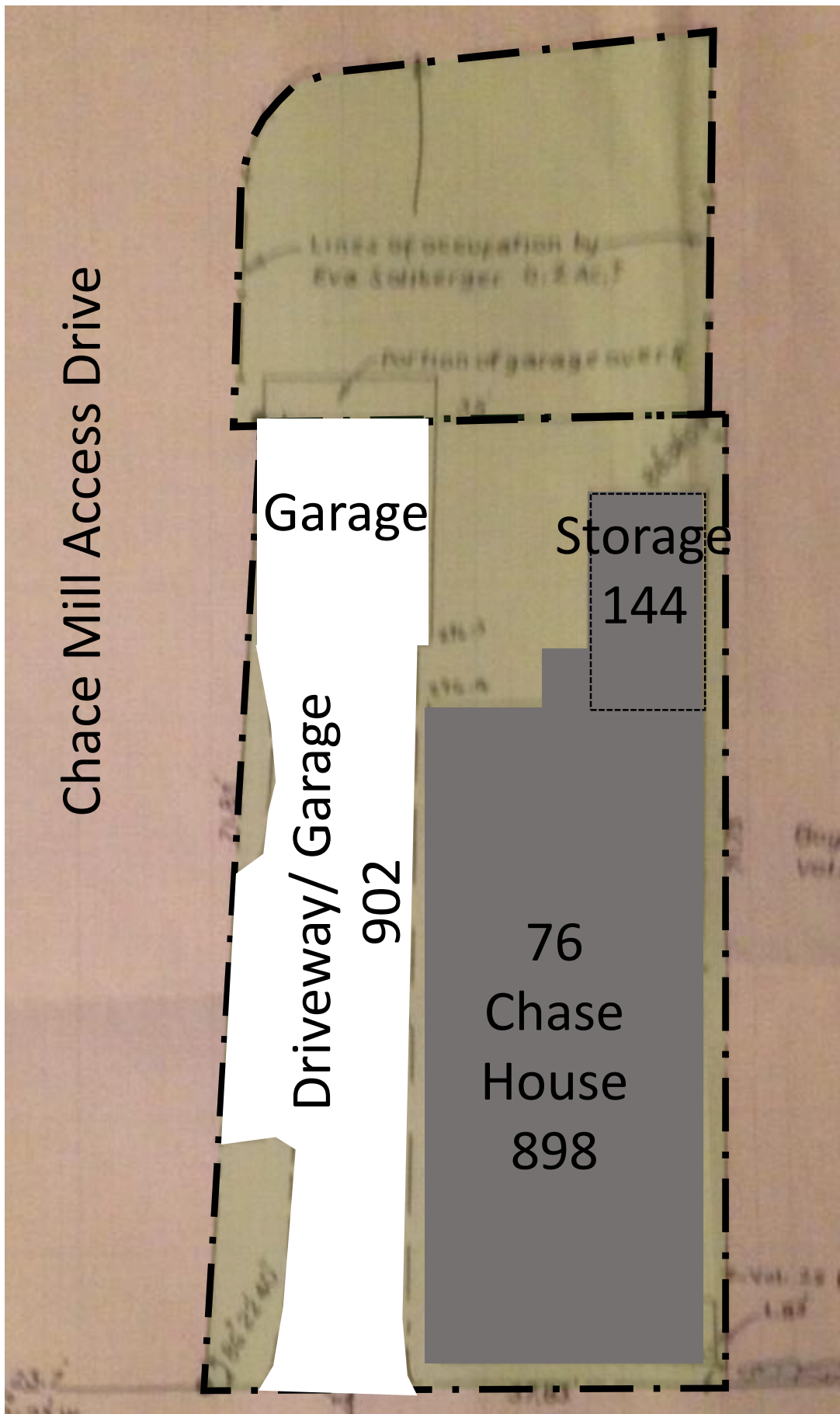
Applicant Request

This project adds an ADU to the project site, **occupying and expanding** the footprint of an existing back storage space.



Applicant Request

This project replaces and expands the footprint of an existing storage space into an Accessory Dwelling Unit. As required, the project will add an additional parking space, and will meet the 30% threshold of habitable floor area/existing structure.



Existing Site Plan



Proposed Site Plan

76 Chase Street

Existing Site Information:

Property Size: 2611 SF

RL

Current Coverage: 1944

Proposed Coverage: 1944

5.4.5 A.2

ADU to be 30% of Habitable Space

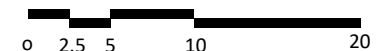
1. Main House habitable sf= 1036
2. ADU habitable sf=269
3. Total habitable sf=1305
4. 30% of 1305=allowable ADU = 392 sf
5. Proposed habitable ADU space= 269 sf

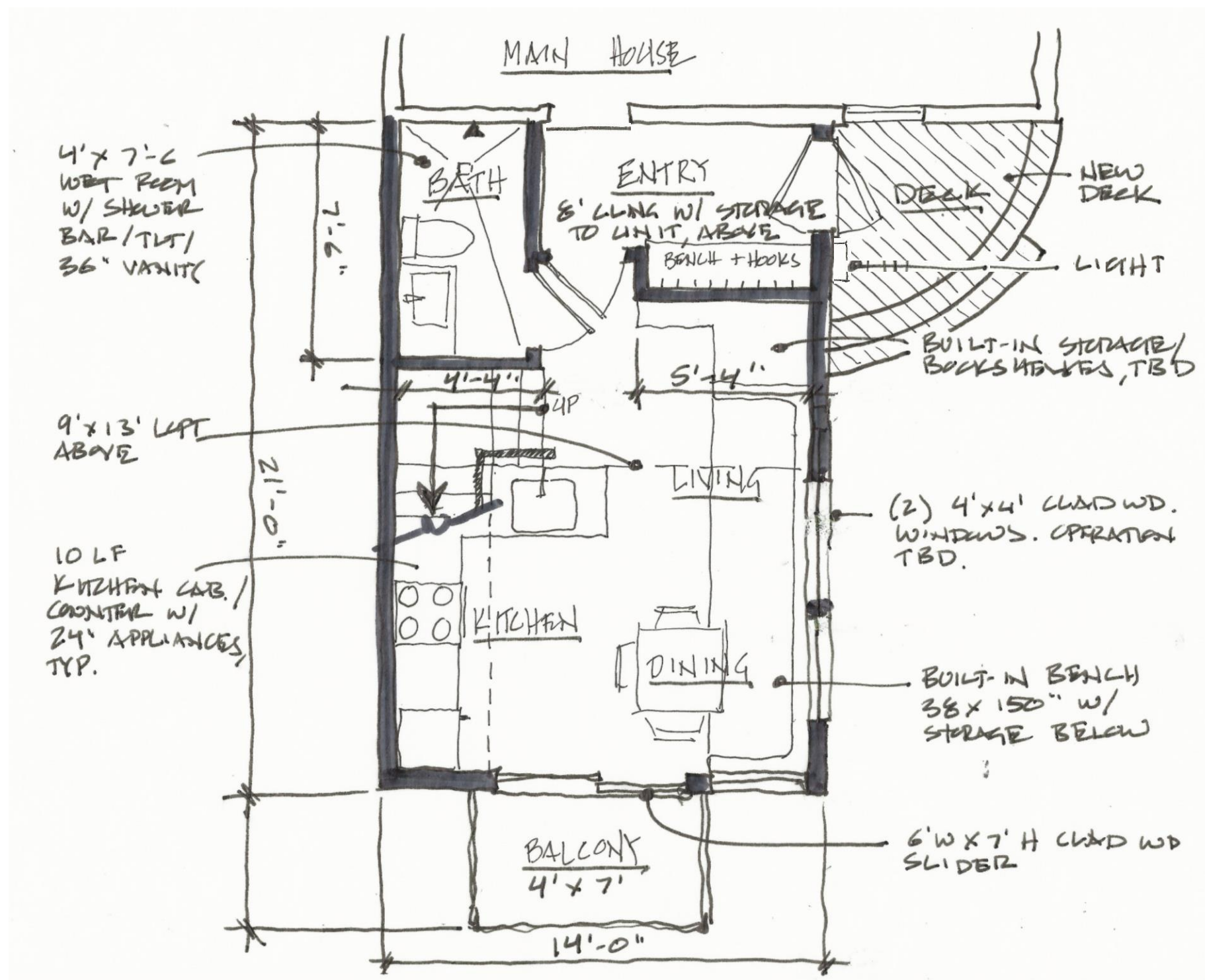
Proposed Parking;

2 spaces-Single Family Home

1 Space-ADU

Building Height: 15' (Average grade to Midpoint of Roof Hgt)





Hi-Lite Manufacturing Co. H-15110-B-96 Warehouse Shade Wall

Part of the [Warehouse Shade Collection](#) by [Hi-Lite Manufacturing Co.](#)

[\(6\) Customer Reviews](#) | [Write a Review](#)

Hi-Lite Manufacturing Co. H-15110-B-96 Warehouse Shade Wall

Part of the [Warehouse Shade Collection](#) by [Hi-Lite Manufacturing Co.](#)

[\(6\) Customer Reviews](#) | [Write a Review](#)

Light Bulb:

[\(1\)100w A19 Med F Incand](#)

[\[Compare Bulbs\]](#)

Materials:

Aluminum

Voltage:

120 volt

Installation:

Wet Locations [\[Explain\]](#)

Listing:

, Made in USA







South/West Elevation Views



View Up Chace Mill Access Drive



West Elevation View

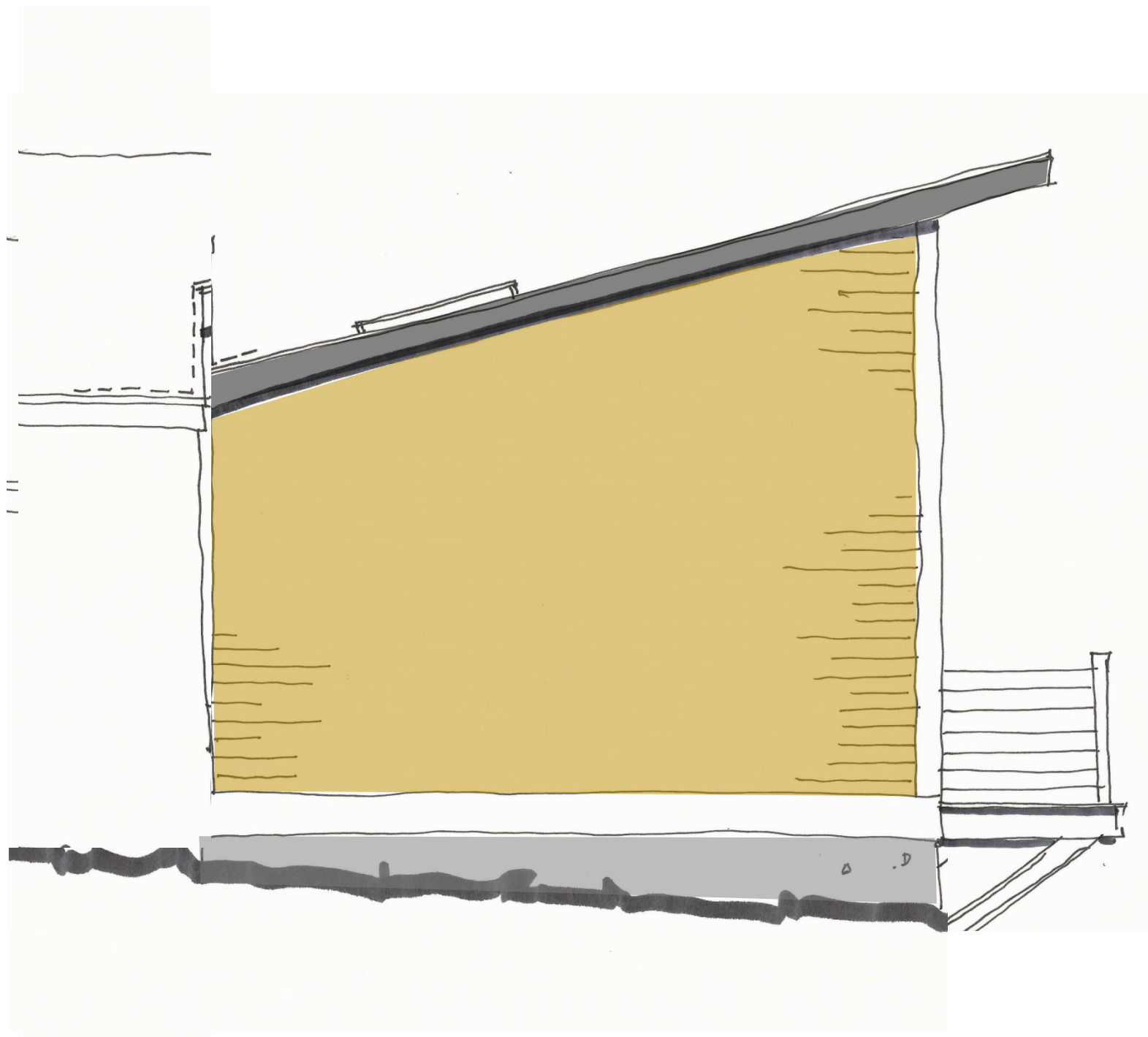


North Elevation View



76 Chase
Main House

West Elevation – Proposed ADU



East Elevation – Proposed ADU



North Elevation – Proposed ADU

Miscellaneous Appeal - Enforcement – DRB Staff Comments



City of
Burlington, Vermont
149 Church Street

ZP #: 17-0952AP

Tax ID: 045-2-251-000

Application Date: May 16, 2017 Appellant: Soon Kwon

Property Address: 41 SOUTH WILLARD STREET

Applicable Regulations: 2, 3, 4, 5, 12, 13 and 24 VSA 4451

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Description of Violation: Expansion and alteration of rear parking area resulting in increased lot coverage without approved zoning permit. Occupying dwelling units inconsistent with the CDO Family Definition (Articles 4 and 13). Projects approved and completed under ZP 07-314CA and ZP 07-333CA failed zoning certificate of occupancy inspection (no certificate of occupancy issued for these projects). Also, elevation changes to the building without zoning permit approval.

Appeal: Sec. 12.2.2 Appeals of Administrative Officer Decisions

Name and address of appellant:

Soon Kwon
PO Box 9492
S. Burlington, VT 05407-9492

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

None given in appeal application.

Reference to the regulatory provisions applicable to that appeal

None given in appeal application.

Relief requested by the appellant

None given in appeal application.

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

See attached

City's Submittals

- Notification Letter Dated November 17, 2016
- Notice of Violation Dated March 29, 2017
- Photos of Property
- Site Plan Approved on April 2, 2006
- Site Plan Dated September 15, 2008 submitted by Appellant
- ZP 07-314CA w/conditions
- ZP 07-333CA w/conditions
- City Attorney's Letter re: Occupancy in RH District

Background Information:

- RH Zone
- Duplex with 12 bedrooms.
- Structure on Federal Registration List
- Neighborhood Parking District
- March 28, 2016 Notice of Violation: Unpermitted parking on north side of house. Appealed to Environmental Court Docket No. 66-7-16 Vtec.

FINDINGS

2006 Approved Site Plan discrepancies (see attached photos) include:

1. Three-car parking area* on southern border of Property (hereinafter referred to as "southern parking"); up to nine cars have parked in this area.
2. Three-car parking area* east of garage, including vehicles parked in close proximity of the rear of the building (hereinafter referred to as "eastern parking"; up to five cars have parked in this area.
3. A parking barrier of three dwarf shrubs east of the "southern parking area" are missing as well as shrubs along the southern boundary of parking area (see ZP 07-333CA site plan).
4. Parking has increased west of the southern parking area (see photos);
5. Parking has increased south of eastern parking area (garage) (see photos).
6. Current trash receptacle location does not have zoning approval (see attached photos);
7. Parking has been occurring west of the house; there is no approval for parking in this area; (see attached photos).
8. Green space west of the southern parking area and south of the eastern parking area has been damaged. Lot coverage increased without zoning approval (see attached photos).

*Site plan approved November 2, 2006 shows a specific parking area but does not include dimensions. In a September 15, 2008 document from Owner (attached to ZP 09-243 requesting an increased in living space) includes a parking layout which shows 3 vehicles along the southern boundary and 3 vehicles east of the garage.

Expanded/illegal parking at this property has occurred since 2003. Appellant attempted to remedy the parking violations through the years but has not been successful; attempts have been adequate and the Appellant does not maintain remedies. Parking violations on the Property include the front lawn, along the north side of house , in front of the garage, close proximity to the stair tower, south of garage, and along the southern boundary of Property. The Notice of Violation issued for parking along the north side of the house and front lawn are currently in litigation.

See attached photos for parking along the front of the garage (as many as five (5) vehicles), south of the garage (as many as 2 vehicles), south boundary as many as 7 vehicles), and i close proximity of the stair tower (up to 3 vehicles). ; see photo dated November 17, 2016 vehicles (layout of parking drawn by Owner dated September 15, 2008, shows three 9'x18' parking spaces in front of the garage (east parking), although 3 parking spaces in front of this two-car garage blocks the ramp along the southern elevation of the garage; currently garage contains storage. Same 2008 drawing shows three 9'x18' parking spaces six feet north of southern property line, aligning with the edge of main building.

Appellant argues parking is “only a problem during winter”. Attached photos will show parking violations all year long. The ordinance allows parking on front lawns during the “winter storm ban” to get cars off the street, but does not allow “illegal” parking on private properties. As you can see in the attached photos taken after Appellant’s November notification letter, parking violations continued. After Appellant filed his appeal on April 12, 2017, attached photos will show illegal parking still continued. Photos will show after Appellant submitted his zoning request to modify the parking area, parking still continued outside the parking area.

Appellant attempted to cure the violation by applying for a zoning permit to increase the “south parking area” on April 12, 2017; however, the submission is incomplete, and, to date, Appellant has failed to submit a complete application.

Occupancy:

Zoning records show six approved bedrooms in each unit, for a total of 12 bedrooms; City Minimum Housing (a.k.a. Code Enforcement Office) records show each bedroom is occupied by an unrelated adult; Appellant signed a form when registering his units and he stated on the form there are six bedrooms in each unit at 41 So Willard Street occupied by unrelated adults. Appellant does not contest that there are more than four unrelated adults in each unit, but argues the RH zone is exempt from the “Functional Family Rule”.

The City Attorney’s Office issued a memorandum re: Four unrelated in the RH Zone: *On November 26, 2012, ZA #13-01, Amendments related to Residential Occupancy Limits in RH District was passed. The amendments revised the language in §4.4.5(d)(5)(C) to remove “exempt the RH district”. It now reads, “In all residential districts the occupancy of any dwelling unit is limited to members of a family as defined in Article 13.*

Grandfathering is not automatic: The property owner would need to show that occupancy of a single-family house by five or more unrelated adults was legally in place prior to the adoption of the ordinance amendments that made it non-conforming.

To date Appellant has not requested a determination for grandfathering, however, currently, occupancy includes six unrelated adults in each unit. ZP 09-243CA, approved an additional bedroom in the upstairs unit (for a total of six bedrooms for that unit) on September 23, 2008; six bedrooms for the upstairs unit only existed since 2008.

Certificates of Occupancy (CO): ZP 07-314CA

Replace three windows on third floor with larger egress windows to meet code requirements.

Owner requested a CO for ZP 07-314CA on January 11, 2011 and failed inspection. On January 14, 2011 Owner was issued a Temporary Zoning Certificate of Occupancy for permit 07-314CA with an expiration date of July 13, 2011 to complete project as approved. Permit expired and on February 8, 2012 Code Enforcement contacted the Owner and reminded him that the temporary CO had expired. Owner replied that the project was finished, and on February 15, 2012 he submitted a new CO request; project failed inspection again. On September 20, 2016, a reminder letter that project approved under ZP 07-314CA has not been issued a CO; Owner has failed to respond to letter or obtain CO approval as of this date.

Certificates of Occupancy (CO): ZP 07-333CA

Plant 2-3 dwarf evergreens as a parking barrier. Restore the wooden walkway connecting the parking area to the garage entrance (6 ft x 6 ft landing and 3 ft wide walkway.)

Appellant requested a Certificate of Occupancy for ZP 07-333CA on January 11, 2011 and failed inspection. A Temporary Zoning Certificate was issued on January 14, 2011 for 180 days. On February 15, 2012 Appellant submitted a new CO request; project failed inspection again. A renewed temporary was issued which expired on July 13, 2012. To date project fails to comply with the 2006 approved site plan. The three shrubs were requested as part of the project as a remedy to address parking violations on the southern parking area, therefore, shrubs shall be planted or another mechanism to prevent parking encroachment shall be proposed.

West Elevation changes:

T-111 siding has been added to rear (west) stairwell without zoning approval.

Issue has been resolved, an "As Built" drawing was accepted.

Article 12. Appeals, Conditional Uses, Variances

Sec. 17.1.3 (a). The appeal submission is incomplete. A brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, and the relief requested by the appellant have not been filed with the Appeal.

Summary

Parking at this property has been an issue for many years. Currently the illegal parking on the north side of the building and front lawn are being litigated. Parking for the south lot has expanded

to the east and west. Appellant submitted an incomplete application to modify the surface parking area on April 12, 2017, however, the submittal was incomplete, Appellant has been notified the application is incomplete, and to date, a complete application has not been submitted, thus leaving a rutted, damaged lawn caused by illegal parking. Appellant argues parking problems only occur in the winter, however, photos show expanded parking is visible in the summer, fall, winter when there is no snow on the ground, and spring. He states leases for the two rented units allows three parking spaces for each unit – that would coincide with the site plan Appellant “clarified” in 2008. It is Appellant’s responsibility to ensure the property coincides with the CDO.

Currently there are 12 bedrooms in the rental building; the 12th bedroom was approved under ZP 09-243. Appellant registers 12 unrelated adults in the structure. Appellant argues the “Functional Family” ordinance does not apply to his rental because the rule does not pertain to his zone (RH). *On November 26, 2012, ZA #13-01, Amendments related to Residential Occupancy Limits in RH District was passed. It is the written decision of the City Attorney’s Office that rentals with more than 4 unrelated tenants shall comply with the Family Definition or request a grandfathered determination;* one bedroom was recreated in 2009 and Appellant has not requested a grandfathered determination.

There are two outstanding zoning permits that Appellant requested a certificate of occupancy for, but the inspection failed; Appellant was notified a few times that the inspection failed and temporary zoning certificate of occupancy had expired. These two issues may be resolved as noted in above Findings.

Conclusion:

We ask that the Board uphold the Zoning Administrator’s determination that a violation exists and direct the Appellant to comply with the March 29, 2017 notice of violation remedy options, and, in particular, the site plan approved on November 2, 2006 and include the following conditions:

1. Unless ZP 17-0953 proposal to *modify surface parking area* is approved by June 12, 2017, Appellant shall construct a parking barrier, anchored to the ground and subject to Zoning Administrator’s approval, by June 13, 2017. Barrier shall enclose the parking area shown on the 2006 site plan on three sides (east, south and west).
2. All lawn area damaged by the illegal parking shall be restored; areas not identified as “parking area” on the 2006 site plan. Restoration shall occur as adopted from the draft 2016 Vermont Stormwater Manual Soil Depth and Quality Specification:
 - a. Subsoils below new topsoil layer (i.e. – existing compacted soils) scarified/tilled at least 4”, with incorporation of upper material (so total depth of final un-compacted material = 8”. The entire surface should be scarified/loosened EXCEPT within drip line of trees (to protect roots).
 - b. Minimum 4” topsoil except where tree roots limit amendment incorporation
 1. Topsoil shall have minimum 5% organic matter by dry weight (may need to add compost to achieve).
 2. Soil portion must be sand or sandy loam
 3. Water or roll to 85% compaction
 4. Rake to level
 - c. Seed and protect with erosion control matting (staked according to manufacturers’ specifications).

3. Shrubs, at least 3' in height at time of planting and 3' OC, shall be planted on the around the barrier to screen parking area from residential neighbors.
4. Location of trash receptacles shall receive zoning approval.
5. Appellant shall reduce number of tenants to four or less unrelated adults, comply with the Family Definition of the CDO, or request a grandfathering determination from the Zoning Administrator, by June 12, 2017.
6. If "As Built" approval is not granted for ZP 07-314CA by June 12, 2017, Owner shall install muntins to the windows by June 12, 2017, as conditioned; a Unified Certificate of Occupancy shall be issued once this condition is met.
7. Condition #3 above shall satisfy the requirement for ZP 07-333CA and once shrubs are planted, a Unified Certificate of Occupancy will be issued for ZP 07-333CA.



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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APR 12 2017

DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

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

SUBJECT LOCATION ADDRESS: 41 South Willard St., Burlington

Subject Property Owner: Soon Kwon

Appellant: Soon Kwon

Agent/Representative: _____

Mailing Address: P.O. Box 9492, South Burlington, VT

City, St, Zip: _____ 05407-9492

Day Phone: (802) 578-0457 Email: Soon Kwon @ gmail.com

Appellant Signature: [Signature] Date: 4/12/2017

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.

Please, see the attached letter.

Office Use Only:

Check No. 3474 Amount Paid \$ 250. Zoning Permit # 17-0952A

Jeanne Francis, Zoning Compliance Officer
City of Burlington Code Enforcement Office
645A Pine Street, P.O. Box 849
Burlington, VT 05402-0849

David White, Zoning Administrative Office
Planning and Zoning
City of Burlington, City Hall Room
Burlington, VT 05401

April 6, 2017

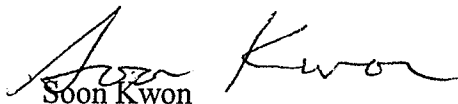
Subject: Alleged Zoning Violations by Jeanne Francis at 41 South Willard St. – 3-29-2017

To Jeanne Francis and David White;;

I am responding to your alleged zoning violations in your March 29, 2017.

1. Parking: Your “complaint” about the parking problem is a parking problem in winter season, not a zoning violation. My signed lease specifies that each unit comes with 3 parking spaces. However, whenever they have parents, friends or guests, they have to “manage” the parking spaces as long as they do not park on the grass area. I am planning to apply a new permit plan to accommodate 10 or 11 cars, the City zoning permits. I believe that there is sufficient space for them. There is no zoning violation, rather, parking issue in winter.
2. Three missing shrubs: I am going to withdraw my permit for these three shrubs all together.
3. T-111 “siding”: This is an old story. When the massive remodeling project on the west side was in progress with my architect, Gardner and Associates in Winooski, we had discussions with The Public Works, then building inspector, agreed that since that part of stairs is completely isolated from the building structure, he would agree with the use of T-111. If you are not happy with is agreement, I will discuss with my contractor.
4. Functional Family Rule: This rule requires that more than four “unrelated” people are required to be “related” by paying rents together, paying utility bills together, and often times paying for groceries together, etc. I had discussions with former Public Works Dept. heads, I had been informed that all my properties are not in the zones where the functional family rule applies. Therefore, this rule does not apply.
5. Decorative straps on the south side third floor window: Upon your complaint about the east side window straps, ACME Glass finished their job. Now you missed another one, I will ask ACME Glass to inspect and “install” the decorative piece if needed.

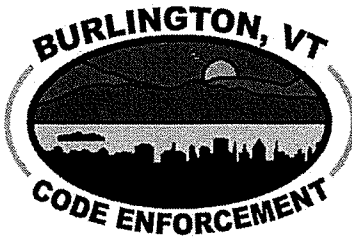
Sincerely,


Soon Kwon

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APR 12 2017

DEPARTMENT OF
PLANNING & ZONING

cc: ✓ - Mr. William Ward, Director of Burlington Code Enforcement Office
✓ - Mr. Will Towle Esq.

**CODE ENFORCEMENT OFFICE**

645A Pine St, PO Box 849

Burlington, VT 05402-0849

VOICE (802) 863-0447**FAX: (802) 652-4227**

March 29, 2017

Mailed Certified Mail 7013 3020 0001 6717 7018
And FIRST CLASS MAILVISTA K PROPERTIES LLC/SOON KWON, PhD
PO BOX 9492
SOUTH BURLINGTON VT 05403**NOTICE OF VIOLATION# 323518:**
41 SO WILLARD STREET, BURLINGTON, VT
TAX LOT #045-2-251-000

Dear VISTA K PROPERTIES LLC/DR. KWON,

It has come to the attention of this office that a zoning violation exists at 41 South Willard Street.

Description of Violation: Expansion and alteration of rear parking area resulting in increased lot cover without approved zoning permit. Occupying dwelling units inconsistent with the CDO Family Definition (Articles 4 and 13). Projects approved and completed under ZP 07-314CA and ZP 07-333CA failed zoning certificate of occupancy inspection (no certificate of occupancy issued for these projects). Also, elevation changes to the building without zoning permit approval.

Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 4, 5, 12, 13 and 24 VSA §4451

Please be advised that violations of the CDO are subject to fines of up to two hundred dollars (\$200.00) for each day that a violation continues. You may submit an application to attempt a correction to the violation; however, filing fees are subject to an increase for such permits (see Violation Details Remedy Options #2 and CDO Section 2.7.8).

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

This NOV is a decision of the Burlington Zoning Administrator and/or his/her, designee and, may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12 provided that such appeal is filed within fifteen (15) days of the date of this notice, and accompanied by appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application must be filed with the City's Planning and Zoning Office (City Hall, 149 Church Street) by **4 pm on April 13, 2017**; failure to do so will result in the City pursuing enforcement of the violation as provided for by law.

41 So Willard St Notice of Violation #32351

March 29, 2017

to file an appeal by April 13, 2017 will render the notice of violation the final decision on the violation addressed above. An appeal shall not be perfected until the fee is received.

If you have any questions, please call Jeanne Francis at (802) 864-8518 or email at jfrancis@burlingtonvt.gov.

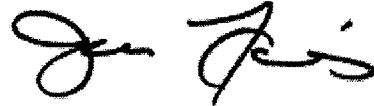
Sincerely,



David E. White
Zoning Administrative Officer

Enclosures: Violation Details

Sincerely,



Jeanne Francis
Asst. Zoning Administrative Officer/
Code Compliance and Enforcement

Cc: Land Records for Tax Lot # 045-2-251-000

VIOLATION DETAILS

LOCATION: 41 SOUTH WILLARD STREET

DECISION DATE: March 29, 2017

VIOLATION DESCRIPTION: Expansion and alteration of rear parking area resulting in increased lot coverage without approved zoning permit. Occupying dwelling units inconsistent with the CDO Family Definition (Articles 4 and 13). Projects approved and completed under ZP 07-314CA and ZP 07-333CA failed zoning certificate of occupancy inspection (no certificate of occupancy issued for these projects). Also, elevation changes to the building without zoning permit approval.

- FINDINGS:**
- **Site Plan** discrepancies (see attached photos) include:
 1. 3-car parking area* on southern border of Property (hereinafter referred to as “southern parking”); up to 9 cars have been parking in this area.
 2. 3-car parking area* east of garage (hereinafter referred to as “eastern parking”); up to 5 cars have been parking in this area.
 3. Parking barrier (shrubs) along “southern parking area” is missing as well as the 3 dwarf shrubs along east edge of parking area (see ZP 07-333CA site plan).
 4. Parking has increased west of the southern parking area (see photos);
 5. Parking has increased south of eastern parking area (garage) (see photos).
 6. Trash receptacle location does not have zoning approval (see attached photos);
 7. Parking has been occurring west of the house; parking in this area has not been approved; (see attached photos).
 8. Green space west of the southern parking area and south of the eastern parking area has been damaged. Lot coverage increased without zoning approval (see attached photos).
 - *Site plan approved November 2, 2006 shows a specific parking area but does not include dimensions. In a September 15, 2008 document from Owner (attached to ZP 09-243 requesting an increased in living space) includes a parking layout which shows 3 vehicles along the southern boundary and 3 vehicles east of the garage.
 - **Occupancy:**

Zoning records show six approved bedrooms in each unit; City Minimum Housing (a.k.a. Code Enforcement Office) records show each bedroom is occupied by an unrelated adult. Mr. Kwon has admitted to more than four unrelated adults in each unit in previous documents. Family Definition restricts number of unrelated adults to 4; No zoning permit on file for occupancy by anyone other than a family as defined in CDO, Article 13.
 - **Certificates of Occupancy (CO): ZP 07-314CA**

Replace three windows on third floor with larger egress windows to meet code

41 So Willard St Notice of Violation #32351
March 29, 2017

requirements.

Owner requested a CO for ZP 07-314CA on January 11, 2011 and failed inspection. On January 14, 2011 Owner was issued a Temporary Zoning Certificate of Occupancy for permit 07-314CA with an expiration date of July 13, 2011 to complete project as approved. Permit expired and on February 8, 2012 I spoke with Owner reminding him the temporary had expired. Owner replied project was finished and on February 15, 2012 he submitted a new CO request; project failed inspection again. On September 20, 2016, a reminder letter that project approved under ZP 07-314CA has not been issued a CO; Owner has failed to respond to letter or obtain CO approval as of this date. Muntins, as required by the permit, are not adhered to windows.

- **Certificates of Occupancy (CO): ZP 07-333CA**

Plant 2-3 dwarf evergreens as a parking barrier. Restore the wooden walkway connecting the parking area to the garage entrance (6 ft x 6 ft landing and 3 ft wide walkway.)

Owner requested a CO for ZP 07-333CA on January 11, 2011 and failed inspection.

Owner obtained a Temporary Zoning Certificate for ZP 07-333CA on January 14, 2011 which expired on August 23, 2011. Permit expired and on February 8, 2012 I spoke with Owner reminding him the temporary had expired. Owner replied project was finished and on February 15, 2012 he submitted a new CO request; project failed inspection again. A renewed temporary was issued which expired on July 13, 2012. To date project has failed to obtain a certificate of occupancy for this project. Wooden walkway has been completed as approved, however, the parking barrier has not been completed and the parking area does not correspond with the approved site plan.

- **West Elevation changes:**

T-111 siding has been added to rear (west) stairwell without zoning approval.

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

1)- Removing the violation:

- Prohibit unpermitted parking that has been occurring on property as noted in photos below (east, south, and west parking). To cure the parking violation you must:
 - (a) *place an adequate barrier around area in question to protect the green space— barrier to be reviewed and approved by Code Enforcement, in consultation with Planning/Zoning office; permit may be required from the Department of Planning/Zoning;*
 - (b) *restore the disturbed ground to grass (ie. grading, mulching, and seeding),*
and
- Reducing number of occupants in each unit to no more than four unrelated adults

41 So Willard St Notice of Violation #32351
March 29, 2017

- or otherwise comply with Articles 4 and 13 (Family Definition) of the CDO.
- Obtain a Certificate of Occupancy for ZP 07-314CA and ZP 07-333CA;
- Remove unpermitted T-111 siding on west building elevation and replace with original materials.
- *Informing the Code Enforcement Office that the violations have been cured so our office may verify compliance; or*

2) - Obtaining zoning approval from the City's Department of Planning and Zoning for after-the-fact violations noted above and in photos below; (permit application **fee is doubled** if complete application is submitted within seven days from receipt of the NOV, **tripled** if a complete application is submitted 7-15 days from receipt of the NOV, **or triple plus \$75 per hour of Code Enforcement staff time** (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8. ***PLEASE NOTE:*** If the zoning permit request is denied, the violation is **NOT** cured. Owner shall be required to remove the violation as noted in #1 above or request an agreement as noted in #3 below within five (5) business days from date of the permit denial to remedy the violation; **or**

3) - Entering into an Agreement with the City of Burlington to remedy violations and comply with the City's ordinance (**administrative fees required**).

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days **from the date of this notice**. **The deadline for filing an appeal is 4 pm on April 13, 2017.** Submit a complete application with ZV# and appropriate fee to the Department of Planning and Zoning, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the Zoning Administrator and/or his/her designee shall be binding 24 V.S.A §4472(d).*

REGULATION CDO Article(s): 2, 3, 4, 5, 12, 13 and 24 VSA §4451
CITATION:

41 So Willard St Notice of Violation #32351
March 29, 2017



These four vehicles are outside the approved parking area for the southern border of property and east of the garage. Muddied area indicates someone has been parking in this area.

41 So Willard St Notice of Violation #32351
March 29, 2017



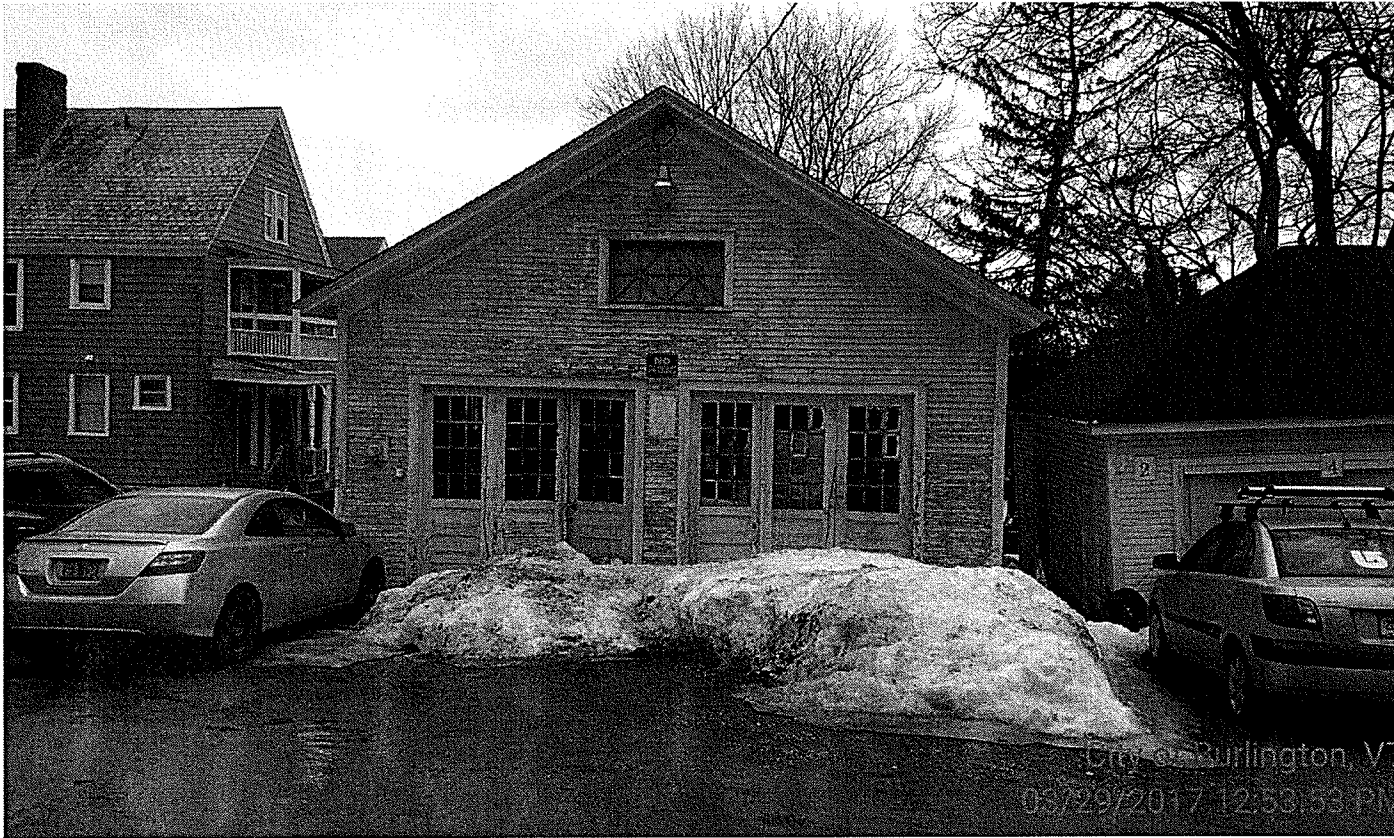
SUV, truck, and blue Hyndai are parked within approved parking for the southern boundary. Note lack of dwarf evergreen shrubs as approved in ZP 07-333

41 So Willard St Notice of Violation #32351
March 29, 2017



Red SUV is not included in approved parking. East side of garage.

41 So Willard St Notice of Violation #32351
March 29, 2017



Perhaps, if snow were removed, two more cars could park in front of the garage as shown on the 2006 site p

41 So Willard St Notice of Violation #32351
March 29, 2017



Grey vehicle is not parked within a approved parking space.

41 So Willard St Notice of Violation #32351
March 29, 2017



T-111 siding has not been approved.

41 So Willard St Notice of Violation #32351
March 29, 2017



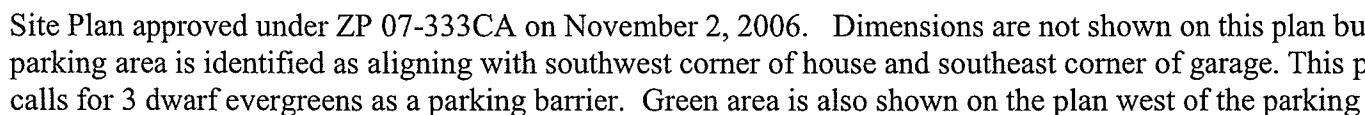
Muntins have not been adhered to windows in dormers of south, east, and north elevations. ZP 07-314

41 So Willard St Notice of Violation #32351
March 29, 2017



Parking barrier has not been implemented as approved in ZP 07-333

March 29, 2017



41 So Willard St Notice of Violation #32351
March 29, 2017

Attachment to the Zoning Permit Application dated September 15, 2008:

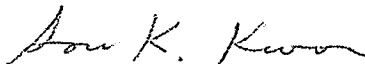
Ref: 41 South Willard Street Apt. 2
(Use of the available space for bedroom and laundry area)

Purpose of the Zoning Permit Application: Use of Available Space for Bedroom and
Laundry Area

Per our discussion last week, I would like to make use of the spaces on the third floor
of 41 South Willard Street, Apt 2 as a bedroom and laundry area.

1. Attached is a parking space layout (No change).
2. The number of bedrooms is six after the change.

Respectfully submitted by


Soon K. Kwon

P.O. Box 9492
South Burlington, VT 05403-9492

September 15, 2008

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SEP 15 2008

DEPARTMENT OF
PLANNING & ZONING

March 29, 2017

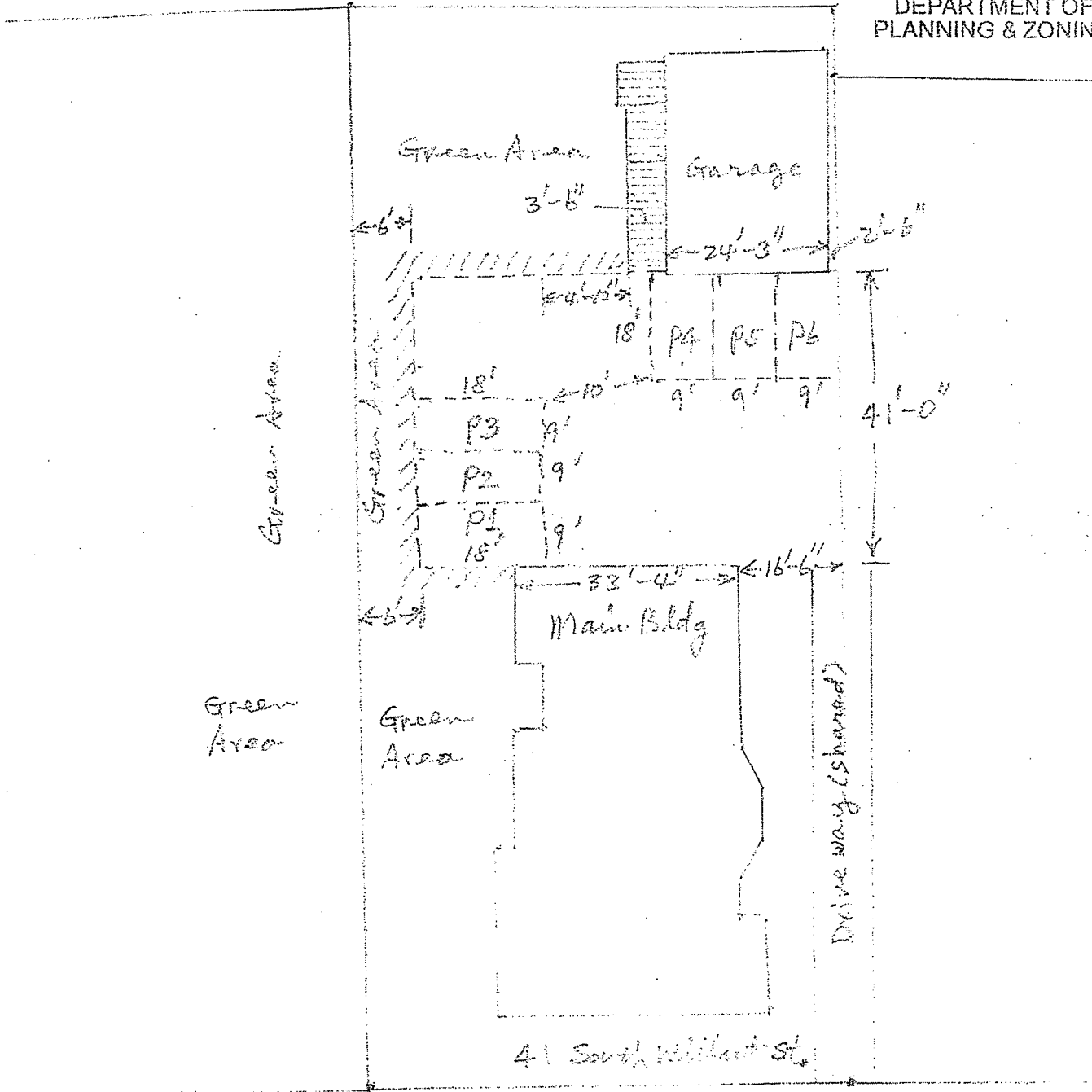
Layout for 6 parking spaces
(41 South Willard St.)

7/15/2008

RECEIVED

SEP 15 2008

DEPARTMENT OF
PLANNING & ZONING



South Willard St. $\longrightarrow$ N

**CODE ENFORCEMENT OFFICE**

645A Pine St, PO Box
Burlington, VT 05402-0

VOICE (802) 863-0

FAX: (802) 652-4

MEMORANDUM

TO: DRB

FROM: Jeanne Francis, Asst. Zoning Administrative Officer/ Code Compliance and Enforcement

DATE: May 16, 2017

RE: 220 Pine Street, ZP 17-0786AP

At your April 4, 2017 hearing, the Board asked me if a notice of zoning violation had been issued for the 2010 parking complaint at 220 Pine Street. I review the Code Enforcement files and found a complaint in the database in 2010. An inspection was completed, but there were no notices issued to the property owner. The inspector found a possible violation, but a notice was not sent to the Owner.

I hope this information helps.

Note that no additional information has been received by the appellant. The original staff report remains unchanged.

Planning & Zoning
City of Burlington
149 Church Street
Burlington, VT 05401
(802) 865-7000

Date: 02/15/2017
Receipt: 2017-00019075
Cashier: Anita Wade
Received From: Deanna & Nicholas
Papaseraphim
220 Pine St

CONDITIONAL USE
APPEALS/VARI 250.00
Receipt Total 250.00
Total Check 250.00
Total Remitted 250.00
Total Received 250.00

Department of Planning and Zoning

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

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FEB 15 2017

DEPARTMENT OF
PLANNING & ZONING

Administrative Decision Request

Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

Subject Property Owner: Nicholas Papaseraphim

Appellant: Nicholas Papaseraphim

Agent/Representative: Self

Mailing Address: 27 Weatherfield Bow

City, St, Zip: Essex VT 05452

Day Phone: 802-338-2266

Email: npapase@yahoo.com

Appellant Signature: [Signature]

Date: 2/15/17

DRB
Appeal of
Code Enforcement
Violation
Schedule for
4/4/17 agenda

request to be considered complete, **ALL** of the following information **must** be available:

al fee of \$250;

n of the decision under appeal;

n of the property subject to the appeal;

e 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.

Pre-existing

Office Use Only:

Check No. 2273

Amount Paid \$250.

Zoning Permit #

17-0786A



Department of Planning and Zoning

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

www.burlingtonvt.gov/pz

RECEIVED

FEB 15 2017

DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

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

SUBJECT LOCATION ADDRESS: 220 Pine St

Subject Property Owner: Nicholas Papaveraphim

Appellant: Nicholas Papaveraphim

Agent/Representative: Self

Mailing Address: 27 Weathersfield Bow

City, St, Zip: Essex VT 05452

Day Phone: 802-338-2266 Email: npapase@yahoo.com

Appellant Signature: [Signature] Date: 2/15/17

DRB
Appeal of
Code Enforcement
Violation
Schedule for
4/4/17 agenda

request to be considered complete, **ALL** of the following information **must** be able:

320536

al fee of \$250;

n of the decision under appeal; Parking + 2 ^{open} Zoning Permits - Ret 320

n of the property subject to the appeal; 220 Pine St

to the regulatory provisions applicable to the appeal;

☒ Relief requested by the appellant; 6 parking spaces, all existing park

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

Pre-existing

Office Use Only:

Check No. 2273 Amount Paid \$250. Zoning Permit # 17-0786AP

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BURLINGTON
CODE ENFORCEMENT

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DEPARTMENT OF
PLANNING & ZONING

220 PINE STREET Notice of Violation

February 1, 2017

Page 10 of 11



April 30, 2004 Aerial Image. Two vehicles, rutted rear yard, no gravel.

1
This was a shrub tree, not green space. If you
look there is car parked under this green space.
Parking situation is as it was from ~~then~~ when
I purchased the property in 2005 or 2006.
- Please call my cell
1-800-444-4444 to discuss.

**CODE ENFORCEMENT OFFICE**

645A Pine St, PO Box 849

Burlington, VT 05402-0849

VOICE (802) 863-0442**FAX: (802) 652-4221****NOTICE OF ZONING VIOLATION (NOV #320536)**

February 1, 2017

Mailed Certified Mail 7013 3020 0001 6717 7216
And FIRST CLASS MAILNICHOLAS/DEANNA. PAPASERAPHIM
27 WEATHERSFIELD BOW
ESSEX JUNCTION, VT 05452**NOTICE OF VIOLATION AT:**
220 PINE STREET, BURLINGTON, VT
TAX LOT #049-2-007-000

Dear NICHOLAS/DEANNA. PAPASERAPHIM,

It has come to the attention of this office that a zoning violation exists at 220 Pine Street.**Description of Violation:** Failure to obtain zoning approval for expanding parking south of existing driveway and southeast corner of rear yard, added gravel over compacted soil in the rear, and failure to obtain certificates of occupany for ZP 92-196 and 07-428; see attached photos.

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 8, 12, and 24 VSA §4451.

Please be advised that violations of the CDO are subject to fines up to two hundred dollars (\$200.00) for each day that the violation continues. You may submit an application to attempt correction of the violation, however, be advised application and filing fees are subject to a fee increase for permits required to correct a violation (see Violation Details Remedy Options #2 and CDO Section 2.7.8).

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

This notice is a decision of the Zoning Administrative Officer and may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this notice, and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application shall be filed with the City's Planning and Zoning Office (lower level City Hall) by **4 pm on February 16, 2017**; an appeal shall not be perfected until the fee is received.If you have any questions, call me at (802) 864-8518 or email me at jfrancis@burlingtonvt.gov

Sincerely,

Jeanne Francis
Assistant Zoning Administrative Officer/
Code Compliance and Enforcement**RECEIVED**

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VIOLATION DETAILS**LOCATION:** 220 PINE STREET**DECISION DATE:** January 31, 2017**VIOLATION DESCRIPTION:** Failure to obtain zoning approval for expanding parking south of existing driveway and southeast corner of rear yard, added gravel over compacted soil in the rear, and failure to obtain a certificates of occupancy for ZP 92-196 and 07-428; see attached photos.**FINDINGS:**

- Property listed with City as 2 family/2 rental units.
- RM Zone
- Neighborhood Parking District
- On State Historic Structures, King Street District
- Ward 5
- 1978 site plan, attached to zoning permit #78-214, shows a fence on the east and southern boundaries of property. A shed is shown on the southeast corner of property/ shed and southern fence have been removed.
- ZP 92-196: *Removal of two-story front facade porch, on existing duplex with first floor landing constructed. Second story door, formally leading onto porch, to be filled-in to match existing. Structure listed on state list of historic structures and within King St. Neighborhood revitalization project.* Proposal approved December 5, 1991, subject to conditions. A Certificate of Occupancy has not been issued for this permit. Permit states 4 parking spaces existed at time of proposal.
- ZP 03-537: *Jack up rear 25'X16' Section of building approx. 10-12 to level out. Install new concrete foundation under existing structure. Repair all affected areas, Floors, Ceilings, Walls, Windows. Any replaced siding, Windows, or other exterior repair work will match existing. No increase in coverage.* Proposal approved May 22, 2003 subject to 2 conditions. Certificate of Occupancy issued November 17, 2003.
- ZP 07-428: *Replace front porch window with door. Replacement door shall match appearance of historic windows, that is, 2/3 glass 4 light wood door using existing casings.* Approved January 24, 2007 subject to 5 conditions. Permit has not requested a Certificate of Occupancy to close out the permit.
- November 15, 2010 our office received an "expanded parking" complaint. This violation has not been resolved. See attached photo.

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2) - Obtaining after-the-fact approval for site improvements that includes an expansion of rear yard parking, expansion of driveway, and placing gravel over a hard to the rear yard (permit application **fee is doubled** if complete application is submitted within seven days from receipt of the NOV, **tripled** if a complete application is submitted 7-15 days from receipt of the NOV, **or triple plus \$75 per hour of Code Enforcement staff time** (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8.

PLEASE NOTE: If the zoning permit request is denied, the violation is **NOT CURED**, owner is **required to remove the violation** as noted in #1 above or, request an Agreement as noted in #3 below, within five (5) business days from date permit was required; **OR**

3) – Submitting a “Determination Request” to the Department of Planning/Zoning, and ask for an administrative determination that the violations noted above are “stabilized” and not enforceable. Please note, if you choose this option, you will be required to provide sufficient documentation that the current rear yard parking, driveway width, and gravel, have existed, consistently, continually, in the same location, over the last 15 (consecutive) years. This information shall be submitted with the “Determination Request” form. Please note that application form and supporting documentation shall be submitted to the Planning/Zoning Office (located on the basement level of City Hall) within seven (7) days from receipt of this notice, to comply with the seven (7) day requirement noted above. If the request is denied, the violation is NOT CURED and Owner is required to remove the violation as noted in #1 above or request an Agreement as noted in #3 below, within five (5) business days from date permit was required; **OR**

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

PLEASE NOTE: The 15-day appeal period is contingent upon the *Date of This Notice*. Be cognitive of the appeal date when choosing the best option for you to remedy the violation.

**APPEAL
RIGHTS:**

You have the right to appeal the Zoning Administrator’s decision, that a zoning violation exists on your property, to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days **from the date of this notice**. **The deadline for filing an appeal is 4 pm on February 16, 2017.** Submit a complete application with ZV#320536 and appropriate fee to the Department of Planning and Zoning, accompanied by a memo stating the ZV#, the owner’s name and address, a brief description of the property with respect to which the appeal is taken, a reference

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- August 30, 2016 Code Office received an inter-departmental complaint regarding the expansion of the driveway at Property (tenant appealed a parking ticket).
- September 13, 2016 notification letter regarding expansion of driveway/parking area without zoning approval mailed to Owner; Owner did not refute complaint. Parking was verified. See attached photo.
- 2012 and 2004 Google Earth aerials show a muddled back yard; current parking material is gravel.
- 2004 Google Earth aerial shows a fence installed along the east and southern property boundaries. Current situation indicates fence has been removed allowing vehicles to freely access property to the south.
- Currently parking at property is not organized. There are no assigned parking spaces. Entire back yard is graveled. Tenants have been parking south of the driveway.
- No zoning permits on file in the City to: expand the parking south of the driveway, in the rear yard, add site improvements that includes placing gravel over the previous compacted soil in rear yard, and expanded parking equates additional coverage.
- To date a Certificate of Occupancy has not been issued for Zoning Permits #91-196 and #07-428; one is required to close out the permit.

VIOLATIONS:

1. Expansion of driveway/parking without zoning approval;
2. Site improvements: placing gravel over a previously compacted soil area;
3. Failure to obtain a certificates of occupancy for Zoning Permits #91-196 and #07-428

**REMEDY
OPTIONS:**

Within seven (7) days from receipt of this notice you may cure the violation by:

1) – Reducing existing rear parking area to correspond with 2004 Aerial Image (see attached) by restoring the lawn/green space (see below for grass restoration); restoring the lawn area in the northeast corner, restoring lawn area south of the existing driveway (ie. between house and driveway) see below for grass restoration; removing all gravel from rear yard; AND, obtaining a certificate of occupancy for ZP 91-196 and 07-428. Be sure you inform the Code Enforcement Office when violation has been cured so an inspector may verify compliance, a violation is not cured until the City verifies compliance; **OR**

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April 30, 2004 Aerial Image. Two vehicles, rutted rear yard, no gravel.

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2010 Photo of rear yard. No gravel. No fence on southern boundary. Car is parked at a different angle than that shown in the 2004 Aerial Image.

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2010 Photo of property. Violation has not been closed to date. South of driveway has been increased in width. There is evidence of green space. No evidence of these parking spaces ever existed. Parking in the rear is at a different angle. Some green space in the northeast corner.

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South of driveway widened.

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to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

REGULATION CDO Article(s): 2, 3, 5, 8, 12 and 24 VSA §4451
CITATION:



This parking configuration is not shown in the 2004 Aerial Image. Only two cars are shown in the image. The gravel is not shown in the Image. Chain link fence shown on 1978 drawing submitted to City by Owner, but drawing also included a fence on the southern property boundary (see blue line), which, as you can see, one currently does not exist, thus allowing vehicles to access the rear yard from the next property (southern). The 1978 drawing included a shed on the southeast corner of property and as you can see, the shed is no longer there and has been replaced with gravel/parking. No zoning permit on file to increase the parking area or to gravel the compacted soil area.

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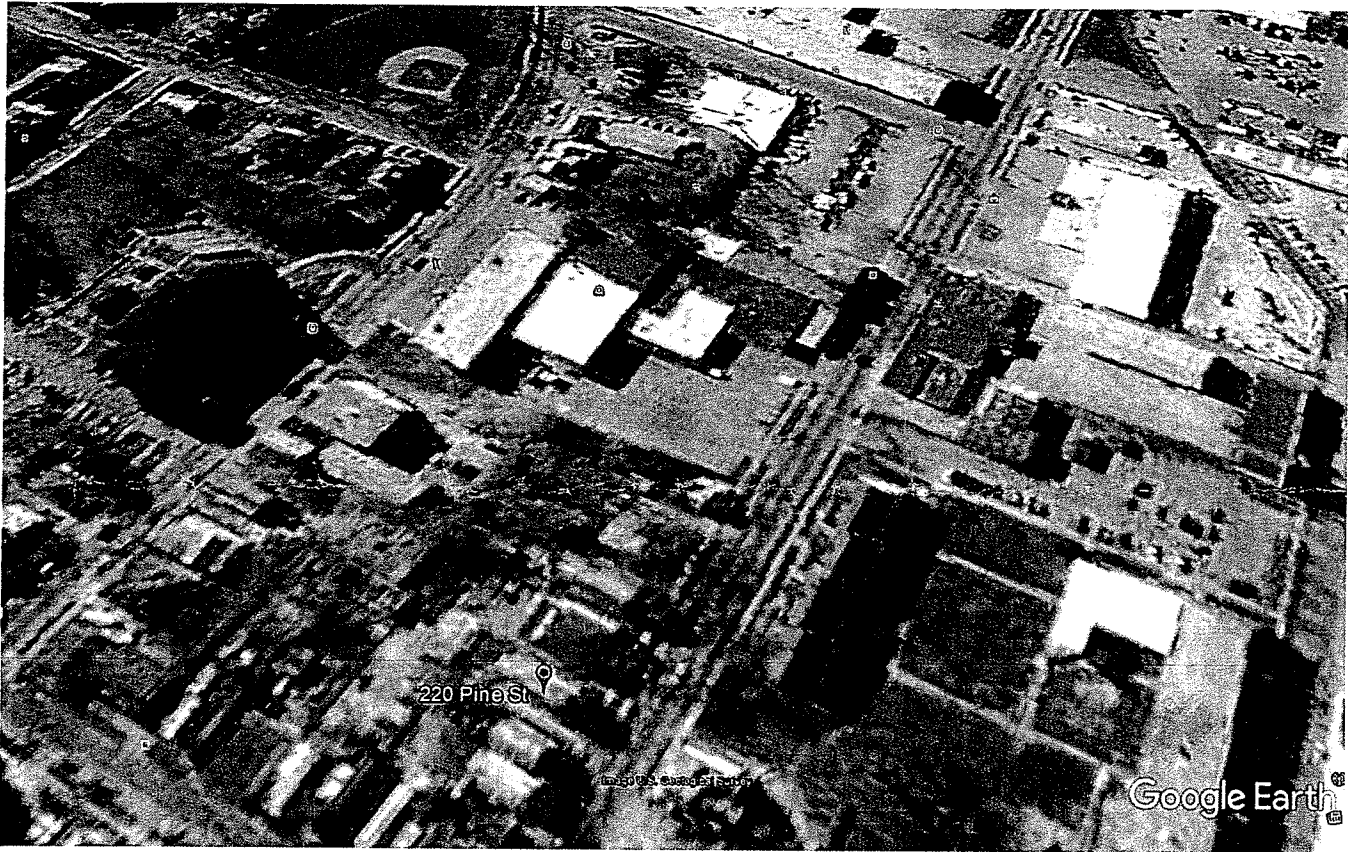


These two parking spaces are shown in the 2004 Aerial Image. Driveway has been widened.

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April 24, 1999 Aerial Image. Grass south of driveway. Fence along southern boundary of property. Grass in the rear yard.

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MAY 15 2017

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

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



TO: Development Review Board
FROM: Scott Gustin
DATE: May 16, 2017
RE: 17-0974CA/CU; 2-14 King Street

=====

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

Zone: DW-PT Ward: 3C

Owner/Applicant: Russ Scully

Request: Install exterior removable deck panels, install awning and hood vent, and remove 3 windows.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, & Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

Background Information:

The applicant is seeking approval to renovate the former Breakwater Café & Grill. Very limited building alterations include removal of 3 windows and infill with siding, installation of a hood vent, and installation of a retractable awning. Site alterations are limited to new deck panels throughout the outdoor seating area.

The property sits within the Special Flood Hazard Area. This location triggers conditional use review in addition to the SFHA review criteria under Sec. 4.5.4. Project plans have been provided to the state floodplain coordinator. Preliminary comments have been received. Further comments may be pending. If provided, they will be incorporated into permit conditions.

Previous zoning actions for this building:

- 6/10/11, Non-app issued for post-flood damage repairs
- 2/21/03, Approval to replace existing restaurant building with larger restaurant building (not acted upon)
- 5/9/91, Approval to construct new structure containing freezer and refrigeration units

Recommendation: Initial review and continuation of the hearing to afford additional time to address the Special Flood Hazard Area criteria.

I. Findings

Article 2: Administrative Mechanisms

Part 7: Enforcement

Sec. 2.7.8, Withhold Permit

A number of zoning permits have been approved for the subject property. Some, but not all, have final certificates of occupancy. Per this section, prior to issuance of a final certificate of occupancy for this project, any zoning permits not yet closed out with final certificates of occupancy must be addressed. **(Affirmative finding if conditioned)**

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards

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

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

No change or expansion in use is proposed. Demands on public services and utilities are expected to remain unchanged. **(Affirmative finding)**

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

The subject property is located in the Downtown Waterfront – Public Trust (DW-PT) District. This district is intended to enhance and diversify commercial and residential development in the downtown waterfront area, and to increase access, utilization, and enjoyment of the lakeshore by the community. The restaurant use is consistent with this character and will remain unchanged. **(Affirmative finding)**

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

No change in use is proposed. No changes relative to this criterion are anticipated. **(Affirmative finding)**

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

As above, no change in use is proposed. No changes relative to this criterion are anticipated. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

No renewable energy utilization is included in this proposal. Future incorporation is not precluded by the project design. **(Affirmative finding)**

and,

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

City building and energy efficiency codes will apply via the building permit process.

(b) Major Impact Review Standards
Not applicable.

(c) Conditions of Approval:

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

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

No change or expansion in use is proposed. Impacts relative to this criterion are expected to remain unchanged. **(Affirmative finding)**

2. *Time limits for construction.*

No construction timeline or phasing are included in the project plans. The standard 2-year timeframe for zoning permits will apply. **(Affirmative finding)**

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

Days and hours of operation will remain consistent with those of Breakwater's: 9:00 AM – 10:00 PM, 7 days/week, seasonally. The exact extent of the season is not indicated and must be.

Construction hours are not noted in the application. Typical construction hours are Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request. No work on Sunday. **(Affirmative finding if conditioned)**

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

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

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

See the recommended conditions.

Article 4: Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

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

The subject property is located in the Downtown Waterfront – Public Trust (DW-PT) District. This district is intended to enhance and diversify commercial and residential development in the downtown waterfront area, and to increase access, utilization, and enjoyment of the lakeshore by the community. The lakefront restaurant is consistent with this intent. As noted previously, the restaurant use will remain unchanged. **(Affirmative finding)**

(b) Dimensional Standards & Density

No changes proposed. **(Not applicable)**

(c) Permitted & Conditional Uses

See (d) 2 below.

(d) District Specific Regulations

1. Use Restrictions

A. Ground Floor Residential Uses Restricted

(Not applicable)

2. Public Trust Restrictions

The subject property is located within that area of the DW-PT: Maple to Main Street. The restaurant is a permitted use and will remain unchanged. **(Affirmative finding)**

3. Facades and Setbacks on Side and Rear Property Lines

(Not applicable)

4. Building Height Setbacks

A. Principal View Corridors

(Not applicable)

B. Church Street Buildings

(Not applicable)

C. Side Street Building Height

(Not applicable)

5. Lake Champlain Waterfront Setbacks

No changes proposed. **(Not applicable)**

6. Residential District Setback

(Not applicable)

7. Development Bonuses/Additional Allowances

None are sought.

Sec. 4.5.4, Natural Resource Protection Overlay District:

The entire restaurant and seating area are located within the Special Flood Hazard Area (at or below the 102' elevation). The finished floor elevation within the restaurant building is unclear. An architectural plot plan notes the elevation at 102,' whereas a topographic base plan (by a licensed land surveyor) notes ~100' elevations around the perimeter of the building slab. Between

the two, the surveyor plan is a more credible source of elevation information. No elevation certificate is evident in the zoning permit files for this property. One needs to be created and placed on file as the official assessment of the finished floor elevation. If indeed the finished floor elevation is at, or above, 102', the interior renovations are acceptable as is. If the finished floor elevation is below 102,' then additional information as to anchoring and elevation heights or flood proofing are required.

(a) District Specific Regulations: Special Flood Hazard Area

(7) Special Review Criteria

A. The danger to life and property...

The proposed renovations will have no effect on flood heights or velocities. **(Affirmative finding)**

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

The outdoor decking panels are seasonal. While they are to be interconnected, there is no evidence that they will be anchored to the ground to resist floatation as required. Without the required anchoring, they are susceptible to floating away during times of flooding. **(Adverse finding)**

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

No changes to water and sewer systems are proposed. The 1966 plot plan depicts an onsite septic system. Presumably, this system is no longer operational. Documentation on file from 1996 indicates municipal sewer service. Confirmation is needed. **(Affirmative finding if conditioned)**

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

Given its low elevation adjacent to the lakeshore, the property has been flooded a number of times. No information has been provided as to the decking materials and whether it is resistant to water damage during times of inundation. Similarly, clear information is lacking as to the actual finished floor elevation of the building and the elevation of interior equipment. **(Adverse finding)**

E. The importance of the services provided...

No new use is proposed. The existing restaurant will remain, albeit under different name and ownership. As noted above, the restaurant is consistent with the intent of this DW-PT district. **(Affirmative finding)**

F. The availability of alternative locations...

As above, no new use is proposed. While there are certainly alternative locations for restaurants, the use is in place already and will remain unchanged. **(Affirmative finding)**

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

As previously noted, the restaurant is consistent with the intent of the DW-PT zone. **(Affirmative finding)**

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

No new use is proposed. The existing restaurant use provides unique access to the working waterfront and contributes to the vitality of the downtown waterfront called for in PlanBTV: Downtown and Waterfront. **(Affirmative finding)**

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

While almost the entire property is within the Special Flood Hazard Area, access to it remains possible from King Street during flood events. No changes in access are proposed. **(Affirmative finding)**

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

The maximum regulatory flood elevation along the lakeshore is 102' above sea level. The velocity of flood waters along the lakeshore is not problematic. Water is more or less stationary as it rises and falls. The duration of flooding and the rate of its rise depend entirely on spring snowmelt and precipitation events. The lake has risen above 102' just once on record (spring 2011). Sediment transport is insubstantial. Sediment transport is associated with moving waterways such as rivers. The restaurant renovations will have no impact on flood height, velocity, duration, rate of rise, or sediment transport. **(Affirmative finding)**

K. Conformance with all other applicable requirements...

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

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Article 4 above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable in the DW-PT zone.

Sec. 5.2.5, Setbacks

See Article 4 above.

Sec. 5.2.6, Building Height Limits

See Article 4 above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Article 4 above.

Sec. 5.5.1, Nuisance Regulations

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

Sec. 5.5.2, Outdoor Lighting

No new outdoor lighting is proposed. **(Not applicable)**

Sec. 5.5.3, Stormwater and Erosion Control

No earthwork or additional lot coverage is proposed. **(Not applicable)**

Article 6: Development Review Standards:

Part 1, Land Division Design Standards

(Not applicable)

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

Site changes are limited to installation of deck panels throughout the outdoor seating area. Decking materials are not noted and must be. **(Affirmative finding if conditioned)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

Little in the way of exterior building changes are proposed. The three windows to be removed will be infilled with T-111 siding to match the existing building siding. A retractable awing will be installed; however, its location is not evident in the project plans and must be. A new hood vent will also be installed. Its rooftop location is not indicated and must be. Finally, the existing sign will be revamped with new messaging. New outdoor signage is subject to a separate zoning permit. **(Affirmative finding if conditioned)**

II. Conditions of Approval

None yet proposed in light of the outstanding items above.

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ZONING & BUILDING PERMIT APPLICATION
PROJECT DESCRIPTION INFO SHEET:

DEPARTMENT OF
PLANNING & ZONING

Applicant Info:

Applicant Russ & Roxanne Scully owners of Burlington Restaurant "The Spot" and Wind & Waves propose to continue operation of existing seasonal use restaurant at 2 King Street formally operated as "Breakwaters". The new restaurant will be named "Spot On The Dock".

Proposed Hours of Operation, Parking & Employees:

7 Days per week - 9am to 10pm. - no change from Breakwaters operational hours

Number of employees: 40 - 50 employees

Parking & Traffic Generation = no change from Breakwaters proposed

Description of Proposed Improvements Project:

EXTERIOR:

1. Install prefabricated 8' by 8' deck panels on existing patio space. See panel detail (Exhibit B) attached and patio site plan (Exhibit A). Panels to be interconnected and installed prior to Spring/Summer opening and removed and stored off site after seasonal closing in the fall.
2. Install 29' by 36'4" retractable awning over patio area - see drawing (Exhibit C). Vendor Otter Creek Awning will apply for separate permit.
3. Remove three windows in front of building and fill in with firewall (Exhibit G) on interior and siding to match building on exterior. See Photo's attached (Exhibit D & E).

INTERIOR:

1. Build interior wall with 2" x 6" pressure treated framing 16" on center. Face of wall to be finished with food prep grade FPR board on kitchen side and T-111 to match existing dining area side, 177" by 8'6" - see plan (exhibit F). - Kitchen side of wall to be fire-rated wall. Add electric and plumbing to wall to per floor plan. Electrical permits to be pulled by Richard Electric and Plumbing permit to be pulled by Benoure Plumbing & Heating.
2. Install new hood vent see (exhibit F). Re-use existing roof curb. Chucks Heating and Ventilation to pull any required permits for work.
3. Relocate and Install new grease trap and move plumbing drains and supply lines per Kitchen Plan - (Exhibit F)
4. Install new dishwasher, prep sinks, relocate hand sinks and stainless dish table. Keep existing kitchen cook appliances in place and add 2 cooking appliances and one new cooler. New cooking appliances shall be on wheels and removed and stored off site in the off season when restaurant is closed for winter. See - (Exhibit F)

Scott Gustin

From: Swanberg, Ned <Ned.Swanberg@vermont.gov>
Sent: Thursday, May 04, 2017 11:09 AM
To: Scott Gustin
Subject: RE: 2 King St

Great on SI – but make a note and require receipts.

Deck panels are likely to be outdoor/weather resistant, but that should be spec'ed. Also, need to be anchored...again, I would assume they would be...but perhaps I'm mistaken.

I'm sure you have the link to the [FEMA guidance on materials](#). It may well be that the specific deck panels are not listed...the key idea is that after they go underwater for a couple weeks they are not damaged (broken, sodden, moldy, needing replacement). Something they can hose off.

Again, Rebecca is official if you're unsure.

Ned

From: Scott Gustin [mailto:SGustin@burlingtonvt.gov]
Sent: Thursday, May 04, 2017 10:55 AM
To: Swanberg, Ned <Ned.Swanberg@vermont.gov>
Subject: RE: 2 King St

Thanks Ned. I think that's true of the interior work (at or above 102'), but what about the exterior seasonal deck panels? They're at about 100.'

I've done the substantial improvement math, and seemingly, it's not "substantial."

→ \$280K
vs. \$40K EC

Scott

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

From: Swanberg, Ned [mailto:Ned.Swanberg@vermont.gov]
Sent: Thursday, May 04, 2017 10:26 AM
To: Scott Gustin <SGustin@burlingtonvt.gov>
Subject: RE: 2 King St

Hi Scott, Rebecca is the official floodplain manager, but I'm sure you're comfortable with this.

It appears that all changes are above BFE at 101.6' w/ a Lowest Floor Elevation of 102' (do you happen to have an EC?)

Anything below BFE would require flood damage resistant materials and methods...

Best wishes,

Ned

Ned Swanberg, Central Vermont Floodplain Manager, CFM
DEC River Corridor and Floodplain Protection Program
ned.swanberg@vermont.gov 802.490.6160
dec.vermont.gov/watershed/rivers
www.floodready.vermont.gov

From: Scott Gustin [<mailto:SGustin@burlingtonvt.gov>]
Sent: Wednesday, May 03, 2017 3:53 PM
To: Swanberg, Ned <Ned.Swanberg@vermont.gov>
Subject: FW: 2 King St

Ned,
I see Rebecca's out until May 8, so I'm sending this item along to you too.
Scott

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

From: Scott Gustin
Sent: Wednesday, May 03, 2017 3:49 PM
To: 'Pfeiffer, Rebecca' <Rebecca.Pfeiffer@vermont.gov>
Subject: 2 King St

Hi Rebecca,

Attached is a copy of the zoning permit application for work at 2 King Street (formerly Breakwaters café). They're proposing to install seasonal wooden decking outside, remove some building windows and put some new equipment at the restaurant. They propose that the new equipment will be on wheels and removed during the off-season.

All of this is within the flood hazard area. Does the seasonality of the decking and equipment pass muster? I don't see it directly addressed under our flood review criteria. I'm interested to hear your comments on this one. Its scheduled for DRB on May 16.

Scott

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

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

"Exit 1D"

REMOVE WINDOWS & MATCH T-111
SIGN TO EXISTING BLDG.



RECEIVED

APR 17 2007

DEPARTMENT OF
PLANNING & ZONING

"Exit E"

REMOVE WINDOWS
AND MATCH
SIDING



RECEIVED

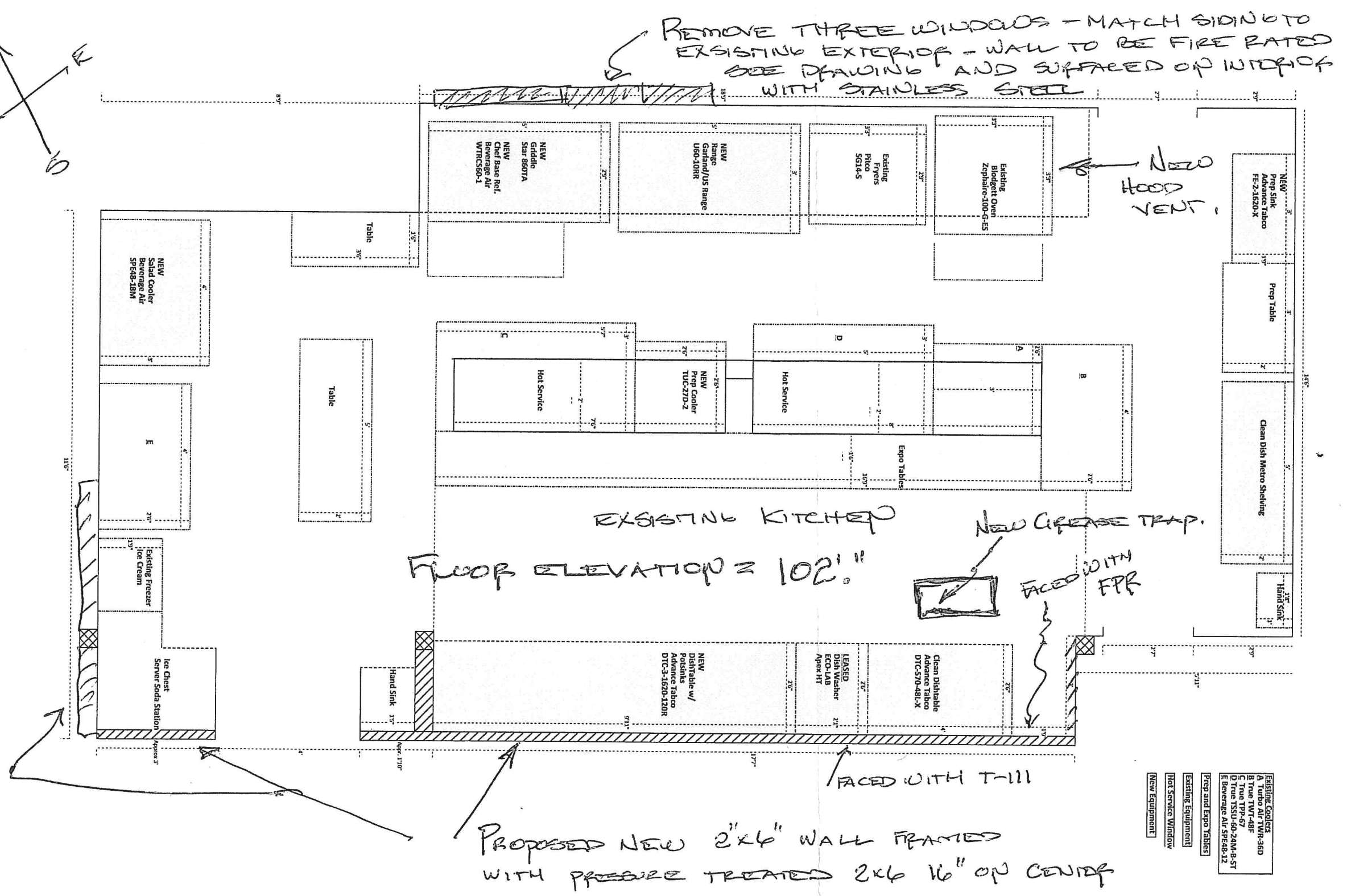
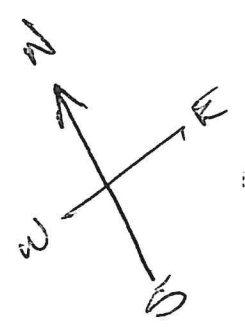
APR 17 2017

DEPARTMENT
PLANNING & Z

RECEIVED

APR 17 2017

DEPARTMENT OF
PLANNING & ZONING



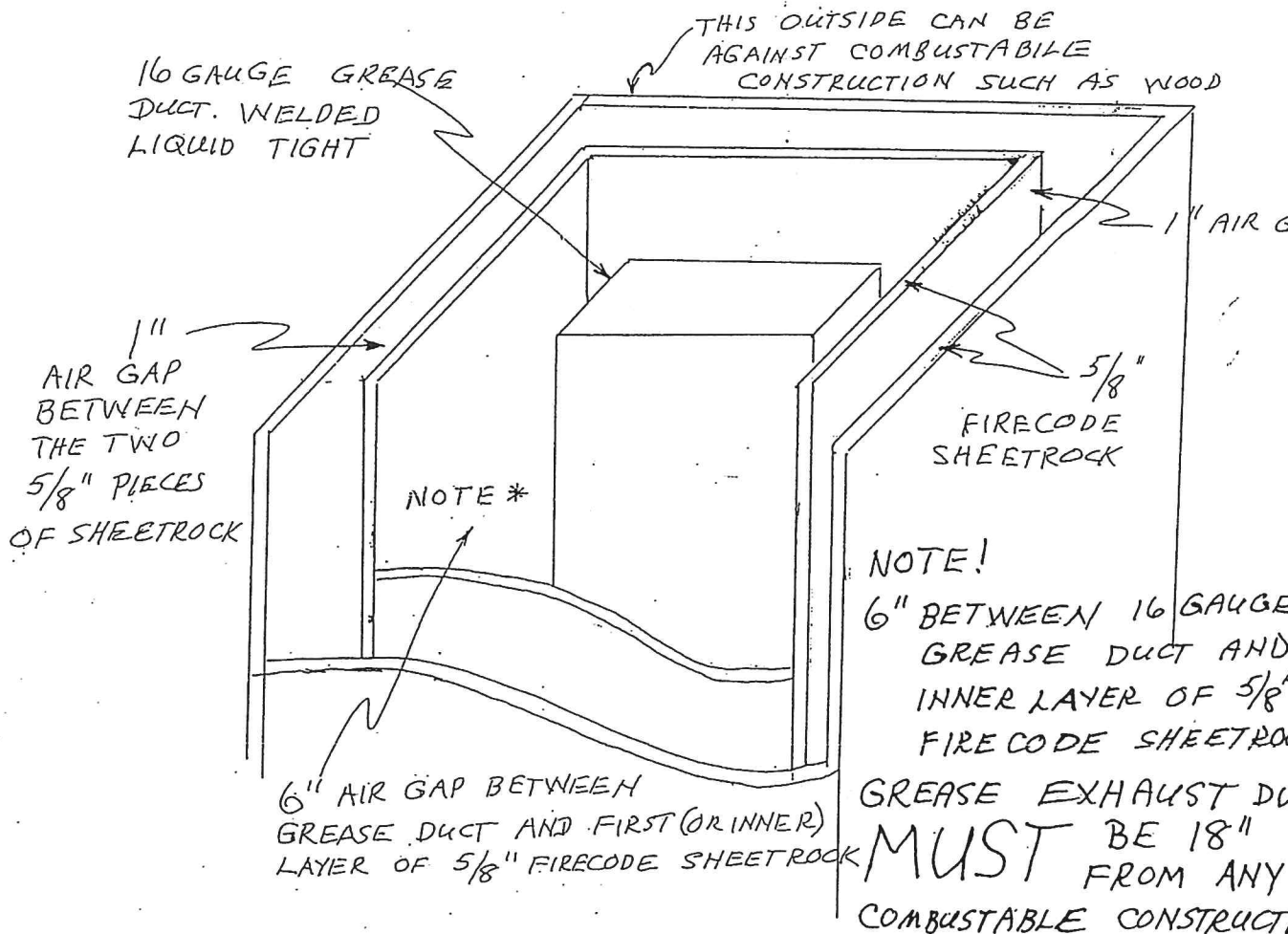
"EXHIBIT F"

Spot on the Rock
KITCHEN PLAN

11
EXHIBIT 6

FIREWALL & HOOD VENT DETAIL

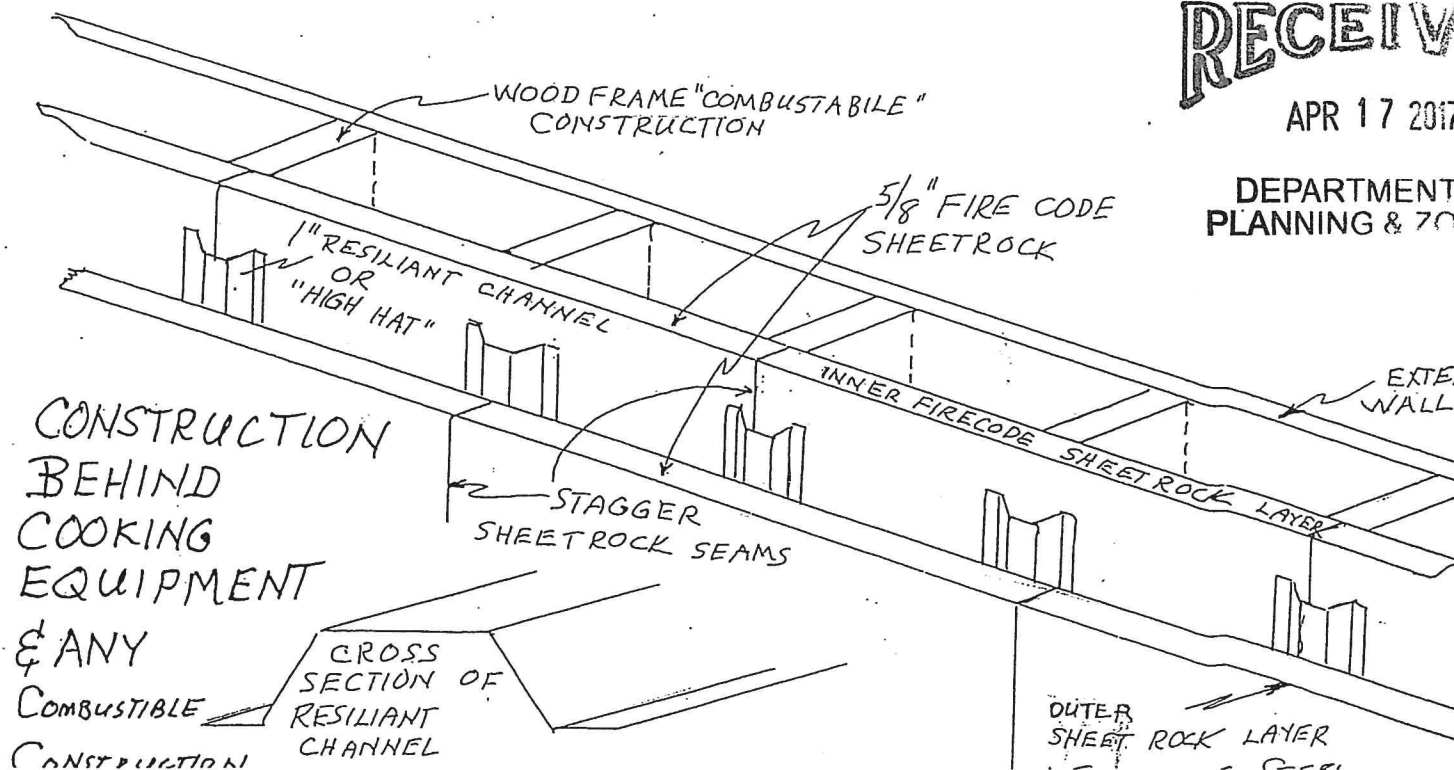
Commercial hood installation drawings



RECEIVED

APR 17 2017

DEPARTMENT
PLANNING & 70

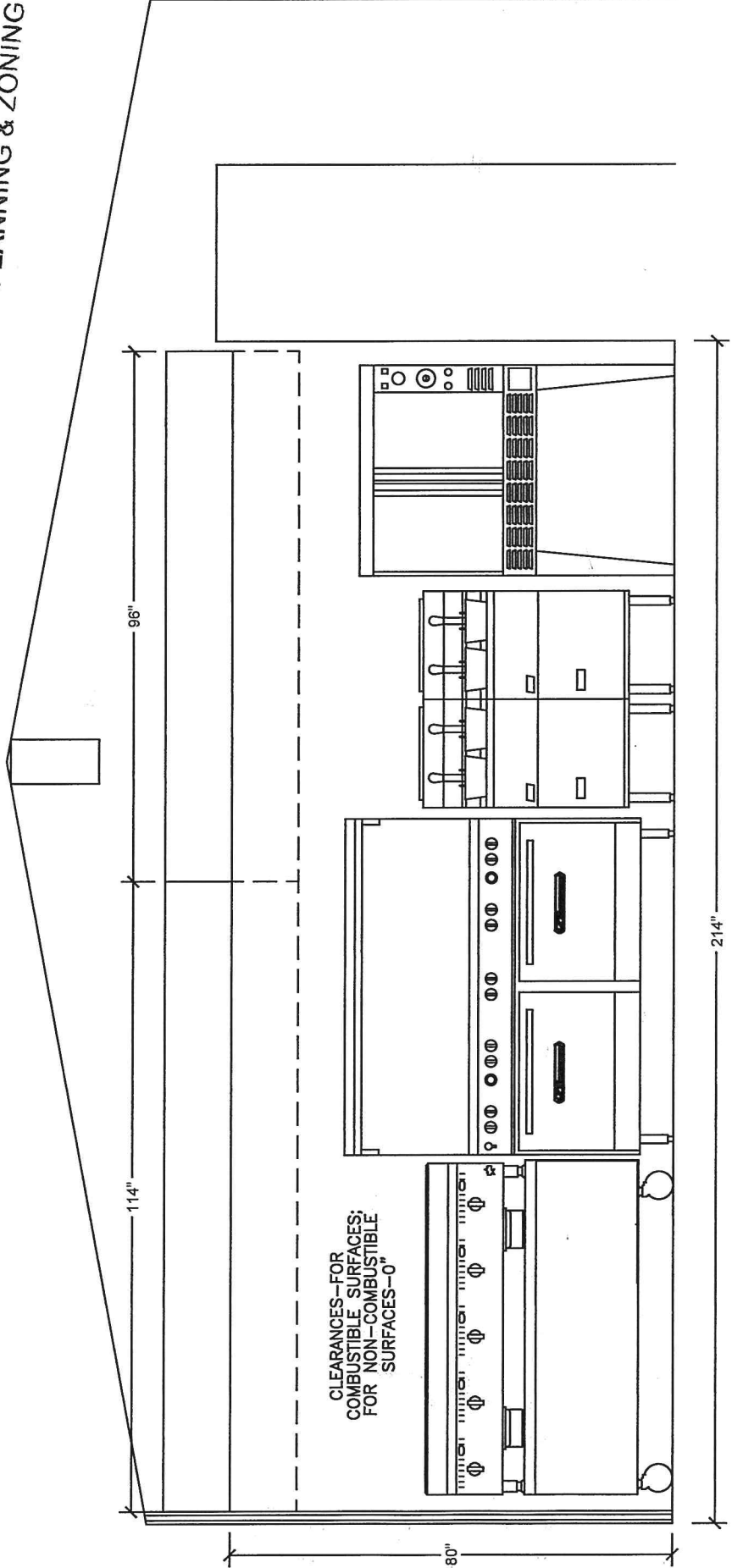


COOKING LINE DETAIL

RECEIVED

APR 17 2017

DEPARTMENT OF
PLANNING & ZONING



Dish Line Detail

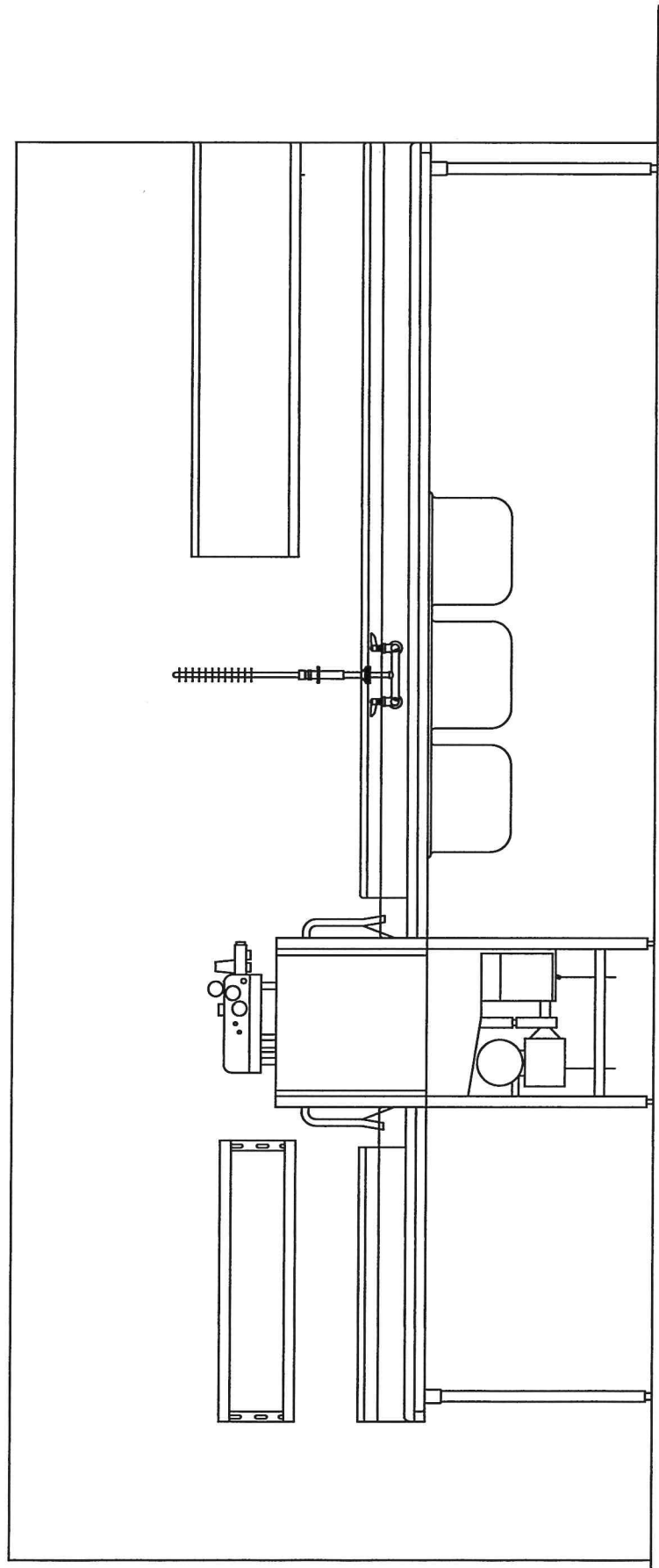
RECEIVED

APR 17 2017

SPOT AT THE DOCK 2017-03-23

DEPARTMENT OF
PLANNING & ZONING

212"



RECEIVED
APR 17 2017

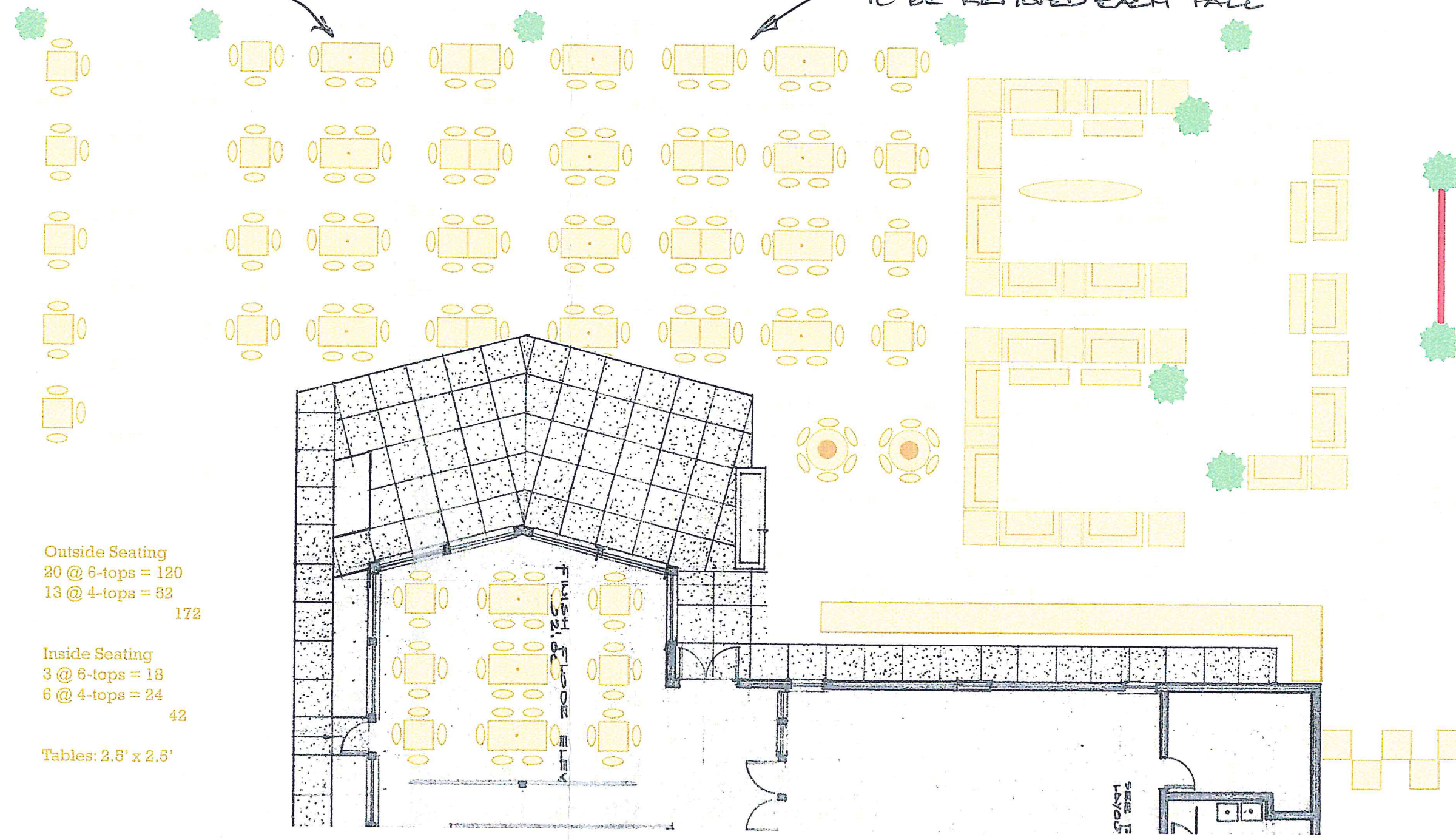
DEPARTMENT OF
PLANNING & ZONING

SPOT ON THE DOCK PATIO SITE PLAN

ELEVATION OF PROPOSED
PANELS

101' 20"

8' x 8' PREFABRICATED DECK PANELS ON GRASS
TO BE REMOVED EACH FALL



Outside Seating
20 @ 6-tops = 120
13 @ 4-tops = 52
172

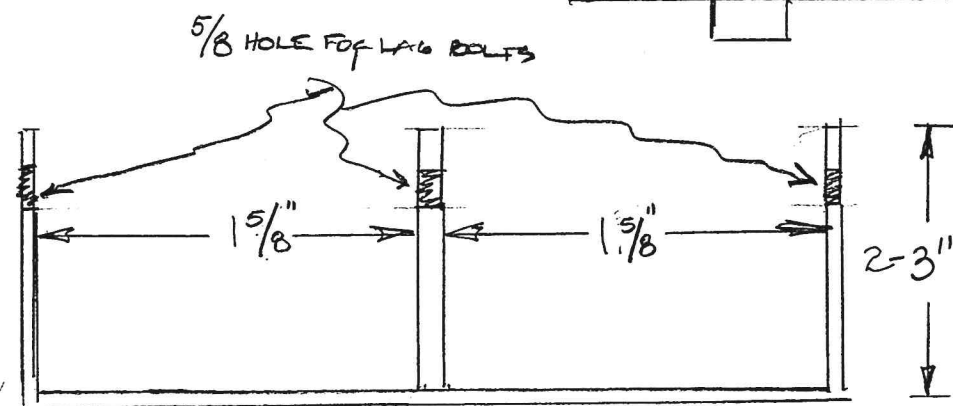
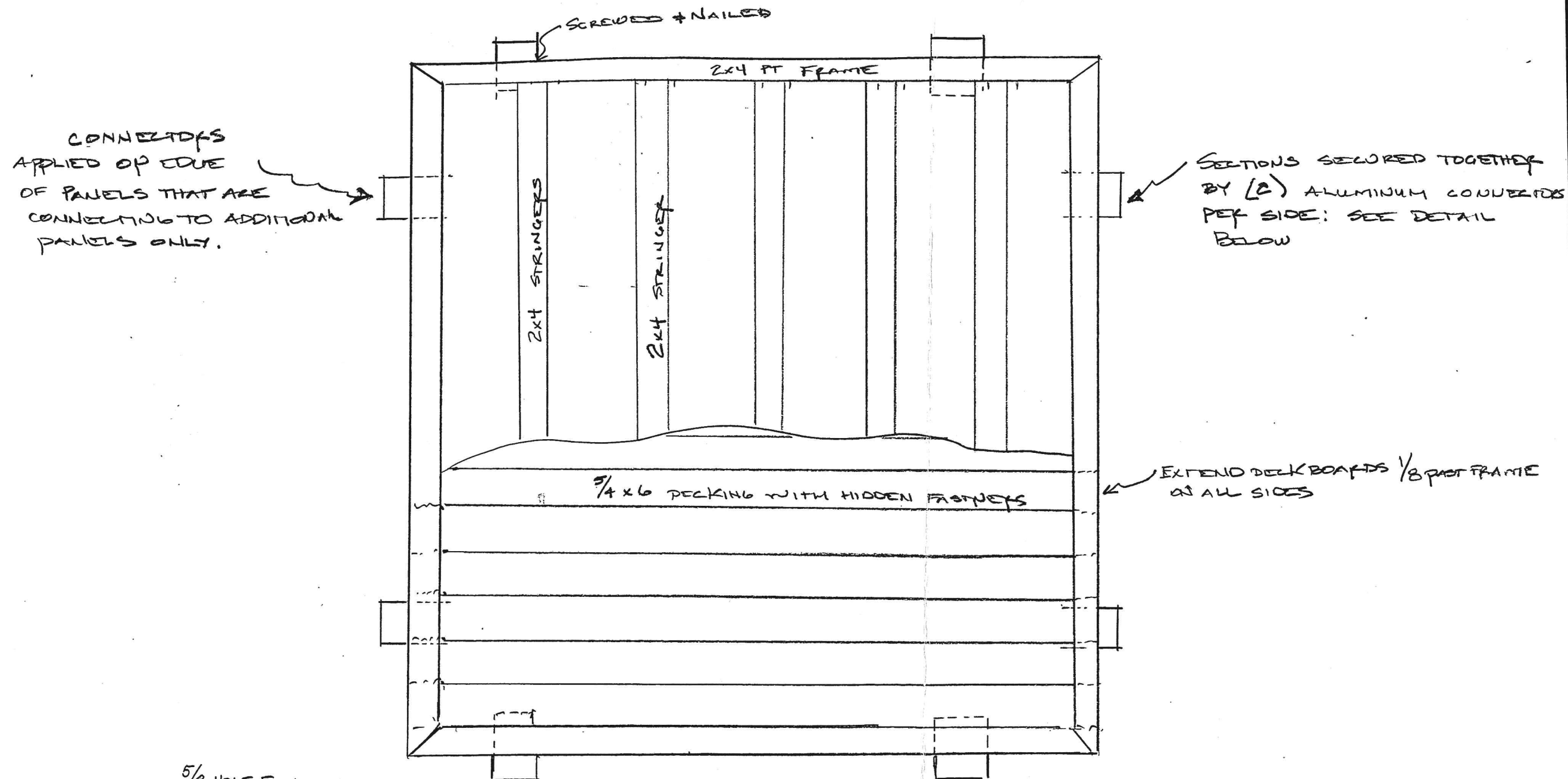
Inside Seating
3 @ 6-tops = 18
6 @ 4-tops = 24
42

Tables: 2.5' x 2.5'

"Mount A"

"EXHIBIT B"

SPOT ON DOCK
8' x 8' DECK CROSS SECTION



RECEIVED

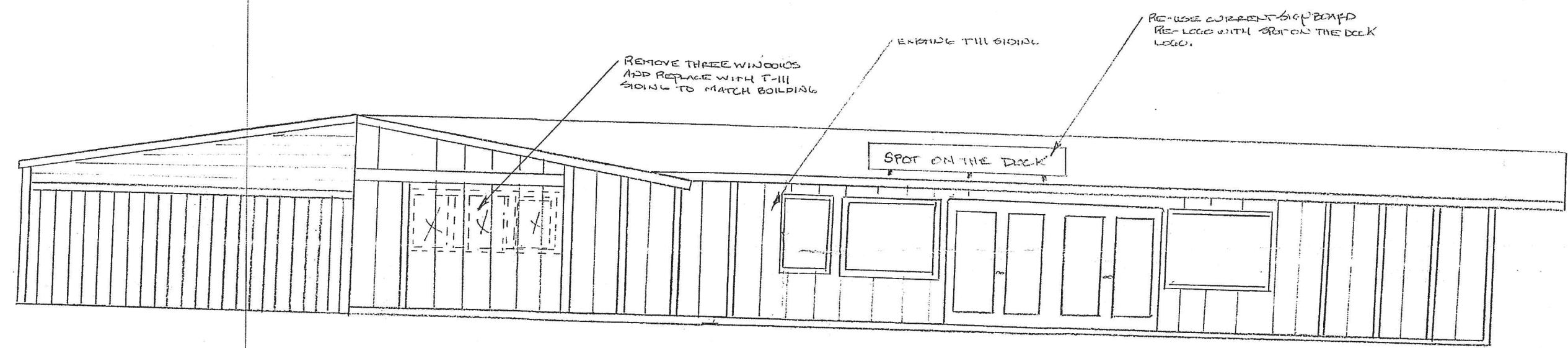
APR 17 2017

DEPARTMENT OF
PLANNING & ZONING

RECEIVED

APR 17 2017

DEPARTMENT OF
PLANNING & ZONING



2 KING STREET - EAST ELEVATION		Proposed	
SCALE: 1/4" = 1'-0"	APPROVED BY:	DRAWN BY:	
DATE: 4-12-17		REVISED	
DRAWN BY:			

LEGEND

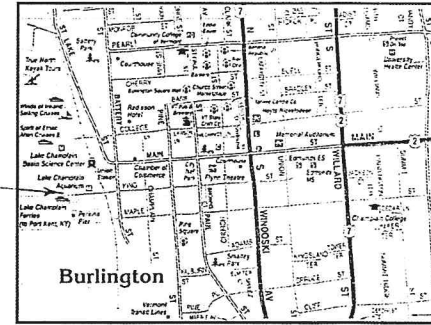
- 8" CONCRETE FILLED STEEL CASING MOORING POST
- MAINHOLE ACCESS TO SEWAGE STRUCTURE
- ▲ FLOOD AREA LIGHT
- ELECTRICAL OUTLET/FITTING
- SIGN
- WATER HOSE BIB
- 100' --- EXISTING GROUND CONTOUR LINE
- 1-3/4" STEEL TIE-ROD (APPROXIMATE LOCATION)
- BURIED ELECTRICAL LINE (APPROXIMATE LOCATION)
- BURIED TELEPHONE LINE (APPROXIMATE LOCATION)
- NATURAL GAS LINE (APPROXIMATE LOCATION)
- WATER SERVICE LINE (APPROXIMATE LOCATION)
- SANITARY SEWER LINE (APPROXIMATE LOCATION)
- WOODEN DOCK
- TEXTURED BITUMINOUS CONCRETE
- PEASTONE
- CEMENT CONCRETE

NOTES

THE UNDERGROUND UTILITY TIES AND STEEL TIE-RODS ARE SHOWN APPROXIMATELY. LOCATIONS DEPICTED ARE BASED UPON EXISTING UTILITY PLANS, OTHER MAPS OF THE SUBJECT PROPERTY, RECOLLECTIONS OF L.C.T. STAFF, AND OBSERVATIONS MADE ON SITE. NO EXCAVATIONS SHOULD BE MADE PRIOR TO VERIFICATION BY "DIOSAFE" PERSONNEL. ANY ADDITIONAL INFORMATION CONCERNING UNDERGROUND FEATURES OR UPDATED VERIFICATIONS DETERMINED DURING EXCAVATION WORK, OR DIOSAFE MARKING, SHOULD BE MEASURED/NOTED AND INCORPORATED INTO A REVISED/CORRECTED PLAN.

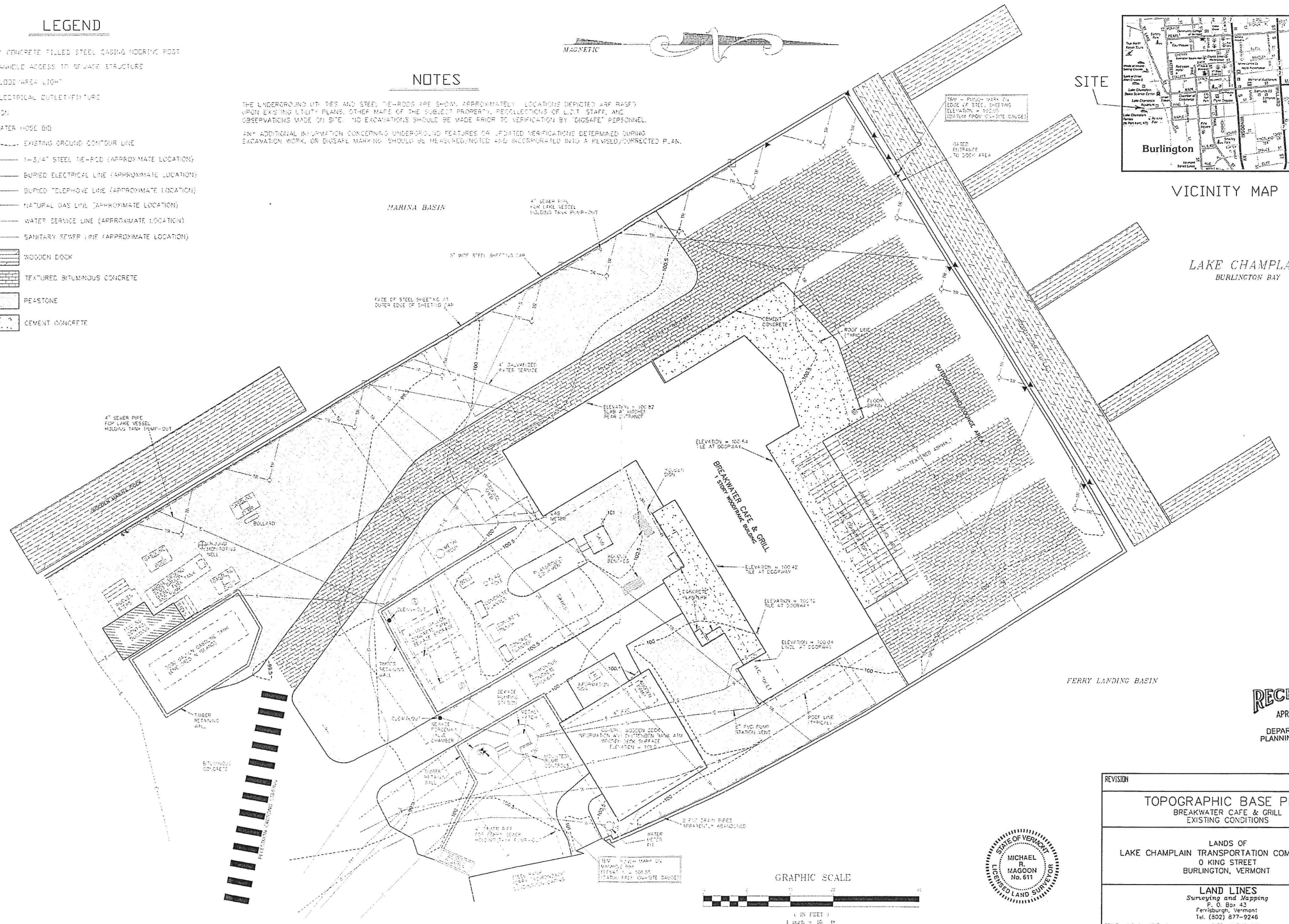
MAGNETIC

SITE



VICINITY MAP

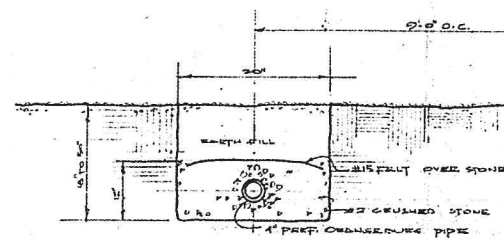
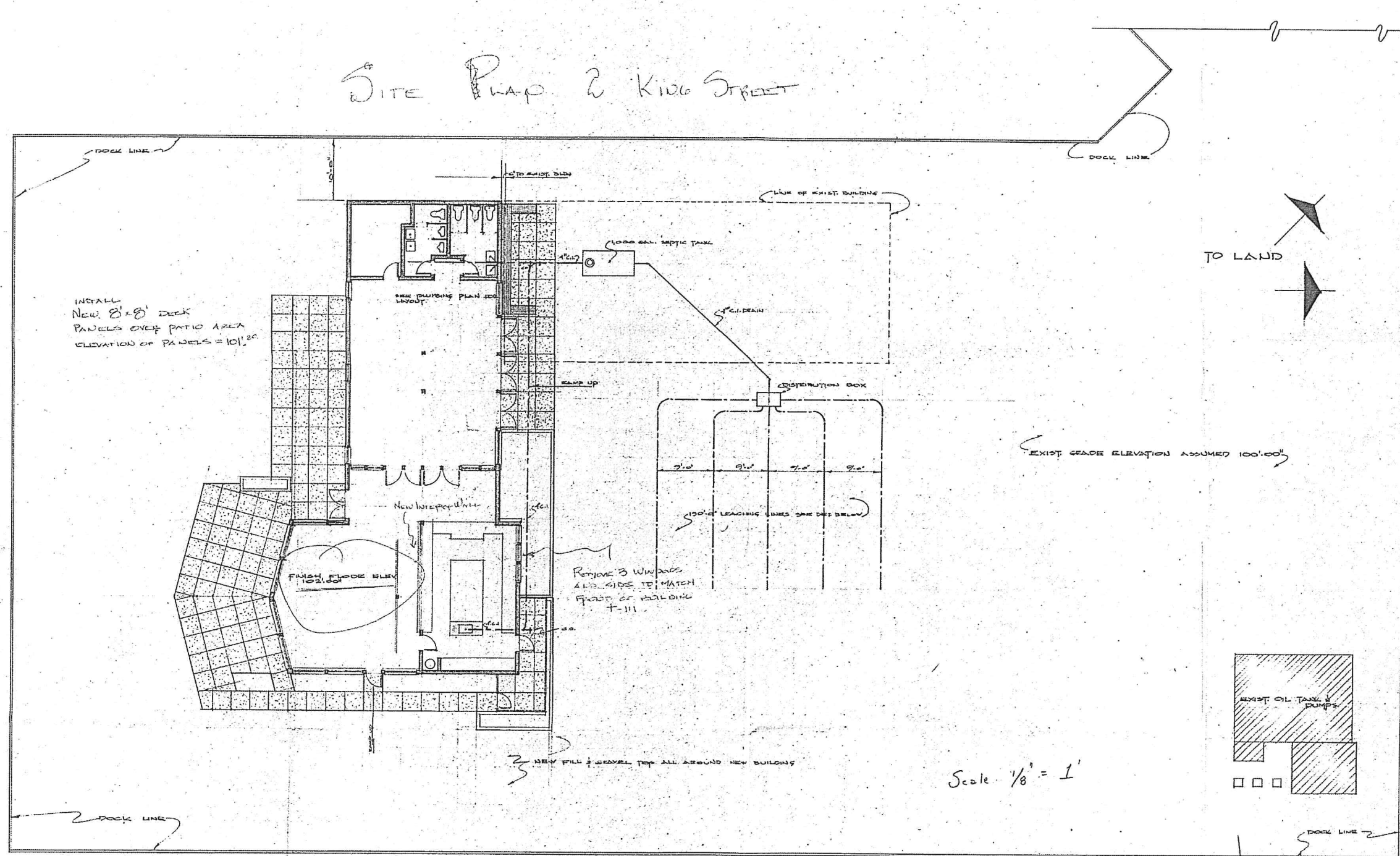
LAKE CHAMPLAIN
BURLINGTON BAY



Site Plan 2 King Street

RECEIVED
APR 17 2017

DEPARTMENT OF
PLANNING & ZONING



TYPICAL SEEPAGE TRENCH
SCALE: 3/4" = 1'-0"

NOT FOR CONSTRUCTION
CHECK PRINTS
9/19/66

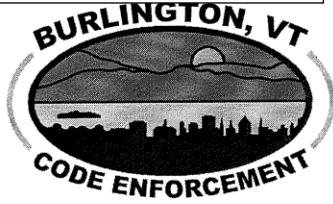
REVISIONS			SHEET TITLE:	
MK	SUBJECT	DATE	PLOT PLAN	
			JOB NAME	
			L.C.T. TOURIST BUILDING	
			BURLINGTON VERMONT	
DRAWN BY	DATE	SCALE	JOB NO.	CHKD BY
L.P.I.		AS NOTED	294912	W.H.P.
WILLIAM H. PRESCOTT ARCHITECT PLATTSBURGH, NEW YORK 12002				



William H. Prescott

41 SOUTH WILLARD STREET DRB REPORT ATTACHMENTS

Notification Letter



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849

Burlington, VT 05402-0849

VOICE (802) 863-0442

FAX: (802) 652-4221

November 17, 2016

VISTA K PROPERTIES LLC
PO BOX 9492
SOUTH BURLINGTON VT 05403

RE: 41 South Willard Street Burlington, Vermont

Dear Owners,

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

- **Expansion of parking area without Zoning Approval**

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

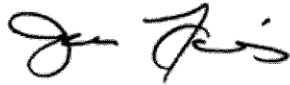
This is your opportunity to provide information to refute the allegation(s) prior to our issuance of a formal determination and possibly a Notice of Violation. Information that may be helpful includes, but is not limited to, the following:

- Permits which document that the condition that is alleged to be in violation has been approved by the City.
- Other relevant documents that you would like us to consider.

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

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

Sincerely,



Jeanne Francis, Zoning Specialist

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

41 SOUTH WILLARD STREET DRB REPORT ATTACHMENTS

March 29, 2017 Notice of Violation



CODE ENFORCEMENT OFFICE

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

Mailed Certified Mail 7013 3020 0001 6717 7018
And FIRST CLASS MAIL

March 29, 2017

VISTA K PROPERTIES LLC/SOON KWON, PhD
PO BOX 9492
SOUTH BURLINGTON VT 05403

NOTICE OF VIOLATION# 323518:

41 SO WILLARD STREET, BURLINGTON, VT
TAX LOT #045-2-251-000

Dear VISTA K PROPERTIES LLC/DR. KWON,

It has come to the attention of this office that a zoning violation exists at 41 South Willard Street.

Description of Violation: Expansion and alteration of rear parking area resulting in increased lot coverage without approved zoning permit. Occupying dwelling units inconsistent with the CDO Family Definition (Articles 4 and 13). Projects approved and completed under ZP 07-314CA and ZP 07-333CA failed zoning certificate of occupancy inspection (no certificate of occupancy issued for these projects). Also, elevation changes to the building without zoning permit approval.

Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 4, 5, 12, 13 and 24 VSA §4451

Please be advised that violations of the CDO are subject to fines of up to two hundred dollars (\$200.00) for each day that a violation continues. You may submit an application to attempt a correction to the violation; however, filing fees are subject to an increase for such permits (see Violation Details Remedy Options #2 and CDO Section 2.7.8).

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

This NOV is a decision of the Burlington Zoning Administrator and/or his/her, designee and, may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this notice, and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application must be filed with the City's Planning and Zoning Office (City Hall, 149 Church Street) by **4 pm on April 13, 2017**; failure

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

41 SOUTH WILLARD STREET DRB REPORT ATTACHMENTS

Appellant's Response to NOV

✓
Jeanne Francis, Zoning Compliance Officer
City of Burlington Code Enforcement Office
645A Pine Street, P.O. Box 849
Burlington, VT 05402-0849

David White, Zoning Administrative Office
Planning and Zoning
City of Burlington, City Hall Room
Burlington, VT 05401

April 6, 2017

Subject: Alleged Zoning Violations by Jeanne Francis at 41 South Willard St. – 3-29-2017

To Jeanne Francis and David White;;

I am responding to your alleged zoning violations in your March 29, 2017.

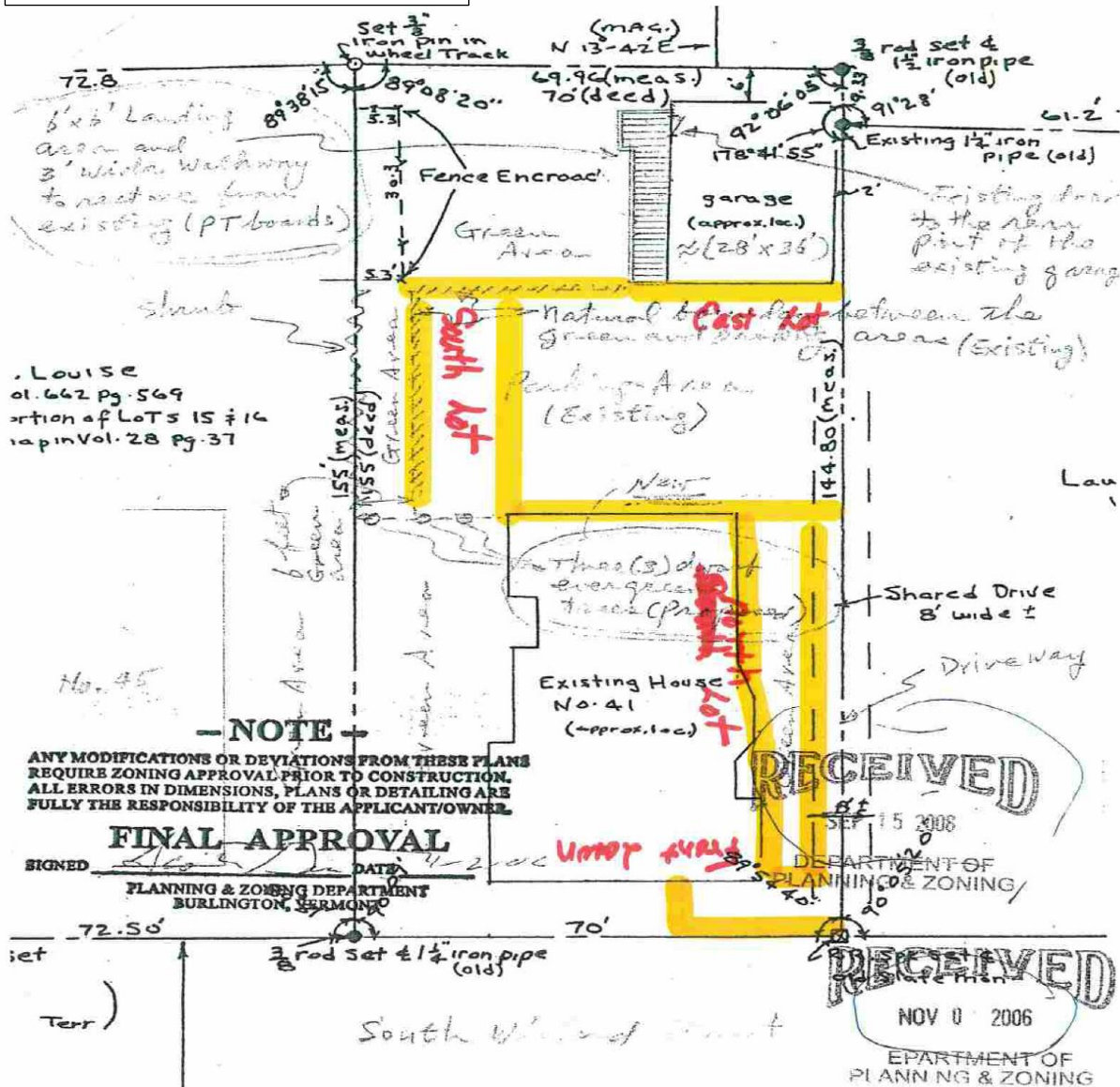
1. Parking: Your "complaint" about the parking problem is a parking problem in winter season, not a zoning violation. My signed lease specifies that each unit comes with 3 parking spaces. However, whenever they have parents, friends or guests, they have to "manage" the parking spaces as long as they do not park on the grass area. I am planning to apply a new permit plan to accommodate 10 or 11 cars, the City zoning permits. I believe that there is sufficient space for them. There is no zoning violation, rather, parking issue in winter.
2. Three missing shrubs: I am going to withdraw my permit for these three shrubs all together.
3. T-111 "siding": This is an old story. When the massive remodeling project on the west side was in progress with my architect, Gardner and Associates in Winooski, we had discussions with The Public Works, then building inspector, agreed that since that part of stairs is completely isolated from the building structure, he would agree with the use of T-111. If you are not happy with is agreement, I will discuss with my contractor.
4. Functional Family Rule: This rule requires that more than four "unrelated" people are required to be "related" by paying rents together, paying utility bills together, and often times paying for groceries together, etc. I had discussions with former Public Works Dept. heads, I had been informed that all my properties are not in the zones where the functional family rule applies. Therefore, this rule does not apply.
5. Decorative straps on the south side third floor window: Upon your complaint about the east side window straps, ACME Glass finished their job. Now you missed another one, I will ask ACME Glass to inspect and "install" the decorative piece if needed.

Sincerely,


Soon Kwon

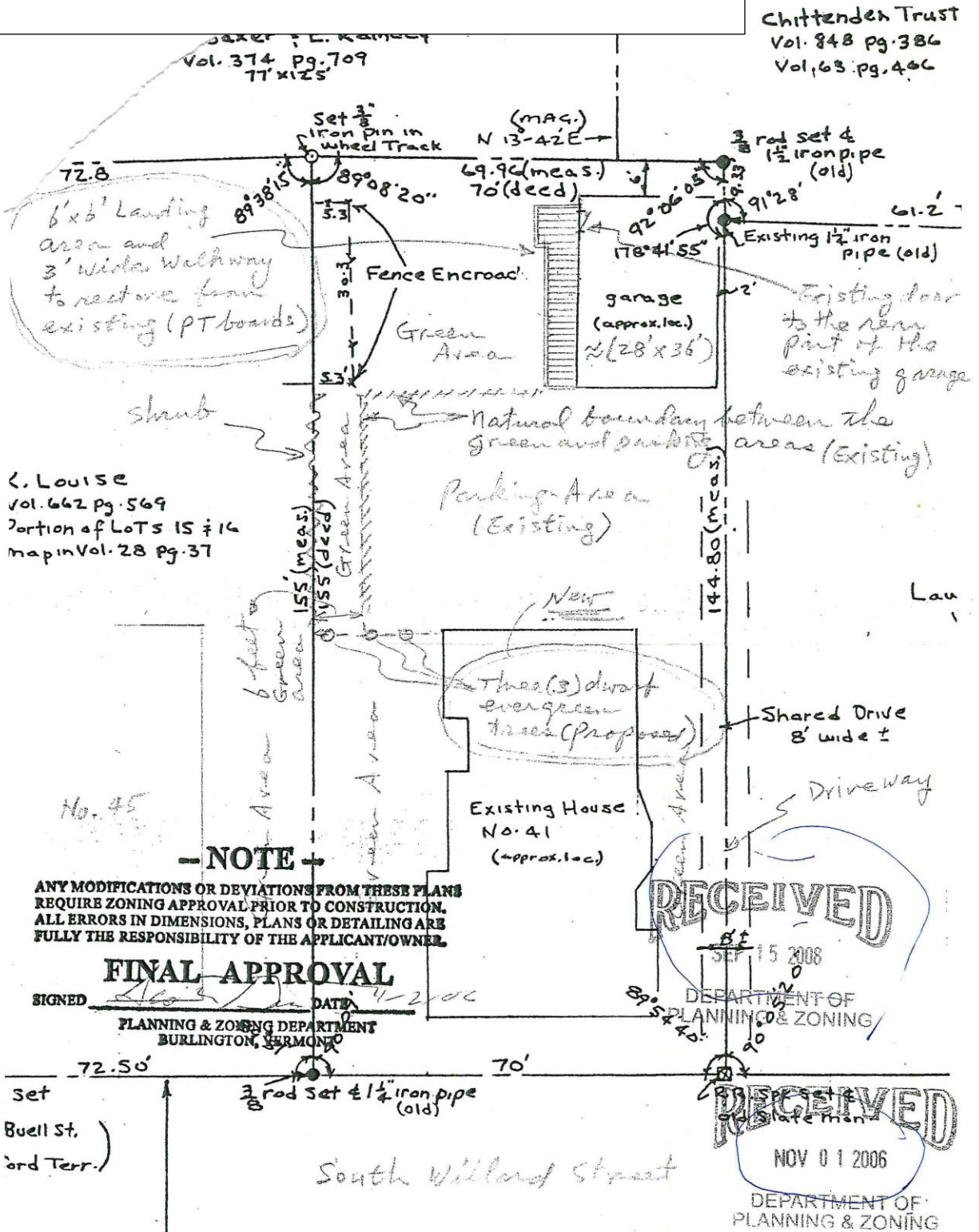
cc: - Mr. William Ward, Director of Burlington Code Enforcement Office
- Mr. Will Towle Esq.

HIT -
Vo 8 B pg 386
Vo 163 pg 406



41 SOUTH WILLARD STREET DRB REPORT ATTACHMENTS

Site Plan Approved on April 2, 2006



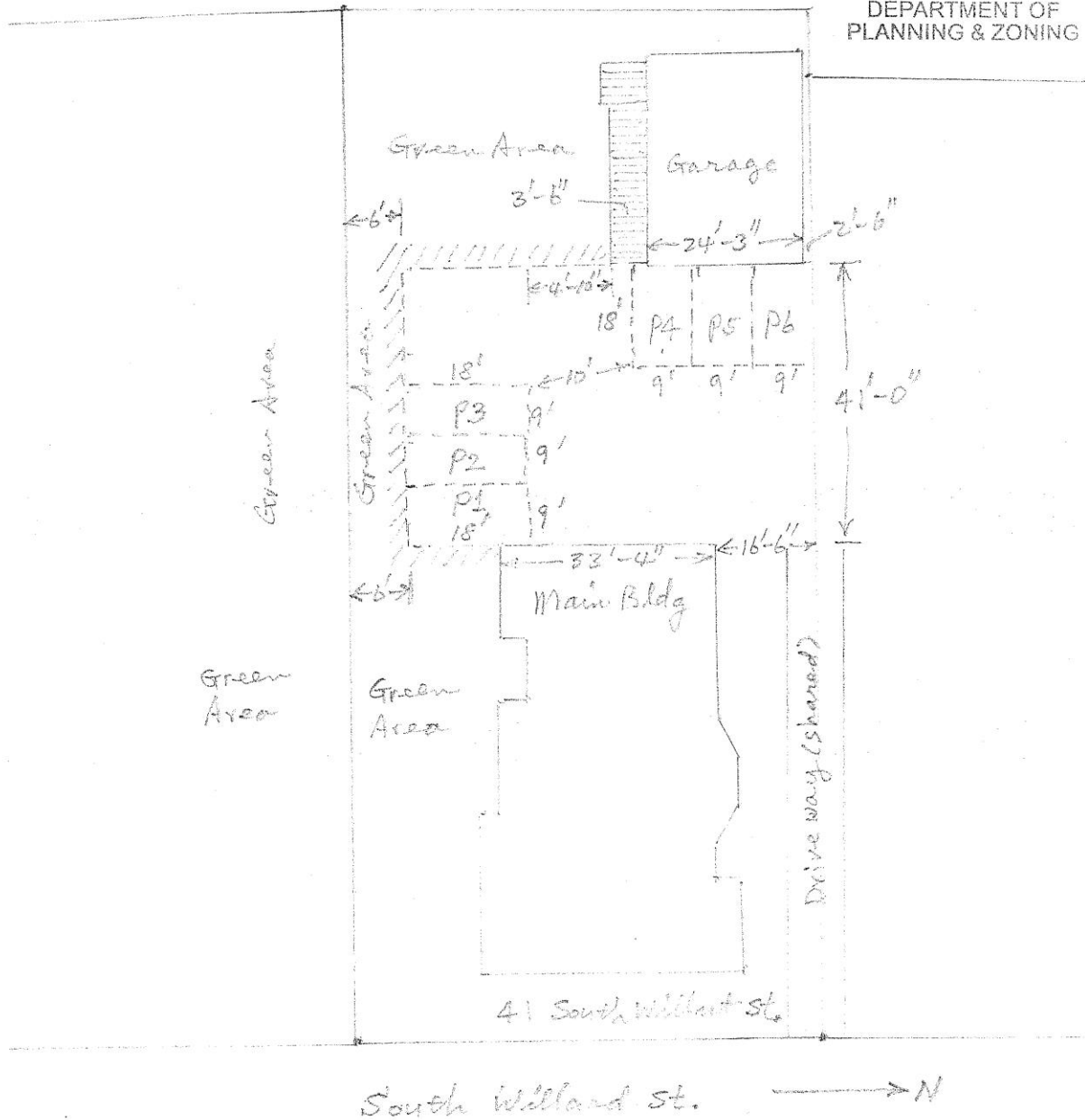
Layout for 6 parking spaces
(41 South Willard St.)

7/15/2008

RECEIVED

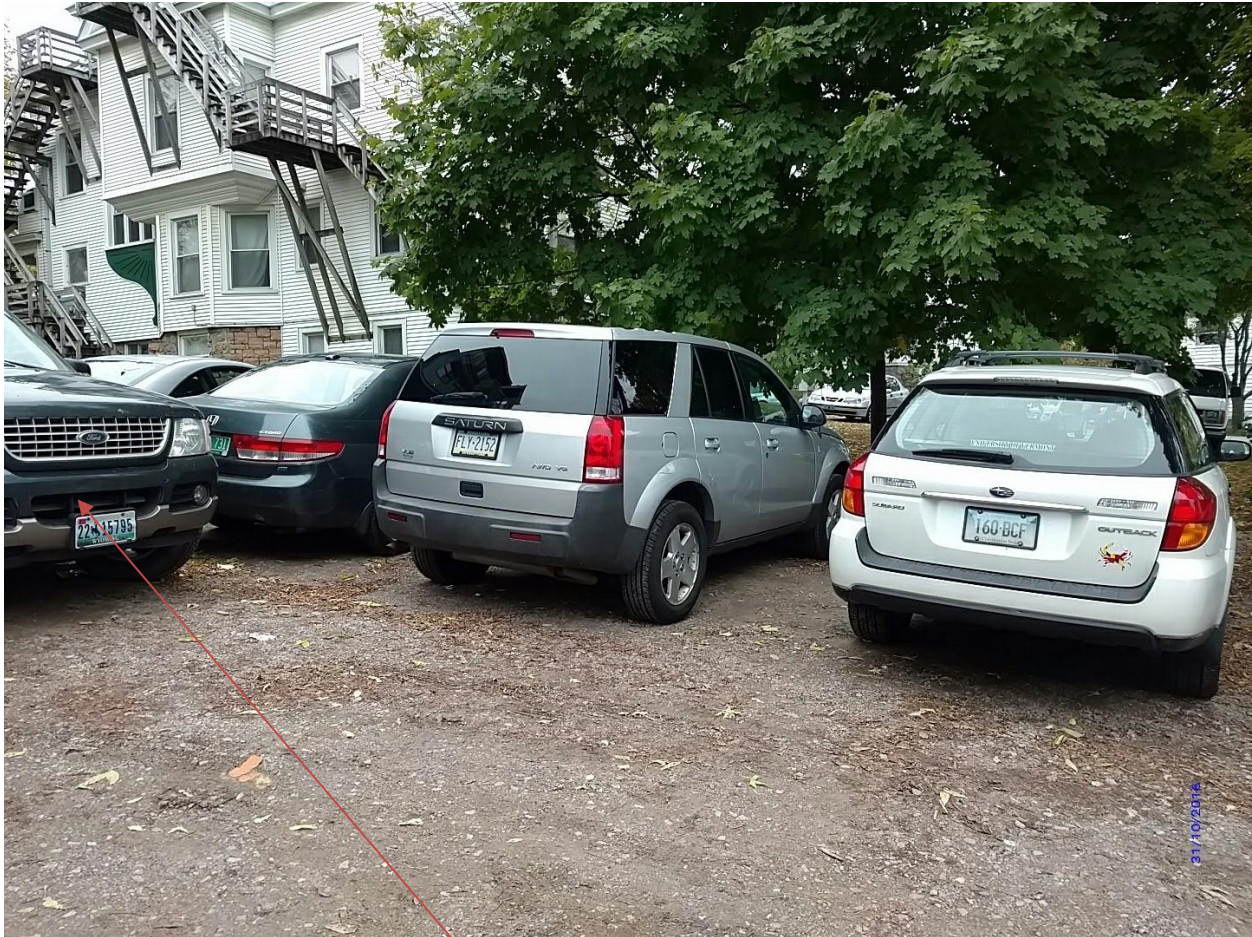
SEP 15 2008

DEPARTMENT OF
PLANNING & ZONING



41 SOUTH WILLARD STREET DRB REPORT ATTACHMENTS

CITY ATTORNEY'S LETTER REGARDING 4 UNRELATED IN THE RH and ZP 07-333CA and 07-314CA
WILL NOT COPY FOR THIS DOCUMENT. A COPY WILL BE DISTRIBUTED AT THE MEETING.



South Parking, southeast corner. This truck is parked behind two other vehicles.



South parking/boundary. As you can see, no snow, no sign of winter conditions.



This car is parked along the south wall of the garage. The white car, parked on the southern boundry, should be the last car in this parking arrangement (ie. 3 cars as Appellant has stated in his 2008 drawing). Lawn area has been severely damaged.



Front of the garage: It is not winter. Five vehicles parked here (ie. 3 cars as Appellant has stated in his 2008 drawing).



Parking along the stair tower. No parking along the stair tower approved.



South parking. Truck is parked along the garage wall.





Winter version. As you can see cars are parked here and plowing was done around existing cars.



Photo Taken at :14 p.m. at 1:00 p.m. on February 21, 2017 By William Ward

41 SOUTH WILLARD STREET DRB REPORT ATTACHMENTS



Picture taken this week. It is not winter. Cars still parking in unapproved spaces.

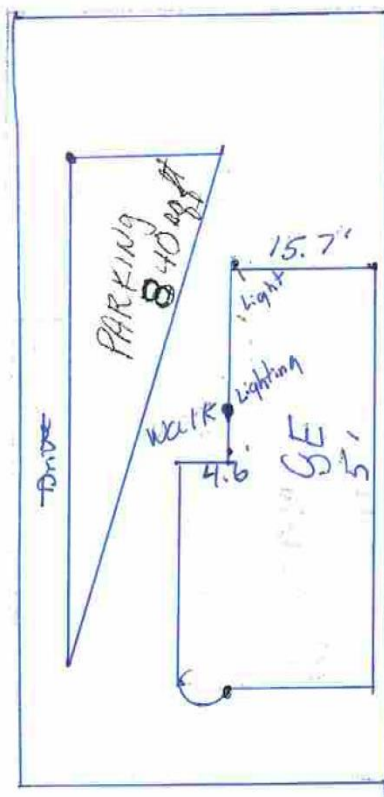
5/11/17

way

PRO

RECEIVED

CODE ZON



November 14, 1991 Site Plan received by the Department of Planning & Zoning.



From Rear

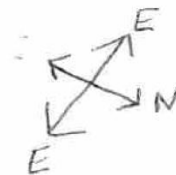


Photo taken 5/7/03 – Grass in the rear yard has currently been replaced with crushed stone.



From R



Photo taken 5/7/03 Grass in the rear yard has removed and currently replaced with crushed stone. Chain link fence along the SE boundary has been removed, approximately 2004.



South side

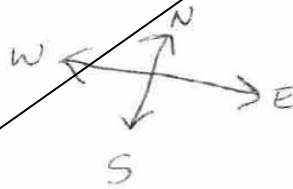


Photo taken 5/7/03. Chain Link fence along the southeast boundary to enclose rear yard; fence has since been removed, approximately 2004.



From Front

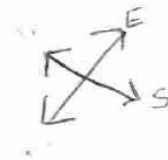


Photo taken 5/7/03 West looking east (SW corner of property). Photo shows grass existed all the way up the southern boundary of property. Chain link fence can be seen attached to SE corner of house. On the right of photo is property known as 224 Pine St. Today the chain link fence and grass have disappeared.



08/03/2016: Municipal ticket issued to this car parked south of the driveway, which is what initiated the complaint. The blue vehicle shown top left, is within the parking area of property to the north. This photo shows green grass south of the driveway. Following photos will show you how that green grass has eroded.



These two vehicles appear to coincide with the "Triangle" parking. Parking has expanded. The average width of a car is 9' so this appears to coincide with the 20' wide (top of) "Triangle" indicated on the 1991 site plan.



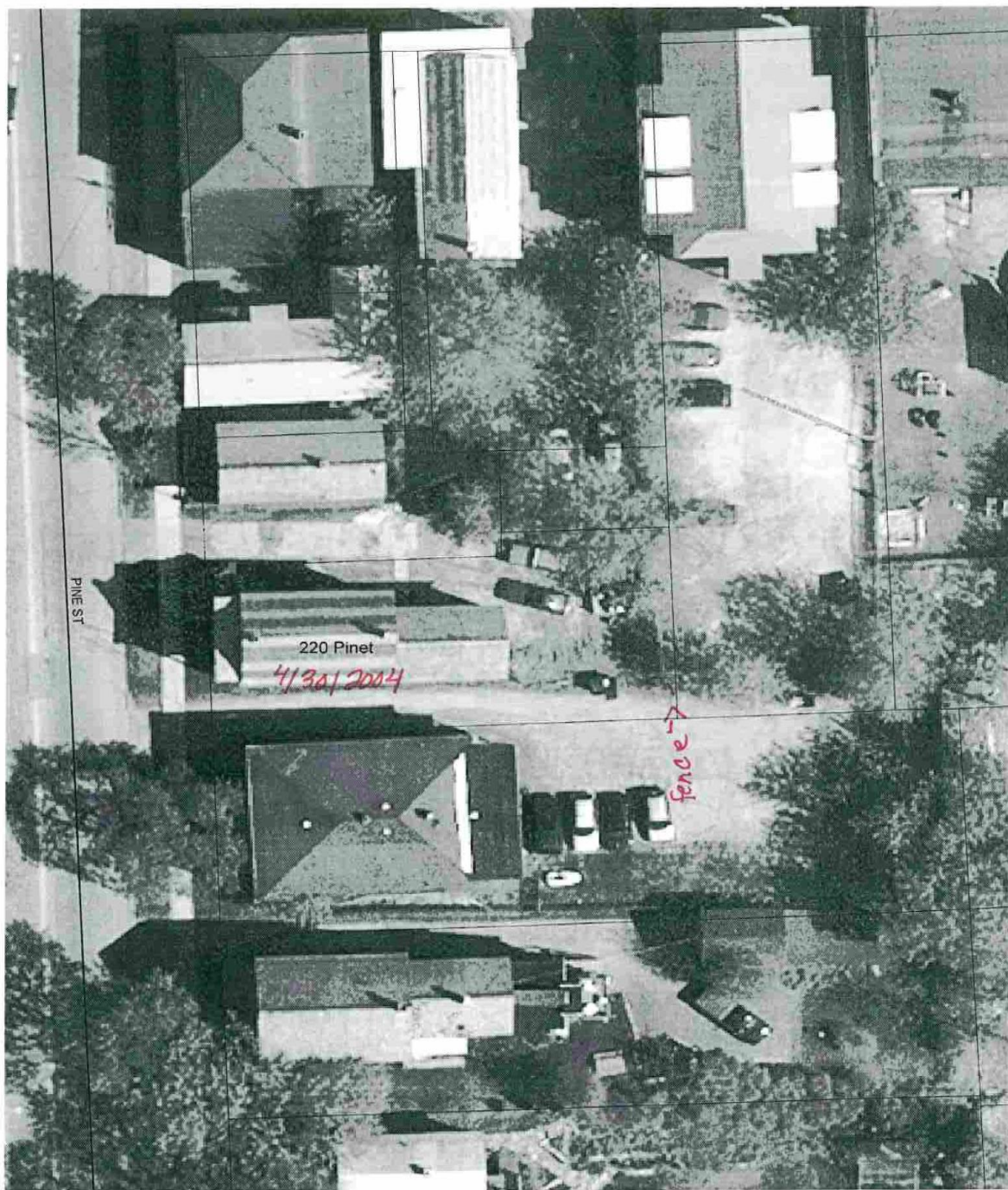
This picture is taken from Pine Street (west to east). This is the shared driveway (shared with property to the north). As you can see, the driveway has widened, vehicles have eased off the driveway and eroded grass; thus widening the driveway without permits. The two vehicles veered off the driveway appear to have veered off the “triangle” of the 1991 site plan indicating where parking was. NOTE: these trash receptacles were never shown on any site plan.



South looking north. Pavement is driveway of property known as 214 Pine Street. As you can see, without that chain link fence, cars are accessing the back yard from the neighboring property's driveway and increasing Appellant's parking in the rear yard. The two vehicles in the far north of photo are within the "Triangle", all this backyard has turned into parking without zoning permits. (these two cars are shown in a previous photo identified as "shown from Pine Street").



The crushed stone (gravel) placed over the soiled backyard shown in the Google Earth illustrations does not have zoning approval.



4/30/2004 Google Earth



Google Earth

5/19/2012 Google Earth



og Earth

2016 Google Earth 3-D. Note green space is the embankment.

**CODE ENFORCEMENT OFFICE**

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

VOICE (802) 863-0442

FAX: (802) 652-4221

TO: Development Review Board

FR: Jeanne Francis, Assistant Zoning Administrative Officer,
Code Compliance and Enforcement

DT: March 24, 2017

RE: Report on **Appeal #17-0786AP**; Appeal of a Administrative Officer's Zoning Notice of Violation (ZV # 320536) issued on February 1, 2017, for Failure to obtain zoning approval for expanding parking south of existing driveway and southeast corner of rear yard, added gravel over compacted soil in the rear, and failure to obtain certificates of occupancy for ZP 92-196 and 07-428, for Premises Located at 220 Pine St, Burlington, Vermont

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.

Location: 220 Pine Street, Burlington, Vermont

Tax Lot # 049-2-007-000

Appellant: Nicholas/Deanna Papaseraphim

Applicable Regulations: CDO Articles 2, 3, 5, 8, 12 and VSA §4551

Appeal # 17-0786AP

Appeal: Sec. 12.2.2 Appeals of Administrative Officer Decisions

- Appeal filed at the Planning/Zoning office on February 15, 2017:

Name and address of appellant:

Nicholas Papaseraphim
27 Weathersfield Bow
Essex VT 05452

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

Reference to the regulatory provisions applicable to that appeal

Appellant left this section blank

Relief requested by the appellant

6 parking spaces, all existing parking.

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

Pre-existing

Appellant Submittals

- Notice of Appeal with Notice of Violation

City's Submittals

- Photos, aerial photos, Google Earth

Background Information:

- Property listed with City as 2 family/2 rental units, 4 bedrooms, on a 4,430 sf lot.
- RM Zone
- Neighborhood Parking District
- On State Historic Structures, King Street District, Built 1899
- Ward 5
- Appellants purchased the property in 2012
- 1978 site plan, attached to zoning permit #78-214, shows a fence on the east and southern boundaries of property. A shed is shown on the southeast corner of property/ shed and southern fence have been removed. Driveway (w/o dimensions) is shown on plan but no specifics to parking.
- ZP 92-196: *Removal of two-story front facade porch, on existing duplex, with first floor landing constructed. Second story door, formally leading onto porch, to be filled-in to match existing. Structure listed on state list of historic structures and within King St. Neighborhood revitalization project. Proposal approved December 5, 1991, subject to conditions. A Certificate of Occupancy has not been issued for this permit. Permit states 4 parking spaces existed at time of proposal. Site plan included with zoning permit, dated November 4, 1991, illustrates an 840 sf triangular parking area (ie. 20'x84'x90').*
- ZP 03-537: *Jack up rear 25'X16' Section of building approx. 10-12 to level out. Install new concrete foundation under existing structure. Repair all affected areas,*

Floors, Ceilings, Walls, Windows. Any replaced siding, Windows, or other exterior repair work will match existing. No increase in coverage. Proposal approved May 22, 2003 subject to 2 conditions. Certificate of Occupancy issued November 17, 2003.

- ZP 07-428: *Replace front porch window with door. Replacement door shall match appearance of historic windows, that is, 2/3 glass 4 light wood door using existing casings. Approved January 24, 2007 subject to 5 conditions. No Certificate of Occupancy to close out the permit has been sought.*
- November 15, 2010 Code Office received an “expanded parking” complaint; area in which this violation occurred was in close proximity of the exterior door, south of the driveway; although parking in this area ceased, Owner failed to work with City to replenish lawn area damaged from the illegal parking and/or to install barriers to prohibit future parking in this area. This violation is recorded as “open” because Owner never replenished lawn area or installed a barrier. See attached photos.
- August 30, 2016 Code Office received an inter-departmental inquiry regarding parking at Property (tenant appealed a parking ticket); City Attorney’s Office dismissed the ticket as a warning because tenants (owner of vehicle) stated **landlord told tenants** that *where she was parked was one of the 3 designated parking spaces for the building*. Although the ticket was dismissed, tenant was informed that parking was not approved in the area where she was ticketed.
- September 13, 2016 notification letter regarding expansion of driveway/parking area without zoning approval mailed to Owner; Owner did not refute complaint. Parking was verified. See attached photo.
- 2012 and 2004 Google Earth aerials show a muddled back yard; current parking material is gravel.
- 2004 Google Earth aerial shows a fence installed along the east and southern property boundaries; fence (also shown on 1978 drawing filed with zoning permit request) has been removed allowing vehicles to access driveway of property to the south and then onto Pine Street.
- Currently parking at property is not organized and parking has been occurring south of the driveway. There are no assigned parking spaces. Entire back yard is graveled; with the entire back yard being graveled, that gives tenants the illusion parking is allowed in the entire rear yard.
- No zoning permits on file in the City to: expand the parking south of the driveway, in the rear yard, add site improvements that includes placing gravel over the previous permeable rear yard, and expanded parking equates additional coverage.

- To date a Certificate of Occupancy has not been issued for Zoning Permits #92-196 and #07-428; Appellant has recently requested a certificate of occupancy for each of the permits, however they both failed inspection.

Comprehensive Development Ordinance (CDO)

Article 2. Enforcement

Sec. 2.7.5 Observation or Complaints of Violations

... that have been taken.

The observation of a violation on the part of the administrative officer shall be considered an Investigation, and the alleged violator may be issued a notice of zoning violation or a municipal civil complaint ticket.

- Site visit indicated complaint was variable.
- Research of City records revealed there was no zoning permit on file to increase the parking area.
- Research of City records revealed there was no zoning permit on file to add crushed stone to the rear yard.
- Research reveals two open zoning permits.
- Zoning files disclosed an approved zoning permit in 1991 that included a site plan that included 850 sf of parking; parking was on the north side of the rear yard and connected with the driveway (see attached plan)
- Administrative officer determined violations were occurring at Property and issued a Notice of violation on February 1, 2017.

Article 3. Applications, Permits, and Project Review

Sec. 3.1.2 Zoning Permit Required

Except for that development which is exempt from a permit requirement under Sec. 3.1.2(c) below, no development may be commenced within the city without a zoning permit issued by the administrative officer including but not limited to the following types of exterior and interior work:

(a) Exterior Work:

Onsite work, without zoning permits, includes the following categories:

- 5. Alterations, changes, or modifications to building lots or sites related to site improvements including, but not limited to, increased lot coverage.
- 6. Excavation or fill related to site improvements...

- 12. New or expanded parking areas, driveways, and walkways. Including paving existing gravel surfaces...
- 16. Site improvements...
- City records show Appellant (and/or previous owners) did not obtain zoning approval for any violation cited in Notice issued on February 1

Article 5 Citywide General Standards

Appellant stated he will argue the 15+ year ordinance.

Article 5, Part 3: Non-Conformities

Sec. 5.3.2 “Bianchi” controlled uses, structures, and lots.

Although not subject to enforcement action pursuant to Article 2, uses, structures, and lots which are deemed to be controlled by the Bianchi decision, and the subsequent enactment of 24 VSA Sec. 4454, shall be considered violations that are not considered legal to any extent and shall in no event be granted the consideration or allowances of nonconforming structures, uses, and lots. Thus, no change, alteration, enlargement, and reestablishment after discontinuance for more than sixty (60) days or reconstruction after an occurrence or event which destroys at least 50% of the structure in the judgment of the city’s building inspector shall be permitted, except to a conforming use, structure, or lot.

- To date, Appellant has not requested a “determination permit” or submitted documentation to the City to prove the Property’s entire rear yard has been used solely for parking use continued for a consistent period of 15+ years. City records indicate there are inconsistencies over this time period.

Article 12. Appeals, Conditional Uses, Variances

- Sec. 17.1.3 (a).The appeal submission is incomplete. A brief description of the property, with respect to which the appeal is taken, a reference to the regulatory provisions, applicable to that appeal, the relief requested by the appellant, and the alleged grounds why such requested relief is believed proper under the circumstances, were incomplete when filing the appeal.

Summary

Appellants purchased this 1844 four-bedroom historic duplex in 2012. Structure is listed on state “list of historic structures” and within the “King Street Neighborhood Revitalization Project”, is within the RM zone in Ward 5 and sits on a 4,430 sf lot (according to Assessor records).

- ZP 78-214 was approved for the installation of a chain link fence and accompanied by a site plan dated November 4, 1991. That site plan illustrates an “unpaved” 40’x30’ sf parking area and a 40’ x 90’ sf paved parking area. NOTE: these dimensions are larger than later permit dimensions and City records.
- ZP 92-196 was approved for exterior changes. Zoning Permit indicates 4 parking spaces existed at time of proposal (this is an automated/program number because the ordinance required 4 parking spaces for a duplex – you will note Owner stated there were 3 parking spaces, and those 3 parking spaces were not verified.. Site plan accompanied with zoning permit dated November 4, 1991, illustrates an 840 sf triangular parking area, which is smaller than the 1978 site plan and which could not accommodate three vehicles in a 20’ wide area (20’ indicated on 1991 plan). Appellant has stated six parking spaces have existed consistently for a period of 15+ years; however, to date Appellant has not provided any documentation supporting his claim. The City has provided evidence the parking area changed between 2003 and 2004. ZP 92-196 has been executed, and Owner has recently requested a certificate of occupancy; however, project has failed inspection because it does not comply with approvals, including parking.
- Google maps from 2004 to 2016 shows the rear yard has changed over the years. The entire backyard was a muddied, rutted, dirt area with exception for the small grassy embankment between this property and property to the east. Today’s photos show the yard’s surface is now crushed stone (gravel). Attached photos, submitted by Owner for a 2003 zoning permit request, show there was grass in the back yard and there was a chain link fence separating this property with the property to the south. Maps and photos will show that between 2003 and 2004 the fence was removed, tenants began using southern neighbor’s driveway to access the rear yard of this property for parking, increased the parking area, and replaced grassed area with crushed stone. 2004 does not meet the threshold for a 15+ year statute of limitations for enforcement. There is no City record acknowledging or approving any of the changes noted above.
- Appellant has requested a certificate of occupancy for ZP 92-196 and 07-428, however projects do not comply with approvals, inspections failed.

CONCLUSION:

The City has provided sufficient evidence that violations noted in NOV #320536 dated February 1, 2017 are viable and occurred between 2003 and 2004 without zoning approval. Zoning permits 92-196 and 07-428 failed inspection and discrepancies have not been corrected to date.

The City, under the auspices of the Zoning Administrator, thereby requests the Development Review Board to uphold their decision that violations cited under NOV #320536 are viable and continue at said Property and condition the following:

1. Owner shall immediately cease and desist any and all parking beyond the parking illustrated on the 1991 site plan. Any violation of this condition shall constitute issuance of Municipal Tickets to the Owner with fines of \$100 for the offense, \$150 for the 2nd offence, and \$250 for the third offense. After the third offense, City will seek fines under the judicial process, as allowed for by law (ie. up to \$200/day).
2. Owner shall remove all the “crushed stone” placed in the rear yard and replace it with green space (grass). Currently the two parking spaces atop the driveway do not contain crushed stone and the crushed stone removed from the rear area shall not be distributed to these two parking spaces without prior zoning approval. This condition shall be met by June 1, 2017.
3. Owner shall install a barrier, subject to Asst. Zoning Administrative Officer review and approval, to be placed south of the parking spaces and along the SE boundary of the Property (SE corner of house and connect with existing chain link fence to the east). Barrier shall be of a durable material to prevent future encroachment into the green space. This condition shall be met by June 1, 2017.
4. Owner shall reestablish the green space south of the shared driveway by June 1, 2017. Owner shall maintain all green space on the property.
5. Owner shall submit a complete zoning permit application to meet condition #3 above prior to May 5, 2017.
6. Flowering shrubs and bushes are suggested in low-light areas that prevent grass from growing.
7. It is suggested Owner move trash and recycling receptacles north of the parking spaces.
8. Owner shall obtain compliance with ZP 92-196 and ZP 07-428 by May 5, 2017. Compliance, if appropriate, may include a new zoning permit. NOTE: fees for a new zoning permit will be doubled or tripled, as allowed by ordinance.
9. Owner may enter into an Agreement with the City that would incorporate the above conditions, perhaps modifying deadlines, and would require an administrative fee.

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

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



MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison, CFM, Associate Planner
DATE: May 16, 2017
RE: Re-Approval of Zoning Permit ZP14-0753CA (210 South Union Street)

Files: ZP14-0753CA

Location: 210 South Union Street

Zone: I **Ward:** 6S

Date of Permit Approval: Decision by DRB March 26, 2014

Date of Permit Extension: April 8, 2016 (extension request submitted March 8, 2016)

Date of Expiration: March 26, 2017

Applicant/Owner: Chad & Patsy Tyler

Request: Re-Approval of zoning permit ZP14-0753CA to add one residential unit to the existing historic carriage barn, increase the total number of units on the property from four to five, and add one surface parking space.

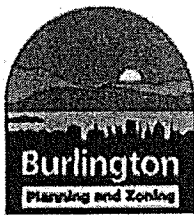
Recommendation: Consent approval; subject to the findings and conditions of ZP14-0753CA, approved March 26, 2014.

Zoning Permit ZP14-0753CA was approved by the Development Review Board on March 26, 2014. Prior to the permit's expiration date of March 26, 2016, the applicant submitted a request for a one year extension, which the DRB approved on April 8, 2016, setting a new expiration date of March 26, 2017. The applicant did not submit an extension request prior to the extended deadline. The permit expired on March 26, 2017. The applicant believed the expiration date to be 1-year from the date of last year's permit extension request approval on April 8, 2016.

The applicant notes that appeals with the Dept. of Public Work's sprinkler system requirements have caused delays in the project – see attached email from Chad Tyler, dated May 2, 2017. According to the applicant, the appeals with DPW are all closed, and the following items remain before the project is complete:

- Installation of the sprinkler system
- Insulation and closing of the walls
- Finishing
- Construction of the deck
- Painting

There are no deviations from the original proposal, and the request in front of you is to re-approve the zoning permit. Staff recommends re-approval of ZP14-0753CA, subject to the findings and conditions approved on March 26, 2014 (attached), subject to revised dates.



Department of Planning and Zoning

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

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVE

APR 11 2017

DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 210 South Union Street

PROPERTY OWNER*: Chad & Paty Tyler

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

APPLICANT: _____

POSTAL ADDRESS: 491 St. Albans Road

POSTAL ADDRESS: _____

CITY, ST, ZIP: Swanton, VT 05488

CITY, ST, ZIP: _____

DAY PHONE: 802-752-7426

DAY PHONE: _____

EMAIL: chad@tylerplace.com

EMAIL: _____

SIGNATURE: [Signature]

SIGNATURE: _____

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

Description of Proposed Project: Conversion of existing historic Carriage Barn into a 2 bedroom apartment with parking in the ground floor and storage area in the basement

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

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

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

Estimated Construction Cost (value)*: \$ 400,000

(*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: I Eligible for Design Review? Y Age of House: 1893 Lot Size: 9801
Type: SN ☐ AW ☐ FC ☐ BA ☐ COA 1 ☐ COA 2 ☒ COA 3 ☐ CU ☐ MA ☐ VR ☐ HO ☐ SP ☐ DT ☐ MP ☐
Check No: 2122 Amount Paid: \$150. Zoning Permit #: 14-0753CA

Ryan Morrison

From: Chad Tyler <chad@tylerplace.com>
Sent: Tuesday, May 02, 2017 4:26 PM
To: Ryan Morrison
Subject: RE: 210 South Union

Ryan,

We appealed the decision by the DPW that we needed to install a sprinkler system in the barn for a number of reasons. We felt we should have been grandfathered by our permit (they made the decision 8 months after our permit was issued) and that the strict interpretation of the code was onerous and open to adjustment by the AHJ. We also appealed the notification process which took up much of the time. We never received a written decision and so were unaware that we had a 10 day time limit to respond. We then had to fight to get a hearing and then get on the commission's agenda. You can see the hearing in their archives which was on the 15th of February.

DPW has already extended our build permit for a year through 7/17/18.

Let me know if you need anything else.

Chad

From: Ryan Morrison [mailto:rmorrison@burlingtonvt.gov]
Sent: Tuesday, May 02, 2017 4:04 PM
To: Chad Tyler
Subject: 210 South Union

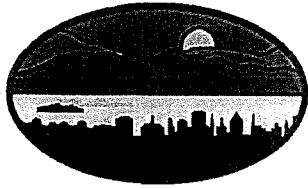
Hi Chad.

I'm preparing for next week's DRB meeting. Can you give me more specifics about the sprinkler/DPW issues you had that held you up with the project?

Thanks

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

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



**ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 2/18/2014

Appeal Expiration Date: 4/25/2014

Project Location: 210 SOUTH UNION STREET

District: I

Owner: Chad Tyler

Address: 210 SOUTH UNION ST Unit 3

Burlington VT 05401

Ward: 6

Tax ID: 049-3-194-000

Project Type: Residential - Change of Use

Project Description: Add one residential unit to existing accessory structure, increasing total units for property from four to five; add one surface parking space.

Construction Cost:	\$194,740	Lot Size (Sq Ft):	9,801
Net New Habitable Sq Ft:	984.00	Net New # of Housing Units:	1
Existing % Lot Coverage:	34.34	Existing # of Parking Spaces:	4
Proposed % Lot Coverage:	34.34	Proposed # of Parking Spaces:	5
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	5

Zoning Permit #: 14-0753CA

Decision By: Development Review Board

Level of Review: 2

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

Zoning Administrative Officer

Decision Date: March 26, 2014

Project File #: 14-0753CA

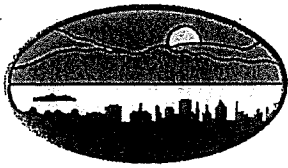
An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division until 4 pm on April 25, 2014.

Fee Type	Amount	Paid in Full	Balance Due:	\$876.33
Application Fee:	\$499.48	Yes	Date Paid:	_____
Development Review Fee:	\$876.33	No	Check #	_____
Impact Fee:	Not Applicable			

Building Permit Required: **Yes**

Permit Received by: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Permit - COA Level II – Conditions of Approval

ZP #: 14-0753CA

Tax ID: 049-3-194-000

Issue Date: March 26, 2014

Decision: Approved w/ Pre-Release
Conditions

Property Address: 210 SOUTH UNION STREET

Description: Add one residential unit to existing accessory structure, increasing total units for property from four to five; add one surface parking space.

Project Permit Conditions:

- Impact fees, based on the new use of the submitted square footage (giving credit for existing storage use) shall be as follows:

SF of Project

Department	<u>Residential</u>		<u>Offices & Other (Storage)</u>	
	Rate	Fee	Rate	Fee
Traffic	0.184	181.06	0.641	630.74
Fire	0.211	207.62	0.188	184.99
Police	0.043	42.31	0.333	327.67
Parks	0.704	692.74	0.397	390.65
Library	0.436	429.02	0.000	0.00
Schools	0.911	896.42	0.000	0.00
Total	2.489	\$ 2,449.17	1.559	\$ 1,534.05

Difference: \$ 915.12

Allocation by department:

Enter Total
Fee:

Department	<u>Residential</u>	
	Rate	Fee
Traffic	0.184	67.65
Fire	0.211	77.58
Police	0.043	15.81
Parks	0.704	258.84
Library	0.436	160.30

Schools	0.911	334.94
Total	2.489	\$ 915.12

Per Section 3.3.7, Time and Place of Payment, Impact fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:

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

Impact fee payments may also be accepted at the Planning and Zoning Office.

2. It will be the applicant's responsibility to make sure that he has all legal access required both for pedestrians and vehicles. It will also be the applicant's responsibility to make sure that his use of shared access, both during construction and after construction, will not violate rights of others who share those access rights. Nothing in our approval shall be construed as modifying in any way the respective access rights of the applicant and others.
3. Lighting spec sheets for any fixtures proposed for this development shall be provided to staff for review and approval **prior to release of the zoning permit**.
4. Heating vents will need to be illustrated on revised building elevations. Venting will need to be off the primary façade and located on secondary facades.
5. The guard rail at the westerly edge of the new parking space shall sufficiently screen any headlamp glare from spill into the existing primary residential structure. Conversely, a row of hedge or landscaping may be appropriately substituted for the same purpose in that location. The choice shall be forwarded to staff for review and approval **prior to release of the zoning permit**.
6. The proposed deck will require a barrier rail. Its appearance and illustration on a revised elevation drawing will be a requirement **prior to release of the zoning permit**.
7. Lot coverage shall not exceed existing.
8. The applicant will need to define any change to the location of snow storage, or method of snow removal with the addition of a new parking space **prior to release of the zoning permit**.
9. The location of the mailbox for the new unit shall be defined and illustrated on site plans/elevations, as appropriate **prior to release of the zoning permit**.
10. Zoning permits are valid for 2 years from the date of approval. Any request for an extension would have to come back before the DRB.
11. Sheathing shall match existing.
12. **Prior to release of the zoning permit**, the location for trash/recycling shall be defined. Receptacles/dumpsters, if located on the exterior of the structure, will need to be screened from public view. The method of screening shall be submitted for review and approval.
13. **Prior to release of the zoning permit**, the applicant shall be required to provide proof of water and sewer capacity from the City Engineer.
14. A state wastewater permit is likely to be required, and is the obligation of the applicant/owner to secure.
15. Parking will be restricted to the identified parking spaces on the site plan.
16. The applicant shall retain the loft door opening and distinctive barn trim.
17. Should the applicant determine after consulting with the building inspector that door and window openings on the north elevation need to be moved to comply with building code requirements, the applicant will submit revised elevations and site plan for review and approval by staff.
18. Standard permit conditions 1-15.

Standard Permit Conditions:

1. **Other City, State or Federal Permits.** The owner is solely responsible for obtaining all other required City, state and federal approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions.

Note: All projects receiving a Zoning Permit also require a Construction Permit or written confirmation that a Construction Permit is not required from Department of Public Works-Inspection Services Division (DPW-ISD). All construction permits must be closed out by way of approved inspections by DPW-ISD before issuance of a Unified Certificate of Occupancy (UCO) by the Code Enforcement Office as per Condition 3, below.

2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced by **March 26, 2015**. The owner shall complete the approved project and obtain a UCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) by **March 26, 2016**, or be subject to enforcement actions.

These time limits are binding upon the owner unless one of the following apply: a) longer or shorter time limits are specifically imposed by a condition of approval; or b) the time limits are tolled by additional state or federal permitting for the project or by an appeal; or c) an extension of time has been granted. An extension of time must be requested in writing PRIOR to the expiration of the permit. If the owner has enacted the permit and it lapses, the owner may be responsible to obtain a new zoning permit, if required, which shall be subject to the current Comprehensive Development Ordinance (CDO).

3. **Unified Certificate of Occupancy (UCO):** It shall be unlawful to use or occupy (or allow the use or occupancy of) any land or structure or part thereof which has been created, changed, converted, or wholly or partly altered or enlarged in its use or structure without a UCO.

If the project is partially completed, meets "prior to issuance of a UCO" conditions of approval, meets all health and safety standards, and all municipal fees for the project are paid, a Temporary Zoning CO may be requested and issued. **Upon completion of the project**, applicant shall request and obtain a Final UCO from the Code Enforcement Office (located at 645 Pine Street). Additional information on how to request and obtain this UCO is available at this office. **Failure to obtain a certificate of occupancy** places the property in violation of the CDO and is subject to enforcement.

In addition, **Failure to obtain a UCO within the time limits above is subject to** "after the fact" fees ranging from \$75 - \$1500 (in addition to the UCO fee).

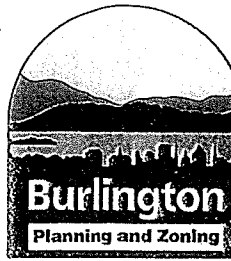
4. **Project Modifications.** The project shall be completed as shown on the plans, which have been stamped "approved" and dated by the administrative officer. The project shall not deviate from the approved plans or conditions of approval without prior written approval from the administrative officer.
5. **Property Inspection.** By acceptance of this permit, the owner authorizes City Officials and/or their authorized representatives, access to the subject property for the purpose of observing work in progress, inspecting and/or measuring the property or improvements until such time the project has been issued a Final UCO.
6. **Completion and Maintenance of Improvements and Landscaping.** Owner or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Owner agrees to maintain all improvements in a satisfactory condition. Any

landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.

7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.
10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to two hundred dollars (\$200) per day, municipal tickets, and/or additional permitting fees.
11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined based upon the best evidence available, for instance a survey or other official document. If a permit is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City. If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.
13. **Damage to City Property.** The Owner is responsible for any damage to the City of Burlington's property, including but not limited to its right-of-way, sewer/water lines, etcetera, that occurs during the site improvements authorized by this permit. If damage occurs, the Owner shall restore the property to a condition equal to or better than the condition of the property prior to such damage.
14. **City Rights-of-Way and Ownership.** Permit approval does NOT authorize any work to be undertaken within the public ROW. Any work in the ROW can only occur with prior authorization by DPW and City Council, as required. Any work or improvements that are taken within the City's right of way does not diminish the City's ownership or authority regarding said right of way.
15. **Liquor License Required.** An approval of any use that includes the sale of alcoholic beverages is contingent upon the receipt of a liquor license from the City of Burlington or the State of Vermont whichever is applicable.

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

Austin Hart, Chair
Jim Drummond
Michael Long
Brad Rabinowitz
Missa Aloisi
Jonathan Stevens
Bob Schwartz
Alexandra Zipparo, (alternate)
Israel Smith, (alternate)



Burlington Development Review Board
Findings of Fact
Deliberative Hearing Monday, March 24, 2014

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

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

File: ZP 14-0753CA

Location: 210 South Union Street

Zone: Institutional **Ward:** 6

Date application accepted: February 18, 2014

Applicant/ Owner: Chad and Patsy Tyler

Request: Add one residential unit in existing historic carriage barn, increasing total units from 4 to five; add one surface parking space.

Background:

- **Zoning Permit 08-446CA;** Pave shared walkway with 204 South Union Street. Approved December, 2007.
- **Zoning Permit 02-385;** Renovation of four unit residential apartment building including addition of shed dormers on north and south elevations. Approved March 2002.
- **Zoning Board of Adjustment review** to convert a single family home into a four apartment house, including indoor parking (barn) for four cars. Approved June 1966.

Overview: 210 South Union Street is a four unit residential building with an accessory structure/carriage barn; both listed on the National Register of Historic Resources within the South Union Street Historic District. The owners have been working with engineers and a historic restoration contractor to address structural and drainage issues with the existing carriage barn, situated behind the primary structure on a rising grade. The change-of-use is proposed to be accompanied by significant structural work to replace the barn foundation and correct wall deflection, as well as to address water runoff and infiltration. An EPSC plan accompanies the request.

As previously approved, four parking spaces are located within the carriage barn to meet the conditions of the ZBA approval of 1966. As required to meet current parking standards for the addition of another dwelling unit, a new (single) parking space is proposed outside the barn in an area that is currently a failed stairway.

The requested residential unit is proposed at this time for the owners' own use.

Evidence Presented:

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

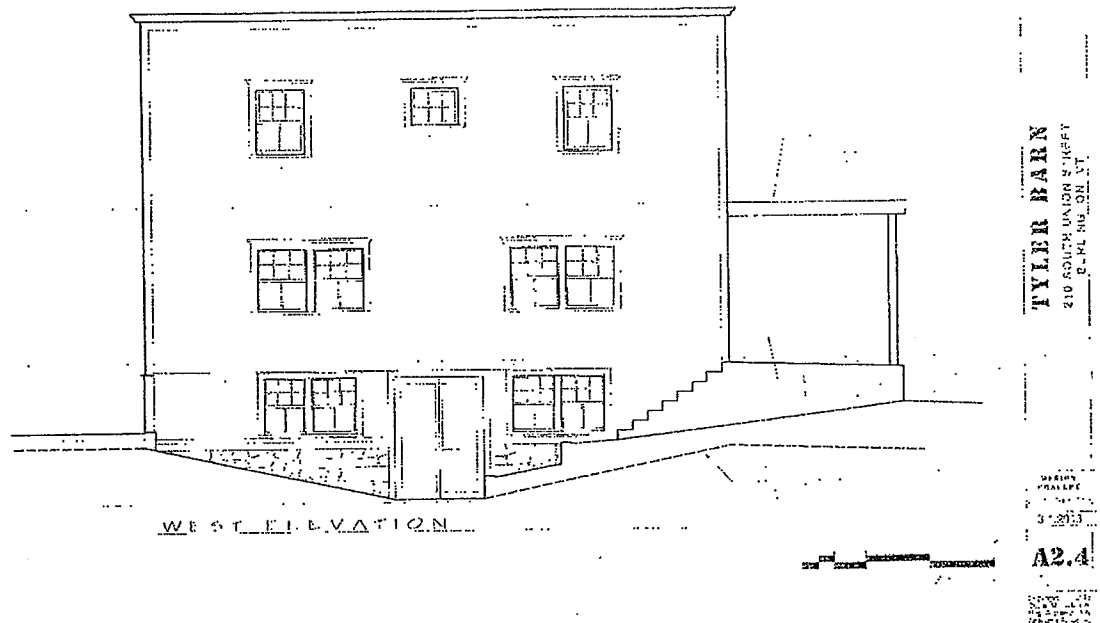
Findings of Fact

I. Minutes

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

II. Motion by Austin Hart:

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



III. Findings

Article 3: Applications, Permits, and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

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

At present, the carriage barn is accessory to the existing residential units. As a new dwelling unit will be created, Impact Fees will apply. The applicant will be required to pay fees, based upon the square foot calculation of new use, giving credit for the existing use. **Affirmative finding as conditioned.**

Section 3.3.7 Time and Place of Payment.

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

- (b) Existing buildings: Impact fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within thirty (3) days of issuance of the building permit.*

Impact fee payments may also be accepted at the Planning and Zoning Office.

Affirmative finding as conditioned.

Part 4: Site Plan and Design Review

(a) Site Plan Review

Site Plan Review shall be required for the approval of all development subject to the provisions of this ordinance with the exception of single-family dwellings not otherwise subject to the requirements of Design Review.

(b) Design Review

210 South Union Street is within the Design Review Overlay, Section 3. The development is also subject to the provisions of Article 5, Part 4 – Special Use Regulations, and is Minor PUD as conversion of an existing carriage barn (Article 11.) See Articles 5, 6 and 11.

Part 5: Conditional Use and Major Impact Review

Section 3.5.6 (a)

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

- 1. The capacity of existing or planned community facilities;*

There is no anticipated impact to the capacity of existing or planned community facilities. **Affirmative finding.**

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

This is an institutional zoning district, which includes other multi-family residential buildings. In that manner, the addition of another dwelling unit presents little impact. Affirmative finding.

- 3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;*

The existing access driveway to this property is off Maple Street. All current building residents use this access. The installation of a single parking space adjacent to this structure will not have a measureable impact on the traffic and roads in the vicinity. **Affirmative finding.**

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

Development will be required to meet Stormwater and Erosion Prevention control measures as defined by the City Stormwater administrator, energy efficiency standards required by Burlington Electric and the State of Vermont, and all building and life safety code as directed by the fire marshal and the building inspector. **Affirmative finding.**

4. The utilization of renewable energy resources;

The retrofitting of the structure will increase the thermal efficiency of the building, as well as utilize an existing resource rather than spur new building construction and the expenditure of additional materials and labor. This effort cumulatively will result in a positive capture of “embodied energy”, reducing material consumption and waste generation. **Affirmative finding.**

and,

In addition to the General Standards specified above, the DRB;

5. shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;

The lot can accommodate another residential dwelling unit per Table 4.4.1-1. See above. **Affirmative finding.**

6. in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.

Not applicable in the Institutional zoning district.

7. may control the location and number of vehicular access points to the property, including the erection of parking barriers.

No new vehicular access points are requested. A guardrail/barrier is included at the end of the new parking space, as this leads to the new stairway/walkway across the yard. **Affirmative finding.**

8. may limit the number, location and size of signs.

No signs are requested. Any signage, other than those specifically exempt from zoning review, will require a separate sign permit. Not applicable.

9. may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.

The particular grading change, which will include construction of a retaining wall to support the new parking space, will place that vehicle at a height that may inflict headlamp glare onto the existing primary residential structure. A guard rail is included within the plan. If the barrier rail is not capable of shielding the headlamps, a row of landscaping (or a barrier rail that precludes light spill) is recommended to screen any light spill. **Affirmative finding as conditioned.**

10. *may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.*

Zoning permits are valid for 2 years from the date of approval. Any request for an extension would have to come back before the DRB. **Affirmative finding as conditioned.**

12. *may specify hours of operation and/or construction to reduce the impact on surrounding properties.* Typically acceptable hours of construction are Monday-Friday 8:00 am – 6:00 pm. Saturday hours are limited to interior work only. **Affirmative finding as conditioned.**

11. *may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.*

This is a statutory requirement.

14. *may consider performance standards, should the proposed use merit such review.*

This is at the discretion of the DRB.

15. *may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

Also at the discretion of this board.

Article 4: Zoning Maps and Districts

Part 4: Base Zoning District Regulations

Section 4.4.4 Institutional District

(a) Purpose

The Institutional District (I) as illustrated in Map 4.4.4-1 allows for an increased development scale and intensity than would typically be found in the adjacent residential districts to support continued growth and flexibility of the city's major educational, and health care institutions within their respective institutional missions. New development is intended to be sensitive to the historic development pattern of the existing campuses as well as the surrounding residential neighborhoods.

...Sites should be designed to be pedestrian friendly and encourage walking between buildings. Where parking is provided onsite, it is intended to be hidden behind, to the side, within, or underneath structures.

The existing site includes vehicular parking within one level of the carriage barn. The applicant proposes a net increase in one residential unit, replacement walkway between buildings, and one parking space on the side of the (existing) accessory structure. **Affirmative finding.**

Table 4.4.1-1 Dimensional Standards and Density

Institutional zone	20 units per acre	Max. Lot Coverage 40%	Setbacks			Max height: 35'
			Front: Min. 15'	Side, 10% lot width	Rear; 25% of lot depth	
210 South Union Street	9801/43560=.225 x 20=4.5, or 5 units allowable	No change to existing	New deck meets 10% side yard setback.			Will not exceed 35'; however the barn on the

				new foundation will not exceed the height of the existing primary structure (Sec. 5.2.6 (b) 1.)
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Affirmative finding.

Article 5: Citywide General Regulations

Part 1: Uses and Structures

(c) Permitted Uses

Appendix A: Use Table – All Zoning Districts

Attached dwellings – multi-family (3-more) is a conditional use in the Institutional zone. The property received approval from the ZPA in 1966 to convert the single family home to a four unit apartment dwelling.

Four residential units exist; a fifth is proposed. See Conditional Use standards, above.

Part 2: Dimensional Requirements

Section 5.2.3 Lot Coverage Requirements

Although there will be a “swap” of lot coverage in removal of walkways and steps, total lot coverage is proposed to remain the same. See proposed site plan, with breakdown of coverage. **Affirmative finding**

Section 5.2.4 Building Area Calculation

Not applicable.

Section 5.2.5 Setbacks

A proposed deck will meet the required 10% side yard setback requirement. The new parking space will meet the required 5’ setback. (Sec. 5.2.5. (b) 4.) **Affirmative finding.**

Section 5.2.6 Building Height Limits

The carriage barn will effectively be raised approximately 12” on the new foundation. Scaled from plans the building will be about 22 ‘+/- from grade as measured from the garage door. The proposed new building height will not exceed the limitations of this section. **Affirmative finding.**

Section 5.2.7 Density and Intensity of Development Calculations

See Table 4.4.1.12, above. **Affirmative finding.**

Sec. 5.4.8 Historic Buildings and Sites

210 South Union Street, including the carriage barn, is listed on the National Register of Historic Resources within the **South Union Street Historic District**. See attached information sheet.

Findings of Fact

1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

The original garage use is proposed to be continued; however 2nd story storage space will be converted to residential use. The applicant has proposed new window openings on the west (one small, central window), south (three new windows, a door and a deck), east (three new window openings, replacing an existing “loft” door), and the north (One new paired unit; a smaller replacement window and door.) The number of new window openings is certainly understood given the new use, however some alteration could be considered reversible in the future, based on submitted photographs. Staff recommends retention of the characteristic “loft” window opening on the east elevation, especially with the block and tackle feature still extant on the projecting beam. This opening in particular helps retain the original use and character of the carriage barn. The building inspector will have to be consulted as to the proposed new building openings on the north elevation, as this sits close to the property boundary line.

The deck may be considered reversible.

Heating vents from the Rinnai heaters should be located away from the primary (west) elevation, and noted on elevation plans. **Affirmative finding as conditioned.**

2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

Currently the foundation bulges, the walls are in deflection and the attached concrete stairway has pulled away from the building. The owner /applicant propose to lift the building onto a new foundation, which will be faced with stone, to replicate the existing support structure. A new firm foundation will give a new lease on this building’s life. The moderate increase in foundation height (approx.. 12”) will not noticeably affect the historic character of the property, especially since the existing foundation has begun to bulge and fail. Plans define a concentrated and determine effort to retain those characteristics distinctive to this property.

Some alteration to window arrangement may be considered; however character defining components like the loft door opening should be retained. **Affirmative finding as conditioned.**

3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

Other than additional window openings and a new deck, no conjectural features are proposed. Proposed alterations are consistent with efforts to install habitable space into a building that previously was limited to vehicular and residential storage. **Affirmative finding.**

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

Probably once nothing more than a dirt access, the driveway from Maple Street has evolved into a more intensive access not only to this property but as an access to abutting property parking as well. It is no longer probable that a carriage would make this trip; but it may be anticipated that a vehicle would now park adjacent to the barn. In that manner, the proposed new parking space reflects the evolution of this structure from housing earlier transportation modes to modern vehicles. In the location of the new parking space, it also conforms to the guidance of *Purpose* of the Institutional Zoning District (See 4.4.4 (a), above. **Affirmative finding.**

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

The applicant proposes retention, or replication of existing siding, trim, and detailing of the building. Of special note are the simple but elegant window casings, proposed to be retained or replicated. The hay loft access door (east elevation) is a particular distinctive feature of the structure, and is recommended for retention. With the level of proposed new openings, this feature is an original worth keeping to honor the past. As this is the (interior) location of an entrance stairwell, the proposed highly aligned windows are not required, and glazing infill of the loft door would be a particularly important effort to capture and retain that building feature. (The block and tackle may come in handy to move furniture to that floor as well.) **Affirmative finding as conditioned.**

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

The applicant proposes a poured concrete foundation, but it is proposed to be faced with stone to be sensitive to the existing stone foundation. Siding and trim are proposed to match existing. **Affirmative finding as conditioned.**

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

The building is proposed to be lifted to address the foundation failure, but placed back on a new secure base. Although a significant physical treatment, it will assure the long continuing life of the building. **Affirmative finding.**

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

Proposed site work includes the burial of new utility lines, removal of assorted existing paths and construction of a retaining wall adjacent to the barn. If any archaeological resources are identified, the city and state shall be notified for identification and arrangement for appropriate documentation and archiving. **Affirmative finding as conditioned.**

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

The opportunity to add an additional residential unit is a community wide positive action; however a dual obligation is for the protection and preservation of Burlington's historic resources. It is possible to retain the existing window/loft openings on the primary (east) elevation, with new window infill within those spaces. Window openings on secondary elevations may have greater flexibility in alteration. Such an effort will provide valuable, and tangible evidence of Burlington's past, while adapting to a new use; both value added community efforts. **Affirmative finding as conditioned.**

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

If the building openings are sensitively addressed and sheathing, trim and foundation repaired, the conversion of the upper floor to a new residential unit will minimally alter the building. With supporting photographs, all may be considered reversible.

The deck, as a modern appendage, may also be considered “reversible.” **Affirmative finding.**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

The yard slopes significantly up at the east end of the parcel. This has been the root cause of water-related damage to the foundation of this building, and poor water control/infiltration as the lot progresses to the west and South Union Street. This effort, which will include significant engineering assistance for erosion prevention, sediment control, water infiltration, and structural repair will address issues that have unhappily caused building damage and stormwater runoff that has added to the headaches on South Union Street. The proposed construction of a retaining wall (replacing a concrete stair/walkway along the south edge of the carriage barn) will augment the structural foundation repair and provide a surface for the new parking space. The EPSC plan has already received the approval of the city stormwater engineer.

Affirmative finding.

(b) Topographical Alterations:

Some grading will be included in the foundation repair and retaining wall. This grading plan has been accepted by the city stormwater engineer as part of the submitted EPSC plan. Any structural wall over 3' will require the additional approval of the city building inspector. **Affirmative finding as conditioned.**

(c) Protection of Important Public Views:

Not applicable.

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

See Sec. 3.5.6 (a) 4, above.

(f) Brownfield Sites:

None identified.

(g) Provide for nature's events:

The applicant will need to address any change of snow storage location with the construction of a new parking space. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

Carriage building is existing. Not applicable.

(i) Vehicular Access:

No change.

(j) Pedestrian Access:

The applicant proposes removing a walkway that runs from the existing primary house to the carriage barn, and replacing it with a (pervious) path for the residents of the front house. Access to the carriage barn exists via the rear gravel drive and small entry pad. **Affirmative finding.**

(k) Accessibility for the Handicapped:

Not required, but encouraged.

(l) Parking and Circulation:

This is a shared use parking district; therefore 1 parking space is required for each residential unit. 5 units = 5 parking spaces. The ZBA approved the four parking spaces within the carriage barn in 1966, so this application only spurs the need for one additional parking space. This is provided on the south side of the building, as the current location of a stairwell/walkway that is proposed to be removed. All circulation/entrance drives are proposed to remain as existing. **Affirmative finding.**

(m) Landscaping and Fences:

As previously noted, some screening should be provided along the guardrail of the stairs leading from the new parking space to screen headlamp spill. This may be either a solid barrier for the railing, or installed landscaping. The applicant will need to define prior to release of the permit. **Affirmative finding as conditioned.**

(n) Public Plazas and Open Space:

There are no public plazas or identified public open space. There remains a significant rear yard which could be enjoyed by occupants of either residential building. **Affirmative finding.**

(o) Outdoor Lighting:

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

No lighting is defined. The applicant shall provide a lighting spec sheet for any fixture to be installed as part of this project. **Affirmative finding as conditioned.**

(p) **Integrate infrastructure into the design:**

Revised building elevations will need to detail the location of the gas meter, heater and dryer vents. The mailbox location and the location for trash and recycling have not been identified on plans. All must be noted on elevations and/or site plans, as appropriate.

New utility services are proposed to be undergrounded. **Affirmative finding as conditioned.**

PART 3: ARCHITECTURAL DESIGN STANDARDS

Sec. 6.3.2 Review Standards

(a) **Relate development to its environment:**

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

The following shall be considered:

1. Massing, Height and Scale:

The new foundation may raise the building approx. 12" higher than existing. No changes are proposed to the scale or massing of the carriage barn. **Affirmative finding.**

2. Roofs and Rooflines.

No change proposed. **Affirmative finding.**

3. Building Openings

A pedestrian door exists on the north elevation of the carriage barn. A full size garage door is present on the south elevation.

As the residential unit is proposed for the second floor, the unit would not be handicap accessible; however the doorway may be installed to meet "visibility" standards. The applicant shall consult with the building inspector relative to minimum standards to meet any ADA requirements.

Window openings shall maintain consistent patterns and proportions appropriate to the use. The window pattern should add variety and interest to the architecture, and be proportioned to appear more vertical than horizontal.

This is an existing carriage barn now proposed for mixed (garage and residential) use. The character about the building is worthy of recognition; part of which is related to the window openings. See Section 5.4.8 for greater discussion.

Buildings placed on a side or rear property line where no setback is required shall contain neither doors nor windows along such façade so as not to restrict future development or re-development options of the adjacent property due to fire safety code restrictions. Otherwise they should be setback a minimum of 5-feet.

The carriage barn appears to sit on the northerly property boundary. The applicant has proposed new window openings at the second floor level, which may be prohibited by this standard and building code.

There is an existing door on the north elevation, with a very small setback from that property line. It appears that this would be a primary access for the residential unit.

Review of the appropriateness and acceptability of these window openings and replacement access door relative to building code by the building inspector will be a condition of approval.

Affirmative finding as conditioned.

(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings.

See Section 5.4.8, above.

(c) Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

Although the existing carriage barn sits behind the principle structure, it is still visible from the street and retains a distinctive character of its own. The lower basement carriage doors are proposed to remain, the middle floor will continue to garage vehicles, but the upper floor is scheduled for alteration to facilitate conversion to a new residential unit. The arrangement and size of windows, including details around window and door openings are character defining features of the historic barn. While insertion of a new unit would certainly provide the benefit of additional housing (with the added advantage of significant investment in the structure), every effort should be made to retain those characteristics that singularly belong to the barn. See Section 5.4.8 for further discussion. **Affirmative finding as conditioned.**

(e) Quality of materials:

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

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

Existing sheathing and trim will be matched in the new development. Windows are proposed to be Marvin, however it is not clear if they are composite or clad wood. The applicant will need to define to determine the appropriateness of the selection. Staff advises the retention of the loft opening on the east elevation to retain the original feature of the building and the overall character of the barn. Perhaps it could be infilled with glazing, and the loft door remaining attached and operable. See Section 5.4.8 for further discussion. **Affirmative finding as conditioned.**

Findings of Fact

(f) Reduce energy utilization:

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

(g) Make advertising features complementary to the site:

No signage is proposed. Not applicable.

(h) Integrate infrastructure into the building design:

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

Vents for heating units will need to be defined and illustrated on appropriate elevations. No auditory impact is anticipated on neighboring properties with incorporation of traditional heating and dryer vents.

Rooftop mechanicals, including heating and cooling devices and elevator equipment, should be incorporated into the structure's design, and shall be arranged to minimize their visibility from the street level. Such features, in excess of one foot in height, shall be either enclosed within the roof structure, outer building walls, or parapets, or designed so that they are integrated into the overall design and materials of the building. Where such rooftop features do not exceed ten percent (10%) of the total roof area, they may be considered "ornamental and symbolic features" pursuant to Sec. 5.2.7 for the purposes of measuring building height.

No rooftop mechanicals are proposed. Not applicable.

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

Heat vents are proposed, although their visual appearance and building location have not been identified on plans. Unfortunately many older structures in Burlington have seen the negative visual impacts of these "blemishes" on primary elevations without any thought to their visual discord or negative impact. The applicant shall provide the location and appearance of these units prior to release of the zoning permit for staff review and approval. Venting will need to be located away from the primary (west) elevation. **Affirmative finding as conditioned.**

(i) Make spaces secure and safe:

Plans include fire blocking and draft stopping to keep fire in the floor assemblies from getting into the space below stairs and burning stair stringers away. All development shall be required to meet appropriate ingress and egress standards as defined by Burlington's building inspector and fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

This property is within the Shared Use Parking District. One parking space is the requirement for every residential unit. The ZBA previously approved four parking spaces within the carriage barn; the addition of another residential unit will require one more parking space. The site plan illustrates 4 existing parking

spaces within the barn (as approved in 1966), and one new space to the south of the barn on the exterior. The new space meets the requirement for a standard parking space (9' x 20'.)

The driveway and access are existing conditions. A small 15 sf coverage addition will allow for an "apron" flare to access the new space from the existing driveway/paved area. This increase in coverage is matched with removal of coverage elsewhere on the site. See Plan L1.0.

Bicycle storage requires 1 bicycle parking space for every four units long term; 1 for 10 units short term (Table 9.2.5-1). This development would require one long term bicycle parking space, which can be accommodated within the vehicular level of the carriage barn. In any case, additional bicycle parking is broadly encouraged.

Section 8.2.3 Existing Structures

Any expansion or change of use proposed for an existing structure where four bicycle spaces or less would be required shall be exempt from providing those spaces.

As noted, the change of use would not spur any additional bicycling parking requirement. **Affirmative finding.**

Article 11: Planned Development

Sec. 11.1.3 Major and Minor Planned Unit Development

A minor Planned Unit Development shall include any development consisting of:

(b) Redevelopment of existing carriage houses and other out-buildings meeting density of the underlying zoning district.

Minor PUD's shall be exempt from the requirements and standards of this article, but shall be subject to the development standards as otherwise required by this ordinance.

See Articles 4, 5, 6, and 8. **Affirmative finding.**

1. Conditions of Approval

Impact fees, based on the new use of the submitted square footage (giving credit for existing storage use) shall be as follows:

SF of Project 984

Department	<u>Residential</u>		<u>Offices & Other (Storage)</u>	
	Rate	Fee	Rate	Fee
Traffic	0.184	181.06	0.641	630.74
Fire	0.211	207.62	0.188	184.99
Police	0.043	42.31	0.333	327.67
Parks	0.704	692.74	0.397	390.65
Library	0.436	429.02	0.000	0.00
Schools	0.911	896.42	0.000	0.00
Total	2.489	\$ 2,449.17	1.559	\$ 1,534.05

Difference: \$ 915.12

Allocation by department:

Enter Total Fee:	\$915.12
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Department	<u>Residential</u>	
	Rate	Fee
Traffic	0.184	67.65
Fire	0.211	77.58
Police	0.043	15.81
Parks	0.704	258.84
Library	0.436	160.30
Schools	0.911	334.94
Total	2.489	\$ 915.12

Per Section 3.3.7, Time and Place of Payment, Impact fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:

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

Impact fee payments may also be accepted at the Planning and Zoning Office.

2. It will be the applicant's responsibility to make sure that he has all legal access required both for pedestrians and vehicles. It will also be the applicant's responsibility to make sure that his use of shared access, both during construction and after construction, will not violate rights of others who share those access rights. Nothing in our approval shall be construed as modifying in any way the respective access rights of the applicant and others.
3. Lighting spec sheets for any fixtures proposed for this development shall be provided to staff for review and approval **prior to release of the zoning permit**.
4. Heating vents will need to be illustrated on revised building elevations. Venting will need to be off the primary façade and located on secondary facades.
5. The guard rail at the westerly edge of the new parking space shall sufficiently screen any headlamp glare from spill into the existing primary residential structure. Conversely, a row of hedge or landscaping may be appropriately substituted for the same purpose in that location. The choice shall be forwarded to staff for review and approval **prior to release of the zoning permit**.
6. The proposed deck will require a barrier rail. Its appearance and illustration on a revised elevation drawing will be a requirement **prior to release of the zoning permit**.
7. Lot coverage shall not exceed existing.
8. The applicant will need to define any change to the location of snow storage, or method of snow removal with the addition of a new parking space **prior to release of the zoning permit**.

9. The location of the mailbox for the new unit shall be defined and illustrated on site plans/elevations, as appropriate **prior to release of the zoning permit.**
10. Zoning permits are valid for 2 years from the date of approval. Any request for an extension would have to come back before the DRB.
11. Sheathing shall match existing.
12. **Prior to release of the zoning permit,** the location for trash/recycling shall be defined. Receptacles/dumpsters, if located on the exterior of the structure, will need to be screened from public view. The method of screening shall be submitted for review and approval.
13. **Prior to release of the zoning permit,** the applicant shall be required to provide proof of water and sewer capacity from the City Engineer.
14. A state wastewater permit is likely to be required, and is the obligation of the applicant/owner to secure.
15. Parking will be restricted to the identified parking spaces on the site plan.
16. The applicant shall retain the loft door opening and distinctive barn trim.
17. Should the applicant determine after consulting with the building inspector that door and window openings on the north elevation need to be moved to comply with building code requirements, the applicant will submit revised elevations and site plan for review and approval by staff.
18. Standard permit conditions 1-15.

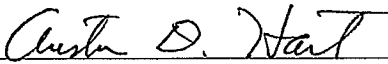
Second: Jonathan Stevens

Vote: 7-0

Vote: motion carried

Dated at Burlington, Vermont, this 26th day of March, 2014.

Respectfully Submitted,

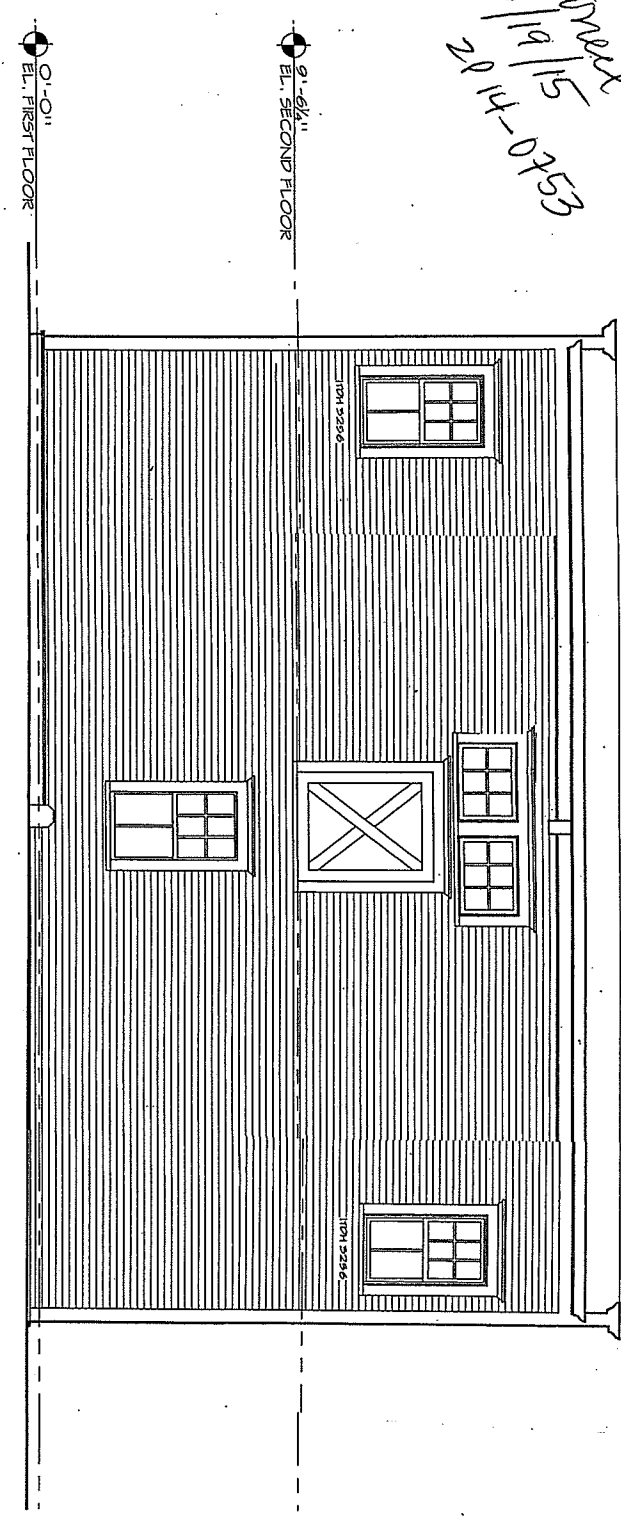

Austin Hart, Development Review Board Chair

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court, Environmental Division. (Comprehensive Development Ordinance Article 12, Section 12.2.3 Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court within 30 days of the date of the written decision as follows:

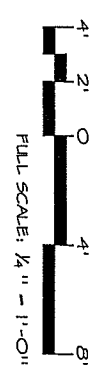
(a) Notice of Appeal: The appeal shall be taken in such a manner as the Supreme Court or the environmental court may by rule provide for appeals from state agencies governed by Sections 80 through 816 of Title 3, Vermont Statutes Annotated. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the DRB, and, any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.)

RETURN
 As prepared #1101
 as condition
 M. Over
 3/19/15
 2014-0753

- Windows over door placed higher
 - Door is retained



EAST ELEVATION



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 Susan M. Corbridge
 Architect
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A2.2

11.12.2012

AS BUILT
ELEVATIONS

TYLER BARN
 210 SOUTH UNION STREET
 BURLINGTON, VT

PROGRESS PLOT
 NOT FOR CONSTRUCTION

architecture
 110 Main Street #20
 Burlington, VT 05401

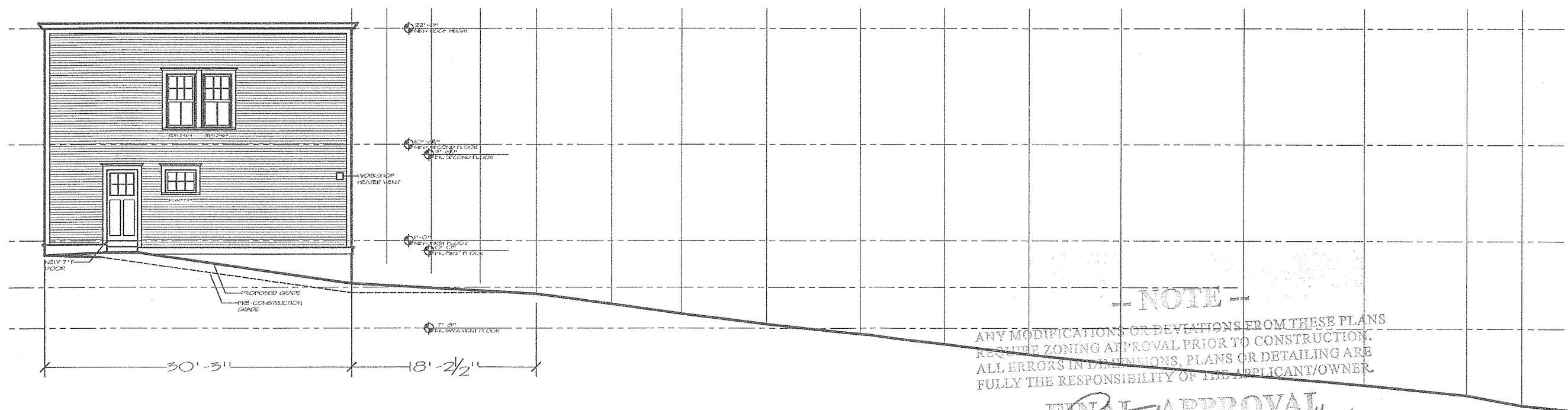
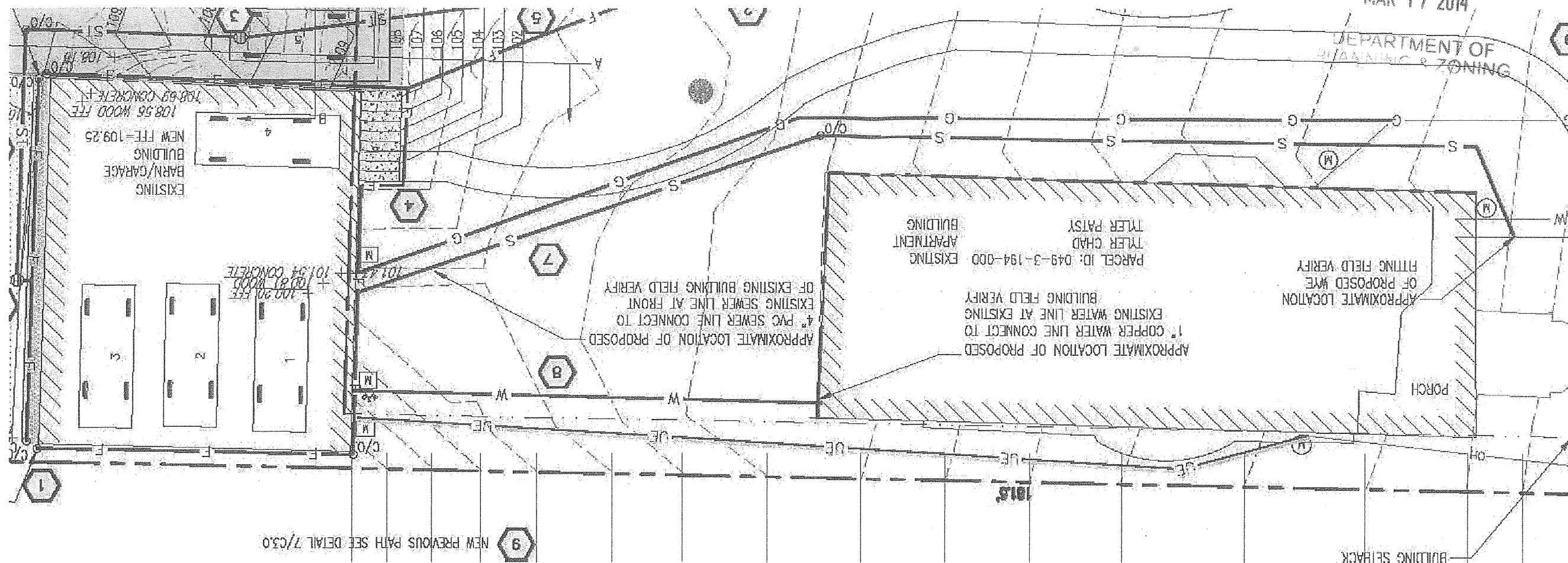


TYLER BARN
2210 SOUTH UNION STREET
BURLINGTON, VT

3.14.2014

SITE

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Susan M. Coddaira
Reg. Architect, AIA



NORTH ELEVATION SITE SECTION
SCALE: 1" = 10'

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

FULLY PREPARED
 FINAL APPROVAL
 SIGNED _____ DATE 3/26/14
 PLANNING & ZONING DEPARTMENT
 BURLINGTON, VERMONT 2014-0753CA
 grade changes only

RECEIVED
MAR 14 2014

DEPARTMENT OF
PLANNING & ZONING
Revised

210 S. UNION ST.

ZONE- INSTITUTIONAL CAMPUS
LOT COVERAGE- ALLOWED: 40%;
(EXISTING PER CITY= 34.34%)
BUILDING HEIGHT- ALLOWED: 35';
FRONT SETBACK- ALLOWED: 15';
SIDE SETBACKS- BLDG. ALLOWED: 5.4';
DRIVE/PARKING ALLOWED: 5';
REAR SETBACK- BUILDING ALLOWED: 45.4';
DRIVE/PARKING ALLOWED: 20';
DENSITY- ALLOWED: 20 DU/ACRE
EXISTING: 4 UNITS;
PARKING- REQUIRED: 1 SPACE PER UNIT

NO NET CHANGE PROPOSED,
(SEE DETAIL BREAKDOWN ON SITE PLAN);
PROPOSED +12"
NO CHANGE PROPOSED
NO CHANGE PROPOSED
PROPOSED 5';
NO CHANGE PROPOSED
PROPOSED 28.5';

(SHARED USE PARKING DISTRICT)
EXISTING: 4 /4 UNITS;

PROPOSED: 5 UNITS;

PROPOSED: 5/5 UNITS;

-- NOTE --

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

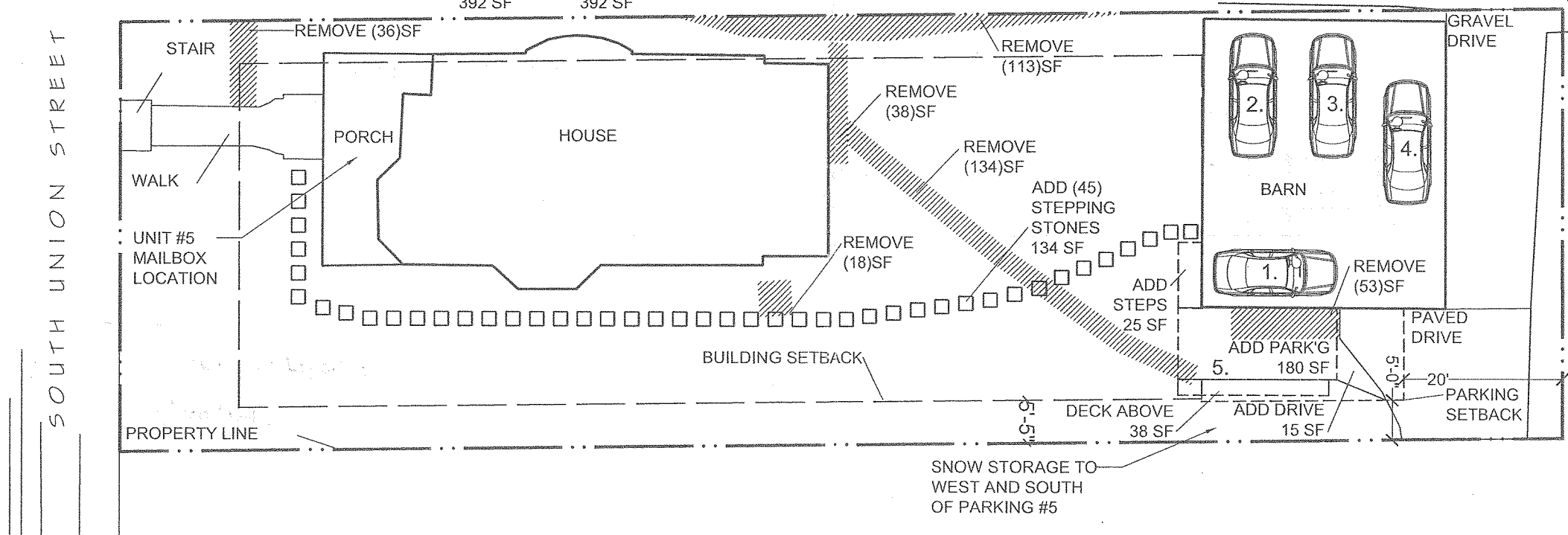
FINAL APPROVAL

SIGNED *[Signature]* DATE 3/26/14
PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT
ZP 14-07532A

REMOVE:	ADD:
36 SF	
113 SF	134 SF
38 SF	25 SF
134 SF	180 SF
18 SF	38 SF
53 SF	15 SF
392 SF	392 SF

REMOVE LOT COV'G: (392)
ADD LOT COV'G: 392
NET LOT COV'G CHANGE: 0

EXISTING TRASH
RECEPTICLE LOCATION ON
204 PROPERTY TO REMAIN



SITE PLAN
SCALE: 1/6" = 1' - 0"

TYLER BARN
210 SOUTH UNION STREET
BURLINGTON, VT

DESIGN
CONCEPT
SITE PLAN

3.14.2014

L1.0

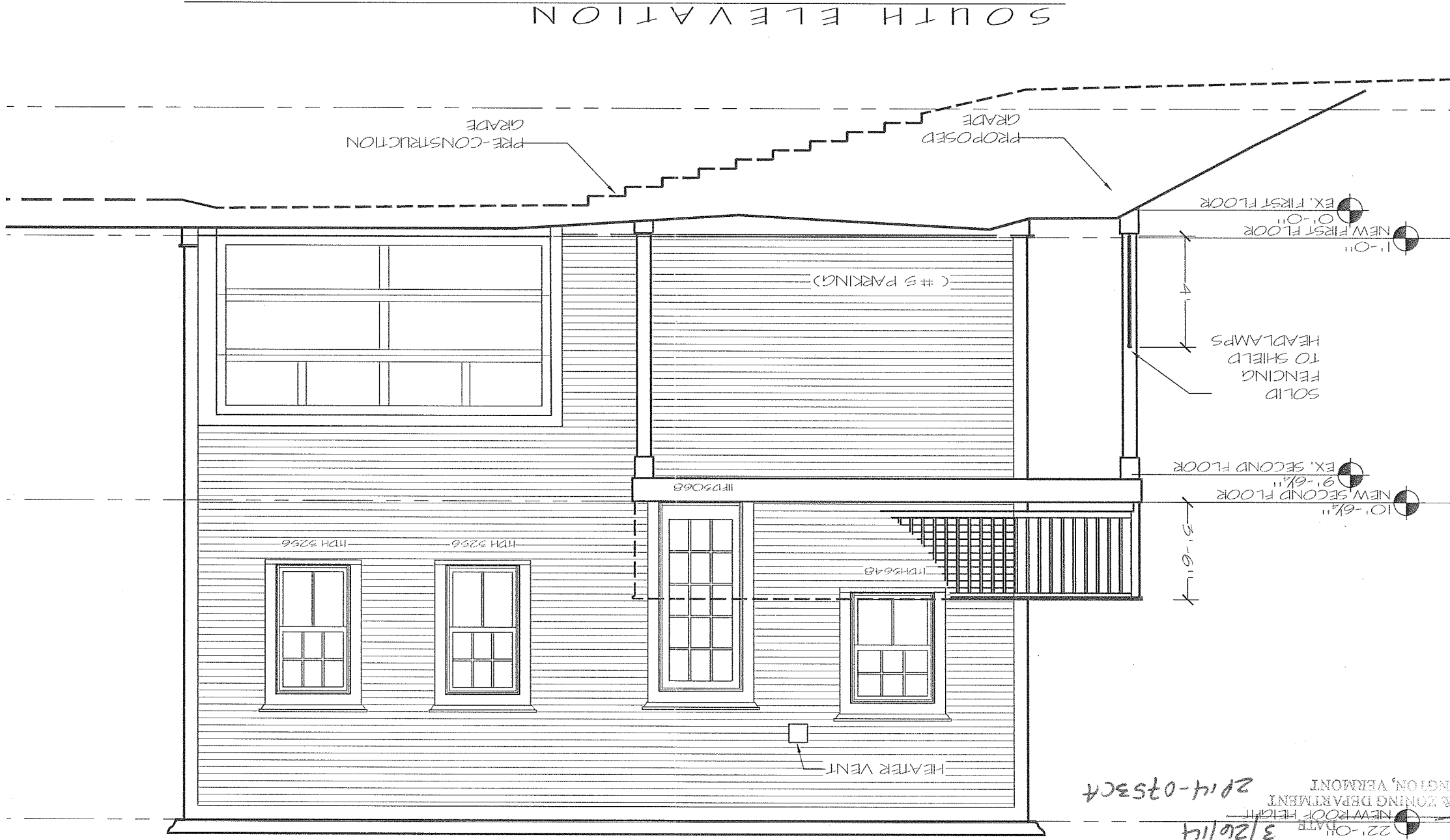
ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS
REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION.
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NOTE

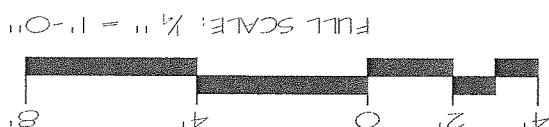
FINAL APPROVAL

3/26/14

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT
2014-0753C4



SOUTH ELEVATION



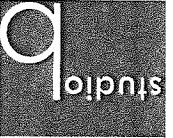
A2.1

3.14.2014

DESIGN
CONCEPT
ELEVATIONS

TYLER BARN
210 SOUTH UNION STREET
BURLINGTON, VT

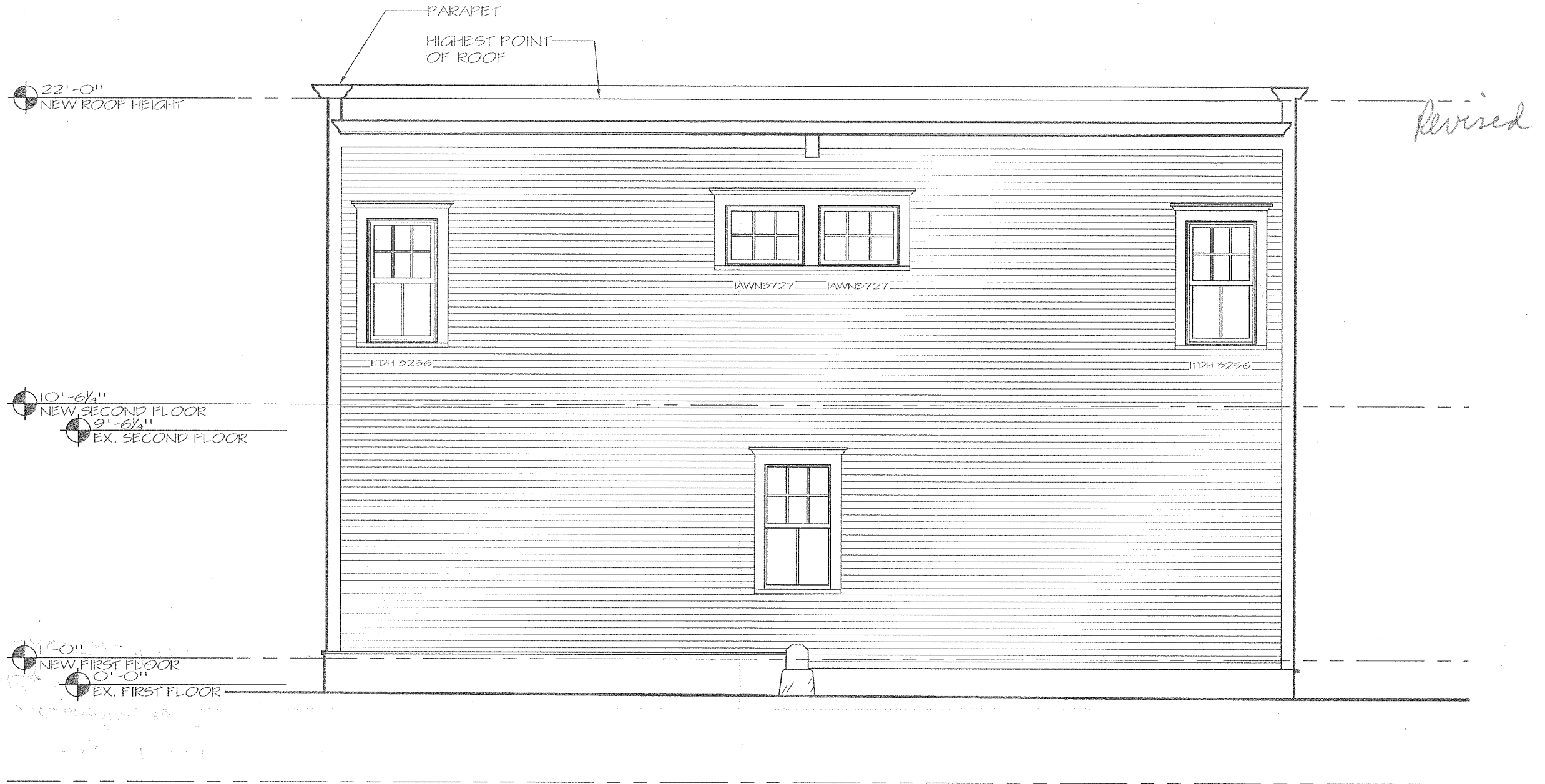
architecture
110 Main Street #2b
Burlington, VT 05401



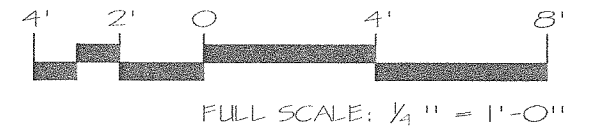
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MAR 14 2014
DEPARTMENT OF
PLANNING & ZONING
Burlington, VT

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See condition #16



EAST ELEVATION
OPTION 1 - REVISED



TYLER BARN
210 SOUTH UNION STREET
BURLINGTON, VT

DESIGN
CONCEPT
ELEVATIONS

3.14.2014

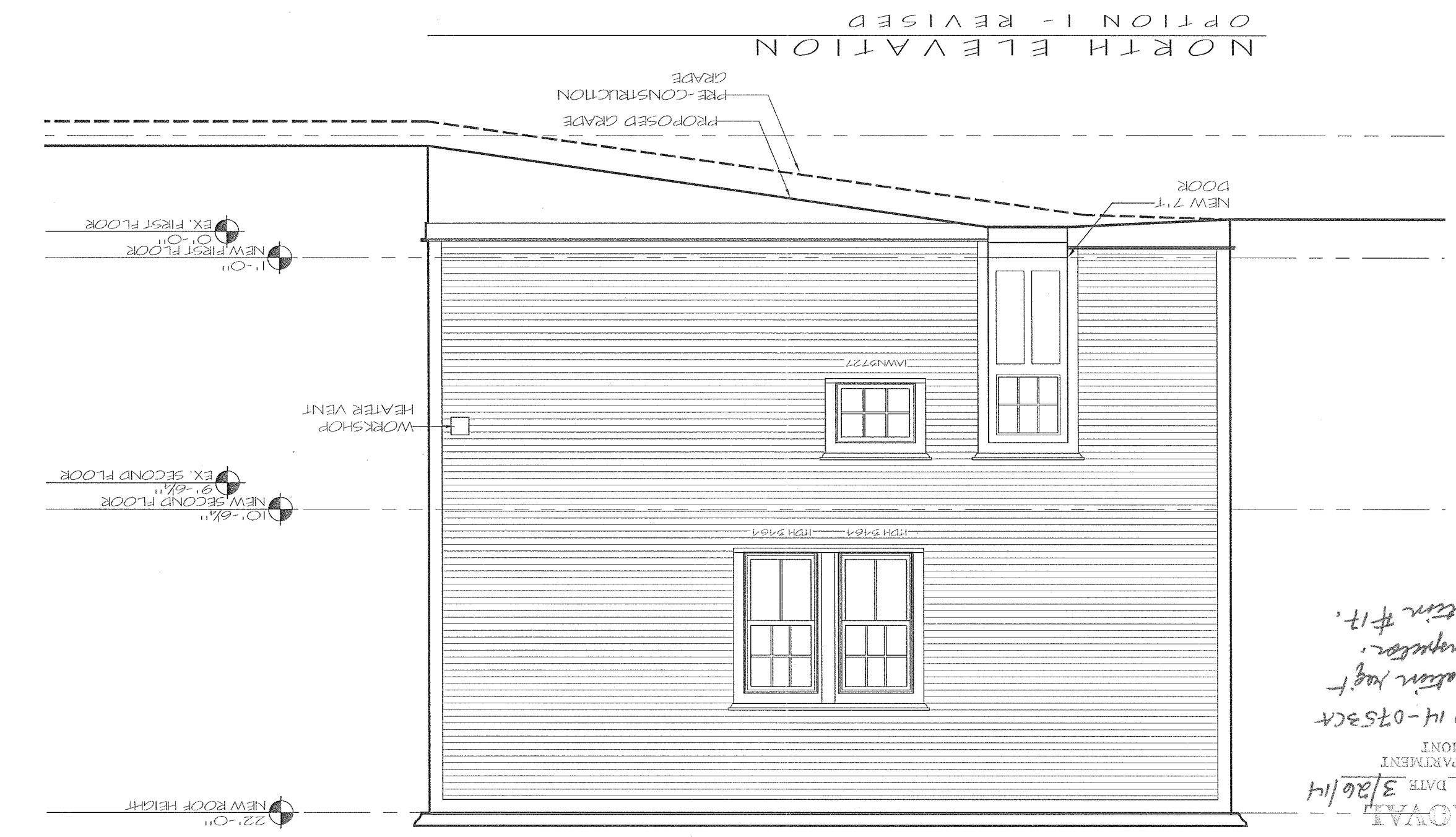
A2.2

MODIFICATIONS OR DEVIATIONS FROM THESE PLANS
REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION.
ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE
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FINAL APPROVAL
DATE 3/26/14
PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

2014-0753CA
Kellen alteration right
by city inspector
see condition #17.

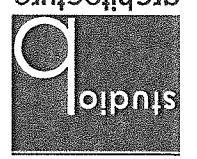
NOTE



NORTH ELEVATION
OPTION 1 - REVISED

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

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DEPARTMENT OF
PLANNING & ZONING
Kellen



www.studiobv.com 802.218.1309
110 Main Street #2b
Burlington, VT 05401

TYLER BARN
210 SOUTH UNION STREET
BURLINGTON, VT

DESIGN
CONCEPT
ELEVATIONS

3.14.2014

A2.3

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NOTE

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FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL
SIGNED  DATE 3/26/14
PLANNING & ZONING DEPARTMENT 2P14-0753CA
BURLINGTON, VERMONT

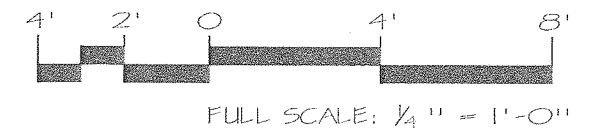
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MAR 14 2014

DEPARTMENT OF
PLANNING & ZONING
Revised

studio
architecture
www.studiovt.com 802.318.1309
110 Main Street #2b
Burlington, VT 05401



WEST ELEVATION



TYLER BARN
210 SOUTH UNION STREET
BURLINGTON, VT

DESIGN
CONCEPT
ELEVATIONS

3.14.2014

A2.4

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

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

Telephone: (802) 865-7188
(802) 865-7195 (FAX)

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



MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison
DATE: May 16, 2017
RE: 17-0914CA; 212 Elmwood Avenue

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

Zone: RM Ward: 2C

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

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

Applicable Regulations:

Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), Article 9 (Inclusionary and Replacement Housing)

Background Information:

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

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

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

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

There are no previous zoning actions associated with this property.

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

I. Findings

Article 4: Zoning Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(3) Residential Medium Density (RM)

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

(Affirmative finding)

(b) Dimensional Standards & Density

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

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

(c) Permitted & Conditional Uses

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

(d) District Specific Regulations

1. Setbacks

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

2. Height

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

3. Lot Coverage

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

4. Accessory Residential Structures and Uses

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

5. Residential Density

A. Additional Unit to multi-family

(Not applicable)

B. Additions to Existing Residential Structures

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

C. Residential Occupancy Limits

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

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

6. Uses

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

7. Residential Development Bonuses

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

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

(Not applicable)

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Sec. 5.3.5, Nonconforming Structures

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

Sec. 5.5.1, Nuisance Regulations

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

Sec. 5.5.2, Outdoor Lighting

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

Sec. 5.5.3, Stormwater and Erosion Control

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

Sec. 5.5.4 Tree Removal

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

Article 6: Development Review Standards

Part 1, Land Division Design Standards

(Not applicable)

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

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

(b) Topographical alterations

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

(c) Protection of important public views

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

(d) Protection of important cultural resources

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

(e) Supporting the use of alternative energy

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

(f) Brownfield sites

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

(g) Provide for nature's events

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

(h) Building location and orientation

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

(i) Vehicular access

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

(j) Pedestrian access

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

(k) Accessibility for the handicapped

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

(l) Parking and circulation

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

(m) Landscaping and fences

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

(n) Public plazas and open space

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

(o) Outdoor lighting

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

(p) Integrate infrastructure into the design

New utility lines must be buried. Utility meters will locate on the rear wall of the structure, and out of view from the public street. There are no mechanical units noted on the site plan, nor on

the elevation drawings. If such units are proposed, they will have to be identified on a revised site plan and/or on revised elevation drawings. **(Affirmative finding as conditioned)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

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

2. Roofs and Rooflines

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

3. Building Openings

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

(b) Protection of important architectural resources

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

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

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

(e) Quality of materials

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

(f) Reduce energy utilization

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

(g) Make advertising features complimentary to the site

No advertising is included in this proposal.

(h) Integrate infrastructure into the building design

Utility meters will be located on the rear of the structure, and not visible from public view.

(Affirmative finding)

(i) Make spaces safe and secure

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

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

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

Article 9: Inclusionary and Replacement Housing

Part 2: Housing Preservation and Replacement/Demolition and Conversion

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

II. Conditions of Approval

1. **Prior to release of the zoning permit**, the applicant shall submit a side wall architectural cross section rendering to Planning and Zoning for review and approval.
2. **Prior to release of the zoning permit**, the "small project erosion control" plan shall be approved by the Stormwater Program Manager.
3. The occupancy of the single family residence is limited to members of a family as defined in Article 13. No more than four unrelated adults may occupy the dwelling.
4. Utilities are required to be placed underground.
5. Construction hours shall be limited to Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request to the Development Review Board. No work on Sunday.
6. A state wastewater permit may be required, and will be the responsibility of the applicant to secure if needed.
7. Any encroachments into the public street right-of-way (permanent or temporary and including underground structure such as footings) will require an encumbrance permit via the Department of Public Works.
8. The applicant shall secure any associated trades permits for the interior work.
9. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes as required.

10. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
11. Vermont Residential Building Energy Standards apply to this project. Compliance with the standards is the Owner's responsibility. Prior to requesting a Certificate of Occupancy, a copy of a completed Vermont Residential Building Energy Standards Certificate shall be submitted with a Certificate of Occupancy (final or temporary) request, and filed in the Land Records located at the Clerk/Treasurers office in City Hall (149 Church Street). For more information, see http://publicservice.vermont.gov/topics/energy_efficiency.
12. Standard Permit Conditions 1-15 shall apply.



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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MAR 31 2017

DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 212 Elmwood Ave.

PROPERTY

OWNER*: Champlain Housing Trust

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

POSTAL ADDRESS: 88 KING ST

CITY, ST, ZIP: BURLINGTON VT 05401

DAY PHONE: 802 861 7336

EMAIL: PLEUCHS@CETAHOME.ORG

SIGNATURE:

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

APPLICANT: Green Mountain

Habitat for Humanity

POSTAL ADDRESS: 300 Cornerstone Drive
Suite 335

CITY, ST, ZIP: WILLISTON VT 05495

DAY PHONE: 872-8726

EMAIL: dmullin@vermonthabitat.org

SIGNATURE:

Description of Proposed Project: Rebuild existing 3 BR Home & Replace with a new 3 BR Home

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

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

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

Estimated Construction Cost (value)*: \$ 80,000

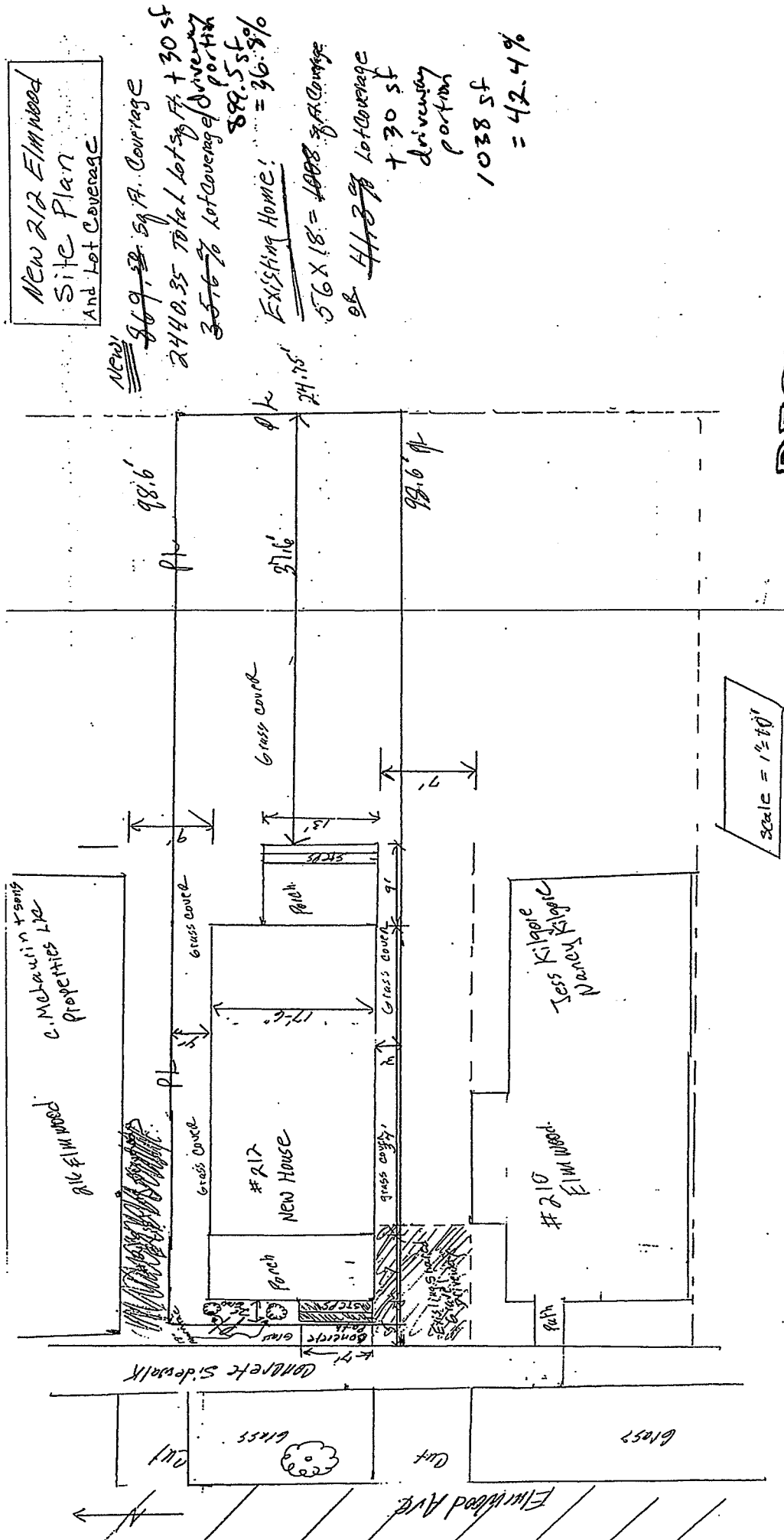
*Estimated cost a typical contractor would charge for all materials and labor, regardless of who physically completes the work)

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: RM Eligible for Design Review? Y Age of House: 1920 Lot Size: 2613

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

Check No. 9212 Amount Paid: 420.00 Zoning Permit # 17-0914CA



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MAR 31 2017



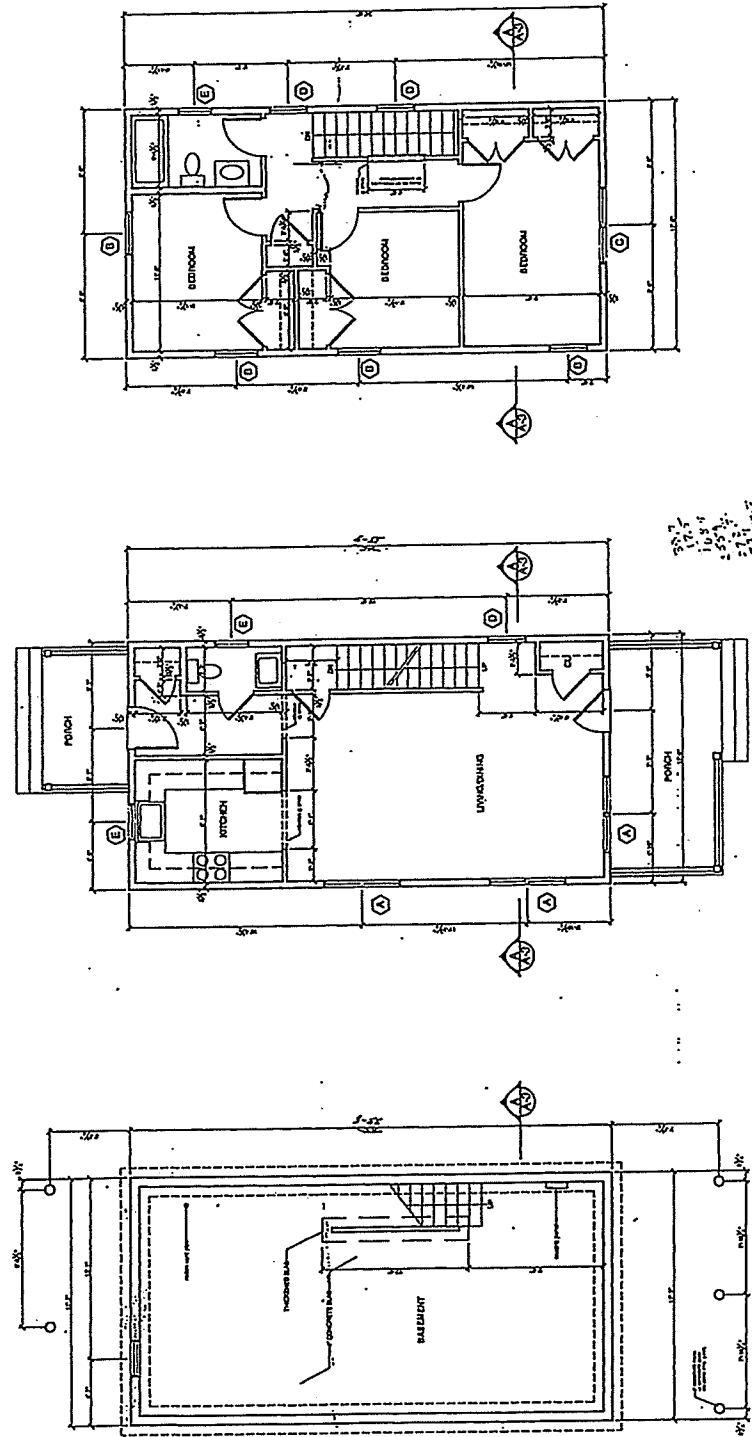
Can Frenning Architecture
21 Maple St. South New 17 South
Burlington Vermont 05401-1210

HABITAT FOR HUMANITY RESIDENCE
212 ELMWOOD AVENUE
BURLINGTON VERMONT

Revisions:
Date: 4 MAY 2010
Scale: 1/4"=1'-0"
Drawn by: CUF
Checked by:
FLOOR PLANS

A-1

WINDOW SCHEDULE				
KEY	WFR	TYPE	MODEL	ROUGH OPQ.
A	WFR01	DOUBLE HUNG	3400-1	ROUGH OPQ.
B	WFR02	DOUBLE HUNG	3400-1	ROUGH OPQ.
C	WFR03	DOUBLE HUNG	3400-1	ROUGH OPQ.
D	WFR04	DOUBLE HUNG	3400-1	ROUGH OPQ.
E	WFR05	DOUBLE HUNG	3400-1	ROUGH OPQ.
F	WFR06	DOUBLE HUNG	3400-1	ROUGH OPQ.
G	WFR07	DOUBLE HUNG	3400-1	ROUGH OPQ.
H	WFR08	DOUBLE HUNG	3400-1	ROUGH OPQ.
I	WFR09	DOUBLE HUNG	3400-1	ROUGH OPQ.
J	WFR10	DOUBLE HUNG	3400-1	ROUGH OPQ.
K	WFR11	DOUBLE HUNG	3400-1	ROUGH OPQ.
L	WFR12	DOUBLE HUNG	3400-1	ROUGH OPQ.
M	WFR13	DOUBLE HUNG	3400-1	ROUGH OPQ.
N	WFR14	DOUBLE HUNG	3400-1	ROUGH OPQ.
O	WFR15	DOUBLE HUNG	3400-1	ROUGH OPQ.
P	WFR16	DOUBLE HUNG	3400-1	ROUGH OPQ.
Q	WFR17	DOUBLE HUNG	3400-1	ROUGH OPQ.
R	WFR18	DOUBLE HUNG	3400-1	ROUGH OPQ.
S	WFR19	DOUBLE HUNG	3400-1	ROUGH OPQ.
T	WFR20	DOUBLE HUNG	3400-1	ROUGH OPQ.
U	WFR21	DOUBLE HUNG	3400-1	ROUGH OPQ.
V	WFR22	DOUBLE HUNG	3400-1	ROUGH OPQ.
W	WFR23	DOUBLE HUNG	3400-1	ROUGH OPQ.
X	WFR24	DOUBLE HUNG	3400-1	ROUGH OPQ.
Y	WFR25	DOUBLE HUNG	3400-1	ROUGH OPQ.
Z	WFR26	DOUBLE HUNG	3400-1	ROUGH OPQ.
AA	WFR27	DOUBLE HUNG	3400-1	ROUGH OPQ.
AB	WFR28	DOUBLE HUNG	3400-1	ROUGH OPQ.
AC	WFR29	DOUBLE HUNG	3400-1	ROUGH OPQ.
AD	WFR30	DOUBLE HUNG	3400-1	ROUGH OPQ.
AE	WFR31	DOUBLE HUNG	3400-1	ROUGH OPQ.
AF	WFR32	DOUBLE HUNG	3400-1	ROUGH OPQ.
AG	WFR33	DOUBLE HUNG	3400-1	ROUGH OPQ.
AH	WFR34	DOUBLE HUNG	3400-1	ROUGH OPQ.
AI	WFR35	DOUBLE HUNG	3400-1	ROUGH OPQ.
AJ	WFR36	DOUBLE HUNG	3400-1	ROUGH OPQ.
AK	WFR37	DOUBLE HUNG	3400-1	ROUGH OPQ.
AL	WFR38	DOUBLE HUNG	3400-1	ROUGH OPQ.
AM	WFR39	DOUBLE HUNG	3400-1	ROUGH OPQ.
AN	WFR40	DOUBLE HUNG	3400-1	ROUGH OPQ.
AO	WFR41	DOUBLE HUNG	3400-1	ROUGH OPQ.
AP	WFR42	DOUBLE HUNG	3400-1	ROUGH OPQ.
AQ	WFR43	DOUBLE HUNG	3400-1	ROUGH OPQ.
AR	WFR44	DOUBLE HUNG	3400-1	ROUGH OPQ.
AS	WFR45	DOUBLE HUNG	3400-1	ROUGH OPQ.
AT	WFR46	DOUBLE HUNG	3400-1	ROUGH OPQ.
AU	WFR47	DOUBLE HUNG	3400-1	ROUGH OPQ.
AV	WFR48	DOUBLE HUNG	3400-1	ROUGH OPQ.
AW	WFR49	DOUBLE HUNG	3400-1	ROUGH OPQ.
AX	WFR50	DOUBLE HUNG	3400-1	ROUGH OPQ.
AY	WFR51	DOUBLE HUNG	3400-1	ROUGH OPQ.
AZ	WFR52	DOUBLE HUNG	3400-1	ROUGH OPQ.
BA	WFR53	DOUBLE HUNG	3400-1	ROUGH OPQ.
BB	WFR54	DOUBLE HUNG	3400-1	ROUGH OPQ.
BC	WFR55	DOUBLE HUNG	3400-1	ROUGH OPQ.
BD	WFR56	DOUBLE HUNG	3400-1	ROUGH OPQ.
BE	WFR57	DOUBLE HUNG	3400-1	ROUGH OPQ.
BF	WFR58	DOUBLE HUNG	3400-1	ROUGH OPQ.
BG	WFR59	DOUBLE HUNG	3400-1	ROUGH OPQ.
BH	WFR60	DOUBLE HUNG	3400-1	ROUGH OPQ.
BI	WFR61	DOUBLE HUNG	3400-1	ROUGH OPQ.
BJ	WFR62	DOUBLE HUNG	3400-1	ROUGH OPQ.
BK	WFR63	DOUBLE HUNG	3400-1	ROUGH OPQ.
BL	WFR64	DOUBLE HUNG	3400-1	ROUGH OPQ.
BM	WFR65	DOUBLE HUNG	3400-1	ROUGH OPQ.
BN	WFR66	DOUBLE HUNG	3400-1	ROUGH OPQ.
BO	WFR67	DOUBLE HUNG	3400-1	ROUGH OPQ.
BP	WFR68	DOUBLE HUNG	3400-1	ROUGH OPQ.
BQ	WFR69	DOUBLE HUNG	3400-1	ROUGH OPQ.
BR	WFR70	DOUBLE HUNG	3400-1	ROUGH OPQ.
BS	WFR71	DOUBLE HUNG	3400-1	ROUGH OPQ.
BT	WFR72	DOUBLE HUNG	3400-1	ROUGH OPQ.
BU	WFR73	DOUBLE HUNG	3400-1	ROUGH OPQ.
BV	WFR74	DOUBLE HUNG	3400-1	ROUGH OPQ.
BW	WFR75	DOUBLE HUNG	3400-1	ROUGH OPQ.
BX	WFR76	DOUBLE HUNG	3400-1	ROUGH OPQ.
BY	WFR77	DOUBLE HUNG	3400-1	ROUGH OPQ.
BZ	WFR78	DOUBLE HUNG	3400-1	ROUGH OPQ.
CA	WFR79	DOUBLE HUNG	3400-1	ROUGH OPQ.
CB	WFR80	DOUBLE HUNG	3400-1	ROUGH OPQ.
CC	WFR81	DOUBLE HUNG	3400-1	ROUGH OPQ.
CD	WFR82	DOUBLE HUNG	3400-1	ROUGH OPQ.
CE	WFR83	DOUBLE HUNG	3400-1	ROUGH OPQ.
CF	WFR84	DOUBLE HUNG	3400-1	ROUGH OPQ.
CG	WFR85	DOUBLE HUNG	3400-1	ROUGH OPQ.
CH	WFR86	DOUBLE HUNG	3400-1	ROUGH OPQ.
CI	WFR87	DOUBLE HUNG	3400-1	ROUGH OPQ.
CJ	WFR88	DOUBLE HUNG	3400-1	ROUGH OPQ.
CK	WFR89	DOUBLE HUNG	3400-1	ROUGH OPQ.
CL	WFR90	DOUBLE HUNG	3400-1	ROUGH OPQ.
CM	WFR91	DOUBLE HUNG	3400-1	ROUGH OPQ.
CN	WFR92	DOUBLE HUNG	3400-1	ROUGH OPQ.
CO	WFR93	DOUBLE HUNG	3400-1	ROUGH OPQ.
CP	WFR94	DOUBLE HUNG	3400-1	ROUGH OPQ.
CQ	WFR95	DOUBLE HUNG	3400-1	ROUGH OPQ.
CR	WFR96	DOUBLE HUNG	3400-1	ROUGH OPQ.
CS	WFR97	DOUBLE HUNG	3400-1	ROUGH OPQ.
CT	WFR98	DOUBLE HUNG	3400-1	ROUGH OPQ.
CU	WFR99	DOUBLE HUNG	3400-1	ROUGH OPQ.
CV	WFR100	DOUBLE HUNG	3400-1	ROUGH OPQ.



SECOND FLOOR PLAN

FIRST FLOOR PLAN

BASEMENT/FOUNDATION PLAN

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Carl Frenning Architecture
21 Elmwood Ave., Suite 100, Burlington, VT 05401
802-277-1234

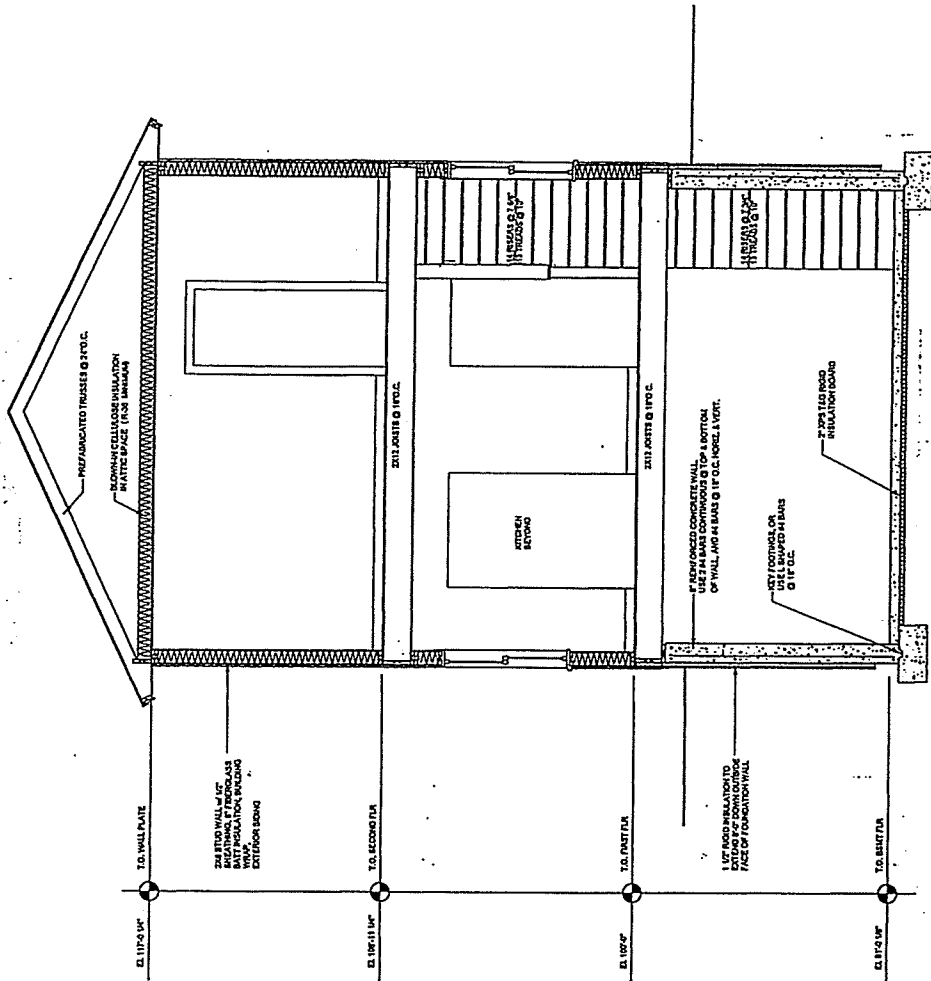
HABITAT FOR HUMANITY RESIDENCE
212 ELMWOOD AVENUE
BURLINGTON
VERMONT

Revisions:

DATE: 4 MAY 2010
SCALE: 1/2"=1'-0"
DRAWN BY: CFP
CHECKED BY:

BUILDING
SECTION

A-3



BUILDING SECTION - A

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WEST ELEVATION
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A-2

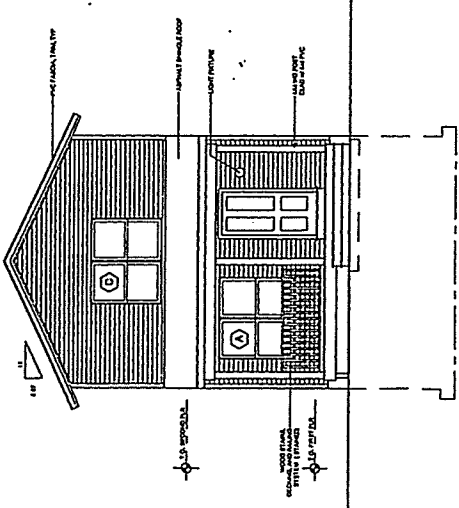
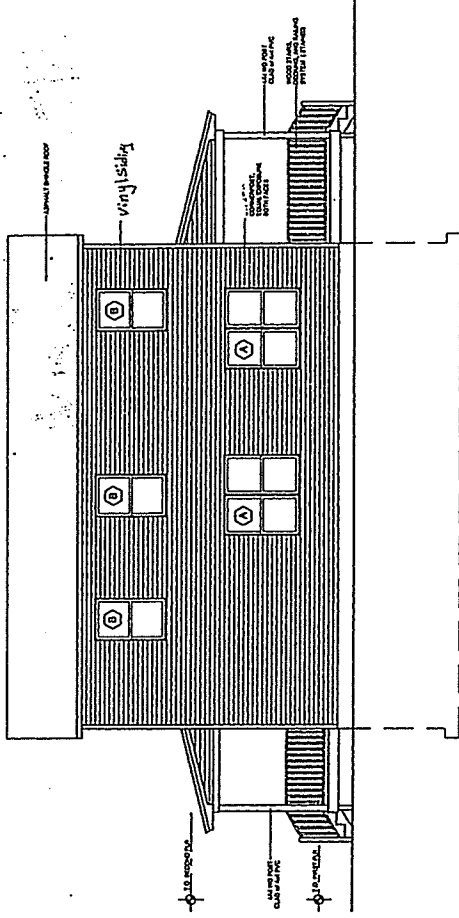
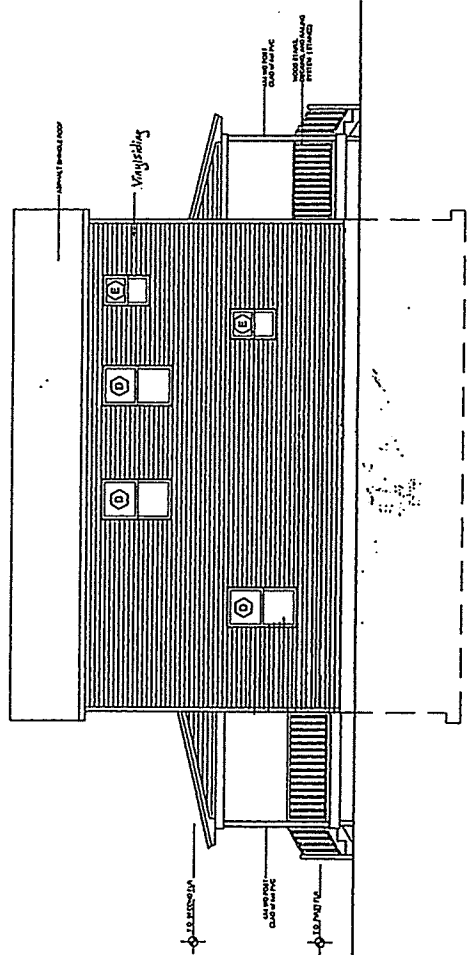
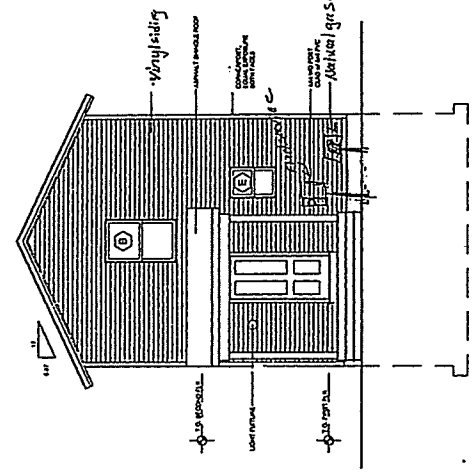
ELEVATIONS

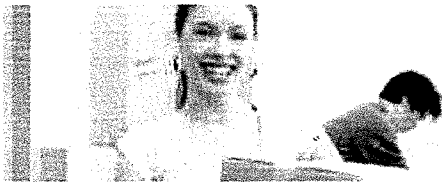
DATE: 4 MAY 2010
SCALE: 1/8"=1'-0"
DRAWN BY: CJP
CHECKED BY:

REVISION:

HABITAT FOR HUMANITY RESIDENCE
212 ELMWOOD AVENUE
BURLINGTON
VERMONT

Carl Frenning Architecture
15 WILKINSON ST. SUITE 100A W. BURLINGTON, VT 05401
(802) 272-1212





#212 Windows
Siding
HARVEY
BUILDING PRODUCTS
Doors

Classic

Double Hung Replacement and New Construction Windows





HARVEY
BUILDING PRODUCTS

Windows

10000-1 Classic DH , Unit Size 41.5 x 57, RO 42 x 57.5

Full Screen, Full Screen Mullion, Fiberglass Mesh, Screen Shipping Separate
= No

Window Label = Harvey, Double Locks, All Horizontals, Sash Limit Devices
= Night Latch

Overall Glass Thickness = 11/16", Double Glazed, Double Low-E RS, Argon
Filled, Custom Annealed IG = No, IG MFG = HY

Base Color = White

Performance Packages = E Star 6.0 2015

North=Yes, North-Central=Yes

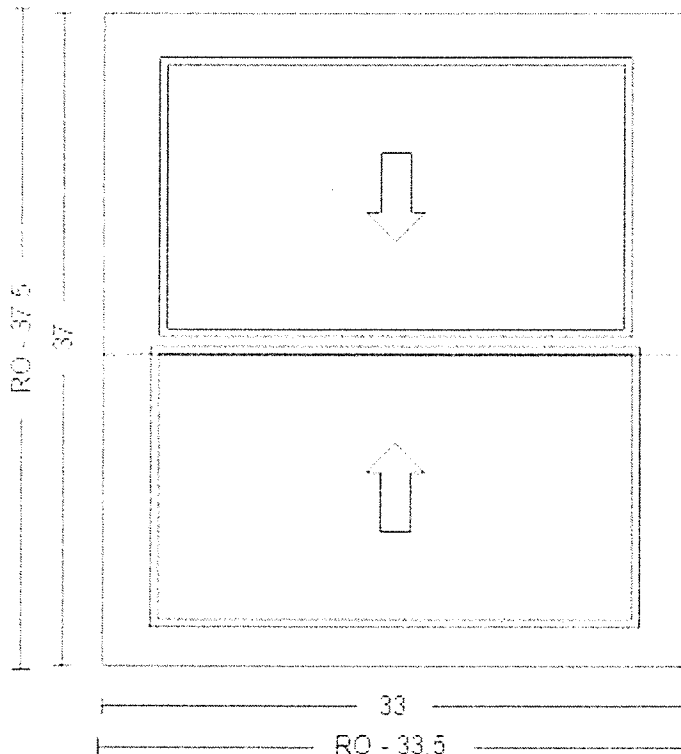
Unit 1: U-Factor = 0.25, SHGC = 0.30, VT = 0.54, NFRC CPD Number =
HII-M-31-02456-00001, Custom / Call Size Option = Custom Size, New
Construction, Fully Welded

Unit 1 Lower Glass, 1 Upper Glass: NFRC CPD Number =
HII-M-31-02456-00001

Sill rise extender = No

Overall Rough Opening Width = 42, Overall Rough Opening Height = 57.5

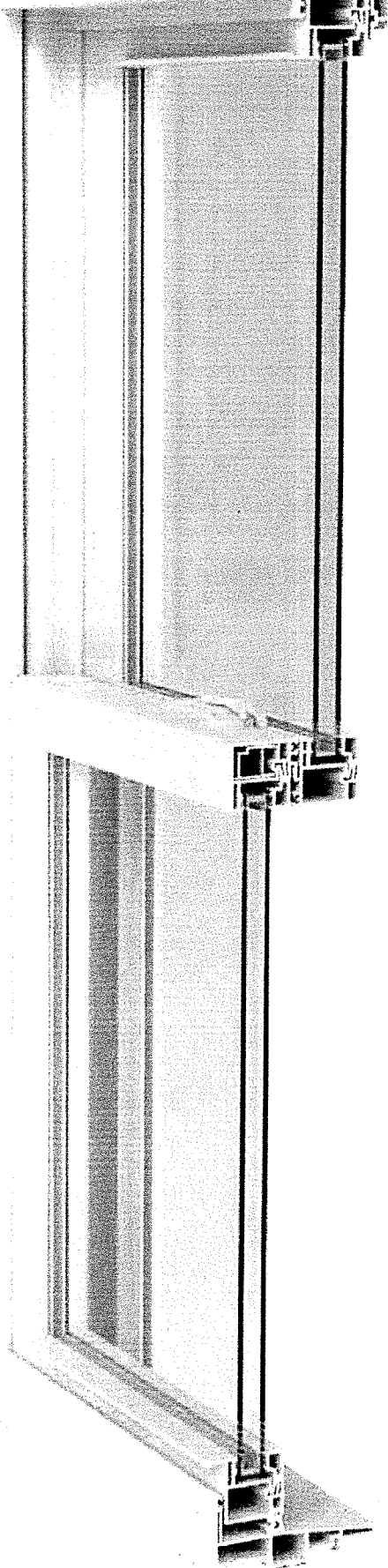
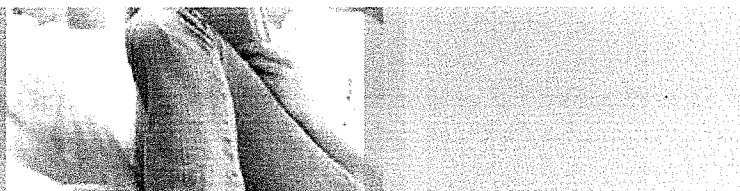
Integral L Fin Adaptor, Receiver Pocket



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Classic Features

The Harvey Classic vinyl double hung window offers a variety of styles, colors and options to meet any homeowner's needs. The Classic window is custom made to fit with very little carpentry needed, reducing installation time and mess. Our sleek fully welded sash and frame design provides a one-piece sloped sill and better performance than ordinary vinyl windows, with an air-tight seal that keeps wind and water where they belong – outside. Consult your professional contractor to discuss which options are right for you.

- ENERGY STAR® qualified with ENERGY STAR glazing upgrade
- Available with BetterGrain™ premium woodgrain interior finish
- Factory calibrated block & tackle sash balances never need adjustment or lubrication
- Ventilation limit latches that keep top or bottom sash partially open
- Locking fiberglass half screen - standard
- Vinyl head expander and vinyl sill extender included for replacement windows

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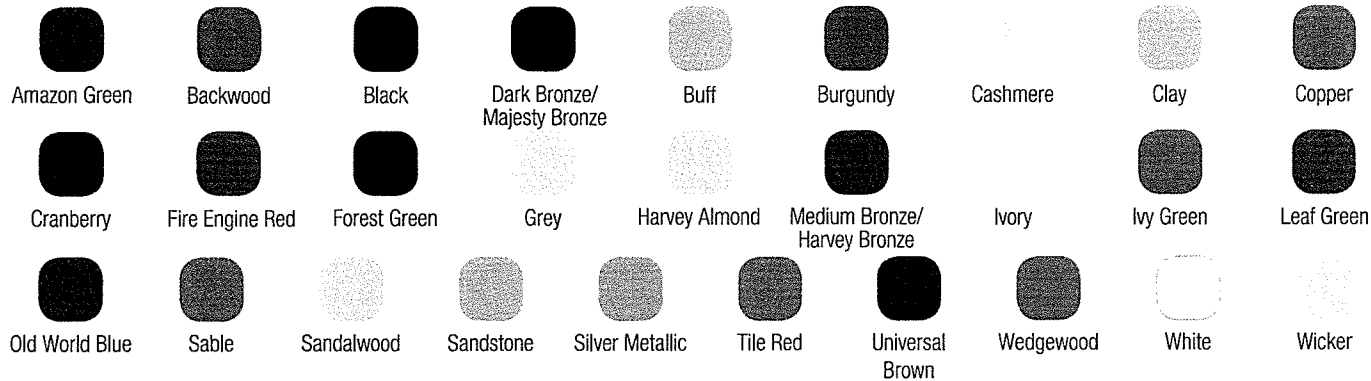
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Tilt-in top
and bottom
sash for
easy cleaning.



Exterior Finishes

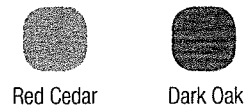


Vinyl Colors

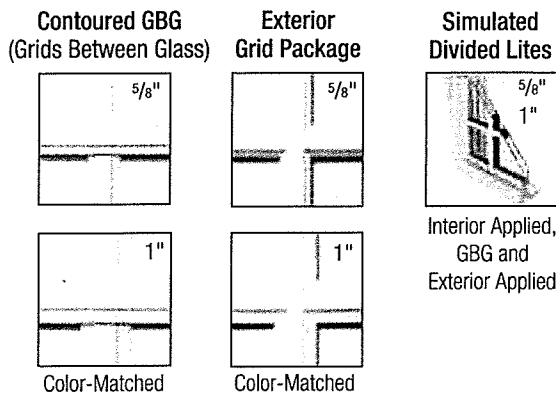


Exterior finishes are available for White or Almond windows only. .
Due to printing limitations, finishes and colors shown are for representation only.

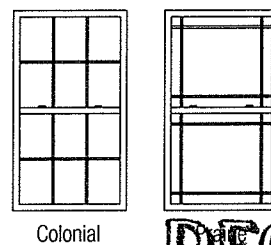
BetterGrain™ Interior Finishes



Grids



Configurations



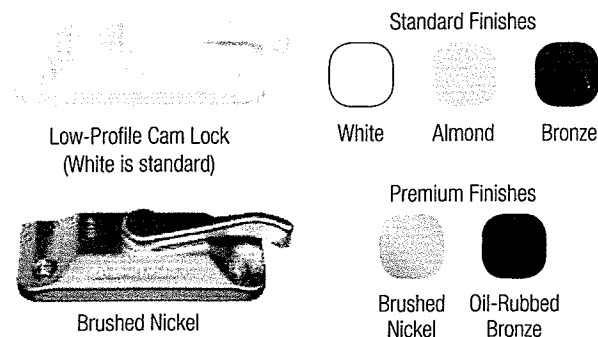
Custom configurations also available

Glazing Options

- Clear Insulated
- ENERGY STAR
- Low-E
- Low-E/Argon
- Double Low-E/Argon
- Obscured
- Tempered

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Hardware



Additional Options

- DP 50 Upgrade
- Structural Mullion
- Always Active Limit Latch
- Half or Full Screen
- Fiberglass Wire
- Aluminum Wire
- Virtually Invisible (VIEWS)



HARVEY
BUILDING PRODUCTS

Thermal Performance

For the most up to date structural and thermal performance values, as well as other product specifications, visit harveybp.com.

Glazing	U-Factor	SHGC	Visible Light Transmittance	ENERGY STAR Compliance
Clear Insulated	0.46	0.59	0.62	---
ENERGY STAR	0.25	0.30	0.54	N, NC

ENERGY STAR: This package includes everything that is needed for a product to meet ENERGY STAR requirements. Glazing, gas, glass thickness, etc. will vary by window and usually includes Low-E coating and Argon gas. This glazing package does qualify for ENERGY STAR.

U-factor measures the rate of non-solar heat transfer from one side of the window to the other. Heat transfer implies both heat loss out of a living space during cold weather and non-solar heat gain during hot summer months. The lower the U-factor, the better the performance.

Solar Heat Gain Coefficient (SHGC) measures how well a product blocks heat from the sun. The lower the SHGC, the better a product is at blocking unwanted heat gain.

Visible Transmittance (VT) measures how much light comes through a product. The higher the VT, the more light that comes through.



About Harvey Building Products

Harvey has built a solid reputation as a leading manufacturer and distributor of quality building products. A privately owned and operated business with over 50 years' experience, Harvey Building Products is known for outstanding craftsmanship and superior service as well as standing behind every product we make. In addition to manufacturing durable, attractive windows, doors and porch enclosures, Harvey distributes a full line of highly respected building products to professional contractors and builders throughout the Northeast.

We understand what it takes to be part of your home.™



Harvey Building Products
1400 Main Street
Waltham, MA 02451-1623 USA
800-9HARVEY (800-942-7839)



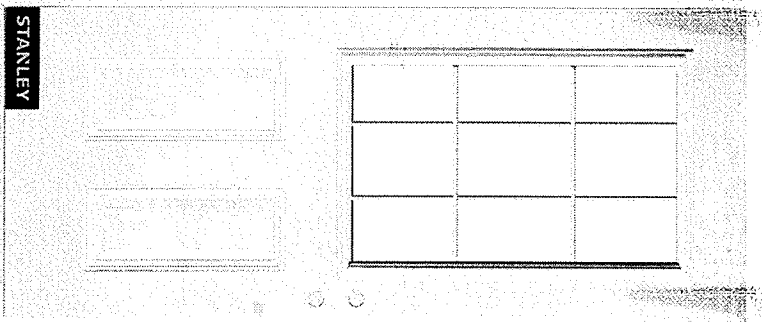
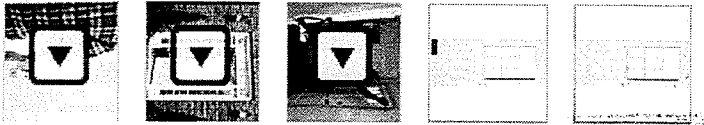
Information about Harvey Building Products and our products and services can be found at harveybp.com.

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*Front
&
Back
Doors*

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Stanley Doors

36 in. x 80 in. Colonial 9 Lite
2-Panel Painted White Steel
Prehung Front Door with
Internal Grille and
Brickmold

★★★★★ (10) Write a Review

Questions &
Answers (85)

\$269.89 /each

Color/Finish: Prefinished white



Door Size (WxH) in.
36 x 80

Door Handling
Left-Hand/Inswing

Quantity

-

1

+

Live Chat



Not in Your Store - We'll Ship It There



We'll Ship It to You

- 24-Gauge, hot dipped galvanized steel adds strength to your door and prevents rusting for a lifetime
- Finger-jointed kiln dried pine prevents warping and rotting for long-lasting performance
- Magnetic weatherstripping seals door from all elements for added protection
- Straight-line design provides a modern aesthetic
- Inspired by the great architectural traditions of the 20th century, this series offers you a classic look for your home's entrance
- STANCOAT prefinished white is maintenance-free and enhances the look of your entrance door
- Double bore allows easy installation of lock and deadbolt of your choice
- Energy efficient and Energy Star certified to save on heating
- From outside, opens toward the inside of the home with the hinges on the left
- Click here to check out our project guide on installing an entry door
- Click here to learn more about buying exterior doors

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Specifications

Dimensions

Door Height (in.)	80	Jamb Size (in.)	4-9/16"
Door Size (WxH) in.	36 x 80	Rough Opening Height (in.)	82.75

Live Chat

KAYCAN

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#212 Siding

Timberlake

Inspired by Design

Timberlake™ – Inspired by Design

With its broad color options and many profiles, our Timberlake collection offers countless options to fit any design. From muted neutrals to cool grays, this collection will showcase any style home.

The traditional homes are often sided in light, subdued shades paired against darker shutters and trim to draw out your home's architectural details. Modern, contemporary homes demand contrasting shades, the cool grays marry well with stone, steel and dark trims. The Timberlake collection offers a multitude of options to help you design the house of your dreams.



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LAP SIDING

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VERTICAL SIDING

POLYPROPYLENE SHAKES

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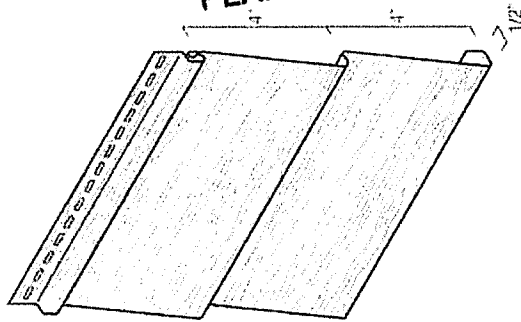
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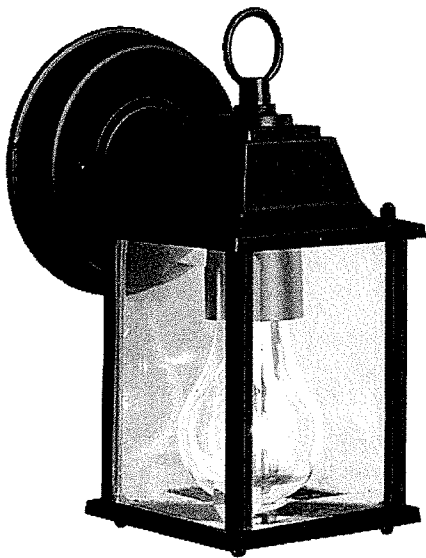
D4 Marquis Item 8 of 21

Item# 0052

*Available in the East.

Barrie Collection
Outdoor Wall 1Lt BK
9794BK (Black (Painted))

Project Name: _____
Location: _____
Type: _____
Qty: _____
Comments: _____



Dimensions

Height	8.50"
Width	4.75"

Ordering Information

Product ID	9794BK
Finish	Black (Painted)
Available Finishes	TZ, BK
Collection	Barrie Collection

Dimensions

Extension	5.75"
Height from center of Wall opening	2.70"
Base Backplate	4.75 DIA
Weight	1.60 LBS

Specifications

Material	Cast Aluminum
Glass Description	Clear Beveled

Electrical

Voltage	120V
Lead Wire Length	2.7"

Qualifications

Safety Rated	Wet
Warranty	www.kichler.com/warranty

Primary Lamping

Light Source	Incandescent
Lamp Included	Not Included
Number of Lights/LEDs	1
Max or Nominal Watt	100W
Socket Wire	150
Socket Type	Medium
Lamp Type	A19

Alternate Lamps

Lamp Included	Bulb Listing	Light Source	Max Wattage/Range	Bulb Product ID	Dimmi
No	Alternate	INCA	60W	4071CLR	

Scott Gustin

From: Pfeiffer, Rebecca <Rebecca.Pfeiffer@vermont.gov>
Sent: Monday, May 15, 2017 1:43 PM
To: Scott Gustin
Subject: RE: 2 King St

Hi Scott,

It was good to speak with you today. As we discussed on the phone, there are only a few of the approval conditions found in 4.5.4(f)(8) of the Burlington Comprehensive Development Ordinance that would apply to the proposed development occurring at the 2 King Street restaurant. The proposal includes:

- interior structural modifications, such as:
 - a new interior fire wall with electrical and plumbing integrated,
 - install a new hood vent,
 - install a new grease trap and re-do some plumbing to accommodate this work, and
 - install some new restaurant equipment, such as prep sinks, hand sinks and a new dishwasher (to be removed in the off-season)
- exterior improvements:
 - installation of pre-fab 8'x8' deck panels to sit on top of the existing asphalt/concrete patio (to be removed in the off-season),
 - install a new retractable awning over the patio, and
 - remove 3 windows in front of building where the firewall will be located, with siding to match

Clarifying building elevations:

When reviewing the application materials, there was a discrepancy on the elevation of the restaurant floor. This is important to help the Board understand whether the floor of the restaurant is elevated/protected *at least* to the base flood elevation (BFE, commonly known as the 100-year flood elevation). The old floor layout plan titled "Exhibit F" indicates that the first floor elevation is 102.0', but with no reference to a survey or vertical elevation datum. There is also the old 9/19/1966 plan stamped by an architect and titled "Site Plan 2 King Street". This plan indicates that the floor elevation is 102'00", but it is unclear if that elevation is from finished construction (as-built condition) or if this is for the proposed elevations, since the plan has "Not For Construction" stamped on the bottom of the plan. Also, survey elevations stamped by either a Professional Engineer or Licensed Land Surveyor are valid for flood hazard review/documentation, but topographic survey elevations cannot be certified by a Registered Architect as shown on the 1966 site plan.

There is another survey, stamped by a Licensed Land Surveyor, that is included in the application and dated 6/18/2002. This topographic plan indicates that the floor elevations inside of the building are all around 100' +/-, but again there is no indication of a vertical elevation datum. These elevations that are provided could be "assumed", using the lake level as a reference but not tied to an elevation datum, or they could be tied to a vertical elevation datum. The Board should confirm the vertical elevation datum of the 2002 survey, or request a new FEMA Elevation Certificate to clarify the floor elevation of the restaurant building. The base flood elevation (BFE) for Lake Champlain is 102.0' (NCEM 1929) or 101.6' (NAVD 1988).

Confirming whether the restaurant is being substantially improved (SI):

The proposed work includes some minor structural alterations on the restaurant building, so the City Planning staff requested the cost of the improvements to determine if the work would be a *substantial improvement* to the existing restaurant. The costs to be considered in a substantial improvement determination include the cost of demolition and labor, cost of structural elements, finish materials, any built-in appliances, plumbing, etc. Any improvements to bring the building up to code as a requirement to open the restaurant, but are not health/safety violations that had already been

cited and on the record by the City of Burlington/State of Vermont should also be included in the improvement cost estimate.

From Article 13/SFHA definitions of the Burlington Comprehensive Development Ordinance:

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations (emphasis added) of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official (emphasis added) and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Burlington Planning staff have received the cost estimates and have confirmed that the proposed interior alteration (which would not include plug-in appliances, new furniture, etc.) would not be considered a substantial improvement. However, since the City tracks improvements over the course of 3 years or over a period of a common plan of development (phased improvements), the cost of this work would need to be considered if any additional structural work is proposed on the building in the next 3 years or if this is one phase of a larger improvement.

Special Flood Hazard Area Standards for remaining construction:

The flood hazard standards that would apply to this proposal, then, are those found in 4.5.4(f)(8)c (i)-(iii) & (v)– standards for all development:

C. All development:

- (i) New construction and/or substantial improvements to structures shall be reasonably safe from flooding and be:
 - 1. Designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood;
 - 2. Constructed of materials resistant to flood damage;
 - 3. Constructed by methods and practices that minimize flood damage; and
 - 4. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (ii) All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities;
- (iii) All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards;
- ...
- (v) All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law.

Interior building systems:

Although much of the remaining development is proposed to be removed in off-season when the restaurant would be closed, any mechanical/electrical/HVAC systems need to be installed to prevent water from getting into the system during flooding. If the Board is able to confirm that the restaurant floor is elevated at or above BFE, then the chance of water entering the system is minimized. However, if the floor elevation is not able to be confirmed at the hearing, the Board should consider a condition that would require the electrical/mechanical/HVAC or other systems to be removed in the off-season be removed during their open season if the Lake is flooding and approaching BFE, when the building would be threatened by flooding. While this is typically not feasible on all but the largest river systems, there is typically quite a bit of advanced warning when the Lake is approaching flood stages at elevation 100' or higher.

Exterior building considerations:

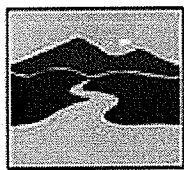
In addition to the protection of the interior restaurant equipment, the proposed pre-fab 8'x8' deck panels will need to be constructed out of flood-resistant materials, which includes pressure-treated or other rot-resistant deck material (cedar, plastic decking, etc.), and corrosion-resistant fasteners and connectors. Also, while these panels will be removed in the off-season, they will need to be anchored while in use during the open summer season. The application materials indicate that the sections will be connected together and to aluminum connectors, but the Board should confirm that the aluminum connectors will be anchored to the ground in order to resist the decking from floating or moving during times of flooding to avoid becoming flood debris. Given that the existing deck area is the "breakwater" for the boat storage in that area, the applicants should keep in mind that the deck area would be subject to waves and possible debris striking during high water/flooding, and that the anchoring system should be able to resist wave energy.

The last thing to mention is that the application materials indicate that the deck structure would be flooded (although the elevation is written in on Exhibit A without reference to an actual topographic survey) during a base flood. While Lake Champlain is typically at its highest level in the springtime before the restaurant is open, if the Lake was to be near or at Base Flood Elevation while the restaurant is open, any loose tables, chairs or other things stored outside could become flood debris. While the applicant would likely already be removing things from the deck if flooding was imminent, the Board should consider requiring the applicant to remove tables and chairs or any other non-anchored materials from the deck before the deck is flooded (which would be at an elevation slightly lower than a base flood). Again, the applicant should be aware of the influence/destructive nature of waves or flood debris when the Lake is approaching or above the base flood elevation.

As always, other State, Federal or local permits may be required for this project. The VT DEC Permit Specialist for your region should be able to help identify any other State Environmental Permits that may be necessary. These comments are offered in accordance with 24 VSA §4424.

Please let me know if you have any additional questions or would like to further discuss,

Rebecca



**WATERSHED
MANAGEMENT DIVISION**
RIVERS PROGRAM

Rebecca Pfeiffer, CFM | Floodplain Regulatory Team Lead/Northwest VT Floodplain Manager
River Corridor & Floodplain Protection Program
111 West Street
Essex Junction, VT 05452
C 802-490-6157 | F 802-879-3871

PLEASE NOTE MY NEW EMAIL ADDRESS: Rebecca.Pfeiffer@vermont.gov

Flood Ready Vermont: <http://floodready.vermont.gov/>
VT Floodplain Management Blog: <http://vtfpm.blogspot.com/>
VT ANR Natural Resources Atlas: <http://anrmaps.vermont.gov/websites/anra/>
River Corridor & Floodplain Protection Website: <http://dec.vermont.gov/watershed/rivers/river-corridor-and-floodplain-protection>

From: Scott Gustin [mailto:SGustin@burlingtonvt.gov]
Sent: Wednesday, May 03, 2017 3:49 PM
To: Pfeiffer, Rebecca <Rebecca.Pfeiffer@vermont.gov>
Subject: 2 King St

Hi Rebecca,

Attached is a copy of the zoning permit application for work at 2 King Street (formerly Breakwaters café). They're proposing to install seasonal wooden decking outside, remove some building windows and put some new equipment in the restaurant. They propose that the new equipment will be on wheels and removed during the off-season.

All of this is within the flood hazard area. Does the seasonality of the decking and equipment pass muster? I don't think it directly addressed under our flood review criteria. I'm interested to hear your comments on this one. Its scheduled for DRB on May 16.

Scott

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

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

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

Telephone: (802) 865-7188

Fax (802) 865-7195

Austin Hart

Brad Rabinowitz

Israel Smith

AJ LaRosa

Geoff Hand

Alexandra Zipparo

Wayne Senville

Jim Drummond, (Alternate)

Robert Purvee, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, May 16, 2017, 5:00 PM

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

Minutes

Board Members Present: Brad Rabinowitz, Israel Smith, Robert Purvee(Alt), Jim Drummond(Alt), A. J. LaRosa, Alexander Zipparo

Board Members Absent: Austin Hart, Geoff Hand, Wayne Senville

Staff Present: Scott Guston, Ryan Morrison, Anita Wade

I. Agenda

II. Communications

Supplemental for 2 King Street accepted by Board.

III. Minutes

IV. Consent

1. 14-0753CA; 210 South Union Street (I, Ward 6S) Chad Tyler

Add one residential unit to existing accessory structure, increasing total units for property from four to five; add one surface parking space. (Project Manager, Ryan Morrison)

B.Rabinowitz: asks applicant if he has received staff comments and recommendations.

C.Tyler: yes.

B.Rabinowitz: no objections by Board or public to treat item as consent.

I.Smith: motion to adopt and approve based on staff comments and recommendations.

A. J. LaRosa: seconds the motion.

Board Vote: 5-0-0

2. 17-0914CA; 212 Elmwood Avenue (RM, Ward 2C) Champlain Housing Trust

Demolish existing 3 bedroom single family home and rebuild new 3 bedroom single family home. (Project Manager, Ryan Morrison)

B.Rabinowitz: asks applicant if they received staff comments and recommendations.

Applicant: yes.

B.Rabinowitz: no objections by Board to treat item as a consent item.

I.Smith: motion to adopt and approve based on staff comments and recommendations.

R.Purvee: seconds the motion.

Board Vote: 6-0-0

3. 17-0955CA/CU; 76 Chase Street (RL, Ward 1E) Eva Sollberger

Request for accessory apartment and parking arrangement.

(Project Manager, Scott Gustin)

B.Rabinowitz; asks applicant if she has received staff comments and recommendations.

E.Sollberger: yes

AJ.LaRosa: motion to approve based on staff comments and recommendations.

I.Smith: seconds the motion.

Board: 6-0-0

V. Public Hearing

1. 17-0974CA/CU; 2 King Street (DW-PT, Ward 3C,5S) Lake Champlain Transportation Co

Install exterior removable interconnected deck panels. Install retractable awning over patio area. Remove three windows in front of building and fill in with firewall on interior. Match siding on exterior of building. This property is within the Special Flood Hazard Area.

(Project Manager, Scott Gustin)

B.Rabinowitz: swears in applicants.

Applicants: R.Scully and B.Bertrand

B.Rabinowitz: asks about floodplain issues.

B.Bertrand: this was addressed by State and spoke with staff.

SGustin: looks over handout received from applicant and gives report.

B.Rabinowitz: questions new decking.

R.Scully: went from asphalt to wooden deck. Will put down seasonally 8x8 ft squares to be installed and removed seasonally.

B.Rabinowitz: questions on windows and kitchen area.

S.Gustin: have enough material to move forward. The floor elevation was added and now able to condition based on the floodplain as long as during operation the equipment can be removed and chairs anchored.

B.Rabinowitz: questions times of operation.

R.Scully: late May to September.

S.Gustin: rendered drawing of decking material and hood vent need to be specified.

R.Scully: pressure treated base.

B.Rabinowitz: there is no elevation where hood exists in the building. This is not shown in photo and need information.

S.Gustin: need elevation drawing showing hood in place.

B.Rabinowitz: submit elevation this week to staff. Closes public hearing.

2. 17-0786AP; 220 Pine St (RM, Ward 5S) Nicholas Papaseraphim

Continuation of an appeal of Notice of Zoning Violation #320536 relative to expanded parking and lack of certificates of occupancy. (Project Manager, Jeanne Francis)

B.Rabinowitz: the applicant is not present. Closed the hearing for this item.

3. 17-0952AP; 41 South Willard Street (RH, Ward 8E) Vista K Properties, LLC

Appeal of a zoning violation notice #323518 relative to parking, occupancy, and certificates of occupancy. (Project Manager, Jeanne Francis)

B.Rabinowitz: swears in applicant and staff.

J.Francis: presents information on NOV sent March 29, 2017 pertaining to expansion of parking,

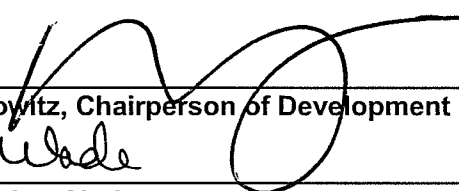
B.Rabinowitz: questions on parking on the grass and other areas.

J.Francis: more than 6 spaces at any one time in illegal areas. Mentioned the appellant's submission for parking changes over time.

B.Rabinowitz: questions on the area in front of garage and south side of property.
J.Francis not approved in 2006 as parking.
B.Rabinowitz: was part of violation about 6 unrelated adults.
J.Francis: yes. The attorney's office says if more than 4 you need obtain a determination if there is a complaint.
SGustin: sworn in. This wasn't about 6 bedroom problem. If a complaint was made and discovered more than 4 unrelated adults, it needs either to be resolved or changed.
B.Rabinowitz: having 6 bedrooms is not the same as 6 occupants.
J.Francis: correct. Two zoning permits for failed CO's; one was for window changes and to provide muntins, but new windows failed inspection. Second zoning permit is for a parking barrier as an attempt to cure violations for parking. The agreement was to put up barrier. His appeal is asking not to plant the shrubs. Shrubs are needed for barrier around parking area.
S.Kwon: owner of 41 So Willard building. Mentioned permit for parking, shrubs and third floor egress windows. Submits material to Board that shows he is concentrating on parking, shrubs and muntins.
B.Rabinowitz: questions parking off designated areas. Said without barrier people will park anywhere they want.
S.Kwon: would like to speak about muntins first and gives Board handout. Picture shows no muntin on window. Acme assured they did the muntins.
B.Rabinowitz: this shows that muntins are not in at the time.
SKwon; muntins are there now.
B.Rabinowitz: if not there now and need to replace them.
B.Rabinowitz: parking barrier could be fence.
S.Kwon: cannot put fence there.
B.Rabinowitz; trying to find an alternative for shrubs. parking now shows 6 spaces
AJ.LaRosa: did send in scaled plan for 6 or more spaces because I have a large lot size less than 52% lot coverage.
B.Rabinowitz: questions for staff.
S.Gustin: received information but incomplete site plan and requested a conference. Discussion ensued on what was sent. It would be best to meet face to face to resolve parking issue.
B.Rabinowitz: your solution is the shrubs.
S.Kwon: would like to use shrubs.
B.Rabinowitz: Board maybe doesn't want to avoid the shrubs or the functional family rule.
SKwon: zoning map shows that my buildings are not subject to functional family.
B.Rabinowitz: zoning changed in 2012.
AJ.LaRosa: how many people live in 6 bedrooms.
S.Kwon: six people in each unit. Need 2 parking spaces per unit. I cannot do anything about where they are parking.
B.Rabinowitz; that's the reason to have the shrubs.
S.Kwon; gives handout to Board prior to remodel egress on third floor.
B.Rabinowitz: no one insisting you change the stairs.
S.Kwon: will work with staff.
B.Rabinowitz: Board will be looking at shrubs.
S.Kwon: difficult to control parking.
B.Rabinowitz: some of Board's suggestions are how to control the parking.
J.Francis: up to owner to maintain parking that is durable. Rocks would work. This is a historic structure. The berms are not working.
A.Zipparo; do you offer education. Does the City have best practice guidelines?
J.Francis: zoning does have this.
S.Kwon: applied for additional parking space asking how to resolve 3 parking spaces per unit and was told that there is free parking all around. The overflow can park on street. I will speak to tenants to help them understand this. The shared driveway is 8ft wide talking with Planning and Zoning to expand to 12 ft so snow plow can be done properly.
B.Rabinowitz: Board is concerned about these issues and can help you come up with things you can do. Closed public hearing.

VI. Other Business

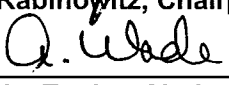
VII. Adjournment



Brad Rabinowitz, Chairperson of Development Review Board

6/12/17

Date



A. Wade, Zoning Clerk

6/5/17

Date

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

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