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

Austin Hart
Brad Rabinowitz
Israel Smith
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Samantha Tilton
Jim Drummond, (Alternate)
Vacant, (Alternate)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday May 15th, 2018, 5:00 PM
PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on Tuesday May 15th, 2018 at 5:00pm in Contois Auditorium, City Hall.

1. **18-0840AP; 62 Venus Ave (RL, Ward 7N) Lorraine Latorre Family Trust**
   Appeal of NOV # 346538 regarding change of use to duplex.

2. **15-0923CA/CU; 465 Appletree Point Rd (RL-W, Ward 4N) Alfred R. Senecal Jr Trust**
   Request for Time Extension: Construct single family home with accessory apartment and associated site improvements. Includes lot line adjustment.

3. **15-0922CA/CU; 451 Appletree Point Rd (RL-W, Ward 4N) Alfred R. Senecal Jr Trust**
   Request for Time Extension: Demo existing structures, construct new single-family home with accessory apartment and associated site improvements. Lot line adjustment included.

4. **18-0861AP; 19-21 South Willard St (RH, Ward 8E) WHN Properties LLC**
   Appeal of NOV #333035 for increasing number of residential units from 9 to 10 without zoning approval.

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).
Printed on 100% Recycled Paper

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.

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

Austin Hart
Brad Rabinowitz
Israel Smith
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Samantha Tilton
Jim Drummond, (Alternate)
Vacant, (Alternate)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday May 15th, 2018, 5:00 PM
Contois Auditorium, City Hall, 149 Church St, Burlington, VT
AGENDA

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

1. **18-0809CA; 1106 North Ave (RM, Ward 7N) CDI Development Fund Inc**
   Install 3 new HUD homes 14' X 60". Add 3 parking pads, one per lot, 9' x 20'. (Project Manager: Mary O'Neil)

2. **15-0923CA/CU; 465 Appletree Point Rd (RL-W, Ward 4N) Alfred R. Senecal Jr Trust**
   Request for Time Extension: Construct single family home with accessory apartment and associated site improvements. Includes lot line adjustment. (Project Manager: Scott Gustin)

3. **15-0922CA/CU; 451 Appletree Point Rd (RL-W, Ward 4N) Alfred R. Senecal Jr Trust**
   Request for Time Extension: Demo existing structures, construct new single-family home with accessory apartment and associated site improvements. Lot line adjustment included. (Project Manager: Scott Gustin)

4. **18-0898CA; 275 Main St (I, Ward 6S) City of Burlington School Dept**
   Site improvements including lower level link enclosure between buildings A and C, relocated loading dock, screening, fencing, new student courtyard and removal of pavement. Add a maintenance garage for equipment storage.
   (Project Manager: Mary O'Neil)

V. Public Hearing

1. **18-0840AP; 62 Venus Ave (RL, Ward 7N) Lorrain Latorre Family Trust**
   Appeal of NOV # 346538 regarding change of use to duplex. (Project Manager: Jeanne Francis)

2. **18-0771AP; 12 Weston St (RL, Ward 1E) Charles Chauncey Burns**
   Appeal of NOV 336638 pertaining to duplex use. (Project Manager: Scott Gustin)

3. **18-0861AP; 19-21 South Willard St (RH, Ward 8E) WHN Properties LLC**
   Appeal of NOV #333035 for increasing number of residential units from 9 to 10 without zoning approval. (Project Manager: Jeanne Francis)

VI. Adjournment

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.

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).
Printed on 100% Recycled Paper

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.

RECEIVED
MAR 22 2018
DEPARTMENT OF
PLANNING & ZONING

NAC North Avenue Co-op, Inc.

A Resident-Owned Community

Maintenance Manager ***864-4525***

Jay LeClair

10 Ave. A

Burlington, Vt 05408

Date: 3-22 -18

TO: City of Burlington Planning & Zoning Department & Interested Parties

North Ave Co-op would like to request the approval for the installation of 3 New Manufactured HUD homes, to be installed on the site where the Florist shop was located on the property at 1106 North Ave. We are State approved for 120 units and are now currently at 116 units. We also would request that if approval is granted that we do the installation of these units in Phases to allow for immediate home occupancy once all permits have been closed and cleared per unit. Also we ask to extend the standard 2 year window of completion to an additional year allowing for a 3 year window.

PROPOSED PHASES:

PHASE 1

Installation of 2- 14'x 60' Manufactured HUD Homes installed between spring and fall of 2019

PHASE 2

Installation of 1-14'x60' Manufactured HUD Home installed between spring and fall of 2020

Sincerely,

Stephen Hamlin

NAC Board President

Chapin Spencer
PUBLIC WORKS DIRECTOR

Norman J. Baldwin, P.E.
CITY ENGINEER

P.O. Box 849
BURLINGTON, VT
05402
(802) 863-9094 P
(802) 863-0466 F

RECEIVED
MAR 22 2018
DEPARTMENT OF
PLANNING & ZONING

March 12, 2018

Jay LeClair
North Avenue Coop
10 Avenue A
Burlington, VT 05401

Re: Water/Sewer Capacity for North Avenue Coop (1106 North Avenue)

Dear Mr. LeClair,

This letter is to inform you, Burlington Planning & Zoning, the State of Vermont Environmental District and other interested parties that the City of Burlington's water and wastewater facilities continue to have sufficient capacity to handle demand associated with a Coop at the above address. It is our understanding that the Coop was grandfathered for 120 units and Water Resources has no issue with any layout as long as the above number of units is not exceeded.

Flow from this area is treated at our North Wastewater Plant on North Avenue Extension. It is important to note that this letter only addresses treatment plant and not distribution or collection system capacities.

This letter is good for one (1) year from the date of writing. If this letter is not filed with the proper offices, or if the proper permits are not obtained within that year, you will need to reapply. Any changes in flow estimates or property usage also requires reapplication. Please feel free to call me at 343-0125 if you have any questions.

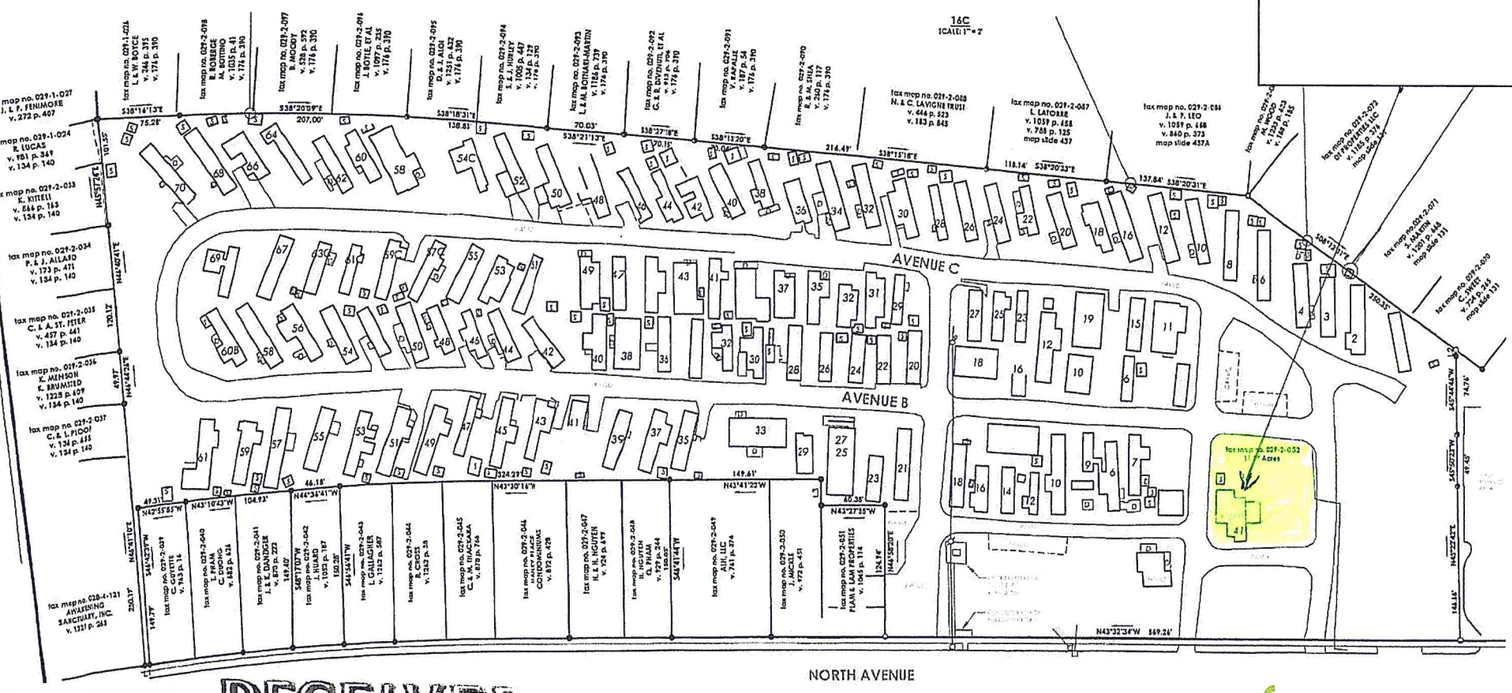
Sincerely,

Steve Roy, P.E.
Senior Project Engineer
Burlington Public Works

north1106_cap

Flower Shop Location

3 PROPOSED UNITS



EXISTING:

Total N/A sqft.

RECEIVED
MAR 22 2018
DEPARTMENT OF PLANNING & ZONING

PROPOSED: **TOTAL = 1,072 sqft per Unit / x 3= 3,216**

New Manufactured Home 14'x 60'= 840 sqft.

Pre-Built Stairs 4'x6'5''= 26 sqft x 2 = 52 sqft.

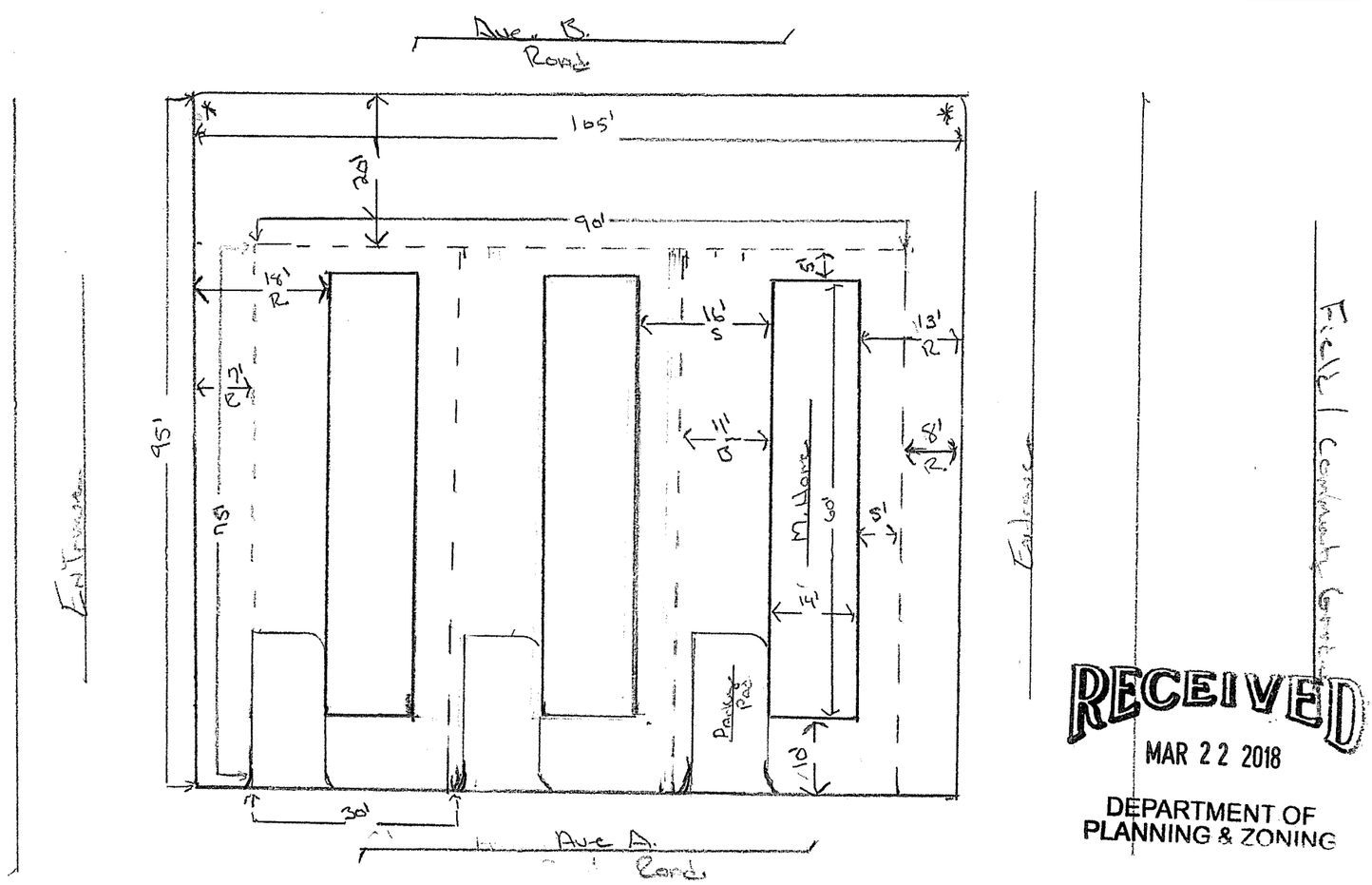
Parking Pad 9'x 20' = 180 sqft.

North Ave. Co-op
1106 North Ave.

TOTAL LOT SIZE
196,872.69 sqft.

J.L.C.
10 AVENUE. A BURLINGTON, VT

Existing Coverage %	Proposed Coverage %	SITE LOCATION: Lots- 4A, 2A, 2A South
0% OPEN LOT	0.5% per unit = 1.5% x 3	Coverage Calculation
		DATA BY: Jay LeClair / Date:3-20-18

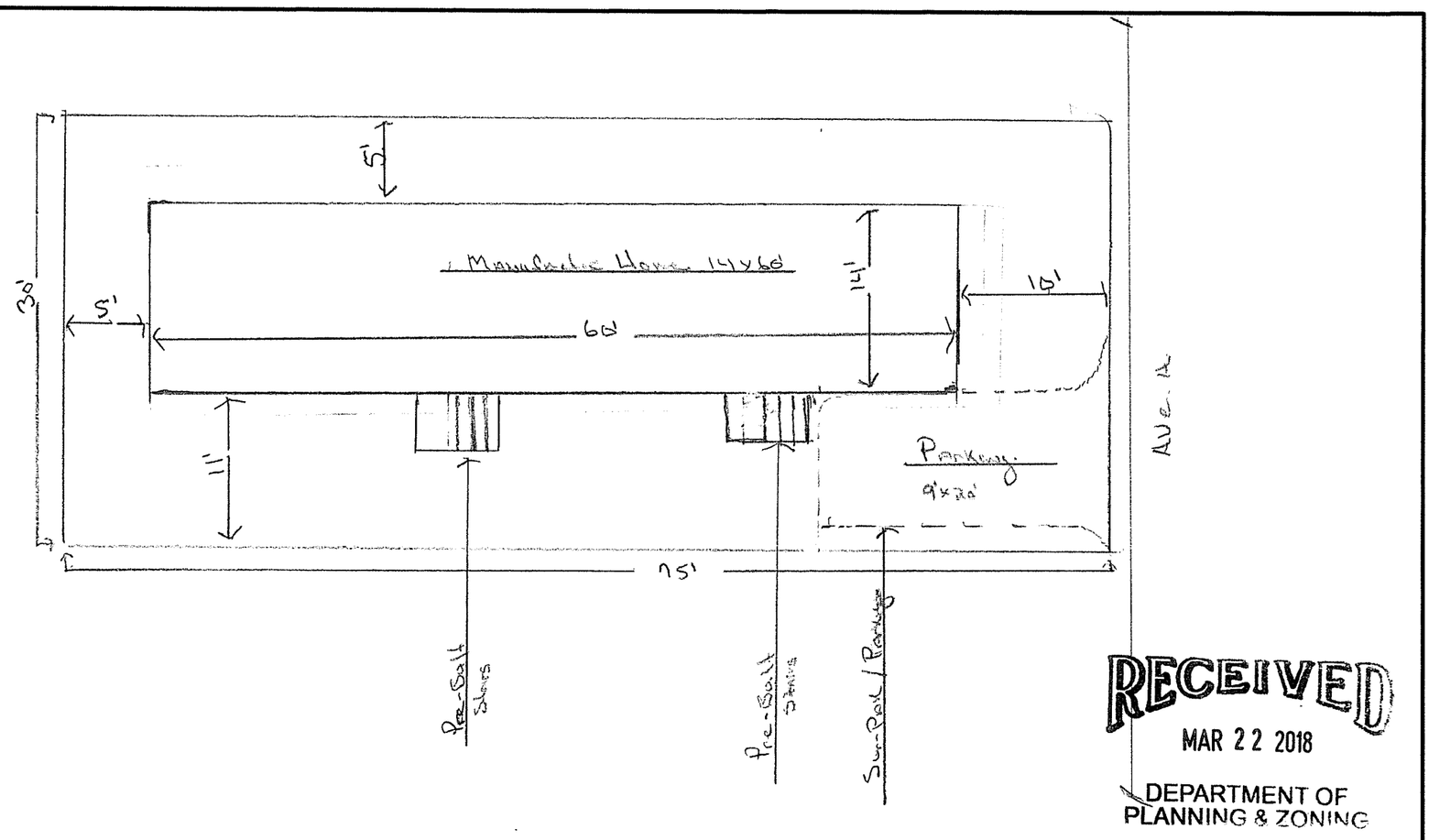


RECEIVED
MAR 22 2018
DEPARTMENT OF PLANNING & ZONING

NOTES:
--- = Lot Boundaries
* = Stop Signs

SET BACKS PER LOT	PROPOSED
FRONT=___10'___ / BACK=___5'___ / LEFT= __11'____ / RIGHT 5'	14'W. x. 60' BOX x 3 Units

J.L.C. 10 AVENUE. A BURLINGTON, VT	M.M.H.S 00'W x 00'L	SCALE: 1'' = 20'	SITE LOCATION: 4A, 2A, 2A South- NAC
	LOT BOUNDRY	EXISTING M.H. SIZE	MANUFACTURED HOME SITE PLAN
	30' W x 75' L Per Lot	OPEN LOT	DRAWN BY: Jay LeClair / Date: 3-20-18

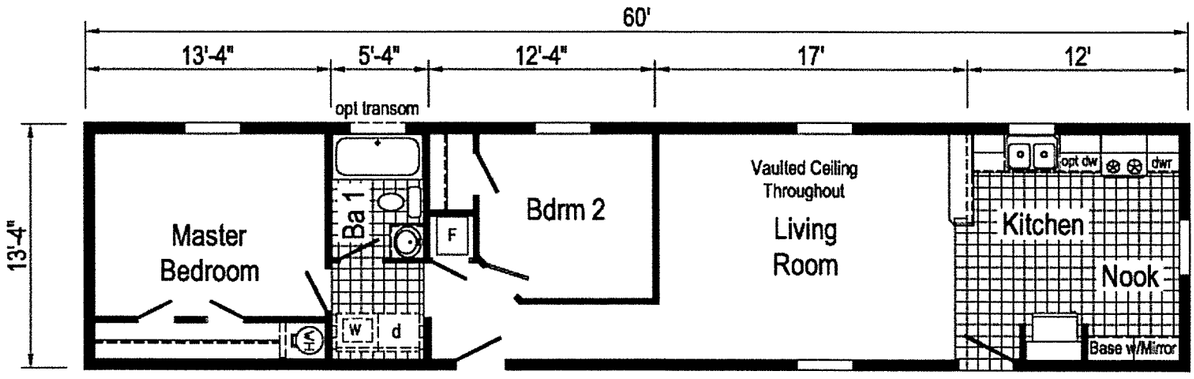


RECEIVED
MAR 22 2018
DEPARTMENT OF
PLANNING & ZONING

NOTES: Stairs not shown. Not calculated in coverage	SET BACKS FRONT=___10'___ / BACK=___5'___ / LEFT= __11'____ / RIGHT =5'___	PROPOSED 14'W. x. 60' BOX

J.L.C. 10 AVENUE. A BURLINGTON, VT	M.M.H.S 00'W x 00'L	SCALE: 1'' = 10'	SITE LOCATION: Propsed North Ave. Co-op
	LOT BOUNDRY	EXISTING M.H. SIZE	MANUFACTURED HOME SITE PLAN
	30' W x 75' L	OPEN LOT	DRAWN BY: Jay LeClair / Date: 2-21-18

4A118-AE



4A118-AE 1460 Approx. 800 Sq. Ft.

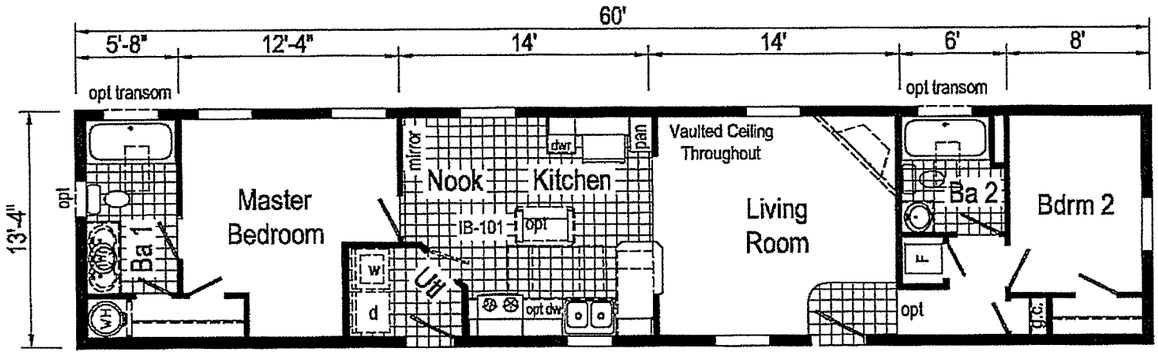
Opt. transom window(s) available with opt. flat ceiling only.

RECEIVED
MAR 22 2018
DEPARTMENT OF PLANNING & ZONING

Builder: Commodore Homes of Pennsylvania	Callout: 1460	Revisions Date	Number			Scale: 1/8" = 1'-0"	Date: 12/21/17	Cust: -
Title: Literature						Drawn By: OY	Reference: 4A118-A	Dr: - S/N: .

Model/Eng. No.: 4A118-AE
Pg.: LIT

4A128-AE



4A128-AE 1460 Approx. 800 Sq. Ft.

Opt. transom window(s) available with opt. flat ceiling only.

RECEIVED
MAR 22 2018
DEPARTMENT OF PLANNING & ZONING

Builder: Commodore Homes of Pennsylvania	Callout: 1460	Revisions			Scale: 1/8" = 1'-0"	Date: 3/19/18	Cust: -	Model/Eng. No.: 4A128-AE
		Date	Number		Drawn By: OY	Reference: 4A128-A	Dir: -	
Title: Literature							S/N: .	Pg: LIT

Gmail

Jay LeClair <jlcontracting.mhs@gmail.com>

(no subject) 3 New 14'x60' HUD Homes Location.
1 message

Jay,Jess,Kyle,Hannah LeClair <jjkhleclair@yahoo.com> Wed, Mar 21, 2018 at 11:39 AM
Reply-To: "jjkhleclair@yahoo.com" <jjkhleclair@yahoo.com>
To: Jay LeClair <jlcontracting.mhs@gmail.com>

North View.- Left Side

RECEIVED
MAR 22 2018
DEPARTMENT OF
PLANNING & ZONING

Left Side

RECEIVED
MAR 22 2018
DEPARTMENT OF
PLANNING & ZONING

West View
11

Front

Jay LeClair

JL.Contracting
HUD Licensed Manufactured Home Installer
NAC Maintenance Manager

RECEIVED
MAR 22 2018
DEPARTMENT OF
PLANNING & ZONING

NAC North Avenue Co-op, Inc.

A Resident-Owned Community

Maintenance Manager ***864-4525***

Jay LeClair

10 Ave. A

Burlington, Vt 05408

Date: 5-8-18

Mary here is the information you have requested regarding the application to install 3 New HUD homes.

1. Proposed parking spaces were to be surpak ,NAC wants to change that to a paved surface.

2. Site disturbance will be minable. Each home will be set on a Monolithic slab per HUD-CFR24 installation standards. Excavation is limited to the perimeter of the slab to accommodate the required depth of 12" of concrete and the slabs are set on the surface (On ground) to provide for a 6" slab. All dirt removed remains on the lot the home is to be set and then placed around the perimeter of the slab once cured and forms removed. NAC provides its own storm drain system within the community .We have several Infiltration systems in place. We are not connected to the cities storm water system. In addition to our storm drains NAC has soils that provides for good natural drainage.

3. Trash and recycling are picked up at each lot. All residents are provided with Trash, recycling totters. A small dumpster is located near garage and will be screened from view.

4. Mail boxes are located at each residence.

5. We have community lights per Burlington Electric.

6. Utilities are, will continue to be underground.

7. **Please see the attached supporting documents.**

   Storm Drain Locations, Street Light Locations

Coverage calculations, overall lot 1106 North Avenue, by consecutive permits (**Lot size 482,013 sf**)

Permit #	Address	Net change	Coverage	Overall Approved s.f.	Date of approval	Calculation made by staff member
ZP16-0595CA	1106 North Avenue		**44.81% BASELINE** At time of park sale	215,950	November 9, 2015	MO
ZP16-1048CA	29 Avenue B	-608 sf	44.81 ➡ 44.67%	215,342	May 18, 2016	MO
ZP16-1047CA	26 Avenue B	-600 sf	44.67 ➡ 44.55%	214,742	May 18, 2016	MO
ZP16-1154CA	20 Avenue C	+144	44.55 ➡ 44.58%	214,886	May 18, 2016	MO
ZP16-1376CA	4 Avenue B	+464 net (476 house 180 parking space, -192 shed)	44.58 ➡ 44.67%	215,350	June 1, 2016	MO
ZP17-0028CA	47 Avenue C	-634 sf	44.68 ➡ 44.54%	214,716	July 19, 2016	MO
ZP17-0029CA	36 Avenue C	-640 sf	44.54 ➡ 44.41%	214,076	July 19, 2016	MO
ZP17-0030CA	45 Avenue C	-820 sf	44.41➡44.24%	213,256	July 19, 2016	MO
ZP17-0031CA	40 Avenue B	-870 sf	44.24 ➡ 44.06%	212,386	July 19, 2016	MO
ZP17-0036CA	51 Avenue B	No change	44.06%	212,386	July 20, 2016	MO
ZP17-0220CA	6 Avenue B	-42 sf	44.05%	212,344	August 30 , 2016	MO
ZP17-0345CA	36 Avenue C	+952	44.25%	213,296	September 22, 2016	MO
ZP17-0666CA	26 Avenue B	+707	44.39%	214,003	January 2017	MO
ZP17-0220CA As built	6 Avenue B	+52	44.40855%	214,055	January 17, 2017	MO
ZP17-0666CA Corrected site plan	26 Avenue B	707-685 = -22	44.40598%	214,033	January 17, 2017	MO
ZP17-0890CA	47 Avenue C	724	44.55%	214,757	April 6, 2017	MO
ZP17-0889CA	29 Avenue B	724	44.70%	215,481	April 6, 2017	MO
ZP17-1060CA	10 Avenue C	250	44.75	215731	May 15, 2017	MO

ZP17-1212CA	42 Avenue B	-3 sf	44.75	215728	June 6, 2017	MO
ZP18-0043CA	Lot 6A Avenue A	182.68	44.79	215910.68	July 26, 2017	MO
ZP18-0107CA	40 Avenue B	+724	44.94	216,634.68	August 10, 2017	MO
ZP18-0178CA	28 Avenue B	-1024	44.73	215,610.68	August 24, 2017	MO
ZP18-0240CA	62 Avenue C	+220	44.77	215,830.68	August 30, 2017	MO
ZP18-0281CA	4 Avenue C	+432 sf.	44.86	216,262.68	September 18, 2017	MO
ZP18-0809CA	4A, 2A, 2A South 1106 North Avenue	+3216	45.53	219478.68		MO

Last revision date: May 7, 2018

This is available on the R drive, *North.Ave.1106.Coverage.Calculations.revised.9.18.2017.docx.*

Mary O'Neil

From: Jenna Olson
Sent: Tuesday, May 08, 2018 10:00 AM
To: Mary O'Neil
Cc: jlcontracting.mhs@gmail.com
Subject: North Avenue Co-Op

Hi Mary!
I just had a conversation with Jerry LeClair about the proposed addition of 3 homes within the North Avenue Co-op.

The slabs that will be placed are pre-cast, and the only excavation that will be necessary is a 1-foot wide 'trench' around the perimeter that will be backfilled with the same material. Based on the dimensions that Jerry provided for these slabs, the total amount of excavation necessary for all 3 slabs would be a little over 200 square feet. Further, since these are planned for phasing, the disturbance would not be happening all at the same time anyway.

That said, based on the information Jerry provided, no EPSC approval is needed for this project. Should anything change, Jerry will reach out and let me know so we can re-group.

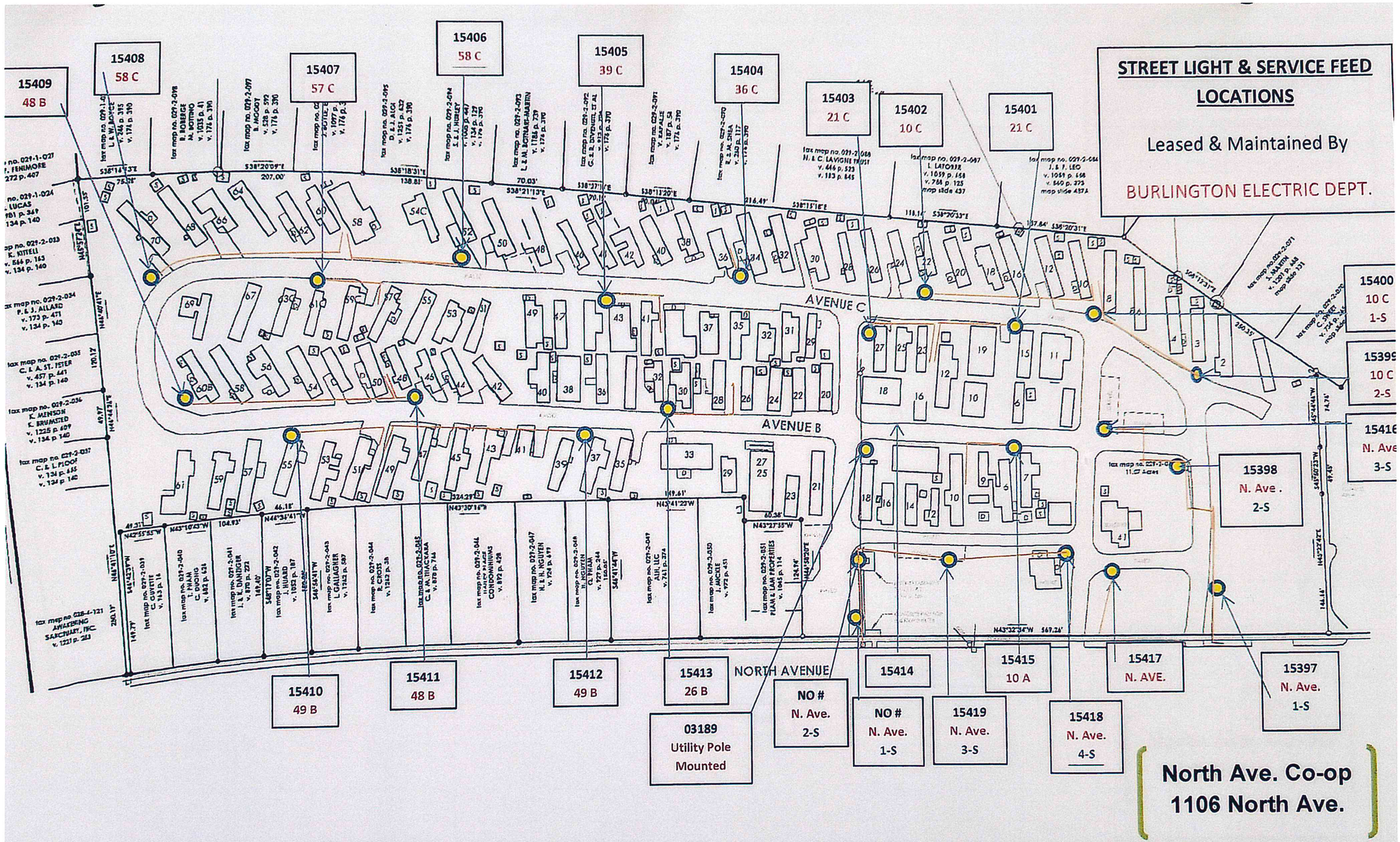
Thanks for keeping an eye out for stormwater!

Cheers,
Jenna

Jenna Olson
Stormwater Program Manager
235 Penny Lane | P.O. Box 878
Burlington, VT 05401
(802) 540-1748 o | (802) 557-5440 c

Connect with us! Our Website

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.



00000 Street Light Number

Street Light Location

Indicates Feed Location

Line Location

NOTES : Lamp feeds from 10 Ave. B to (15414) at 14 B & 33 Ave. B to the corner of Lot 21 B have been abandoned and replaced with 2 lights mounted on utility pole (03189). Boxes with numbers-S indicate lights that are in series, the color indicates the group. Service lines are approximate locations and were installed during the installation of the underground electrical services and are direct buried.

TOTAL NUMBER OF LIGHTS
26

SITE LOCATION: M.H. PARK

STREET LIGHTS

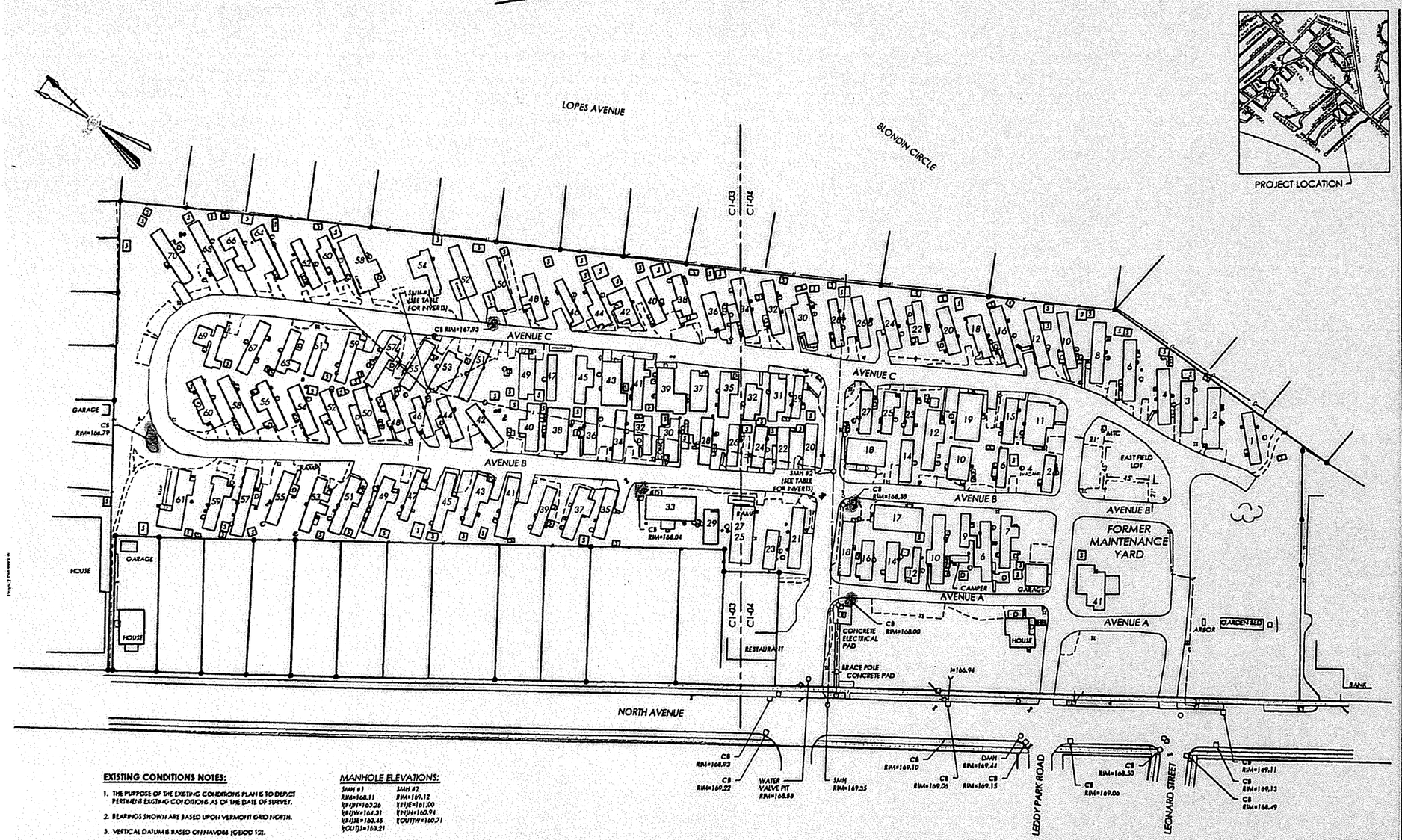
DATA BY: Jay LeClair | Date: 2-20-18

J.L.C.

Storm Drainage

NAC

Catch Basin Location



EXISTING CONDITIONS NOTES:

1. THE PURPOSE OF THE EXISTING CONDITIONS PLAN IS TO DEPICT PERTINENT EXISTING CONDITIONS AS OF THE DATE OF SURVEY.
2. BEARINGS SHOWN ARE BASED UPON VERMONT GRID NORTH.
3. VERTICAL DATUM IS BASED ON NAVD88 (GEOID 12).
4. COORDINATE SYSTEM IS BASED ON VERMONT STATE PLANE (U.S. SURVEY FEET).
5. HORIZONTAL AND VERTICAL CONTROL ESTABLISHED WITH RTK GPS OBSERVATIONS FROM THE VTUV CORS STATION. A TRIMBLE R8 RTK GPS UNIT WAS EMPLOYED FOR THESE OBSERVATIONS.
6. THE LOCATION OF EXISTING UNDERGROUND UTILITIES AND IMPROVEMENTS SHOWN ARE BASED ON RESEARCH, UTILITY PLANS PROVIDED BY OTHERS, AND/OR SURFACE EVIDENCE ENCOUNTERED AND WERE OBTAINED IN A MANNER CONSISTENT WITH THE ORDINARY STANDARD OF PROFESSIONAL CARE AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR THE DESIGN ENGINEER. ADDITIONAL UTILITIES NOT SHOWN MAY EXIST. ENGINEER SHALL BE NOTIFIED IF ANY DISCREPANCIES ARE ENCOUNTERED. ACTUAL LOCATION OF UNDERGROUND UTILITIES MAY VARY. DIGSAFE MUST BE CONTACTED PRIOR TO ANY EXCAVATION. CALL 1-888-DIG SAFE (344-7233).
7. PERIMETER BOUNDARIES SHOWN HEREON STRICTLY FROM TAX MAP INFORMATION ONLY. THIS PLAN DOES NOT DEPICT A FORMAL BOUNDARY SURVEY.

MANHOLE ELEVATIONS:

SMH #1	SMH #2
RIM=168.11	RIM=169.12
I(W)E=163.26	I(E)E=161.00
I(S)W=164.21	I(N)N=160.94
I(N)E=163.45	I(OUT)W=160.71
I(OUT)S=163.21	

tax map no. 029-2-052
11.07 Acres

PROJECT INFORMATION:

1. OWNER OF RECORD: NORTH AVENUE CO-OP c/o FIRST CHOICE PROPERTY MANAGEMENT 48 HAMLET AVENUE WOODSOCKET, RI 02895
2. TAX PARCEL ID: 029-2-052
3. PHYSICAL ADDRESS OF PROPERTY: NORTH AVENUE BURLINGTON, VERMONT 05401
4. PARCEL SIZE: 11.07 ACRES
5. ZONING DISTRICT: RESIDENTIAL - MEDIUM DENSITY (RM)

LOT COVERAGE:

TOTAL SITE AREA	482,013 SF	11.07 AC.	
IMPERVIOUS COVERAGE PRIOR TO REMOVAL OF STRUCTURES ON FORMER MAINTENANCE YARD SITE	217,499 SF	4.99 AC.	45.00%
IMPERVIOUS COVERAGE AFTER REMOVAL OF STRUCTURES ON FORMER MAINTENANCE YARD SITE	215,950 SF	4.96 AC.	44.81%

tce

TRUDELL CONSULTING ENGINEERS
68 BLUE PARK ROAD | HINESBURG, VERMONT 05461
802.879.4589 | WWW.TCEINT.COM

Revisions
No. Description Date By

Use of These Drawings
1. Unless otherwise noted, these Drawings are intended for preliminary planning, coordination with other disciplines or utilities, and/or approval from the regulatory authorities. They are not intended as construction drawings unless noted as such or marked approved by a registered professional.
2. By use of these drawings for construction of the Project, the Owner represents that they have reviewed, approved and accepted the drawings, obtained all necessary permits, and have met with all applicable trades/disciplines, including but not limited to, the Engineer and the Architect, to insure these plans are properly coordinated including, but not limited to, contract documents, specifications, owner/contractor agreements, building and mechanical plans, private and public utilities, and other pertinent permits for construction.
3. Owner and Architect, are responsible for final design and location of buildings shown, including ancillary measured a minimum five (5) feet around any building and coordinating final utility connections shown on these plans.
4. Prior to using these plans for construction layout, the user shall contact TCE to ensure the plan contains the most current revisions.
5. These Drawings are specific to the Project and are not transferable. As instruments of service, these drawings and copies thereof, furnished by TCE are its exclusive property. Changes to the drawings may only be made by TCE. If errors or omissions are discovered, they shall be brought to the attention of TCE immediately.
6. It is the User's responsibility to ensure this copy contains the most current revisions. If unsure, please contact TCE.

Project Title

CDI - Farrington's MHP
North Avenue
Burlington, Vermont

Sheet Title

Existing Conditions

Date:	05/17/16
Scale:	1" = 10'
Project Number:	15-079
Drawn By:	RMP
Project Engineer:	NJN
Approved By:	
Field Book:	338

C1-02

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

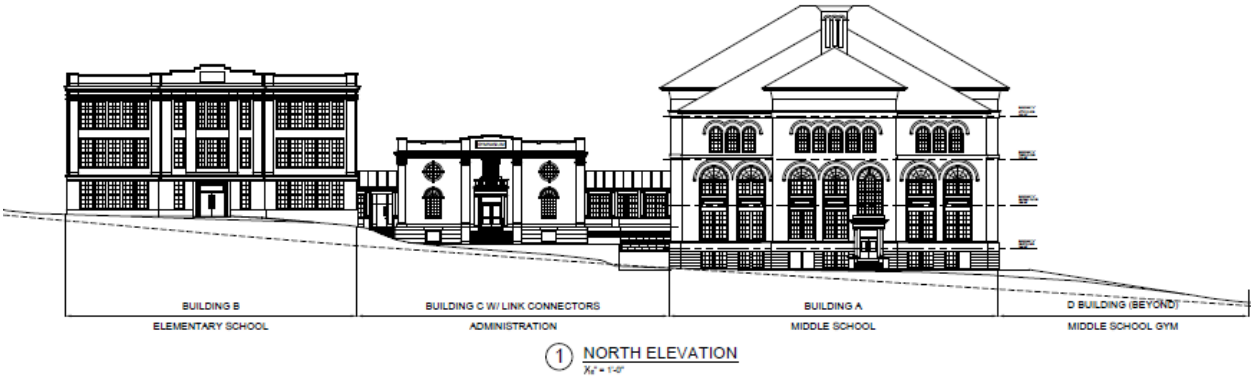
David E. White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Vacant, Zoning Clerk

MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: May 15, 2018
RE: ZP18-0898CA; 275 Main 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.

Project Number: ZP18-0898CA
Zone: I **Ward**: 6S
Date application accepted: April 16, 2018
Applicant/ Owner: Office of Colin Lindberg / Burlington School District
Request: Site improvements including lower level link enclosure between buildings A and C, relocated loading dock, screening, fencing, new student courtyard and removal of pavement. Maintenance/bike storage structure.



Background:

275 Main Street:

- **Non-Applicability of Zoning Permit Requirements 15-0973NA,** installation of new elevator, improvements to interior east and south stairs, entrance doors and building access improvements at the stair locations including the removal of the existing deteriorated concrete exterior non-code compliant stairs. No changes to building footprint or coverage%. April 2015.
- **Non-Applicability of Zoning Permit Requirements,** Stormwater improvement agreement, June 1996.

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

- **Zoning Permit 97-015**; installation of a nonilluminated freestanding sign. July 1996.

170 South Union Street:

- **Zoning Permit 16-0607CA;** installation of storage shed. November 2015.
- **Zoning Permit 15-0527CA**; installation of sixteen security cameras on four school buildings. October 2014.
- **Zoning Permit 15-1385CA**; additional lighting at the elementary school, Building B. June 2015.
- **Zoning Permit 13-1036CA**; installation of two exhaust and two intake hoods in existing window openings in association with cooling system, Building C. May 2013.
- **Zoning Permit 11-0010CA**; Landscape improvements, new walkways, new benches, trash cans
- **Non-Applicability of Zoning Permit Requirements** Permit 13-1242NA, preventative maintenance repairs of exterior building envelope to repair deteriorated masonry components of upper cornice, cornice band and coping units on the South and East elevations of the elementary school building. No material or profile change is planned. June 2013.
- **Zoning Permit 12-0211CA;** replace existing pole lights with new, replace asphalt walkway with new concrete walkway (with underground grass paver swale on the northern side), new shorter flagpole, new granite and metal barriers on north west corner of site, new concrete slab at western entrance to building. November 2011.
- **Zoning Permit 10-0251SN;** install freestanding message board sign to replace existing freestanding sign. No illumination. August 2009.
- **Zoning Permit 10-0076CA;** ADA access to gym lobby at Edmunds Middle School; remove infill and windows, replace with front entry doors and window system to allow access at grade. Concrete landing to be replaced. July 2009.
- **Zoning Permit 09-242CA;** install solar electric system on Middle School roof. September 2008.
- **Zoning Permit 08-570CA;** remove panel infill, fans and louvers from window openings, install wood replacement windows on the south and east side of Edmunds Building A to complete the window replacement. Window pattern to match historic profile and design. March, 2008.
- **Non-Applicability of Zoning Permit Requirements 10-0678NA,** ADA elevator in A building at Edmunds Middle School. March 2010.
- **Zoning Permit 06-792CA;** regrade sports field, add topsoil where applicable, seed and mulch. Install irrigation system. June 2006.
- **Zoning Permit 06-401CA**; removal of existing fire escape on east elevation of Edmunds "B" building. December 2005.
- **Zoning Permit 06-366CA**; remove window insulation panels and install new double hung windows in "A" building similar to those in "B" building. December 2005.

- **Zoning Permit 06-424CA**; window replacement project to restore block up original windows and replace the existing windows with energy efficient units to match original window style and pattern in 1920s elementary school building "B". December 2005.

Overview: Burlington School District is proposing the beginning of multi-faceted plans intended to improve or provide essential access to all buildings; meet required life safety code, and enhance the performance of the connected educational buildings. This application is a preamble to that work.
Some changes are associated with interior reconfiguration and improvement that are outside zoning review. (Cafeteria moving to lower level of "C" building, offices and main entrance to be relocated to first floor, boarded up windows opened). State Statute §4413 limits municipal review for public institutions and school facilities, so some design details and changes do not require zoning review.
This application will relocate the loading dock, provide screening and fencing, allow enclosure of the lower level of the connector between buildings "A" and "C", add a student courtyard and remove pavement. A maintenance garage is proposed as well. There will be an overall reduction in coverage from 43.7% to 43.5%.

The **Design Advisory Board** reviewed the application at the May 8, 2018 meeting and voted unanimously to recommend approval and forward to the DRB.

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

I. Findings

Article 2: Administrative Mechanisms
Section 2.7.8 Withhold Permit
Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations. **Affirmative finding as conditioned.**

Article 3: Applications, Permits and Project Reviews
Part 4: Site Plan and Design Review
See Article 6 and Section 5.4.8.

Article 4: Zoning Maps and Districts
Table 4.4.4-1 Dimensional Standards and Density.
Maximum lot coverage is 40%. The site is currently non-conforming at 44.7%. The project will reduce the non-conformity to 43.5%. **Affirmative finding.**

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots.
Not applicable.

Section 5.2.2 Required Frontage or Access

No change is proposed to existing lot frontage on either South Union Street, Main Street or Maple Street. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements
See Table 4.4.4-1, above.

Section 5.2.4 Buildable Area Calculation
The property is not within the RCO, WRM, RM WRL or RL zoning districts. Not applicable.

Section 5.2.5 Setbacks
See Table 4.4.4-1, above.

Section 5.2.6 Building Height Limits
No change proposed to existing educational buildings. The maintenance / bike storage shed will be built into an embankement and will appear as a typical accessory structure of small scale.. **Affirmative finding.**

Section 5.2.7 Density and Intensity of Development Calculations
No change is proposed to the density of use, which is the general school population. **Affirmative finding.**

Part 3: Non Conformities
The site is currently non-conforming to coverage (40% in Institutional Zoning District, 43.7% existing coverage.) This project will reduce the level of non-conformity to 43.5%. **Affirmative finding.**

Sec. 5.4.8 Historic Buildings and Sites

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

275 Main Street is listed on the National Register of Historic Places within the Main Street / College Street Historic District.

State Statute §4413, however precludes zoning review of materials, design or similar building alteration. Not applicable.

<u>Article 6: Development Review Standards</u>
Part 1: Land Division Design Standards
Not applicable.

Part 2: Site Plan Design Standards
Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

The areas of proposed alteration (in the rear and under the connector) is almost entirely pavement. There are no important natural features. **Affirmative finding.**

(b) Topographical Alterations:

None proposed. **Affirmative finding.**

(c) Protection of Important Public Views:

Views westward toward the lake will not be impacted. There are no protected views across this site. **Affirmative finding.**

(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).

All three buildings (A, B, and C) are listed on the National Register within the Main Street / College Street Historic District. As part of the overall project plan, windows that have been boarded up on the east (lower) elevation of the former gymnastium (Building C) will be reopened and returned to their original configuration, although State Statute §4413 excludes our review of that change.

(e) Supporting the Use of Renewable Energy Resources:

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

(f) Brownfield Sites:

The property is not listed on the Vermont DEC website for brownfield sites. Not applicable.

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

The Courtyard will be used as necessary for snow storage during the winter months, and doubles as a component of the stormwater management system. **Affirmative finding.**

(h) Building Location and Orientation:

A new maintenance garage is proposed in the rear (south) of the building complex for tractor and equipment storage and some bike storage. As an accessory structure, it is appropriately located behind existing buildings yet with quick access to the circulation areas leading south to the parking lot and Maple Street. **Affirmative finding.**

(i) Vehicular Access:

No change is proposed to vehicular access. The "V" access drive on Main Street will remain; service access from the southerly (Maple Street and parking lot) road will contine as existing. Truck deliveries will continue, but intending to access the new loading dock adjusted south of the current location which will no longer cause the access road to be blocked. See Plan C1.5. **Affirmative finding.**

(j) Pedestrian Access:

No change to circulation around the site. A new student courtyard/ outside classroom is proposed between buildings C and D. with new 5' side sidewalks linking it to D/A. **Affirmative finding.**

(k) Accessibility for the Handicapped:

Moving the cafeteria and multi-purpose room to the lower level of Building C required additional egress for life safety; which in turn will be accessible. That is achieved in this plan, See C1.5, new sidewalk and ramp. **Affirmative finding.**

(l)Parking and Circulation:

At present there is continuous pavement between buildings C and A. Closing off and enclosing the lower part of the connector between Buildings A and C will prohibit any vehicular traffic from traveling through and into that area. Opening up the lower level of Building C for a cafeteria (with newly proposed outdoor eating space, weather permitting) has revised that general area into one that is student oriented rather than solely vehicular. The loading dock has been adjusted from its present position, shifting it further south and more closely aligned with the service access. Finally, a portion of that pavement will be reclaimed as greenspace with a central student courtyard. **Affirmative finding.**

(m) Landscaping and Fences:

Continuous screening is provided around the service areas (see Plan A 4.2, west elevation, and A4.0, south elevation). Planters are proposed outside the cafeteria/seating area west of Building C. Fencing and gate are proposed around new mechanical equipment, between buildings B and C. **Affirmative finding.**

(n) Public Plazas and Open Space:

The plan proposes to reclaim green space with a centralized student courtyard where there is currently pavement. Planting boxes are proposed adjacent to the outside eating area, which will provide an opportunity for food related instruction (herbs, edible plants.) **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 changes are proposed within this application. Any additional or adjusted lighting will spur a new zoning permit. **Affirmative finding.**

(p) Integrate infrastructure into the design:

The loading dock, dumpster, and condensers are relocated to south and southwest of Building C. Fencing and/or screening is proposed as appropriate to visually shield and limit access to these service areas. See Plan C1.5 and A4.2. **Affirmative finding.**

Part 3: Architectural Design Standards
Sec. 6.3.2 Review Standards

(a)Relate development to its environment:

1. Massing, Height and Scale:

No changes to height or scale are proposed. The enclosure of the connector building (which itself I not original to the site but a later building addition) on the lowest level has no implication for perceived massing. **Affirmative finding.**

2. Roofs and Rooflines.

No change to existing buildings. The garage is proposed to have a gable roof, consistent with typical accessory structures. **Affirmative finding.**

3. Building Openings

As noted, building windows will be re-opened, but these and door relocation are not subject to zoning review per State Statute §4413.

(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 6.2.2. (d), above.

(c)Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

Site alterations are almost entirely reserved for the rear (south) elevations, or within internal circulation areas. The design changes to the building link are not subject to zoning review. **Affirmative finding.**

(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.

Material choices are not subject to review per statute.

(f) Reduce energy utilization:

Replacement air handling units (south elevation, screened. See Plan C1.2A) are part of the overall mechanical improvements proposed for the schools to improve comfort, performance and energy efficiency. **Affirmative finding.**

(g) Make advertising features complementary to the site:

Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p), above.

(i) Make spaces secure and safe:

Many of the alterations are proposed to facilitate required building egress, improve circulation and to meet required life safety code. Adherence to all applicable building codes, as defined by the Building Inspector or Fire Marshal is required. **Affirmative finding as conditioned.**

<u>Article 8: Parking</u>

No changes proposed. **Affirmative finding.**

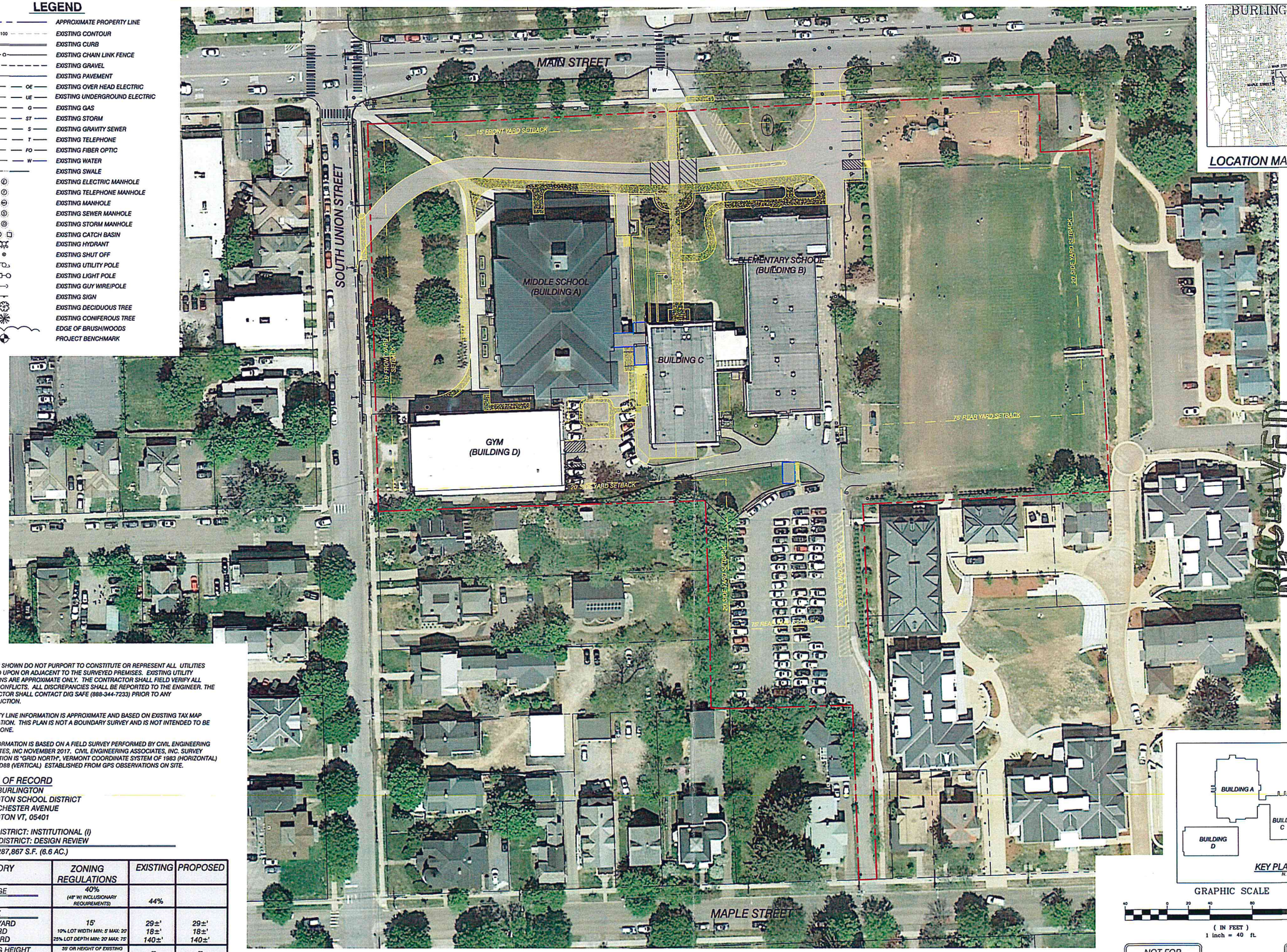
II. <u>Conditions of Approval</u>

1. Per **Section 2.7.8, Withhold Permit**, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations.
2. Standard Permit Conditions 1-15.

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

LEGEND

- APPROXIMATE PROPERTY LINE
- 100 EXISTING CONTOUR
- EXISTING CURB
- EXISTING CHAIN LINK FENCE
- EXISTING GRAVEL
- EXISTING PAVEMENT
- OE EXISTING OVER HEAD ELECTRIC
- UE EXISTING UNDERGROUND ELECTRIC
- G EXISTING GAS
- ST EXISTING STORM
- S EXISTING GRAVITY SEWER
- T EXISTING TELEPHONE
- FO EXISTING FIBER OPTIC
- W EXISTING WATER
- EXISTING SWALE
- EXISTING ELECTRIC MANHOLE
- EXISTING TELEPHONE MANHOLE
- EXISTING MANHOLE
- EXISTING SEWER MANHOLE
- EXISTING STORM MANHOLE
- EXISTING CATCH BASIN
- EXISTING HYDRANT
- EXISTING SHUT OFF
- EXISTING UTILITY POLE
- EXISTING LIGHT POLE
- EXISTING GUY WIRE/POLE
- EXISTING SIGN
- EXISTING DECIDUOUS TREE
- EXISTING CONIFEROUS TREE
- EDGE OF BRUSH/WOODS
- PROJECT BENCHMARK



RECEIVED
APR 17 2018
DEPARTMENT OF PLANNING & ZONING

NOTES

1. UTILITIES SHOWN DO NOT PURPORT TO CONSTITUTE OR REPRESENT ALL UTILITIES LOCATED UPON OR ADJACENT TO THE SURVEYED PREMISES. EXISTING UTILITY LOCATIONS ARE APPROXIMATE ONLY. THE CONTRACTOR SHALL FIELD VERIFY ALL UTILITY CONFLICTS. ALL DISCREPANCIES SHALL BE REPORTED TO THE ENGINEER. THE CONTRACTOR SHALL CONTACT DIG SAFE (888-344-7233) PRIOR TO ANY CONSTRUCTION.
2. PROPERTY LINE INFORMATION IS APPROXIMATE AND BASED ON EXISTING TAX MAP INFORMATION. THIS PLAN IS NOT A BOUNDARY SURVEY AND IS NOT INTENDED TO BE USED AS ONE.
3. SITE INFORMATION IS BASED ON A FIELD SURVEY PERFORMED BY CIVIL ENGINEERING ASSOCIATES, INC NOVEMBER 2017. CIVIL ENGINEERING ASSOCIATES, INC. SURVEY ORIENTATION IS "GRID NORTH", VERMONT COORDINATE SYSTEM OF 1983 (HORIZONTAL) AND NAVD88 (VERTICAL) ESTABLISHED FROM GPS OBSERVATIONS ON SITE.

OWNER OF RECORD

CITY OF BURLINGTON
BURLINGTON SCHOOL DISTRICT
150 COLCHESTER AVENUE
BURLINGTON VT, 05401

ZONING DISTRICT: INSTITUTIONAL (I)
OVERLAY DISTRICT: DESIGN REVIEW
PARCEL: 287,867 S.F. (6.6 AC.)

CATEGORY	ZONING REGULATIONS	EXISTING	PROPOSED
COVERAGE LOT	40% (48" W/ INCLUSIONARY REQUIREMENTS)	44%	
SETBACK			
FRONT YARD	15'	29±'	29±'
SIDE YARD	10% LOT WIDTH MIN: 8' MAX: 20'	18±'	18±'
REAR YARD	25% LOT DEPTH MIN: 20' MAX: 75'	140±'	140±'
BUILDING HEIGHT	35' OR HEIGHT OF EXISTING BUILDING PER SEC 5.2.6(b)11	--	--

NOT FOR CONSTRUCTION

PERMIT SET

COLIN P. LINDBERG, A.I.A.
208 FLYNN AVENUE, SUITE 2B
BURLINGTON, VT 05401
802-864-4930

CIVIL ENGINEER:
CIVIL ENGINEERING ASSOCIATES, INC.
10 MANSFIELD VIEW LANE, SOUTH BURLINGTON, VT 05403
802-864-3323 FAX: 802-864-2271 WEB: www.cea-vt.com

OVERALL SITE PLAN

Project Owner: BURLINGTON SCHOOL DISTRICT
150 COLCHESTER AVE., BURLINGTON, VT 05401

Project: EDMUNDS MIDDLE SCHOOL
275 MAIN STREET

Scale: AS NOTED

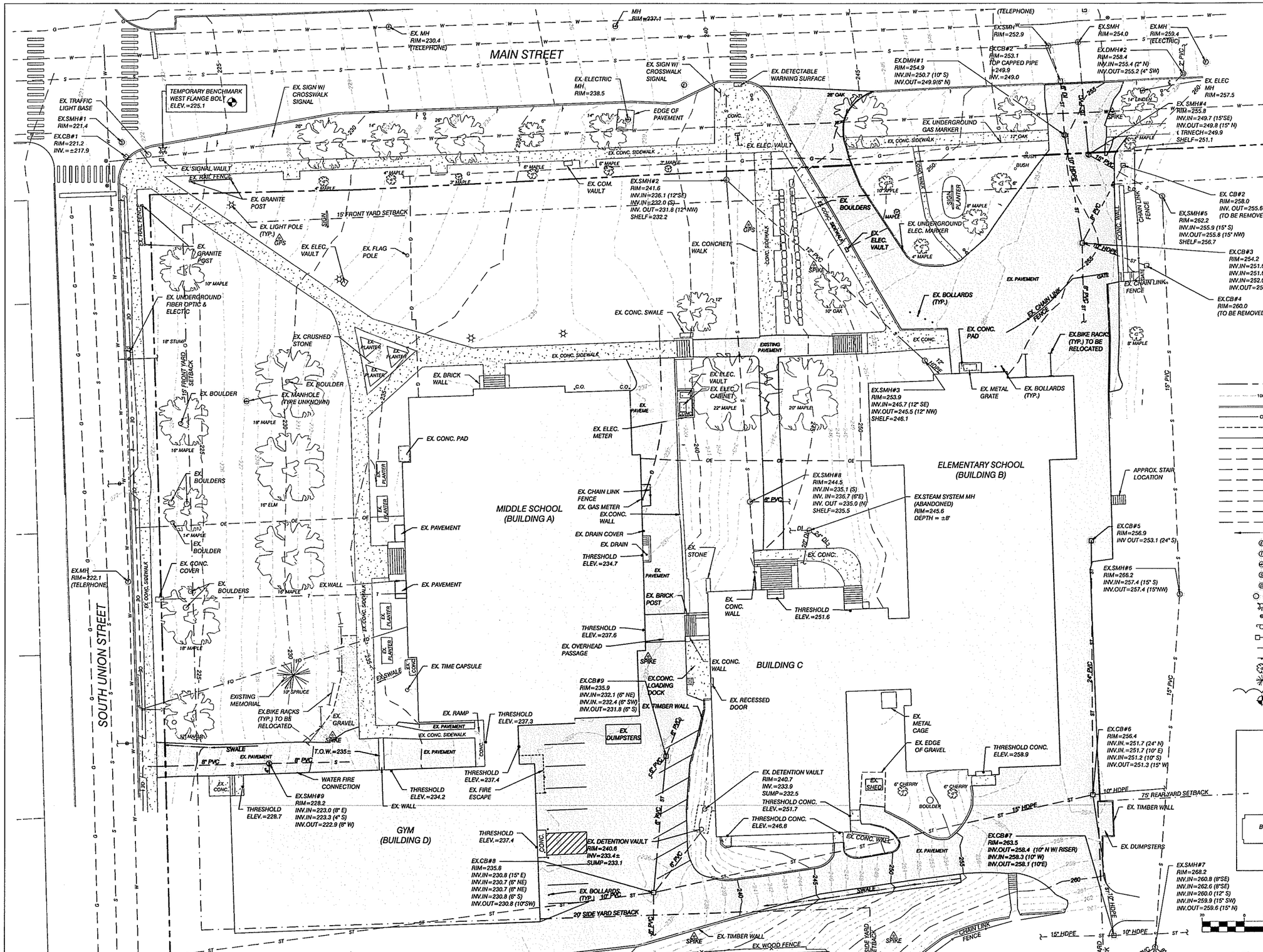
Date: -

#	Date	Revision

CEA PROJ: 17137.04

C1.0

AutoCADD Projects\2017\17137.04\1-CADD Files - Edmunds\Dwg\17137.04-Site.dwg, 4/16/2018 1:11:12 PM, mburke



LEGEND

- APPROXIMATE PROPERTY LINE
- EXISTING CONTOUR
- EXISTING CURB
- EXISTING CHAIN LINK FENCE
- EXISTING GRAVEL
- EXISTING PAVEMENT
- EXISTING OVER HEAD ELECTRIC
- EXISTING UNDERGROUND ELECTRIC
- EXISTING GAS
- EXISTING STORM
- EXISTING GRAVITY SEWER
- EXISTING TELEPHONE
- EXISTING FIBER OPTIC
- EXISTING WATER
- EXISTING SWALE
- EXISTING ELECTRIC MANHOLE
- EXISTING TELEPHONE MANHOLE
- EXISTING MANHOLE
- EXISTING SEWER MANHOLE
- EXISTING STORM MANHOLE
- EXISTING CATCH BASIN
- EXISTING HYDRANT
- EXISTING SHUT OFF
- EXISTING UTILITY POLE
- EXISTING LIGHT POLE
- EXISTING GUY WIRE/POLE
- EXISTING SIGN
- EXISTING DECIDUOUS TREE
- EXISTING CONIFEROUS TREE
- EDGE OF BRUSH/WOODS
- PROJECT BENCHMARK

COLIN P. LINDBERG
A. RECEIVED
208 FLYNN AVENUE, SUITE 3C
BURLINGTON, VT 05401
802-863-2018

CIVIL ENGINEER:
CIVIL ENGINEERING ASSOCIATES, INC.
10 MANSFIELD PLACE, SOUTH BURLINGTON, VT 05403

Sheet Name: EXISTING CONDITIONS PLAN

Project Owner: BURLINGTON SCHOOL DISTRICT
150 COLCHESTER AVE., BURLINGTON, VT 05401

Project: EDMUNDS MIDDLE SCHOOL

Scale AS NOTED

Date -

#	Date	Revision

CEA PROJ: 17137.0

C1.1

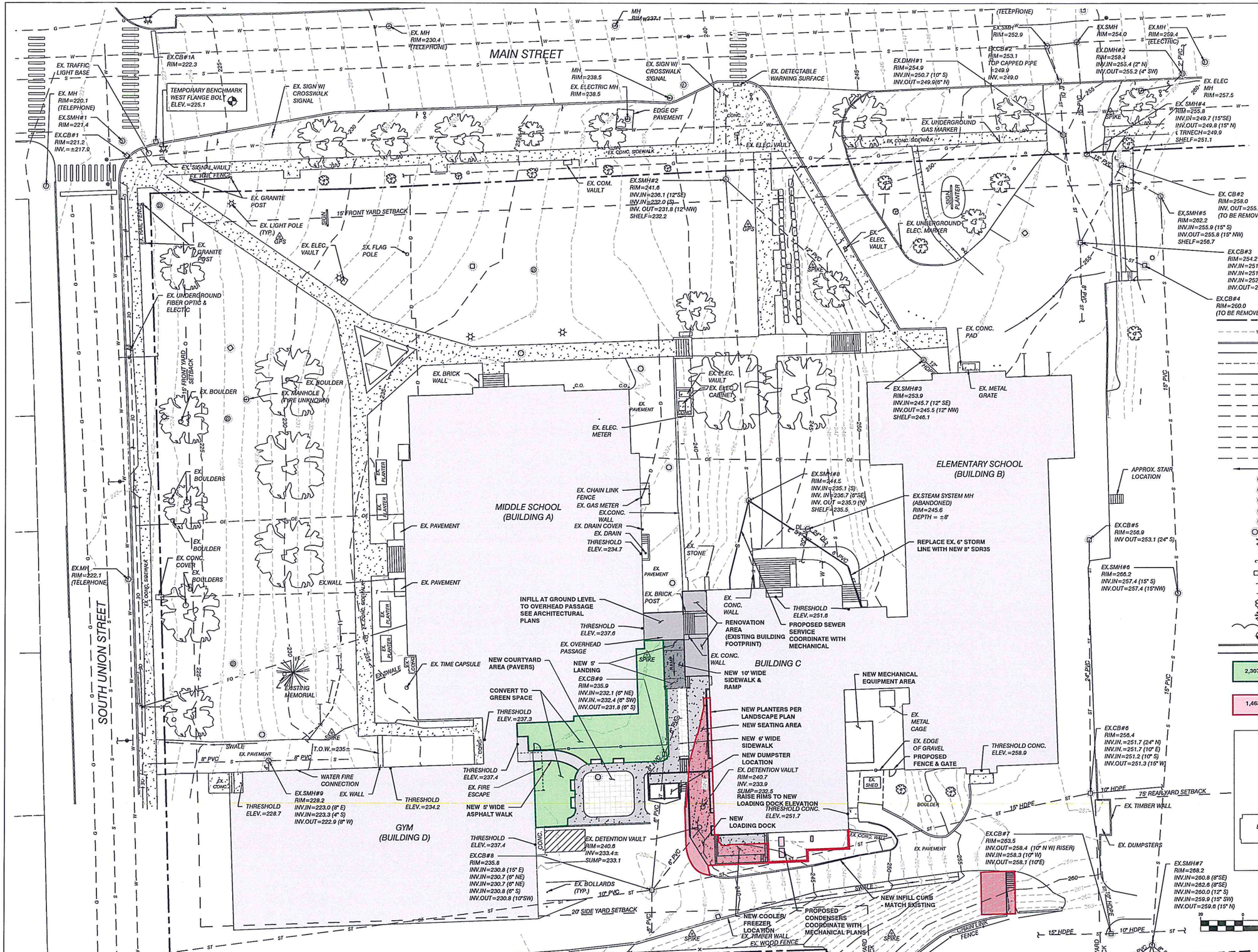
NOT FOR PERMIT SET

mbrkCADD Projects\2017\17137.0411-CADD Files - Edmunds\Dwg\17137.04-Site.dwg, 4/16/2018 1:11:52 PM, mburke

RECEIVED
APR 17 2018
DEPARTMENT OF
PLANNING & ZONING

COLIN P. LINDBERG,
208 FLYNN AVENUE, SU
BURLINGTON, VT
802-86

RECEIVED
APR 17 2018
DEPARTMENT OF
PLANNING & ZONING
COLIN P. LINDBERG, A
208 FLYNN AVENUE, SUIT
BURLINGTON, VT
802-864
LINCOLN BROWN ILLUSTRAT



NOT FOR

PERMIT SET REVISION

CEA PROJ: 17137.04

C1.5

Project Owner: BURLINGTON SCHOOL DISTRICT
150 COLCHESTER AVE., BURLINGTON, VT 05401

Project: EDMUNDS MIDDLE SCHOOL
275 MAIN STREET

Sheet Name: IMPERVIOUS AREA BALANCING PLAN - BUILDING C -

Scale AS NOTED

Date -

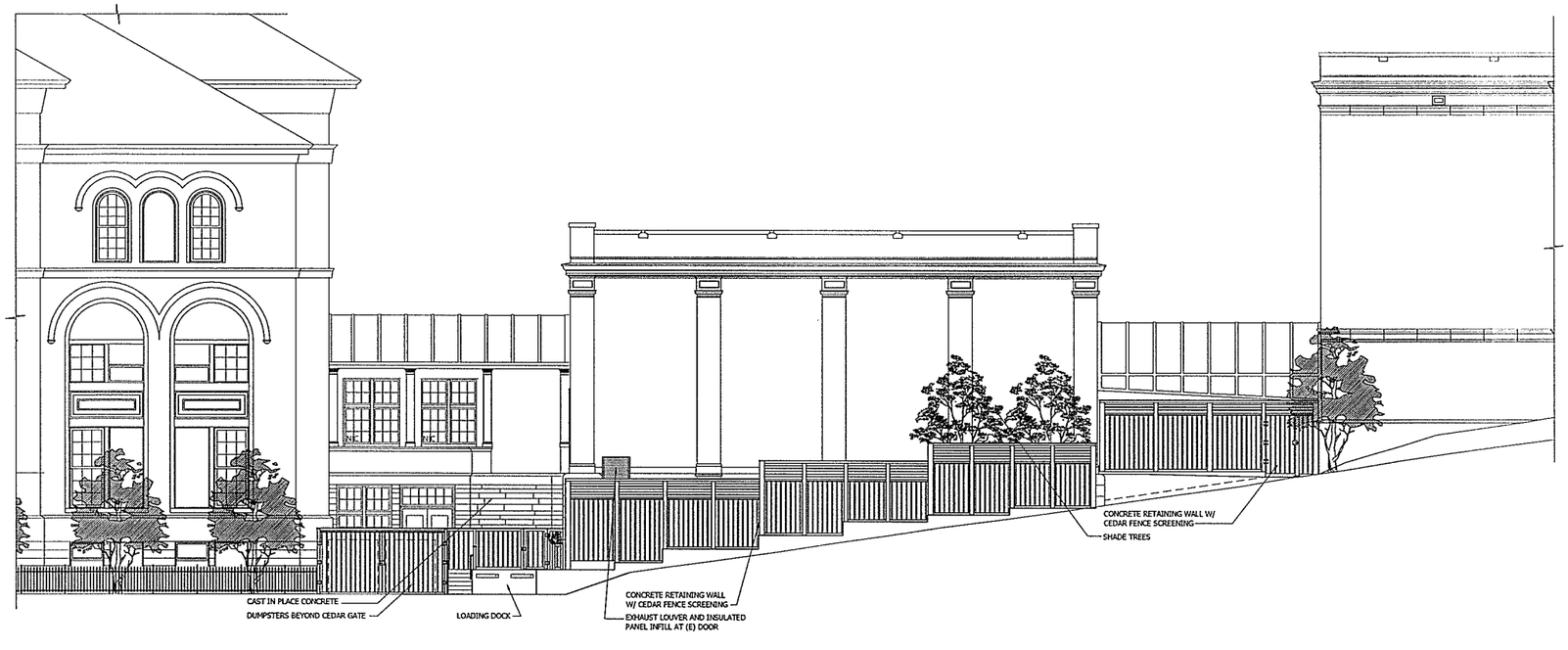
#	Date	Revision

CIVIL ENGINEER:

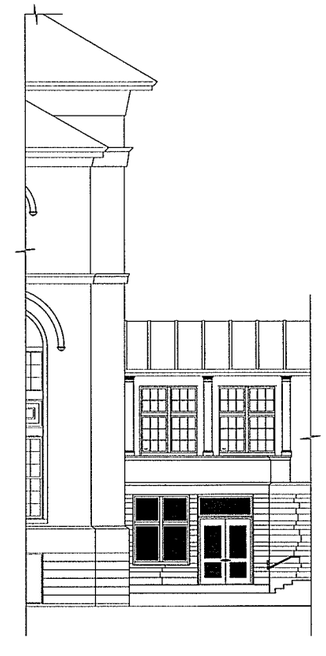
CIVIL ENGINEERING ASSOCIATES, INC.
10 MANSFIELD VIEW LANE, SOUTH BURLINGTON, VT 05403
802-864-2323 FAX: 802-864-2271 web: www.cea-inc.com

COLIN P. LINDBERG, A.I.A.
208 FLYNN AVENUE, SUITE 2B
BURLINGTON, VT 05401
802-864-4950

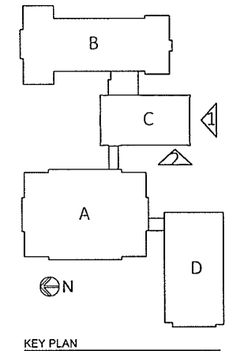
AutoCAD Projects\2017\17137.04\1-CADD Files - Edmunds\Dwg\17137.04-Site.dwg, 5/2/2018 2:09:55 PM, mburke



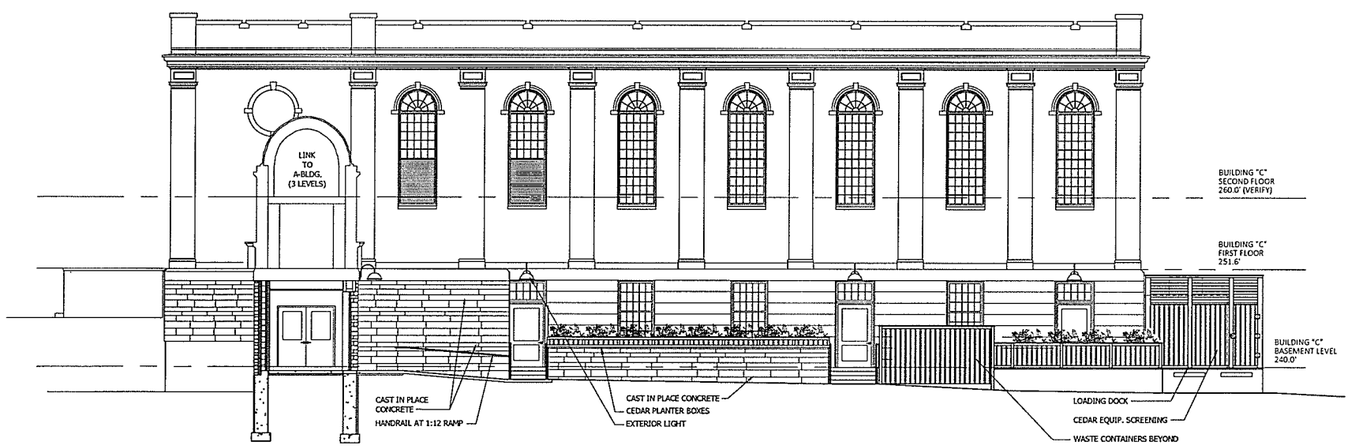
1 PARTIAL SOUTH ELEVATION
⅛" = 1'-0"



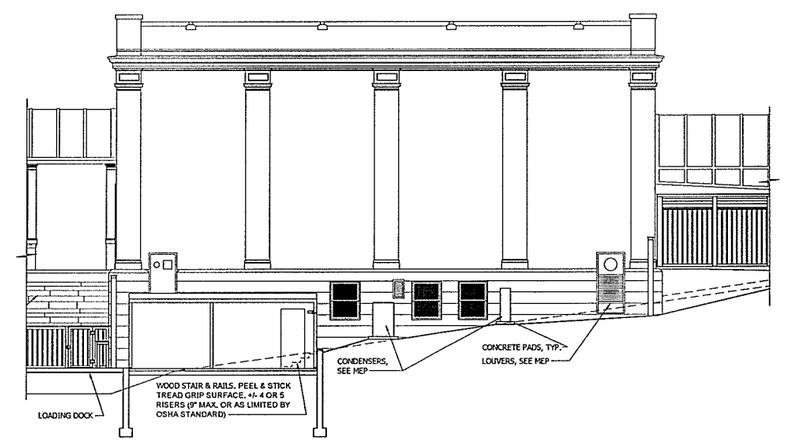
1A PARTIAL SOUTH ELEVATION AT LINK
⅛" = 1'-0"



KEY PLAN
NOT TO SCALE



2 WEST ELEVATION
⅛" = 1'-0"



3 PARTIAL SOUTH ELEVATION AT COOLER/FREEZER
⅛" = 1'-0"

NOT FOR CONSTRUCTION

COLIN P. LINDBERG, A.I.A.
208 FLYNN AVENUE, SUITE 2B
BURLINGTON, VT 05401

Sheet Name: EXTERIOR ELEVATIONS

Project Owner: BURLINGTON SUPERVISORY DISTRICT
150 COLCHESTER AVENUE, BURLINGTON, VERMONT

Project: EDMUNDS ELEMENTARY & MIDDLE SCHOOL

Scale AS NOTED

Date November 20, 2

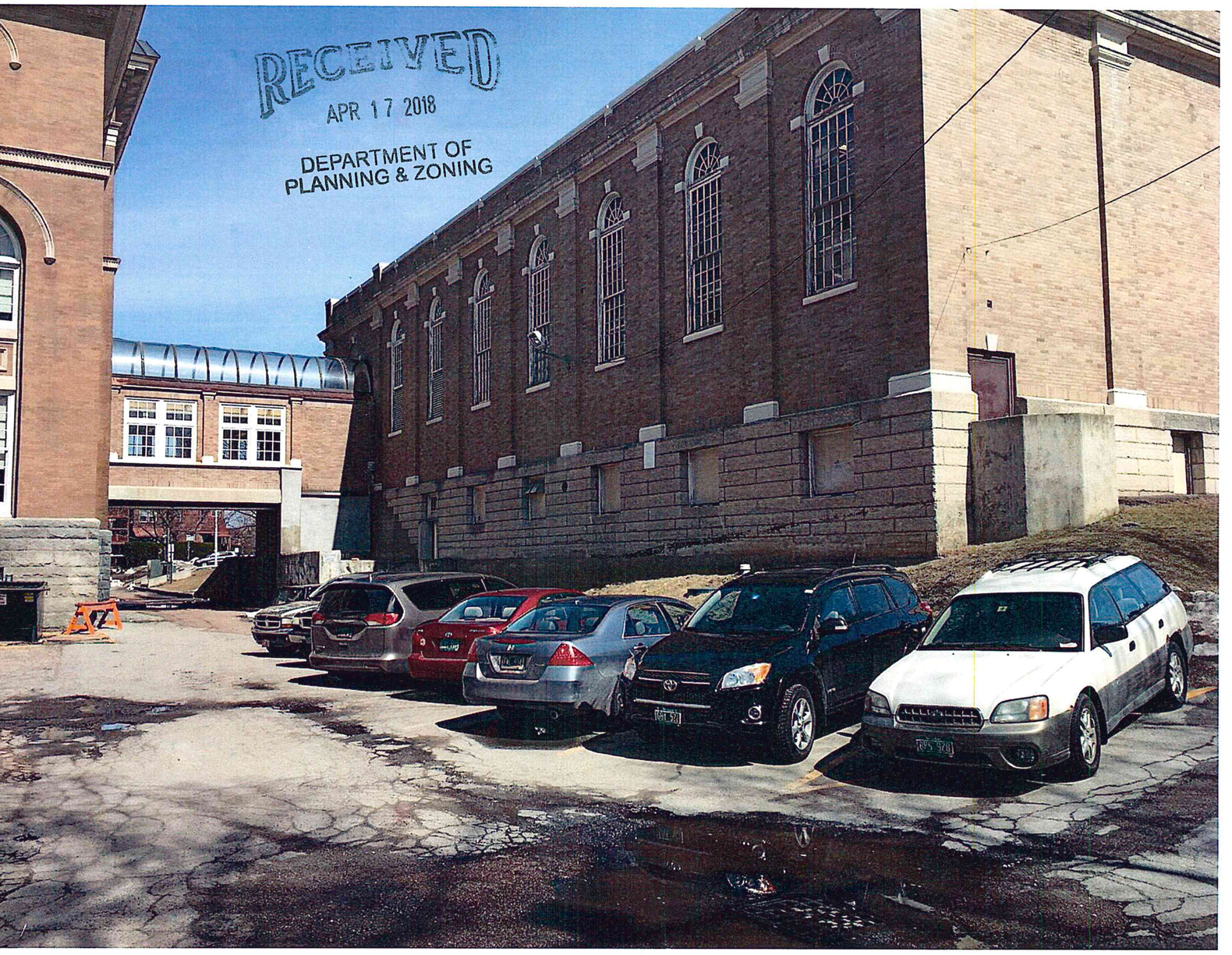
#	Date	Revisio

REV. 05.02.18

PERMIT

A4.

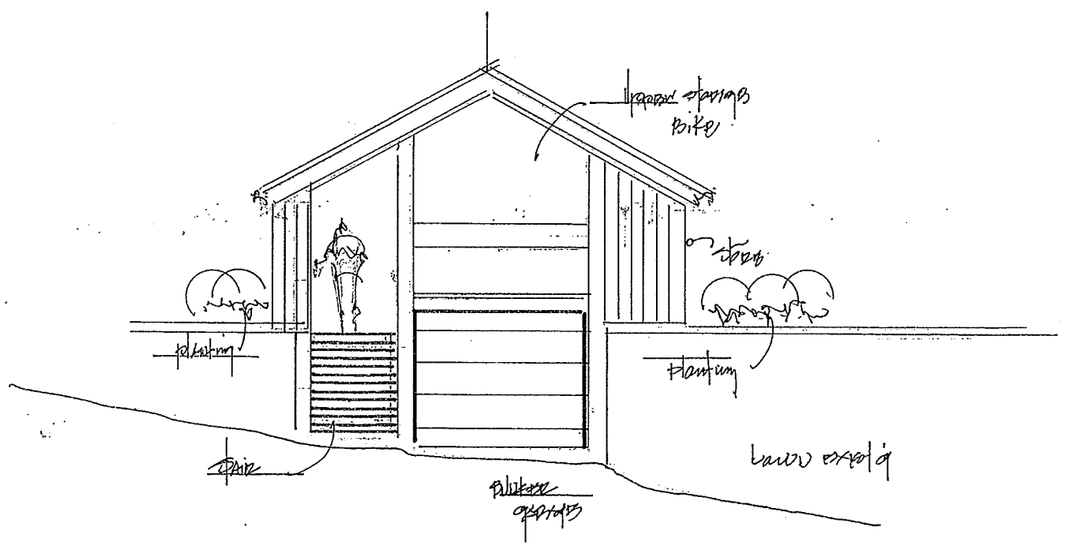
RECEIVED
APR 17 2018
DEPARTMENT OF
ZONING



RECEIVED
APR 17 2018
DEPARTMENT OF
PLANNING & ZONING

RECEIVED
APR 17 2018
DEPARTMENT OF
PLANNING & ZONING

RECEIVED
APR 17 2018
DEPARTMENT OF
PLANNING & ZONING



NORTH ELEVATION

EDMUNDS GROUNDS STORAGE BUMKER

05.08.18

PERMIT SET

NOT FOR CONSTRUCTION

COLIN P. LINDBERG, A.I.A.
200 FLYNN AVENUE, SUITE 28
BURLINGTON, VT 05401
VERMONT

Sheet Name:

EXTERIOR ELEVATIONS

Project Owner:

BURLINGTON SUPERVISORY DISTRICT
150 COLCHESTER AVENUE BURLINGTON, VERMONT

Project:

EDMUNDS ELEMENTARY & MIDDLE SCHOOL
UNIVERSITY PLACE, LLC
219 MAIN STREET, BURLINGTON, VERMONT

SECTION

BUNKER SHED

05.08.18

PERMIT SET

NOT FOR CONSTRUCTION

COLIN P. LINDBERG, A.I.A.
109 ELTON AVENUE, SUITE 2B
BURLINGTON, VT 05401
802-864-0455

Sheet Name:

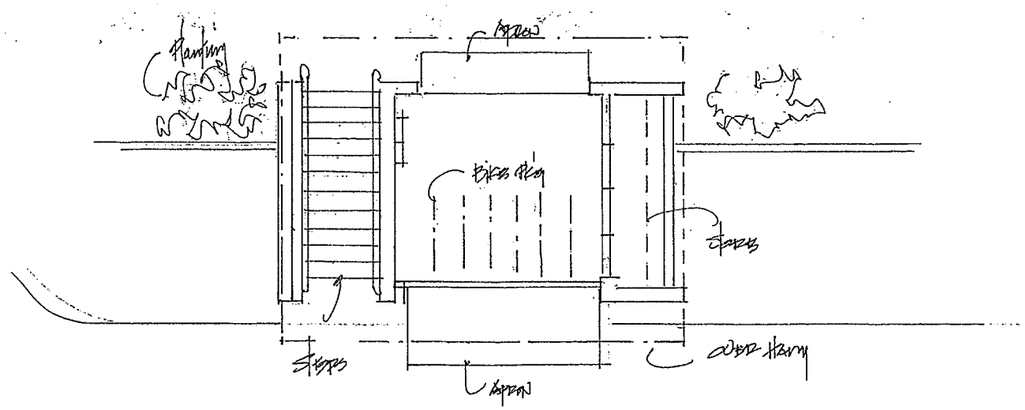
EXTERIOR ELEVATIONS

Project Owner:

BURLINGTON SUPERVISORY DISTRICT
150 COLCHESTER AVENUE, BURLINGTON, VERMONT

Project:

EDMUNDS ELEMENTARY & MIDDLE SCHOOL
ADMINISTRATION AND CAFETERIA
370 MAIN STREET, BURLINGTON, VERMONT



BUMKER SHED

PLAN

05.08.18

PERMIT SET

NOT FOR CONSTRUCTION

COLIN P. LINDBERG, A.I.A.
208 S. FINN AVENUE, SUITE 3B
BURLINGTON, VT 05401
802-864-4499

Sheet Name

Project Owner:
BURLINGTON SUPERVISORY DISTRICT
150 COLCHESTER AVENUE, BURLINGTON, VERMONT

Project:
EDMUNDS ELEMENTARY & MIDDLE SCHOOL
"AMBULATORY ACCESS" PROJECT
575 MAIN STREET, BURLINGTON, VERMONT

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

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

TO: Development Review Board
FROM: Scott Gustin
DATE: May 15, 2018
RE: 15-0922CA/CU; 451 Appletree Point Road
15-0923CA/CU; 465 Appletree Point Road

==========

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 <u>MUST</u> ATTEND THE MEETING.

Zone: RL-W Ward: 4N

Owner/Applicant: Al & Cheryl Senecal

Request: Time extension for construction of new single family homes with accessory apartments and related site improvements.

Applicable Regulations:
Article 3 (Applications, Permits, & Project Review)

Background Information:
The applicant is seeking approval for a 1-year time extension for two zoning permits: 15-0922CA/CU and 15-0923CA/CU. Both permits were reviewed and approved concurrently, and both time extensions are considered concurrently. The permits approved construction of new single family homes with accessory apartments and related site improvements and lot line adjustments at 451 and 465 Appletree Point Road. No project changes are included in this extension request.

Recommendation: **<u>Consent approval</u>** as per, and subject to, the following findings and conditions:

I. Findings
Article 3: Applications and Reviews
Sec. 3.2.9, Zoning Permits
(d) Time Limit on Zoning Permits:

The subject zoning permits were approved in their final form on May 3, 2016. Both permits were valid for a period of two years. Time extension requests were submitted March 26, 2018, before expiration of the 2-year permit timeframe. Construction activity has commenced and is well underway. It is not yet complete.

Insofar as construction activity commenced within 1 year of the effective date of the zoning permits, and the extension request has been filed prior to expiration of the permit, the requested 1

year extension may be approved. Construction must be complete by May 3, 2019. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. Except as specifically modified in this approval, all conditions of the original zoning permits (15-0922CA/CU and 15-0923CA/CU) shall remain in effect.
2. Standard permit conditions 1 -15 (including construction completion date no later than May 3, 2019).

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

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

Burlington Development Review Board

Minutes/Findings of Fact
Tuesday May 3, 2016

In RE: 15-0922CA/CU; 451 Appletree Point Rd. (Ward 4N, WRL) (Tax Lot No. 030-3-017-000)

Owner/Representative: Al Senecal / Brad Rabinowitz

Request: Remand review – demo existing structures, construct new single family home with accessory apartment and associated site improvements. Lot line adjustment included.

Members Present:
Jonathan Stevens
Israel Smith
AJ LaRosa
Wayne Senville

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

I. FINDINGS

Background Information:
On July 21, 2015, the applicant received approval to demolish the existing camp building and to construct a new duplex and related site improvements. That approval was appealed to the VT Superior Court Environmental Division. Prior to trial, the parties arrived at an agreement for a scaled back proposal. The matter has been remanded to the Development Review Board for final approval.

Revisions include:
- Change from duplex to single family home with accessory apartment
- Reduce size of building footprint by ~ 5%
- Move building back another 5' from the front property line (30' instead of 25' setback)

Previous zoning actions for this property are as follows:
- 7/21/15, Approval of demolition, construction of new duplex and related site improvements
- 7/1/14, Approval of front yard setback variance
- 7/26/04, Approval of 2-lot subdivision

- 1/13/04, Denial of 3-lot subdivision

Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
Sec. 3.5.6, Review Criteria
(a) Conditional Use Review Standards
1. Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;
The proposed development will require municipal water and sewer service. A municipal water line already runs by the property. A new pump station and force main will be installed to connect to the municipal wastewater system. Review and approval by the Department of Public Works will be required. A State of Vermont wastewater permit has already been obtained. **(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 on the east-facing side of Appletree Point within the Waterfront Residential Low Density (WRL) zone. There is an existing vacant camp structure on the property and several homes along the western side of the point; however, much of the peninsula is undeveloped. As with the Residential Low Density zone, the WRL zone is primarily intended for low density residential development in the form of detached single family homes and duplexes. The WRL zone is distinguished by its close proximity to the lake and a greater consideration of public views from the lake and stormwater runoff. The proposed single family home with accessory apartment is consistent with the intent of the WRL zone. The proposed home will be set back 35' – 45' from the 100' lakeshore elevation, and much of the existing vegetation along the lakeshore will be retained. Stormwater management has been reviewed and approved by the Stormwater Administrator. **(Affirmative finding)**

3. 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 single family home with accessory apartment is not expected to generate any such nuisance impacts. **(Affirmative finding)**

4. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies.
The new home and apartment will generate additional vehicular traffic; however, impacts will be minimal. Traffic impact fees will be paid to help offset what impacts there are. **(Affirmative finding as conditioned)**

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

(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.
Nothing in this revised proposal is expected to generate offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

2. Time limits for construction.
The project is to be constructed within the standard 2-year timeframe. **(Affirmative finding)**

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

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 recommended conditions of approval.

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

(b) Dimensional Standards & Density

The property, with the lot line adjustment with neighboring 465 Appletree Point Rd, will have 150' of road frontage and 22,043 sf area. Both well above the 75' and 9,900 sf, respectively, needed for a single family home in the Larger Lot Overlay that affects this property.

The 1 primary residential unit proposed on the 0.5 acre lot is acceptable. 4.4 dwelling units/acre are allowed within the Larger Lot Overlay. Accessory apartments do not count towards density.

Proposed lot coverage will decline slightly to 19.4%, well below the 35% limit permitted.

The proposed front yard setback has been pushed back to 30'. Side yard setbacks vary between 15' and 17.5' with the slightly tapered lot. As proposed, the home is 40' at its closest to a side property line. There is no rear yard setback; rather, there is a waterfront setback. The standard waterfront setback requirement is 75'; however, as noted during review of the July 2014 variance request, there are exceptions as noted in (d) *District Specific Regulations*, 1 below. As proposed, the new home would be set back an acceptable 35' – 45' from the 100' elevation, depending on the curvature of the shoreline.

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

(c) Permitted & Conditional Uses
The proposed single family home is a permitted use in the WRL zone. The accessory apartment, as new construction, triggers conditional use review. Conditional use criteria are addressed under Article 3 above. **(Affirmative finding)**

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

The area of existing structural encroachment (the camp and boathouse buildings) within the 75' waterfront setback is 1,347 sf. The proposed building area (the new home) is now 1,226 sf and remains acceptable. Note that this retention (and slight lessening) of nonconformity is further supported by Sec. 5.3.5, *Nonconforming Structures* (b) *Demolition.* This section specifically allows for demolition of nonconforming structures and replacement thereof within 1 year so long as the degree of nonconformity does not increase. Such is the case here. **(Affirmative finding)**

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

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

4. Accessory Residential Structures and Uses
The attached garage has a 275 sf footprint; less than 50% of the main home's 1,226 sf footprint. **(Affirmative finding)**

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

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

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

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

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

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

Sec. 5.2.4, Buildable Area Calculation
(Not applicable)

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

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

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

Sec. 5.4.5, 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. Additionally, there must be compliance with all the following:

1. *The property has sufficient wastewater capacity as certified by the department of public works;*
   Sufficient wastewater capacity is available. A letter of capacity has been issued by the Department of Public Works. **(Affirmative finding)**

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 total area of the proposed residence is 1,827 sf. The 1-bedroom apartment is 530 sf (22.5% of the entire area). **(Affirmative finding)**

3. *Applicable setback and coverage requirements are met;*
   See Sec. 4.4.5 (b).

4. *One additional parking space which may be legally allocated to the accessory unit must be provided for the accessory unit; and,*
   As proposed, there is room for 3 or 4 vehicles to park onsite. One of these spaces will serve the accessory apartment. **(Affirmative finding)**

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 requirement is a condition of permit approval. **(Affirmative finding as conditioned)**

(b) Conditional Use Approval for Accessory Units:
If any of the following are also proposed, conditional use approval, as well as development review provisions of Article 6 shall be required:

1. *A new accessory structure;*
   (Not applicable)

2. *An increase in the height or habitable floor area of the existing dwelling;*
   New construction is proposed, thereby triggering conditional use review. See Article 3. **(Affirmative finding)**

3. *An increase in the dimensions of any parking area;*
   (Not applicable)

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
No revisions to outdoor lighting have been made. As previously approved, new outdoor lighting consists of building mounted fixtures to illuminate building entries and post and bollard fixtures to illuminate the circulation area and new stairs to the lakeshore. Locations are noted, and cutsheets have been provided. All are acceptable residential fixtures generating low levels of illumination. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control
No revisions to stormwater management or erosion control have been made. As more than 400 sf of earth disturbance is proposed, a "small project erosion control" form was provided. A residential stormwater management plan was also provided. Stormwater management is basic and amounts to directing runoff onto pervious surfaces for infiltration. Both were reviewed and approved by Conservation Board and the Stormwater Administrator. Those approvals are incorporated into this permit. **(Affirmative finding as conditioned)**

Article 6: Development Review Standards

Note that the project revisions do not materially affect the criteria of Article 6. Except for correcting reference to duplex (now single family home with accessory apartment) and revised dimensional numbers, these findings are unchanged from the original duplex approval.

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

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

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

(b) Topographical alterations

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

(c) Protection of important public views

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

(d) Protection of important cultural resources

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

(e) Supporting the use of alternative energy

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

(f) Brownfield sites

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

(g) Provide for nature's events

As total lot coverage will exceed 2,500 sf, a residential stormwater plan has been provided. All of the impervious surface associated with this project is disconnected from the municipal

stormwater system, and stormwater will infiltrate into the ground as it does now. As noted above, the city's stormwater program has reviewed the proposed stormwater management.

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

(h) Building location and orientation
The proposed residence is relatively far from existing homes on Appletree Point Road (~ 360' from 395 Appletree Point Rd and ~ 220' from 440 Appletree Point Rd). It will be set 30' from the road – the same front setback as that of the to-be-built neighboring home at 465 Appletree Point Road. Its main entrance faces the road and is clearly identifiable. The small front porch accentuates the primary entrance. The secondary entrance (into the 2nd unit) is set off to the side but also faces the road. The garage is set back more than the minimum required 25' from the road and is set behind the front plane of the home. The width of the garage is 12' or 20% of the total building width of 58'. The width of the garage complies with the maximum permissible 35% of the width of the entire structure. **(Affirmative finding)**

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

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

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

(l) Parking and circulation
Up to four parking spaces are provided; three in the driveway and one in the attached garage. These spaces meet the minimum parking requirement of 2 spaces for the primary dwelling and 1 for the apartment. Circulation is simple with access provided to the garage and surface parking spaces. **(Affirmative finding)**

(m) Landscaping and fences
Clearing limits are depicted. Much of the existing vegetation will be retained. New landscaping is proposed and consists of a variety of shrubs and one new peach tree. Much of the new landscaping is proposed along the roadside and will provide some buffering between the new home and the road. Given the close proximity of the driveway turn-around to the road, additional landscaping between it and the road is necessary to provide screening between the two.

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

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

(o) Outdoor lighting
See Sec. 5.5.2.

(p) Integrate infrastructure into the design
New utility lines must be buried. No mechanical equipment is depicted on the plan; however, the applicant has noted that an AC compressor will be located behind the building. This item must be depicted on the site plan. **(Affirmative finding as conditioned)**

Part 3, Architectural Design Standards
Sec. 6.3.2, Review Standards
(a) Relate development to its environment

1. Massing, Height, and Scale
The overall size of the home has been reduced. As revised, the massing, height, and scale of the proposed home remain consistent with that of existing homes along Appletree Point Road. The proposed home affords ample living space while staying within the constraints established by the existing structures within the lakeshore setback. The front façade includes a well-defined symmetrical front entry. Varying rooflines, dormers, and eve projections serve to articulate separate volumes within the overall structure. **(Affirmative finding)**

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

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

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

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

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

(e) Quality of materials

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

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

(g) Make advertising features complimentary to the site
No advertising is included in this proposal.

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

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

Article 8: Parking
Sec. 8.1.8, Minimum Off-Street Parking Requirements
The subject property is located in the neighborhood parking district. As such, the single family home requires 2 parking spaces. The accessory apartment requires 1 parking space. All of the parking spaces will be provided onsite; 1 in the garage and 2-3 within the driveway. **(Affirmative finding)**

Article 10: Subdivision

Note that the project revisions do not materially affect the criteria of Article 10. This item remains unchanged.

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

II. MINUTES

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

III. MOTION

Motion: AJ LaRosa
I move that the Board grant certificate of appropriateness and conditional use approval for the amendment to demo existing structures, construct a new single family home with accessory apartment and associated site improvements, and lot line adjustment for the property at 451 Appletree Point Road in the WRL zone in accordance with Articles 3, 4, 5, & 6. Approval is subject to the following conditions:

1. **Prior to release of the zoning permit**, revised plans shall be submitted subject to staff review and approval. Revised plans shall depict:
    a. The proposed AC compressor; and,
    b. The required Administrative Officer's signature block per Sec. 10.1.5.
2. **Prior to release of the zoning permit**, the new pump station and force main shall be reviewed and approved by the Department of Public Works.
3. This permit incorporates the EPSC and Stormwater Management approvals issued by the Stormwater Administrator on April 3, 2015.
4. Days and hours of construction shall be limited to Monday-Friday 7:00 am – 6:00 pm. Limited work may extend outside this schedule to extend to Saturday 9:00 AM – 5:00 PM only after obtaining approval from the Development Review Board through correspondence rather than a scheduled hearing. No construction on Sunday
5. In the event that artifacts are uncovered during excavation, it is the applicant's responsibility to contact the Vermont Division for Historic Preservation for further guidance.
6. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state as required.
7. 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.
8. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the net new square footage of the proposed development.
9. Standard permit conditions 1-15.

Seconded: Jonathan Stevens

Vote: 4-0-0, motion carried

Dated at Burlington, Vermont, this 3rd day of ~~April~~ May 2016

Respectfully Submitted,

Jonathan H. Stevens, Acting Development Review Board Chair

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

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

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

Burlington Development Review Board

Minutes/Findings of Fact
Tuesday May 3, 2016

In RE: 15-0923CA/CU; 465 Appletree Point Rd. (Ward 4N, WRL) (Tax Lot No. 030-3-018-000)

Owner/Representative: Al Senecal / Brad Rabinowitz

Request: Remand review – Construct new single family home with accessory apartment and associated site improvements. Lot line adjustment included.

Members Present:
Jonathan Stevens
Israel Smith
AJ LaRosa
Wayne Senville

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

I. FINDINGS

Background Information:
On July 21, 2015, the applicant received approval to construct a new duplex and related site improvements on this vacant lot. That approval was appealed to the VT Superior Court Environmental Division. Prior to trial, the parties arrived at an agreement for a scaled back proposal. The matter has been remanded to the Development Review Board for final approval.

Revisions include:
- Change from duplex to single family home with accessory apartment
- Reduce size of building footprint by ~ 15%
- Move building back another 5' from the front property line (30' instead of 25' setback)

Previous zoning actions for this property are as follows:
- 7/21/15, Approval for construction of new duplex and related site improvements
- 7/1/14, Approval of front yard setback variance
- 7/26/04, Approval of 2-lot subdivision
- 1/13/04, Denial of 3-lot subdivision

Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
Sec. 3.5.6, Review Criteria
(a) Conditional Use Review Standards
1. Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;
The proposed development will require municipal water and sewer service. A municipal water line already runs by the property. A new pump station and force main will be installed to connect to the municipal wastewater system. Review and approval by the Department of Public Works will be required. A State of Vermont wastewater permit has already been obtained. **(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 on the east-facing side of Appletree Point within the Waterfront Residential Low Density (WRL) zone. The subject property is presently vacant. Several homes are located along the western side of the point; however, much of the peninsula is undeveloped. As with the Residential Low Density zone, the WRL zone is primarily intended for low density residential development in the form of detached single family homes and duplexes. The WRL zone is distinguished by its close proximity to the lake and a greater consideration of public views from the lake and stormwater runoff. The proposed single family home with accessory apartment is consistent with the intent of the WRL zone. Most of the proposed home will be set back 20' – 40' from the 100' lakeshore elevation (a rear porch will reach as close at 17'), and much of the existing vegetation along the lakeshore will be retained. Stormwater management has been reviewed and approved by the Stormwater Administrator. **(Affirmative finding)**

3. 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 single family home with accessory apartment is not expected to generate any such nuisance impacts. **(Affirmative finding)**

4. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies.
The new home and apartment will generate additional vehicular traffic; however, impacts will be minimal. Traffic impact fees will be paid to help offset what impacts there are. **(Affirmative finding as conditioned)**

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

(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.
Nothing in this revised proposal is expected to generate offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

2. Time limits for construction.
The project is to be constructed within the standard 2-year timeframe. **(Affirmative finding)**

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

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 recommended conditions of approval.

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

(b) Dimensional Standards & Density
The property, with the lot line adjustment with neighboring 451 Appletree Point Rd, will have 180' of road frontage and 17,417 sf area. Both well above the 75' and 9,900 sf, respectively, needed for a single family home in the Larger Lot Overlay that affects this property.

The 1 primary residential unit proposed on the 0.4 acre lot is acceptable. 4.4 dwelling units/acre are allowed within the Larger Lot Overlay. Accessory apartments do not count towards density.

Proposed lot coverage will decline slightly to 27.7%, well below the 35% limit permitted

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

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

(c) Permitted & Conditional Uses
The proposed single family home is a permitted use in the WRL zone. The accessory apartment, as new construction, triggers conditional use review. Conditional use criteria are addressed under Article 3 above. **(Affirmative finding)**

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

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

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

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

4. Accessory Residential Structures and Uses
The attached garage has a footprint of ~720 sf; less than 50% of the main home's 2,149 sf footprint. **(Affirmative finding)**

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

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

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

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

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

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

Sec. 5.2.4, Buildable Area Calculation
(Not applicable)

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

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

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

Sec. 5.4.5, 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. Additionally, there must be compliance with all the following:

1. *The property has sufficient wastewater capacity as certified by the department of public works;*
   Sufficient wastewater capacity is available. A letter of capacity has been issued by the Department of Public Works. **(Affirmative finding)**

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 total area of the proposed residence is 3,038 sf. The 1-bedroom apartment is 628 sf (20.7% of the entire area). **(Affirmative finding)**

3. *Applicable setback and coverage requirements are met;*
   See Sec. 4.4.5 (b).

4. *One additional parking space which may be legally allocated to the accessory unit must be provided for the accessory unit; and,*
   As proposed, there is room for 4 vehicles to park onsite. One of these spaces will serve the accessory apartment. **(Affirmative finding)**

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 requirement is a condition of permit approval. **(Affirmative finding as conditioned)**

(b) Conditional Use Approval for Accessory Units:

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

1. *A new accessory structure;*
   (Not applicable)

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

New construction is proposed, thereby triggering conditional use review. See Article 3. **(Affirmative finding)**

3. *An increase in the dimensions of any parking area;*
   (Not applicable)

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
No revisions to outdoor lighting have been made. As previously approved, new outdoor lighting mirrors that at 451 Appletree Point Road. It consists of building mounted fixtures to illuminate building entries and post and bollard fixtures to illuminate the circulation area and new stairs to the lakeshore. Locations are noted, and cutsheets have been provided. All are acceptable residential fixtures generating low levels of illumination. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control
No revisions to stormwater management or erosion control have been made. As more than 400 sf of earth disturbance is proposed, a "small project erosion control" form has been provided. A residential stormwater management plan has also been provided. Stormwater management is basic and amounts to directing runoff onto pervious surfaces for infiltration. Both were reviewed and approved by Conservation Board and the Stormwater Administrator. Those approvals are incorporated into this permit. **(Affirmative finding as conditioned)**

Article 6: Development Review Standards

Note that the project revisions do not materially affect the criteria of Article 6. Except for correcting reference to duplex (now single family home with accessory apartment) and revised dimensional numbers, these findings are unchanged from the original duplex approval.

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

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

the proposed construction has been reviewed and approved by the Conservation Board and the city's stormwater program staff. **(Affirmative finding)**

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

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

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

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

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

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

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

(h) Building location and orientation
The proposed residence is relatively far from existing homes on Appletree Point Road (~ 360' from 395 Appletree Point Rd and ~ 220' from 440 Appletree Point Rd). It will be set 30' from the road – the same front setback as that of the to-be-built neighboring home at 451 Appletree Point Road. Its main entrance faces the road and is clearly identifiable. The open front porch

provides an obvious and welcoming entry into the home. The secondary entrance (into the 2nd unit) is also within the front porch but oriented towards the north. The attached garage faces north, to the side. It is not oriented towards the road. **(Affirmative finding)**

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

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

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

(l) Parking and circulation
Four parking spaces are provided; two in the driveway and two in the attached garage. These spaces meet the minimum parking requirement of 2 spaces for the primary dwelling and 1 space for the apartment. Circulation is simple with access provided to the garage and surface parking spaces. **(Affirmative finding)**

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

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

(o) Outdoor lighting
See Sec. 5.5.2.

(p) Integrate infrastructure into the design
New utility lines must be buried. No mechanical equipment is depicted on the plan; however, the applicant has noted that an AC compressor will be located behind the building. This item must be depicted on the site plan. **(Affirmative finding as conditioned)**

Part 3, Architectural Design Standards
Sec. 6.3.2, Review Standards
(a) Relate development to its environment
1. *Massing, Height, and Scale*

The overall size of the home has been reduced. As revised, the massing, height, and scale of the proposed home remain consistent with that of existing homes along Appletree Point Road. The proposed shingle style home faces the road with a well-defined front entry. Varying rooflines, dormers, and distinct building sections serve to articulate separate volumes within the overall structure. **(Affirmative finding)**

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

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

(b) Protection of important architectural resources
There are no historic structures on the subject property or nearby. Construction of the proposed home will have no adverse impacts on Burlington's historic structures. **(Affirmative finding)**

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

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

(e) Quality of materials
The proposed home will be clad in cedar shingles with tongue-and-grove siding accents. Painted white AZEK trim is noted. Asphalt shingles will be installed on most of the roofs; however, standing seam metal will be installed on the dormers. Combination fiberglass and wood windows will be installed. A natural stone veneer will be installed along the base of the attached garage. The materials proposed are of acceptable quality and durability. **(Affirmative finding)**

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

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

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

(i) Make spaces safe and secure

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

Article 8: Parking
Sec. 8.1.8, Minimum Off-Street Parking Requirements
The subject property is located in the neighborhood parking district. As such, the single family home requires 2 parking spaces. The accessory apartment requires 1 parking space. All of the parking spaces will be provided onsite; 2 in the garage and 2 within the driveway. **(Affirmative finding)**

Article 10: Subdivision

Note that the project revisions do not materially affect the criteria of Article 10. This item remains unchanged.

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

II. MINUTES

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

III. MOTION

Motion: Israel Smith
I move that the Board grant certificate of appropriateness and conditional use approval for the amendment to construct a new single family home with accessory apartment and associated site improvements and lot line adjustment for the property at 465 Appletree Point Road in the WRL zone in accordance with Articles 3, 4, 5, & 6. Approval is subject to the following conditions:

1. **Prior to release of the zoning permit**, revised plans shall be submitted subject to staff review and approval. Revised plans shall depict:
    a. The proposed AC compressor; and,
    b. The required Administrative Officer's signature block per Sec. 10.1.5.
2. **Prior to release of the zoning permit**, the new pump station and force main shall be reviewed and approved by the Department of Public Works.
3. This permit incorporates the EPSC and Stormwater Management approvals issued by the Stormwater Administrator on April 3, 2015.
4. Days and hours of construction shall be limited to Monday-Friday 7:00 am – 6:00 pm. Limited work may extend outside this schedule to extend to Saturday 9:00 AM – 5:00

PM only after obtaining approval from the Development Review Board through correspondence rather than a scheduled hearing. No construction on Sunday

5. In the event that artifacts are uncovered during excavation, it is the applicant's responsibility to contact the Vermont Division for Historic Preservation for further guidance.
6. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state as required.
7. 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.
8. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the new square footage of the proposed development.
9. Standard permit conditions 1-15.

Seconded: AJ LaRosa

Vote: 4-0-0, motion carried

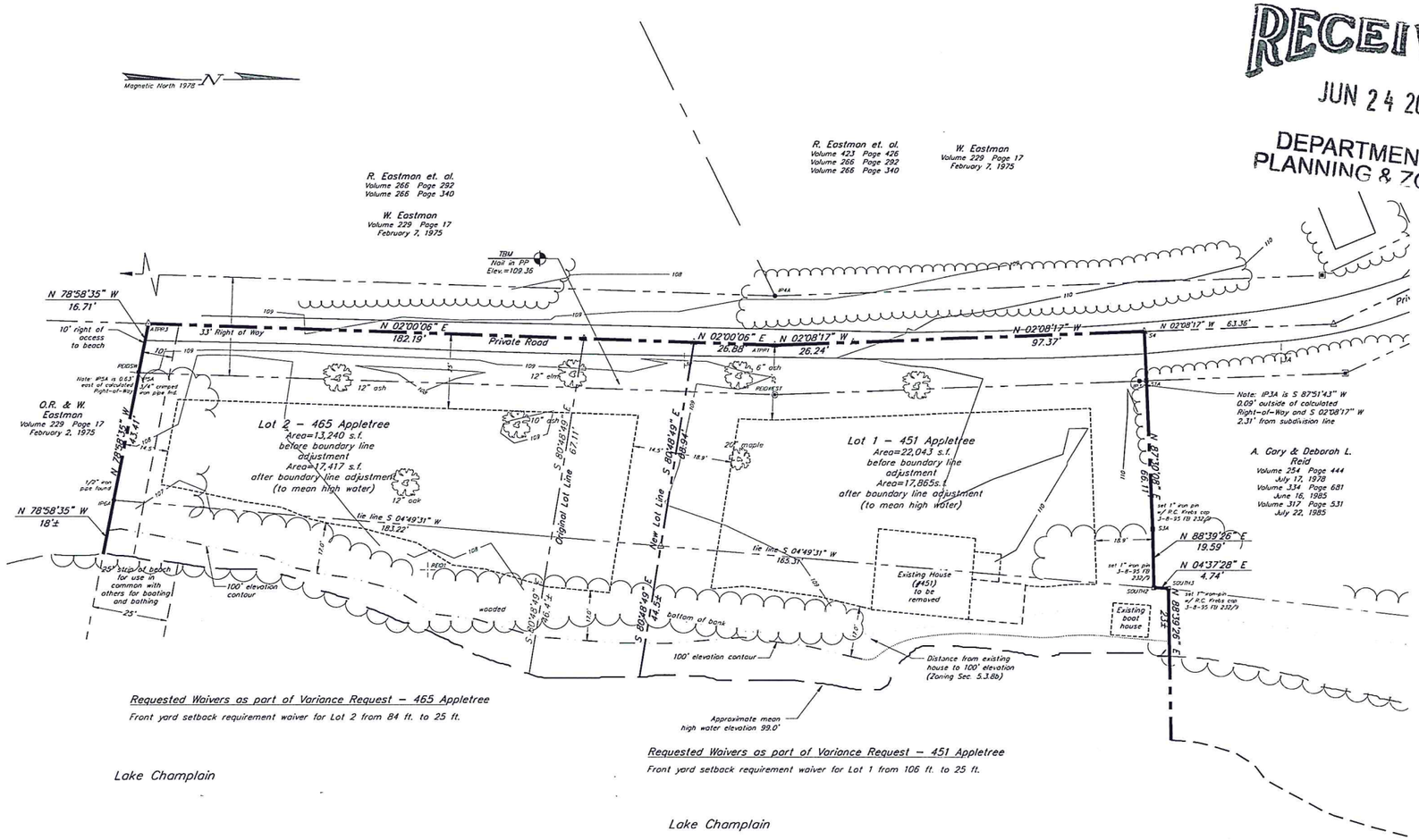
Dated at Burlington, Vermont, this 3rd day of ~~April~~ May 2016

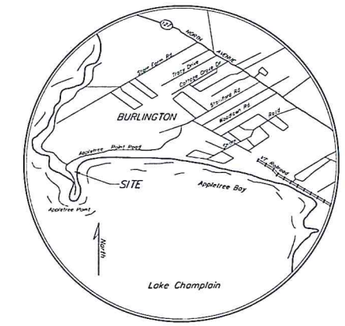
Respectfully Submitted,

Jonathan H. Stevens, Acting Development Review Board Chair

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

RECEIVED
JUN 24 2016
DEPARTMENT OF PLANNING & ZONING





LOCATION MAP

"Approval of this lot line adjustment plat does not constitute the creation of a separate parcel or lot. It adjusts the physical location of the common boundary of the adjoining parcels or lots. This lot line adjustment has been approved by:"

City of Burlington Administrative Officer/Assistant Administrative Officer

Date: 6/24/16 Zoning Permit# 15-0923CA/CU

Requested Waivers as part of Variance Request – 465 Appletree

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

Requested Waivers as part of Variance Request – 451 Appletree

Front yard setback requirement waiver for Lot 1 from 106 ft. to 25 ft.

Survey Notes:

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

Deed References

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

Planning and Zoning Information

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

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

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

Existing Lot Coverage

Buildings = 1,347 s.f.
$\frac{1,347 \text{ s.f.}}{35,283 \text{ s.f.}}$ = 3.8% of total lot area

Roads/Driveways: = 2,536 s.f.
$\frac{2,536 \text{ s.f.}}{35,283 \text{ s.f.}}$ = 7.2% of total lot area

Total Coverage = $\frac{1,347 + 2,536}{35,283 \text{ s.f.}}$ = 12.0% of total lot area

Proposed Lot Coverage

451 Appletree

Buildings = 1,342 s.f.
$\frac{1,342 \text{ s.f.}}{17,865 \text{ s.f.}}$ = 7.5% of Lot 1

Roads/Driveways: = 2,190 s.f.
$\frac{2,190 \text{ s.f.}}{17,865 \text{ s.f.}}$ = 12.3% of Lot 1

Total Coverage = $\frac{1,342 + 2,190}{17,865 \text{ s.f.}}$ = 19.8% of Lot 1

465 Appletree

Buildings = 2,512 s.f.
$\frac{2,512 \text{ s.f.}}{17,417 \text{ s.f.}}$ = 14.4% of Lot 2

Roads/Driveways: = 2,680 s.f.
$\frac{2,680 \text{ s.f.}}{17,417 \text{ s.f.}}$ = 15.4% of Lot 2

Total Coverage = $\frac{2,512 + 2,680}{17,417 \text{ s.f.}}$ = 29.8% of Lot 2

Boundary Notes

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

Map References

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

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

BAR SCALE 1" = 20'

Legend

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

Certification

This survey is based on physical evidence found in the field and information abstracted from deeds and other pertinent records and this survey is consistent with that evidence. This plat conforms to 27 V.S.A. section 1403.

Ian A. Jewkes L.S. #639

STATE OF VERMONT
IAN A. JEWKES
No. 639
LICENSED LAND SURVEYOR

Date revised	Description	Checked	Date

Surveyed	MRT/DJS
Drawn	FMP/SWH
Checked	SWH
Scale	1" = 20'
Date	Mar. 12, 2015
Project	14132

Boundary Line Adjustment

Property of
Alfred R. & Cheryl Senecal

451 & 465 Appletree Point Road — Burlington, Vermont

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

Field Book 185
#31-465 appletree

1

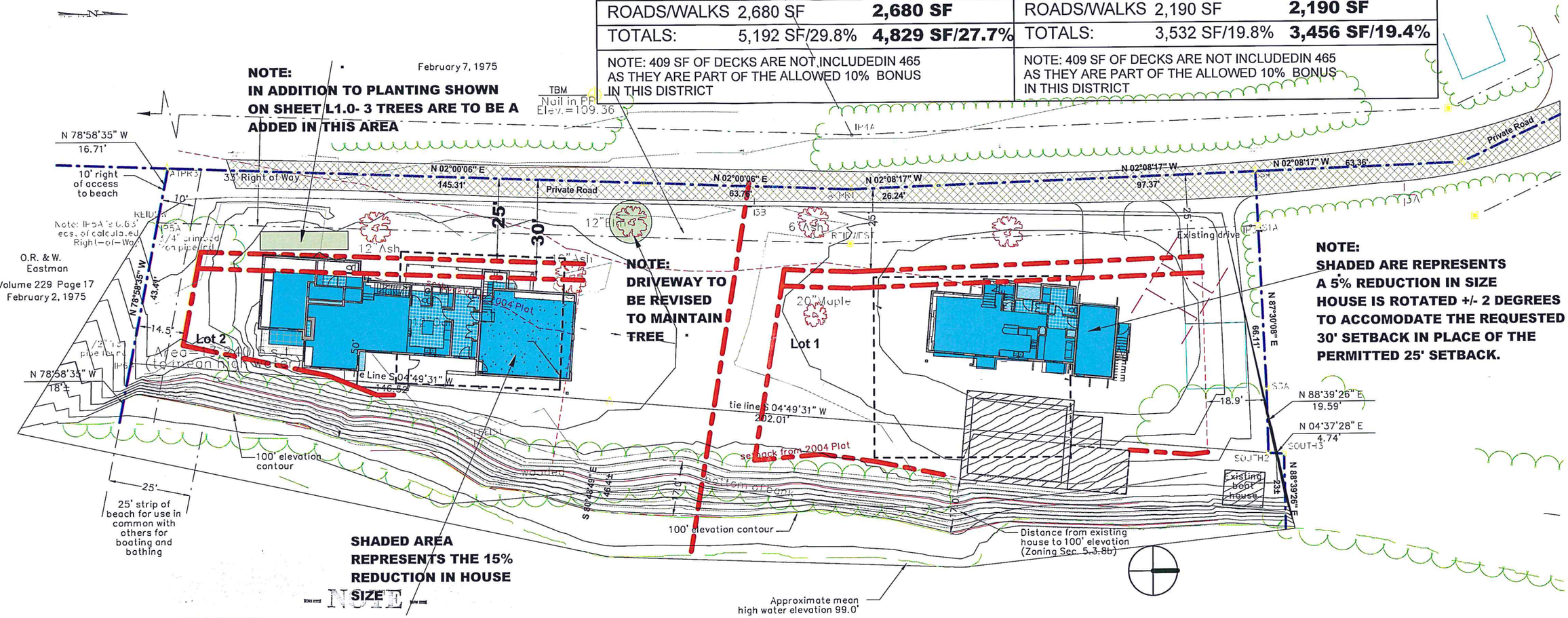
LOT COVERAGE DATA

465 APPLETREE POINT	APPROVED PERMIT	PROPOSED REVISED
BUILDING	2,512 SF	**2,149 SF**
ROADS/WALKS	2,680 SF	**2,680 SF**
TOTALS:	5,192 SF/29.8%	**4,829 SF/27.7%**

NOTE: 409 SF OF DECKS ARE NOT INCLUDEDIN 465 AS THEY ARE PART OF THE ALLOWED 10% BONUS IN THIS DISTRICT

451 APPLETREE POINT	APPROVED PERMIT	PROPOSED REVISED
BUILDING	1,342 SF	**1,266 SF**
ROADS/WALKS	2,190 SF	**2,190 SF**
TOTALS:	3,532 SF/19.8%	**3,456 SF/19.4%**

NOTE: 409 SF OF DECKS ARE NOT INCLUDEDIN 465 AS THEY ARE PART OF THE ALLOWED 10% BONUS IN THIS DISTRICT



SHADED AREA REPRESENTS THE 15% REDUCTION IN HOUSE SIZE

-- NOTE --

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

FINAL APPROVAL

SIGNED _____ DATE 6-24-16

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

For entire 6-PS planset.

1 Site -Proposed
1" = 30'-0"

NOTE:
THIS PLAN IS INTENDED TO SHOW THE PROPOSED REDUCTION IN SIZE AND FOOTPRINT OF 465 AND COMPLIANCE WITH THE PROPOSED 30' SETBACK IN PLACE OF THE APPROVED 25' SETBACK.
THE FINAL PLAN MAY ADJUST THE LOCATIONS BUT THE HOUSES WILL BE NO CLOSER TO THE ROAD THAN SHOWN HERE

Z:\201417\Revit\Senecal Residence site.rvt

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:

Senecal Residence

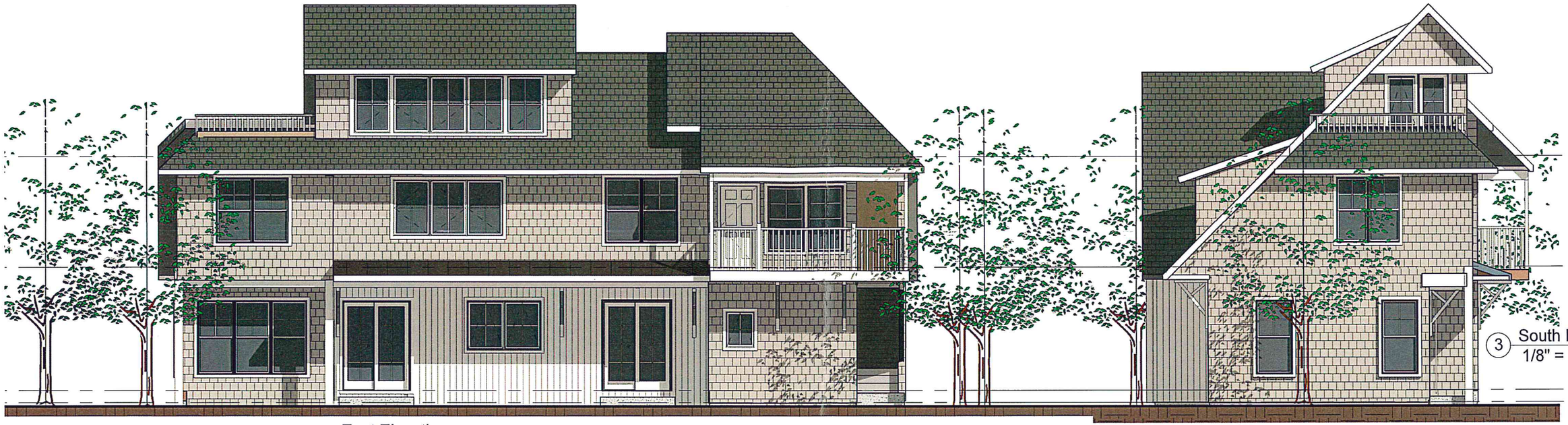
BURLINGTON, VERMONT

Site--451& 465 Appletree Pt Rd-SCHEMATIC REVISIONS

As indicated

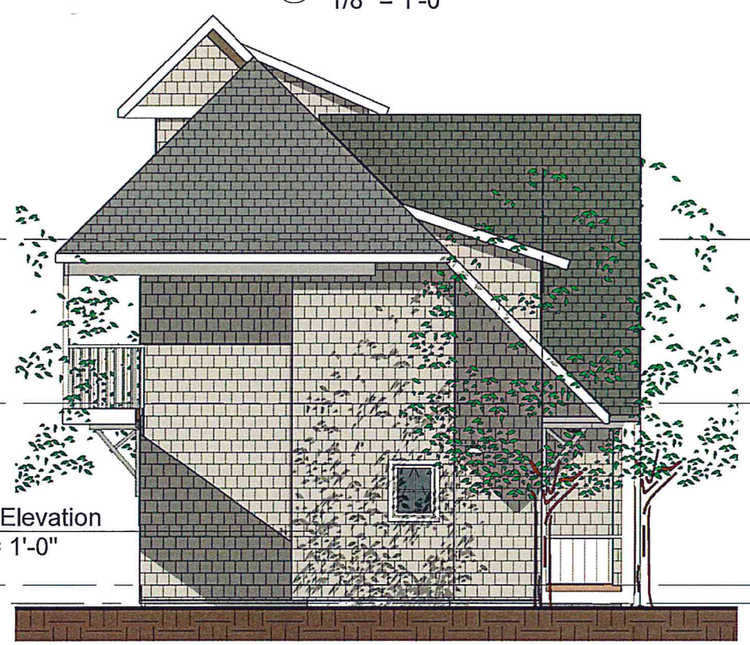
DECEMBER 23, 2015

SR.1



3 South Elevation
1/8" = 1'-0"

4 East Elevation
1/8" = 1'-0"



1 North Elevation
1/8" = 1'-0"

2 West Elevation
1/8" = 1'-0"

Z:\201417\Revit\Senecal-451-Reduced.rvt

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:

Senecal at Appletree Point

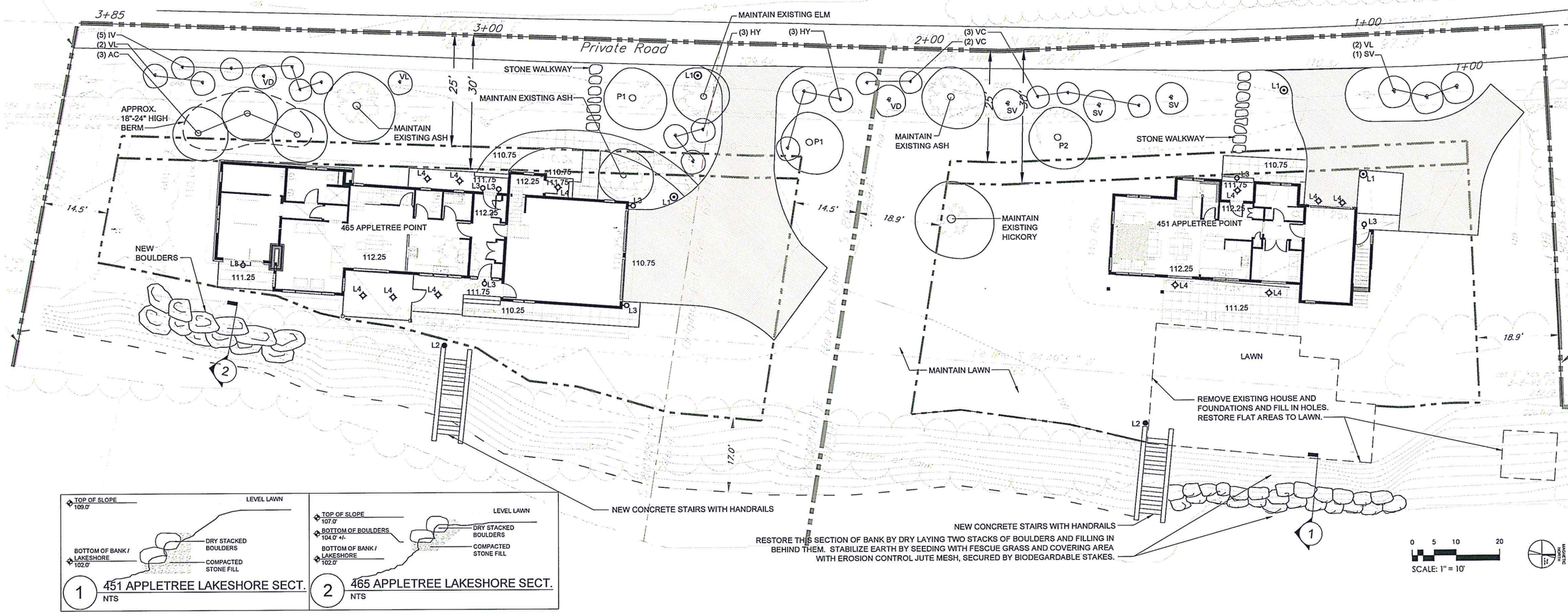
BURLINGTON, VERMONT

EXTERIOR ELEVATIONS - 451-REDUCED

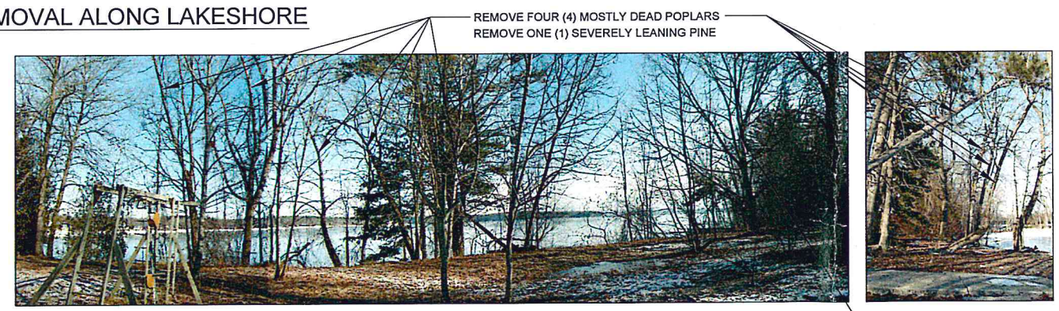
1/8" = 1'-0"

12/23/2015
3:06:18 PM

R.7



PLAN FOR TREE REMOVAL ALONG LAKESHORE



PLANT SCHEDULE FOR SENECAL PROPERTIES

TREES

Key	Botanical Name / Common Name	Characteristics	Size	Qty.
AC	Amelanchier Canadensis / Serviceberry	White spring bloom, fall berries	7-8	3
P1	Prunus 'Montmorency' or 'Bali' / Cherry	Pink spring bloom, summer cherries	Availability	2
P2	Peach 'Reliance' / Peach	White spring bloom, summer peaches	Availability	1

SHRUBS

Key	Botanical Name / Common Name	Characteristics	Size	Qty.
HY	Hydrangea paniculata 'Limelight' / Pee Gee Hydrangea	White summer bloom, yellow fall foliage	10g, 3-4'	6
VD	Viburnum dentatum / Arrowwood Viburnum	White spring bloom, purple fall foliage and berries	B&B, 4-5'	2
VL	Viburnum lantana 'Mohican' / Viburnum	White spring bloom, purple fall foliage and berries	B&B, 4-5'	5
VC	Vaccinium corymbosum / Highbush Blueberry	Summer berries, red fall foliage	5g, 2.5-3'	5
SV	Syringa vulgaris 'Charles Joly' / Common Lilac	Fragrant purple spring bloom	B&B, 5-6'	4
IV	Ilex verticillata 'Winter Red' / Winterberry, Deciduous Holly	Red fall foliage, red winter berries	5g, 3-4'	4
IV	Ilex verticillata 'Jim Dandy' / Male Winterberry	Red fall foliage, red winter berries	5g, 3-4'	1

LIGHTING LEGEND

KEY	DESCRIPTION	QTY.
L1	TEKA POST-MOUNTED LED LIGHT	4
L2	TEKA BOLLARD LED LIGHT	2
L3	TEKA WALL-MOUNTED LED LIGHT	8
L4	TEKA SURFACE-MOUNTED LED LIGHT	11

Senecal Residences at Appletree Point
Burlington, Vermont

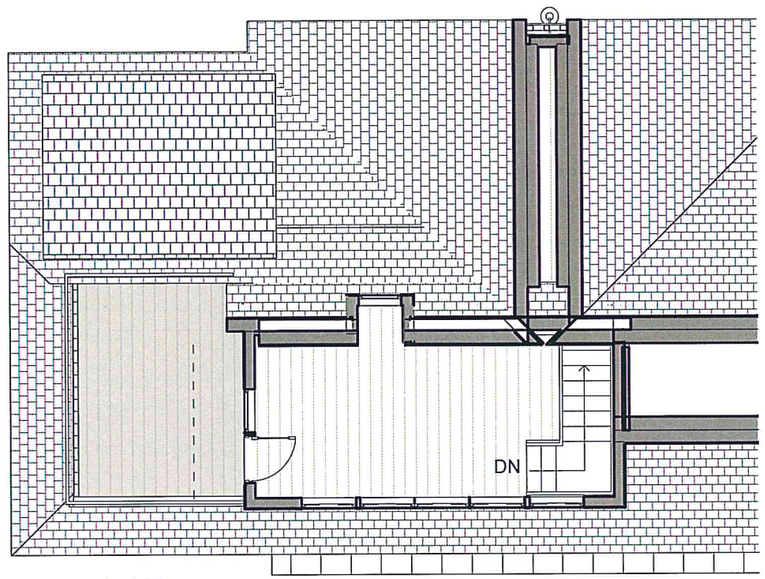
Landscape and Planting Plan

CYNTHIA KNAUF
LANDSCAPE DESIGN INC
215 College Street · Studio 2C · Burlington Vermont 05401
Cynthia@CynthiaKnauf.com 802.658.0552 CynthiaKnauf.com
BEAUTY FUNCTION SUSTAINABILITY COLLABORATION

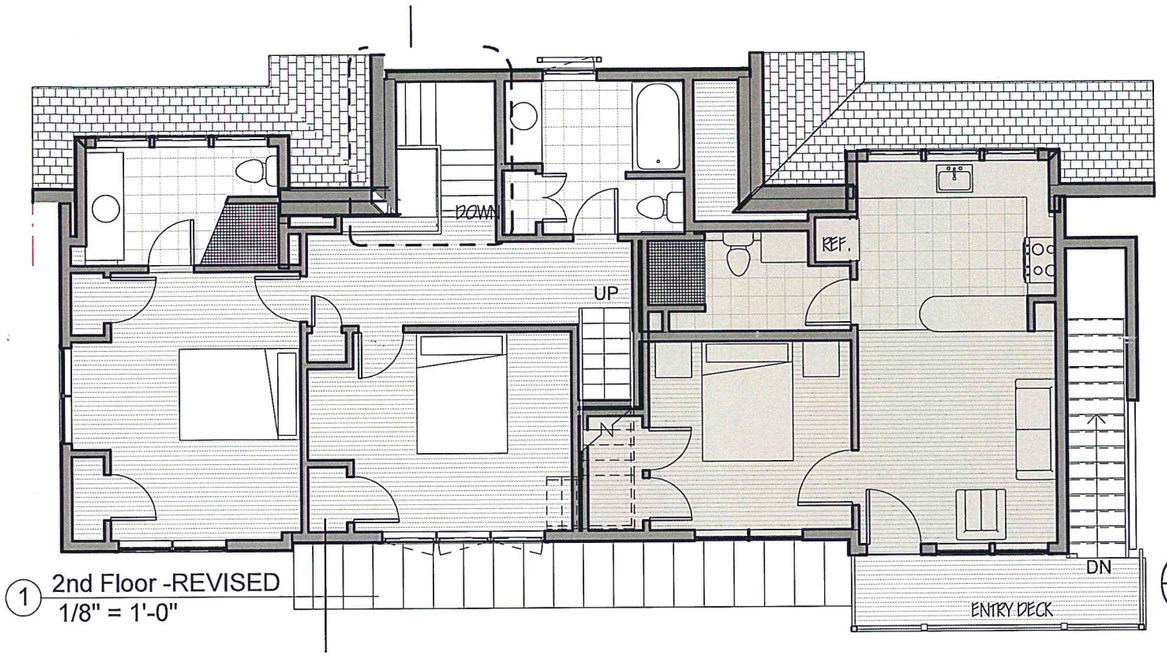
ARCHITECT
Brad Rabinowitz, Architect
200 Main Street, Burlington, Vermont 05401
Tel: (802) 658-0400 / Fax: (802) 863-6876
Email: office@bradrabinowitzarchitect.com

DATE:	March 2, 2015 Revised June 25, 2015 Revised January 11, 2016
SCALE:	1" = 10'-0"
DRAWN BY:	AC

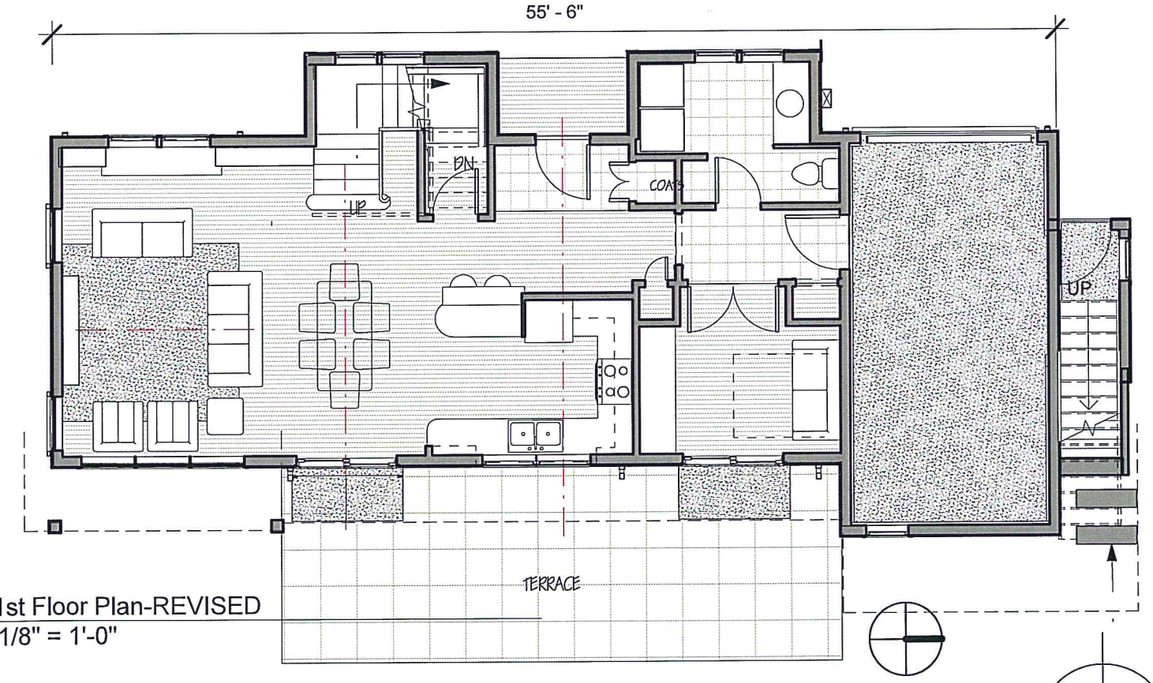
L1.0



3 3rd Floor
1/8" = 1'-0"



1 2nd Floor -REVISED
1/8" = 1'-0"



2 1st Floor Plan-REVISED
1/8" = 1'-0"

BUILDING FOOTPRINT

BUILDING - 1198.31sf
DECKS - 68.25sf

TOTAL - 1266.56sf

FINISH FLOOR

HOUSE:		APARTMENT	
1ST -	902.29sf	1ST -	35.90sf
2ND -	699.89sf	2ND -	494.93sf
3RD -	224.86sf	3RD -	
TOTAL	- 1827.04sf	TOTAL	- 530.83sf

Z:\201417\Revit\Senecal-451-Reduced.rvt

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:
Senecal at Appletree Point
BURLINGTON, VERMONT

FLOOR PLANS 451 - REVISION DEC 23
As indicated

12/23/2015
3:01:09 PM

R.6

BUILDING FOOTPRINT

BUILDING - 1196.88sf
DECKS - 68.81sf

TOTAL - 1265.49sf

EXTERIOR LIGHTING NOTES:

L1 - POST LIGHT
L2 - BOLLARD
L3 - SCOUNCE
L4 - SURFACE MOUNT

FINISHED HEATED FLOOR AREA

HOUSE:		APARTMENT	
1ST -	899.45sf	1ST -	
2ND -	690.48sf	2ND -	517.27sf
3RD -		3RD -	162.10sf
TOTAL -	1589.93sf	TOTAL -	679.37sf

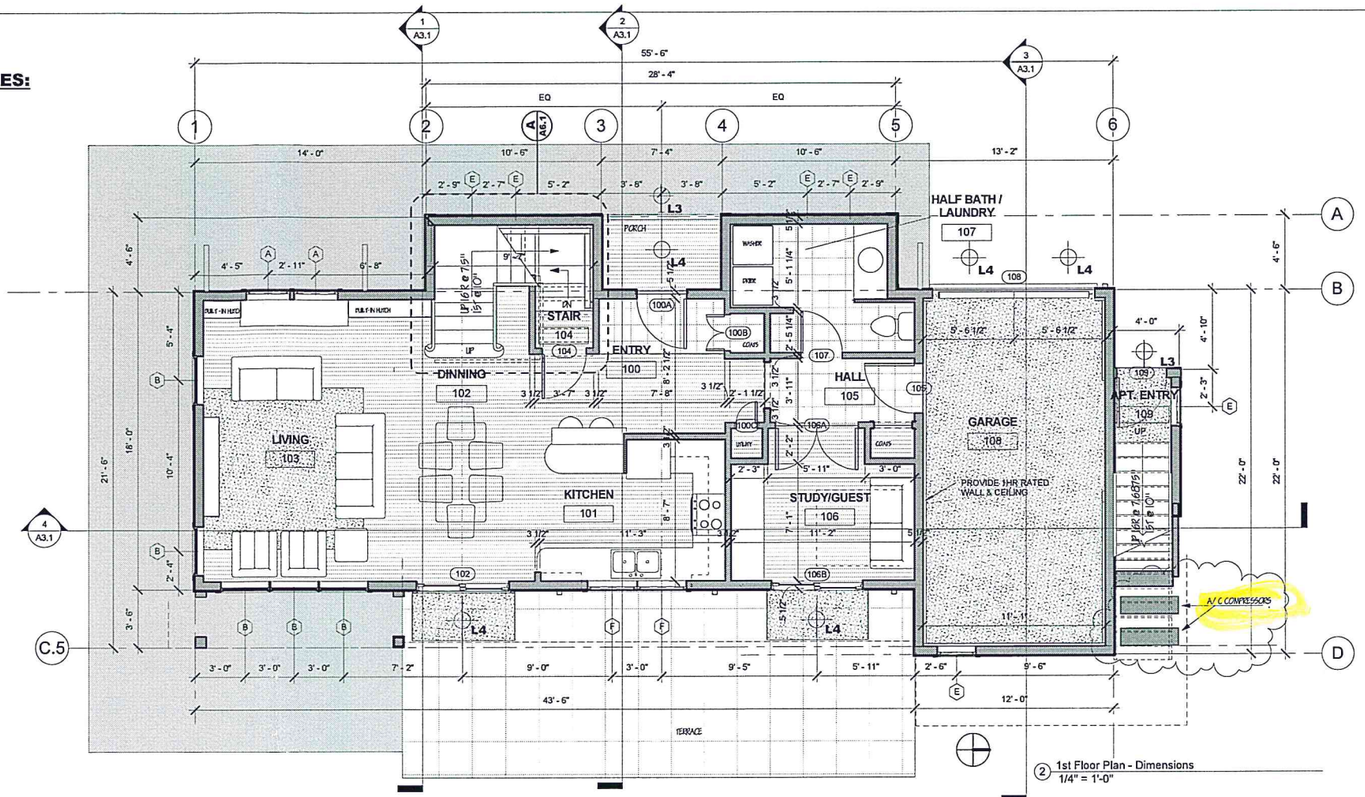
= APARTMENT 29.94% TOTAL FINISHED AREA

TOTAL HOUSE - 1589.92SF = 2269.3sf
TOTAL APART. - 679.27SF

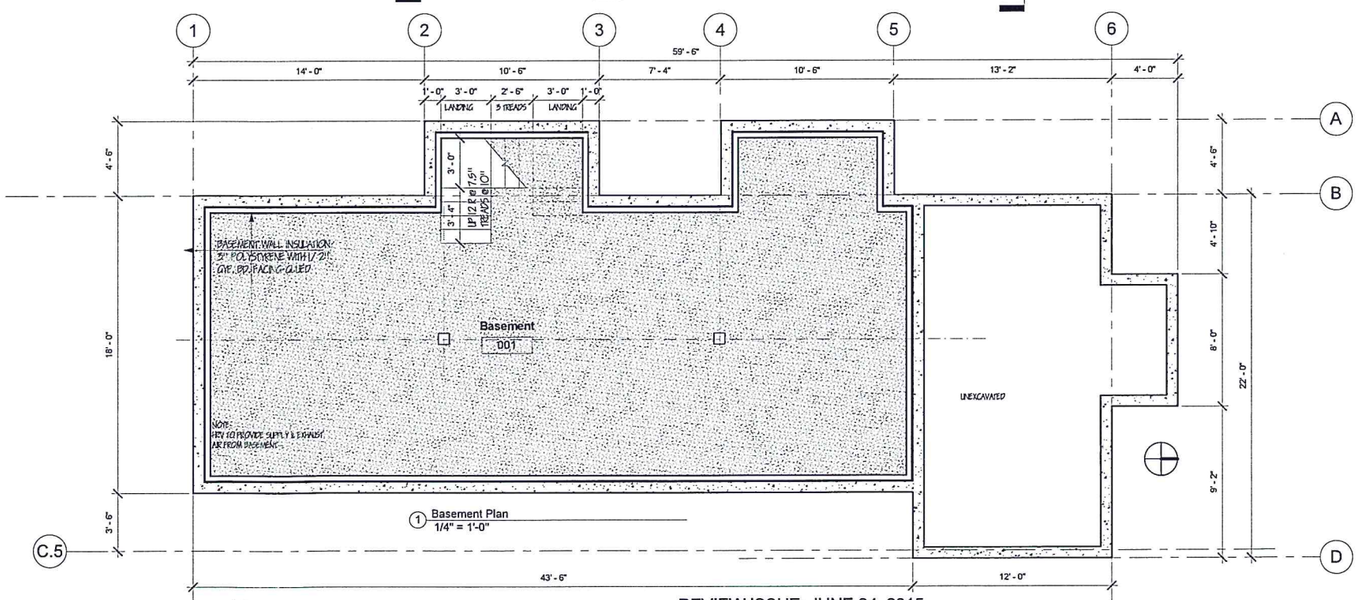
Door Schedule						
Mark	Width	Height	Thickness	Description	Manufacturer	Comments
100A	3' - 0"	6' - 8"	0' - 1 3/4"			
100B	2' - 2"	6' - 8"	0' - 1 3/8"			
100C	1' - 3"	6' - 8"	0' - 1 3/8"			
102	5' - 6 5/8"	7' - 3 1/2"	0' - 1 3/4"	5674 Sliding French Door	Marvin Windows and Doors	
104	2' - 8"	6' - 8"	0' - 1 3/8"			
105	3' - 0"	6' - 8"	0' - 1 3/4"			B Labeled Door
106A	5' - 0"	6' - 8"	0' - 2"			
106B	5' - 6 5/8"	7' - 3 1/2"	0' - 1 3/4"	5674 Sliding French Door	Marvin Windows and Doors	
107	2' - 6"	6' - 8"	0' - 1 3/8"			
108	6' - 0"	7' - 0"	0' - 1 3/4"	Garage Door		
109	3' - 0"	6' - 8"	0' - 1 3/4"			
200	1' - 8"	6' - 8"	0' - 1 3/8"			
201A	2' - 6"	6' - 8"	0' - 1 3/8"			
201B	2' - 8"	6' - 8"	0' - 1 3/8"			
202A	2' - 6"	6' - 8"	0' - 1 3/8"			
202B	2' - 6"	6' - 8"	0' - 1 3/8"			
203A	2' - 6"	6' - 8"	0' - 1 3/8"			
203B	2' - 6"	6' - 8"	0' - 1 3/8"			
203C	2' - 6"	6' - 8"	0' - 1 3/8"			
204	2' - 6"	6' - 8"	0' - 1 3/8"			
205	3' - 0"	6' - 8"	0' - 1 3/4"			
206A	2' - 8"	6' - 8"	0' - 1 3/8"			
206B	2' - 8"	6' - 8"	0' - 1 3/8"			
207	2' - 6"	6' - 8"	0' - 1 3/8"			
300	2' - 7 7/16"	6' - 10"	0' - 1 3/4"	2668 Inswing French Door	Marvin Windows and Doors	

WINDOW SCHEDULE							
KEY	Description	Manufacturer	Model	R.O. W	R.O. H	NO.	Comments
A	AWNG	Integrity Windows and Doors	IAWN3347	2' - 8 1/2"	3' - 11 5/8"	2	
B	DBLE HUNG	Integrity Windows and Doors	ITDH3672	3' - 0 1/2"	6' - 0 1/4"	5	
C	DBHG	Integrity Windows and Doors	ITDH 3664 E	3' - 0 1/2"	5' - 4 1/4"	7	
D	DBLE HUNG	Integrity Windows and Doors	ITDH3264	2' - 8 1/2"	5' - 4 1/4"	2	
E	AWNG	Integrity Windows and Doors	IAWN2935	2' - 4 1/2"	2' - 11 5/8"	7	
F	AWNG	Integrity Windows and Doors	IAWN3747	3' - 0 1/2"	3' - 11 5/8"	8	
G	AWNG	Integrity Windows and Doors	IAWN2947	2' - 5"	3' - 11 5/8"	1	
H	CSMT	Integrity Windows and Doors	ICA 3755	3' - 0 1/2"	4' - 7 5/8"	8	

Grand total: 40



2 1st Floor Plan - Dimensions
1/4" = 1'-0"



1 Basement Plan
1/4" = 1'-0"

REVIEW ISSUE: JUNE 24, 2015

6/24/2016 10:51:14 AM

Z:\201417\Revit\Senecal-451-STAIR.rvt

REGISTERED ARCHITECT BRADFORD L. RABINOWITZ No 1302 STATE OF VERMONT

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON, VERMONT 05401
802 658 0430 T 802 863 6876F
www.bradrabinowitzarchitect.com

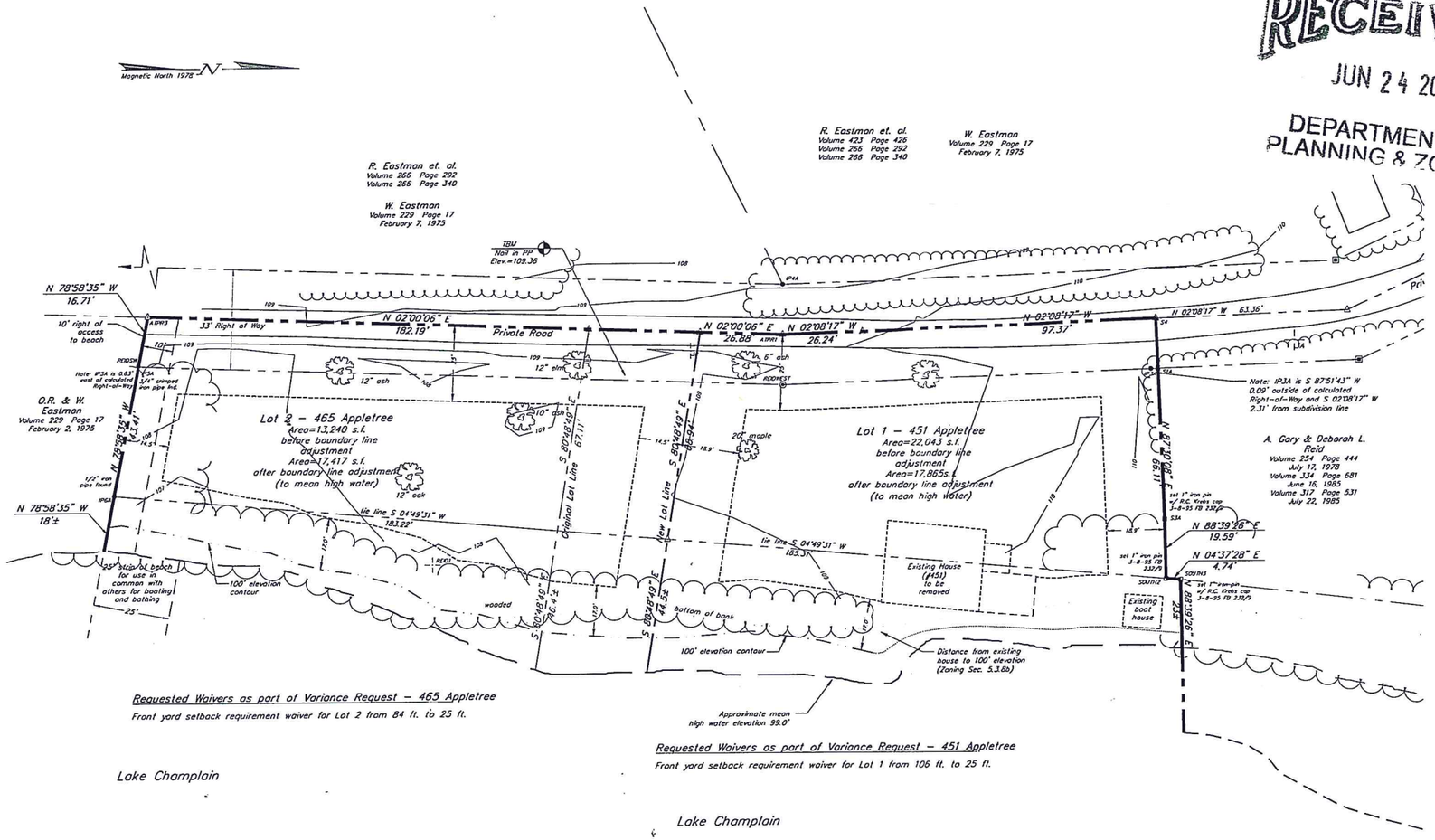
Design:
SENECAL - ~~465~~ 451 Appletree Point Rd.
BURLINGTON, VERMONT

DRAWING TITLE:
Floor Plan 451 - Basement and First

DATE	REVISION

A1.1
As indicated
05/10/16

RECEIVED
JUN 24 2016
DEPARTMENT OF PLANNING & ZONING

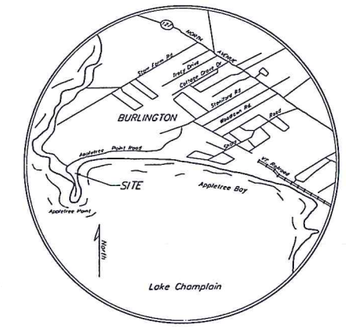


Requested Waivers as part of Variance Request – 465 Appletree

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

Requested Waivers as part of Variance Request – 451 Appletree

Front yard setback requirement waiver for Lot 1 from 106 ft. to 25 ft.



LOCATION MAP

"Approval of this lot line adjustment plat does not constitute the creation of a separate parcel or lot. It adjusts the physical location of the common boundary of the adjoining parcels or lots. This lot line adjustment has been approved by:"

City of Burlington Administrative Officer/Assistant Administrative Officer

Date: 6-24-16 Zoning Permit# 15-0922CA/CU

Survey Notes:

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

Deed References

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

Planning and Zoning Information

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

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

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

Existing Lot Coverage

Buildings = 1,347 s.f.
$\frac{1,347 \text{ s.f.}}{35,283 \text{ s.f.}}$ = 3.8% of total lot area

Roads/Driveways: = 2,536 s.f.
$\frac{2,536 \text{ s.f.}}{35,283 \text{ s.f.}}$ = 7.2% of total lot area

Total Coverage = $\frac{1,347 + 2,536}{35,283 \text{ s.f.}}$ = 12.0% of total lot area

Proposed Lot Coverage

451 Appletree

Buildings = 1,342 s.f.
$\frac{1,342 \text{ s.f.}}{17,865 \text{ s.f.}}$ = 7.5% of Lot 1

Roads/Driveways: = 2,190 s.f.
$\frac{2,190 \text{ s.f.}}{17,865 \text{ s.f.}}$ = 12.3% of Lot 1

Total Coverage = $\frac{1,342 + 2,190}{17,865 \text{ s.f.}}$ = 19.8% of Lot 1

465 Appletree

Buildings = 2,512 s.f.
$\frac{2,512 \text{ s.f.}}{17,417 \text{ s.f.}}$ = 14.4% of Lot 2

Roads/Driveways: = 2,680 s.f.
$\frac{2,680 \text{ s.f.}}{17,417 \text{ s.f.}}$ = 15.4% of Lot 2

Total Coverage = $\frac{2,512 + 2,680}{17,417 \text{ s.f.}}$ = 29.8% of Lot 2

Boundary Notes

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

Map References

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

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

BAR SCALE 1" = 20'

Legend

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

Certification

This survey is based on physical evidence found in the field and information abstracted from deeds and other pertinent records and this survey is consistent with that evidence. This plat conforms to 27 V.S.A. section 1403.

Ian A. Jewkes L.L.S. #639

STATE OF VERMONT
IAN A. JEWKES No. 639
LICENSED LAND SURVEYOR

Date revised	Description	Checked	Date

Surveyed MRT/DJS
Drawn FMP/SWH
Checked SWH
Scale 1" = 20'
Date Mar. 12, 2015
Project 14132

Boundary Line Adjustment

Property of
Alfred R. & Cheryl Senecal

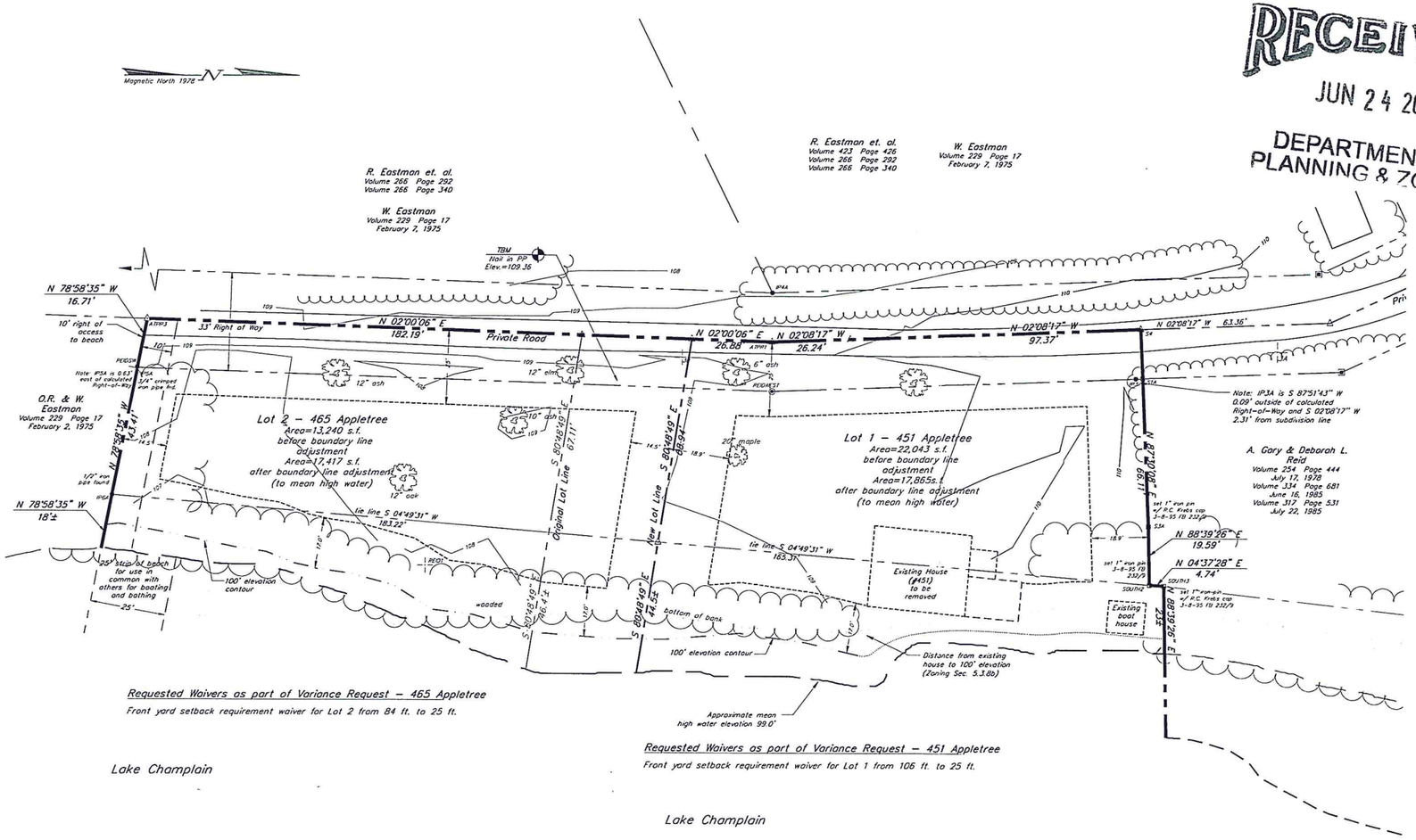
451 & 465 Appletree Point Road — Burlington, Vermont

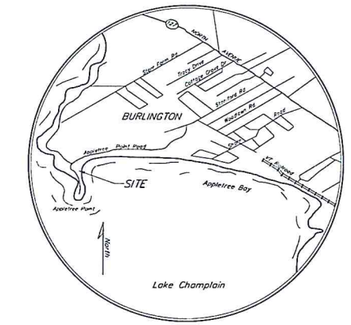
KREBS & LANSING Consulting Engineers, Inc.
164 Main Street, Colchester, Vermont 05446

Field Book 185 #31-465 appletree

1

RECEIVED
JUN 24 2016
DEPARTMENT OF PLANNING & ZONING





LOCATION MAP

"Approval of this lot line adjustment plat does not constitute the creation of a separate parcel or lot. It adjusts the physical location of the common boundary of the adjoining parcels or lots. This lot line adjustment has been approved by."

City of Burlington Administrative Officer/Assistant Administrative Officer

Date: 6/24/16 Zoning Permit# 15-0923CA/CU

Requested Waivers as part of Variance Request – 465 Appletree

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

Requested Waivers as part of Variance Request – 451 Appletree

Front yard setback requirement waiver for Lot 1 from 106 ft. to 25 ft.

Survey Notes:

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

Planning and Zoning Information

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

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

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

Existing Lot Coverage

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

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

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

Proposed Lot Coverage

451 Appletree

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

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

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

465 Appletree

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

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

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

Legend

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

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

BAR SCALE 1" = 20'

Deed References

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

Boundary Notes

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

Map References

1. Plan entitled "Subdivision Plat, A. Gary & Deborah L. Reid", by Krebs & Lansing Consulting Engineers, Project #31124, dated December 9, 1991.

Certification

This survey is based on physical evidence found in the field and information abstracted from deeds and other pertinent records and this survey is consistent with that evidence. This plat conforms to 27 V.S.A. section 1403.

Ian A. Jewkes L.L.S. #639

STATE OF VERMONT
IAN A. JEWKES
No. 639
LICENSED LAND SURVEYOR

Date revised	Description	Checked	Date

Surveyed MRT/DJS
Drawn FMP/SWH
Checked SWH
Scale 1" = 20'
Date Mar. 12, 2015
Project 14132

Boundary Line Adjustment

Property of Alfred R. & Cheryl Senecal

451 & 465 Appletree Point Road — Burlington, Vermont

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

Field Book 185 #31-45 appletree

1

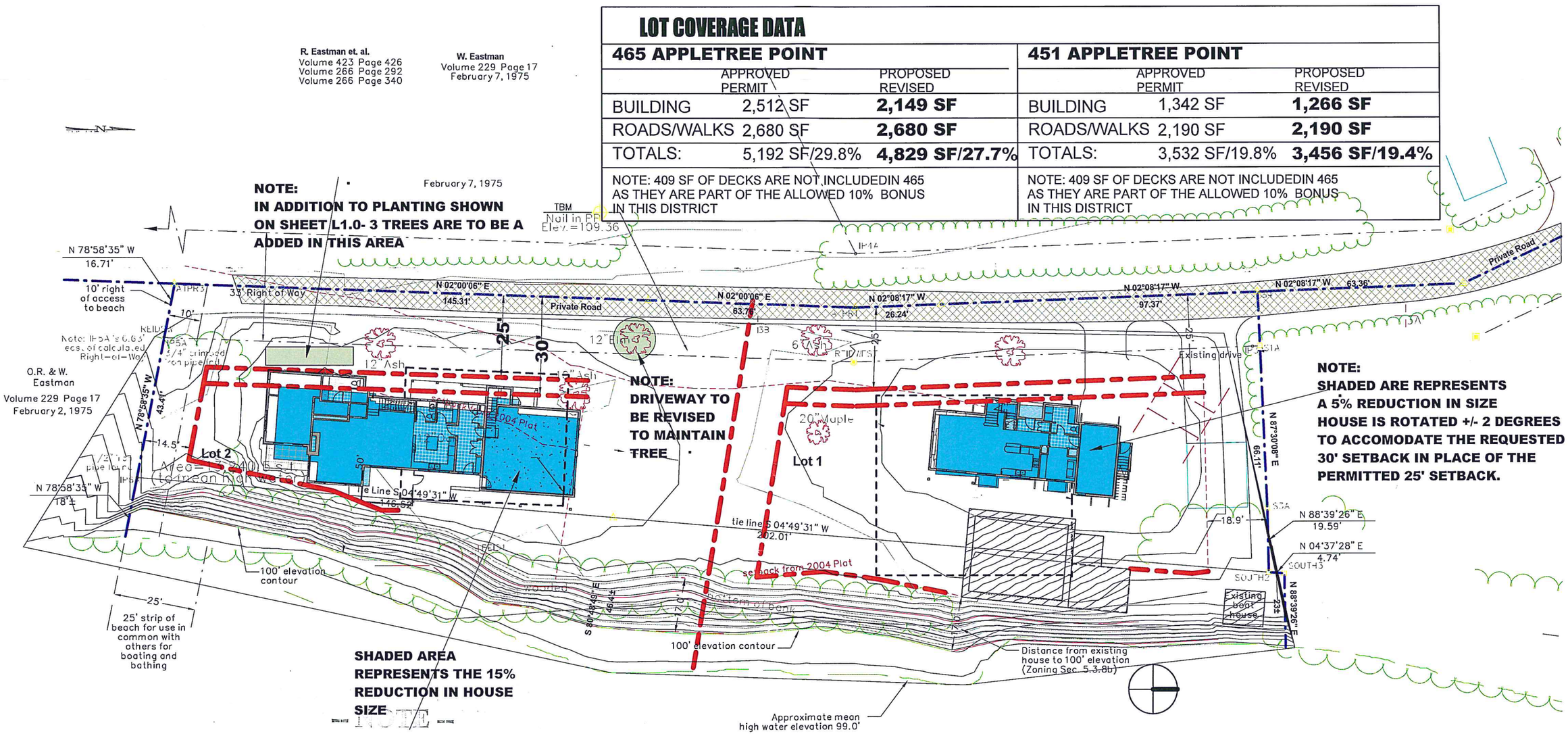
LOT COVERAGE DATA

465 APPLETREE POINT	APPROVED PERMIT	PROPOSED REVISED
BUILDING	2,512 SF	**2,149 SF**
ROADS/WALKS	2,680 SF	**2,680 SF**
TOTALS:	5,192 SF/29.8%	**4,829 SF/27.7%**

NOTE: 409 SF OF DECKS ARE NOT INCLUDEDIN 465 AS THEY ARE PART OF THE ALLOWED 10% BONUS IN THIS DISTRICT

451 APPLETREE POINT	APPROVED PERMIT	PROPOSED REVISED
BUILDING	1,342 SF	**1,266 SF**
ROADS/WALKS	2,190 SF	**2,190 SF**
TOTALS:	3,532 SF/19.8%	**3,456 SF/19.4%**

NOTE: 409 SF OF DECKS ARE NOT INCLUDEDIN 465 AS THEY ARE PART OF THE ALLOWED 10% BONUS IN THIS DISTRICT



Z:\201417\Revit\Senecal Residence site.rvt

Lake Champlain

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

FINAL APPROVAL

SIGNED _____ DATE 6-24-16

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

For entire 9-pg. plan set.

(1) Site -Proposed
1" = 30'-0"

Lake Champlain

NOTE:
THIS PLAN IS INTENDED TO SHOW THE PROPOSED REDUCTION IN SIZE AND FOOTPRINT OF 465 AND COMPLIANCE WITH THE PROPOSED 30' SETBACK IN PLACE OF THE APPROVED 25' SETBACK.
THE FINAL PLAN MAY ADJUST THE LOCATIONS BUT THE HOUSES WILL BE NO CLOSER TO THE ROAD THAN SHOWN HERE

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:

Senecal Residence

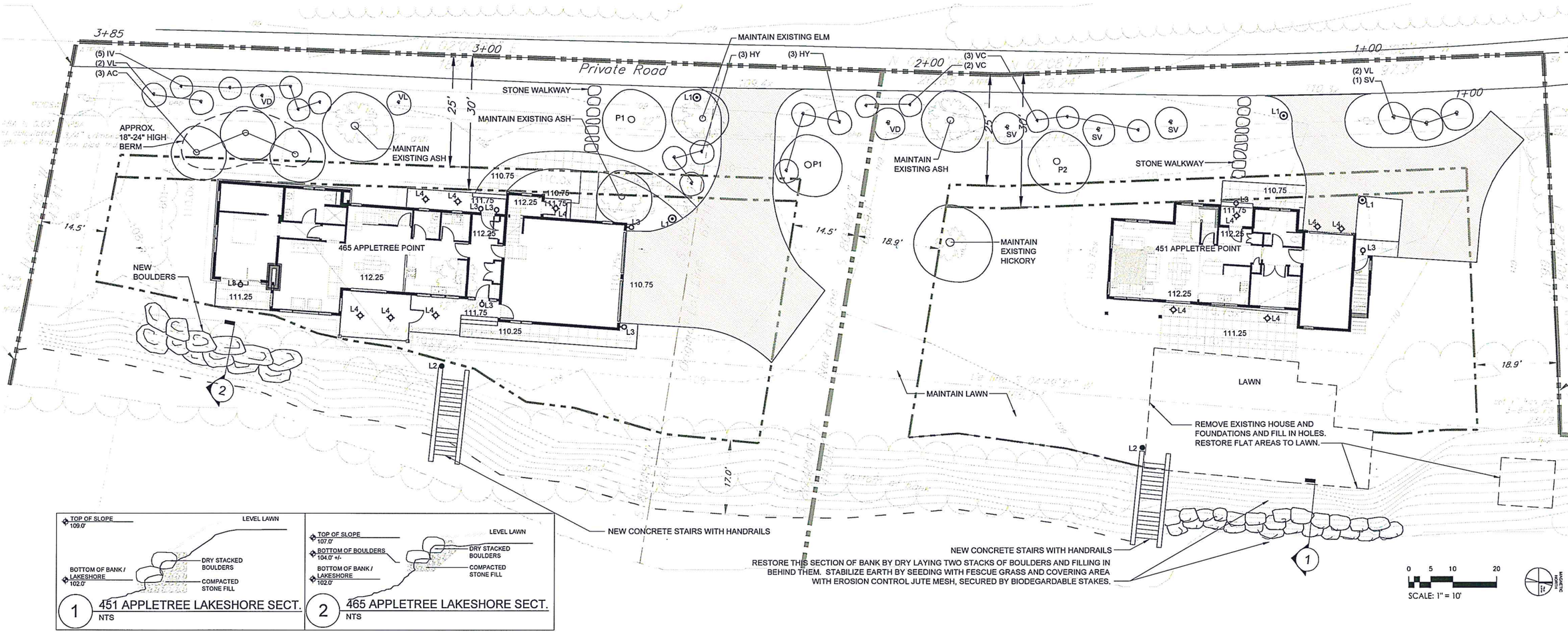
BURLINGTON, VERMONT

Site--451& 465 Appletree Pt Rd-SCHEMATIC REVISIONS

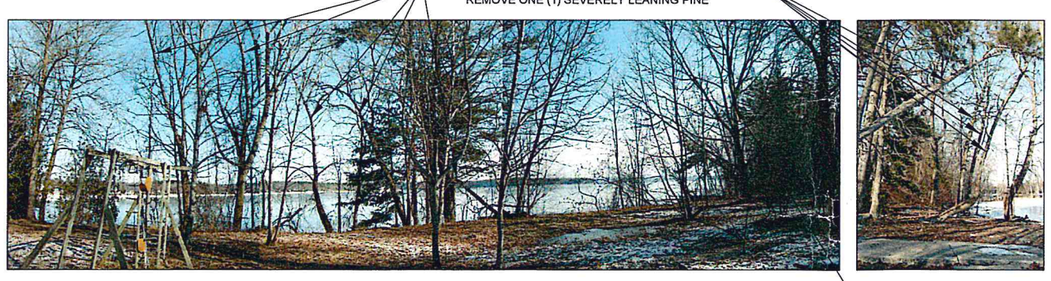
As indicated

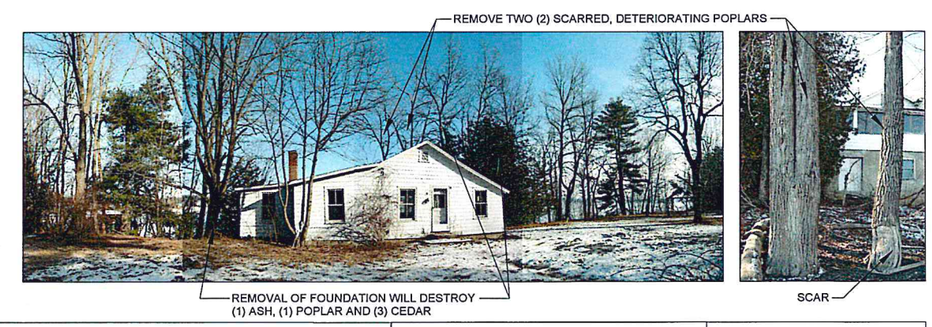
DECEMBER 23, 2015

SR.1



PLAN FOR TREE REMOVAL ALONG LAKESHORE





PLANT SCHEDULE FOR SENECAL PROPERTIES

TREES

Key	Botanical Name / Common Name	Characteristics	Size	Qty.
AC	Amelanchier Canadensis / Serviceberry	White spring bloom, fall berries	7-8	3
P1	Prunus 'Montmorency or 'Bali' / Cherry	Pink spring bloom, summer cherries	Availability	2
P2	Peach 'Reliance' / Peach	White spring bloom, summer peaches	Availability	1

SHRUBS

Key	Botanical Name / Common Name	Characteristics	Size	Qty.
HY	Hydrangea paniculata 'Limelight' / Pee Gee Hydrangea	White summer bloom, yellow fall foliage	10g, 3-4'	6
VD	Viburnum dentatum / Arrowwood Viburnum	White spring bloom, purple fall foliage and berries	B&B, 4-5'	2
VL	Viburnum lantana 'Mohican' / Viburnum	White spring bloom, purple fall foliage and berries	B&B, 4-5'	5
VC	Vaccinium corymbosum / Highbush Blueberry	Summer berries, red fall foliage	5g, 2.5-3'	5
SV	Syringa vulgaris 'Charles Joly' / Common Lilac	Fragrant purple spring bloom	B&B, 5-6'	4
IV	Ilex verticillata 'Winter Red' / Winterberry, Dead, Holly	Red fall foliage, red winter berries	5g, 3-4'	4
IV	Ilex verticillata 'Jim Dandy' / Male Winterberry	Red fall foliage, red winter berries	5g, 3-4'	1

LIGHTING LEGEND

KEY	DESCRIPTION	QTY.
L1	TEKA POST-MOUNTED LED LIGHT	4
L2	TEKA BOLLARD LED LIGHT	2
L3	TEKA WALL-MOUNTED LED LIGHT	8
L4	TEKA SURFACE-MOUNTED LED LIGHT	11

Senecal Residences at Appletree Point
Burlington, Vermont

Landscape and Planting Plan

CYNTHIA KNAUF
LANDSCAPE DESIGN INC
215 College Street · Studio 2C · Burlington Vermont 05401
Cynthia@cynthiaknauf.com · 802.658.0592 · CynthiaKnauf.com
BEAUTY · FUNCTION · SUSTAINABILITY · COLLABORATION

ARCHITECT
Brad Rabinowitz, Architect
200 Main Street, Burlington, Vermont 05401
Tel: (802) 658-0400 / Fax: (802) 863-6878
Email: office@bradrabinowitzarchitect.com

DATE:	March 2, 2015 Revised June 25, 2015 Revised January 11, 2016
SCALE:	1" = 10'-0"
DRAWN BY:	AC

L1.0

BUILDING FOOTPRINT

BUILDING - 2149.8 sf
DECKS - 409.0 sf

TOTAL - 2558.8 sf

FINISH FLOOR

HOUSE:

1ST - 1459.8 sf
2ND - 761.4 sf
3RD - 189.4 sf

TOTAL - 2410.6 sf

APARTMENT

1ST - 42.0 sf
2ND - 585.8 sf
3RD -

TOTAL - 627.8 sf

EXTERIOR LIGHTING NOTES:

L1 - POST LIGHT
L2 - BOLLARD
L3 - SCOUNCE
L4 - SURFACE MOUNT

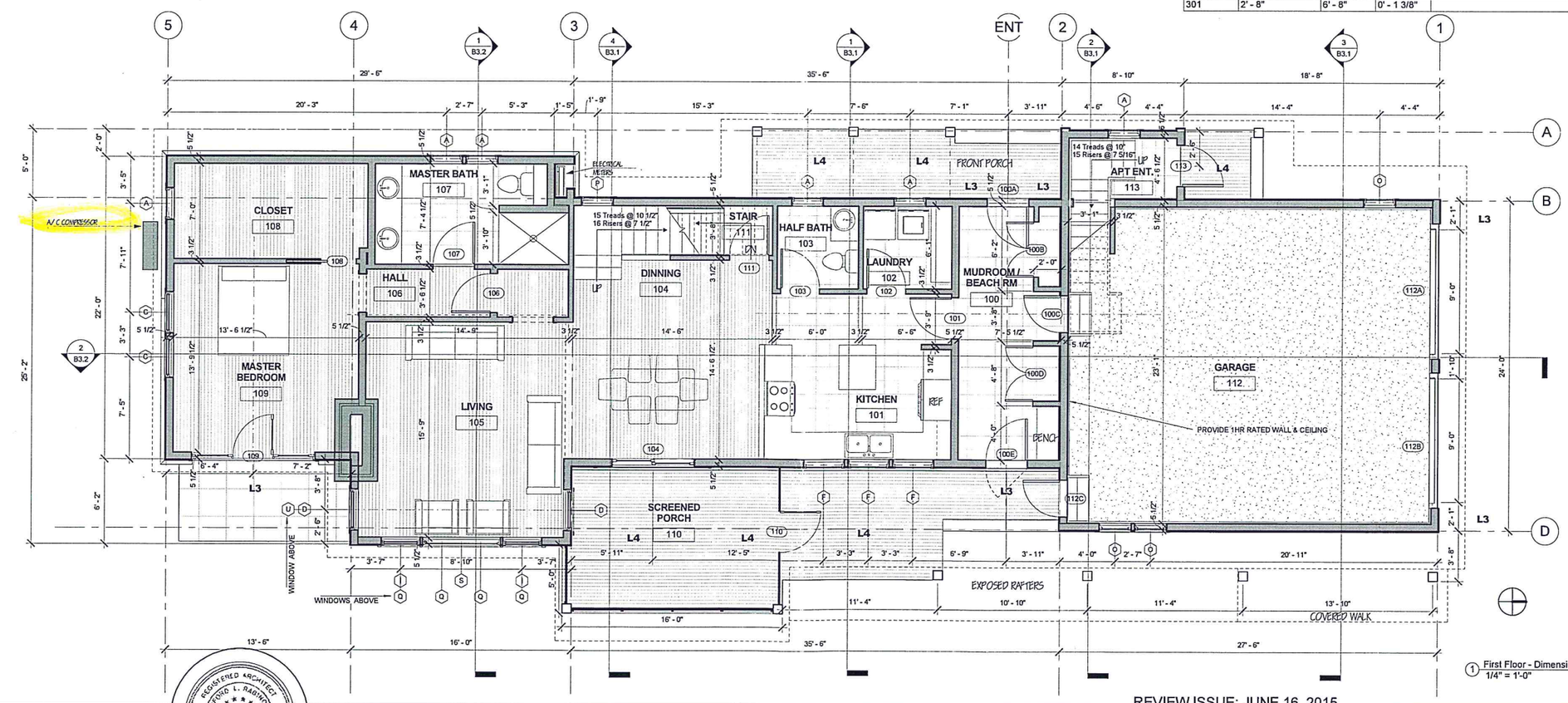
Window Schedule

Type Mark	Description	Model	Manufacturer	Rough Width	Rough Height	Count	Comments
A	AWNG	IAWN2939	Marvin Windows and Doors	2' - 5"	3' - 3 5/8"	12	
C	DBHG	ITDH3664	Marvin Windows and Doors	3' - 0 1/2"	5' - 4 1/4"	2	
D	DBHG	ITDH3676	Marvin Windows and Doors	3' - 0 1/2"	6' - 4 1/4"	2	
F	AWNG	IAWN3747	Marvin Windows and Doors	3' - 1"	3' - 11 5/8"	10	
H	AWNG	IAWN2947	Marvin Windows and Doors	2' - 5"	3' - 11 5/8"	2	
I	DBHG	ITDH3476	Marvin Windows and Doors	2' - 10 1/2"	6' - 4 1/4"	2	
K	DBHG	ITDH3668	Marvin Windows and Doors	3' - 0 1/2"	5' - 8 1/4"	5	
L	AWNG	IAWN3755	Marvin Windows and Doors	3' - 1"	4' - 7 5/8"	3	Costume Height
M	DBHG	ITDH3672	Marvin Windows and Doors	3' - 0 1/2"	6' - 0 1/4"	2	
N	CIRCLE	ICIRM2424	Marvin Windows and Doors	2' - 0"		4	
O	AWNG	IAWN2927	Marvin Windows and Doors	2' - 5"	2' - 3 5/8"	3	
P	AWNG	IAWN2935	Marvin Windows and Doors	2' - 5"	2' - 11 5/8"	2	
Q	FIXED	ITDHT3444	Marvin Windows and Doors	2' - 10 1/2"	3' - 8 1/4"	4	Costume Height
S	FIXED	ITDHP6876	Marvin Windows and Doors	5' - 8 1/2"	6' - 4 1/4"	1	Costume Width
U	FIXED	ITDHT3644	Marvin Windows and Doors	3' - 0 1/2"	3' - 8 1/4"	1	Costume Height

Grand total: 55

Door Schedule

Mark	Width	Height	Thickness	Description	Comments
100A	3' - 0"	6' - 8"	0' - 1 3/4"		
100B	4' - 0"	6' - 8"	0' - 1 3/8"		
100C	2' - 8"	6' - 8"	0' - 1 3/4"		B Labeled Door
100D	4' - 0"	6' - 8"	0' - 1 3/8"		
100E	3' - 0"	6' - 8"	0' - 1 3/4"	Full Glass French Door w/ Screen	
101	3' - 0"	6' - 8"	0' - 1 3/8"		
102	2' - 10"	6' - 8"	0' - 1 3/8"		
103	2' - 10"	6' - 8"	0' - 1 3/8"		
104	6' - 0"	6' - 8"	0' - 1 3/4"	Sliding French	
106	2' - 10"	6' - 8"	0' - 1 3/8"		
107	3' - 0"	6' - 8"	0' - 1 3/8"		
108	2' - 6"	6' - 8"	0' - 1 3/8"	Pocket Door	
109	9' - 0"	6' - 8"	0' - 1 3/4"	Inswing 3 Panel French	
110	3' - 0"	6' - 8"	0' - 1 3/8"	Screened Porch Door	
111	2' - 10"	6' - 8"	0' - 1 3/8"		
112A	9' - 0"	7' - 6"	0' - 1 3/4"	Garage Door	
112B	9' - 0"	7' - 6"	0' - 1 3/4"	Garage Door	
112C	2' - 8"	6' - 8"	0' - 1 3/4"		
113	3' - 0"	6' - 8"	0' - 1 3/4"		
200	2' - 6"	6' - 8"	0' - 1 3/8"		
201	2' - 6"	6' - 8"	0' - 1 3/8"		
202A	2' - 8"	6' - 8"	0' - 1 3/4"		
202B	2' - 6"	6' - 8"	0' - 1 3/8"	Pocket Door	
204A	2' - 8"	6' - 8"	0' - 1 3/4"		
204B	2' - 6"	6' - 8"	0' - 1 3/8"		
204C	2' - 6"	6' - 8"	0' - 1 3/8"		
206	1' - 6"	6' - 8"	0' - 1 3/8"		
207	2' - 6"	6' - 8"	0' - 1 3/8"		
210A	2' - 6"	6' - 8"	0' - 1 3/8"		
210B	2' - 6"	6' - 8"	0' - 1 3/8"		
301	2' - 8"	6' - 8"	0' - 1 3/8"		



1 First Floor - Dimensions and Room Numbers
1/4" = 1'-0"

6/21/2016 9:35:20 AM

Z:\2014170\Revit\Senecal-465-middle.rvt

REVIEW ISSUE: JUNE 16, 2015

REGISTERED ARCHITECT BRADFORD L. RABINOWITZ No 1305 STATE OF VERMONT

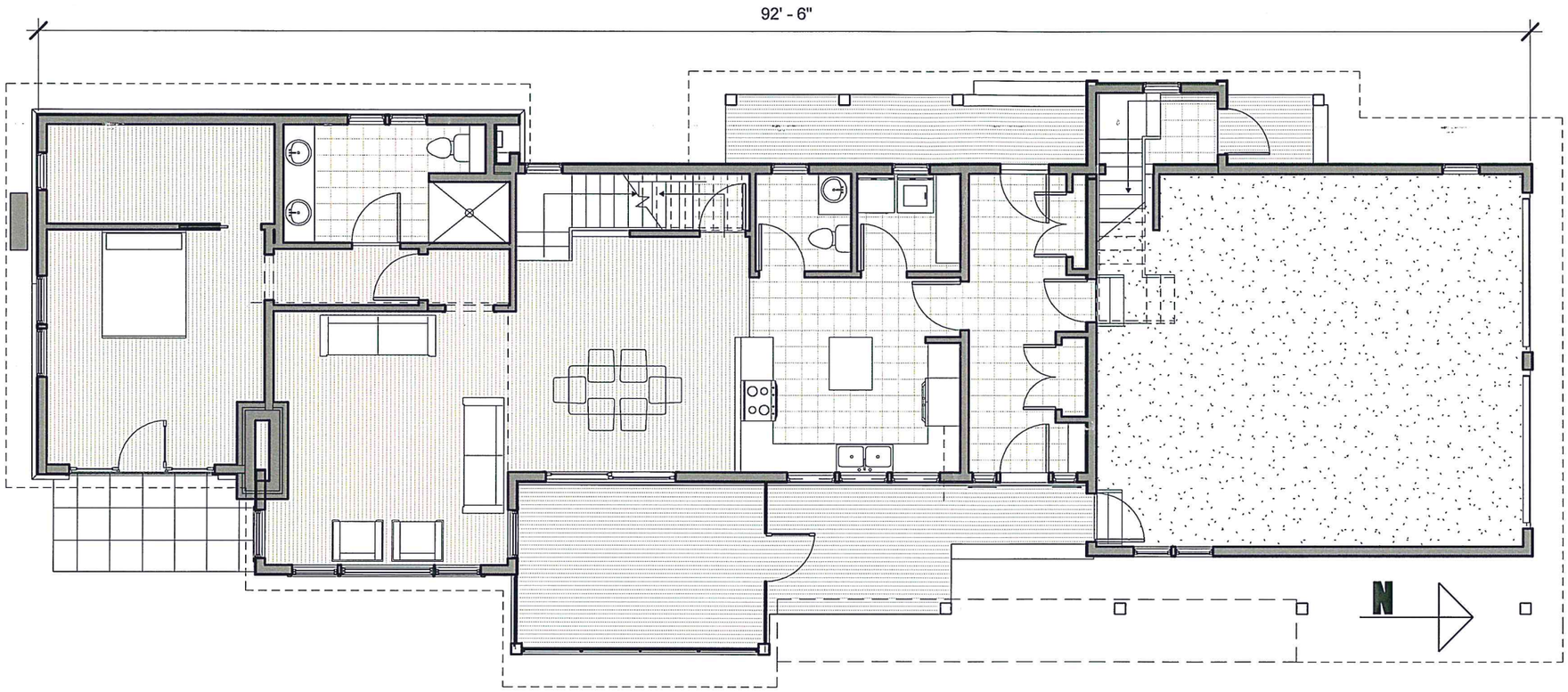
BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON, VERMONT 05401
802 658 0430 T 802 863 6876F
www.bradrabinowitzarchitect.com

Design:
SENECAL - 465 Appletree Point Rd.
BURLINGTON, VERMONT

DRAWING TITLE:
First Floor Plan - 465

DATE	REVISION

B1.1
As indicated
06/03/16



1 First Floor
1/8" = 1'-0"

BUILDING FOOTPRINT

BUILDING - 2121.0 sf
DECKS - 409.0 sf

TOTAL - 2530.0 sf

FINISH FLOOR

HOUSE:		APARTMENT	
1ST -	1459.8 sf	1ST -	42.0 sf
2ND -	761.4 sf	2ND -	585.8 sf
3RD -	189.4 sf	3RD -	
TOTAL -	2410.6 sf	TOTAL	- 627.8 sf

Z:\201417\Revit\Senecal-465- mediate.rvt

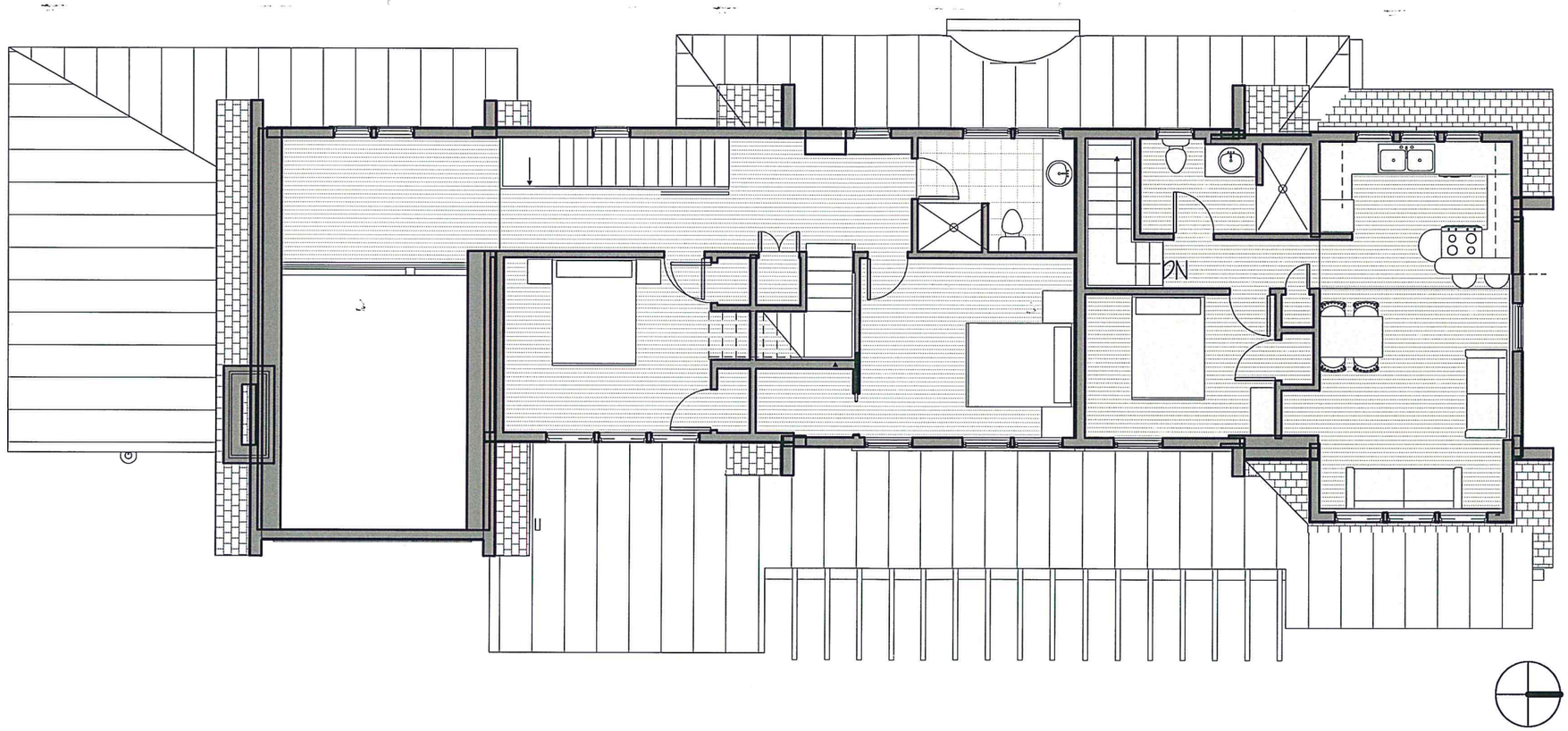
BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:
Senecal at Appletree Point
BURLINGTON, VERMONT

First Floor Plan - 465-REVISION DEC 23
As indicated

12/23/2015
11:42:20 AM

R.1



1 Second Floor
1/8" = 1'-0"

Z:\201417\Revit\Senecal-465- mediate.rvt

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:

Senecal at Appletree Point

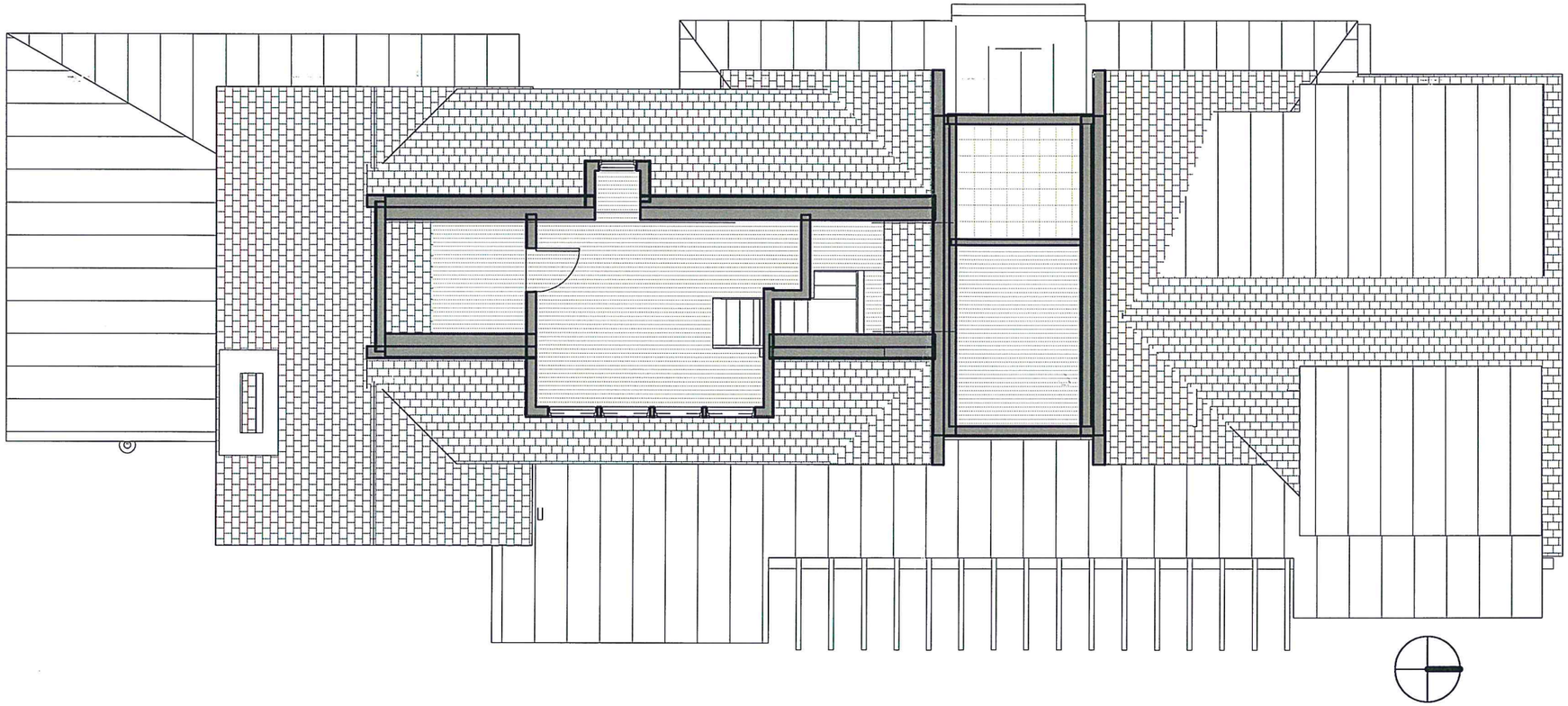
BURLINGTON, VERMONT

Second and Apartment Plan - 465-REVISION DEC 23

1/8" = 1'-0"

12/23/2015
11:48:42 AM

R.2



1 Loft
1/8" = 1'-0"

Z:\201417\Revit\Senecal-465- mediate.rvt

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:

Senecal at Appletree Point

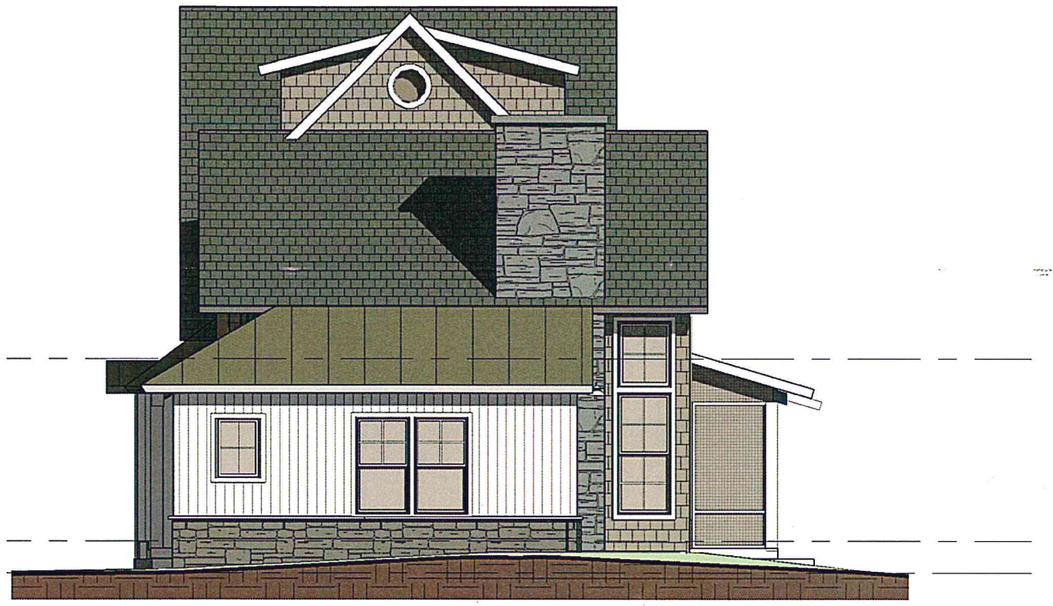
BURLINGTON, VERMONT

Loft Floor Plan - 465-REVISION DEC 23

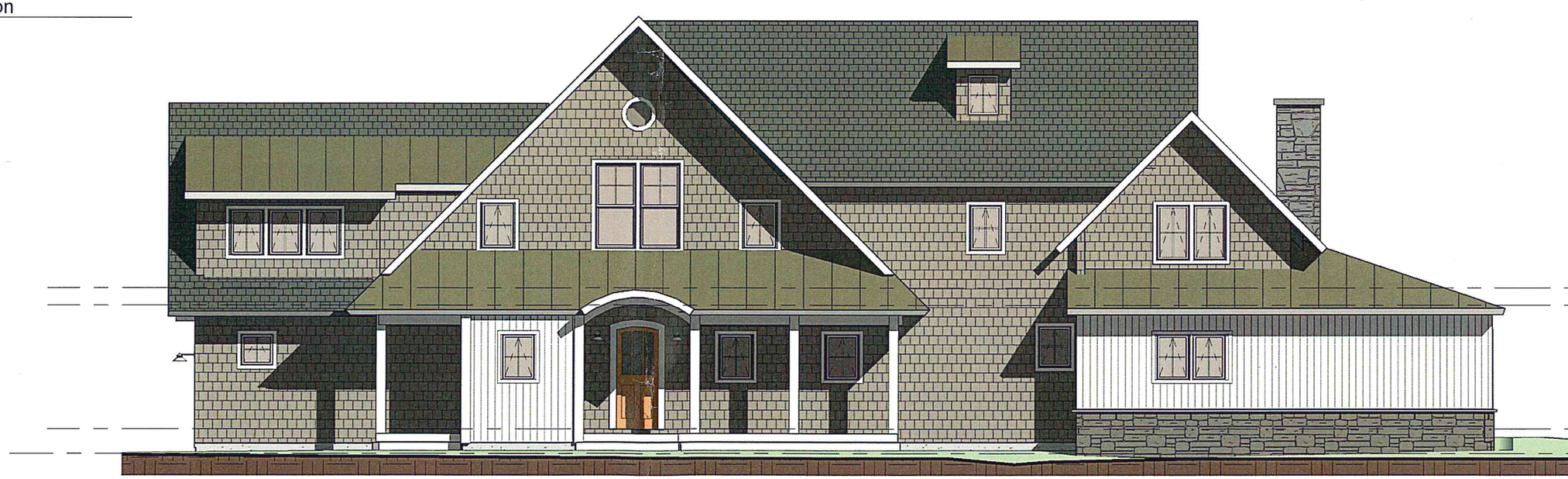
1/8" = 1'-0"

12/23/2015
11:54:43 AM

R.3



1 South Elevation
1/8" = 1'-0"



4 West Elevation
1/8" = 1'-0"

Z:\201417\Revit\Senecal-465- mediate.rvt

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:

Senecal at Appletree Point

BURLINGTON, VERMONT

Exterior Elevations-REVISION DEC 23

1/8" = 1'-0"

12/23/2015
11:58:09 AM

R.4

2 North Elevation
1/8" = 1'-0"

1 East Elevation
1/8" = 1'-0"

Z:\201417\Revit\Senecal-465- mediate.rvt

BRAD RABINOWITZ ARCHITECT
200 MAIN STREET BURLINGTON VT
802 658 0430 T 802 863 6876 F
www.bradrabinowitzarchitect.com

design:

Senecal at Appletree Point

BURLINGTON, VERMONT

EXTERIOR ELEVATIONS-REVISION DEC 23

1/8" = 1'-0"

12/23/2015
12:01:39 PM

R.5

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, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Vacant, Zoning Clerk

MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: May 15, 2018
RE: ZP18-0809CA; 1106 North 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.

Project Number: ZP18-0809CA
Zone: RM **Ward**: 7N
Date application accepted: March 22, 2018
Applicant/ Owner: CDI / North Avenue Cooperative Inc.
Request: Install 3 new HUD homes (14' x 60') at empty site of former flower shop.
Background:

There are dozens of permits of individual home lots on interior avenues A, B, and C. See attached spreadsheet of permits approved since sale of park, when survey and coverage baseline were established. Among the most recent permits issued:

- Zoning Permit 18-0015CA; replace double garage door on maintenance shed with overhead door. July 2017.
- Zoning Permit 17-1084SN; sign for community garden. May 2017.
- Zoning Permit 17-0520FC, replace wood fence with approx. 80 ft of chain link fence on south east property line. October 2016.
- Zoning Permit 16-0595CA; confirm removal of three movile homes and demolition of greenhouse permitted under ZP99-492 and ZP 06-341; demolish remainder of storage structure. Amend 06-341 to abandon request to convert greenhouse lot to a machine and storage yard with retention of flower beds. No establishment of parking, no dry wells. The entire lot will be returned to green. November 2015.
- Zoning Permit 16-0838SN; freestanding sign for North Avenue Co-op Inc. February 2016.

Overview: The North Avenue Cooperative (formerly Farrington's Mobile Home Park) requests placement of three new homes on a site formerly occupied by a floral building. The entire park is a single parcel; coverage and setbacks are based on the entire site, and not on individual lots. The floral buildings have been removed under previous permitting and the lot is currently empty. The applicant is also requesting a phased permit with a three-year time limit to allow for immediate occupancy of homes when complete.
There are special standards for review of Mobile Homes Parks; refer to Section 5.4.12.

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

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

I. Findings

Article 2: Administrative Mechanisms
Section 2.7.8 Withhold Permit
Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations. **Affirmative finding as conditioned.**

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 subject to impact fees as is any change of use which results in an added impact according to Section 3.3.4

Section 3.3.3 Exemptions and Waivers
(c) Affordable Housing Waivers
Any residential project containing newly constructed units or substantially rehabilitated housing units that are affordable for households as described in subsections (1), (2), or (3) below are eligible for a waiver of impact fees for that portion of the project. The terms, rules, and regulations used herein shall be the same as those defined and specified in this Ordinance pertaining to Inclusionary Zoning (Article 9).
The Housing Trust Fund manager has been notified of the application and consulted relative to the applicability of an Affordable Housing Waiver. It appears the project may be eligible for a waiver under Section 5.4.12 (a) 8. If no waiver is granted, the project shall be subject to Impact Fees which will be calculated on the total gross square footage of the building(s). **Affirmative finding as conditioned.**

Section 3.3.8 Time and Place of Payment
Impact fees must be paid to the city's chief administrative officer / city treasurer according to the following schedule:
(a) New buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof.
Affirmative finding as conditioned.

Article 4: Zoning Maps and Districts
Section 4.4.5 (b) Dimensional Standards and Density
Table 4.4.5-3 Residential District Dimensional Standards

RM Zoning District	Max Lot Coverage	Setbacks			Max Height
	60%* *Per Section 5.4.12, Mobile Home Parks.	Front min/max of 2 adjacent lots on both sides	Side Min 10% of lot width or ave. of side yard setback	Rear Min 25% lot depth but in no event less than 20'	35'

			of 2 adjacent lots on both sides		
1106 North Avenue	44.86 existing; 45.53 proposed	No change. Existing home west of this lot.	No change. Existing homes south of this site.	No change. Existing homes east of this site.	< 35’

Affirmative finding.

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

Section 5.2.1 Existing Small Lots.
Not applicable.

Section 5.2.2 Required Frontage or Access
The Co-op has established access off North Avenue. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements
See Table 4.4.5-3, above.

Section 5.2.4 Buildable Area Calculation
The parcel exceeds 2 acres in size and is in a zoning district subject to Buildable Area review. The specific location for the three homes, however, has previously been developed. The parcel is not inundated at least six months per year by water or have a slope in excess of 30%.
Affirmative finding.

Section 5.2.5 Setbacks
See Table 4.4.5-3, above.

Section 5.2.6 Building Height Limits
See Table 4.4.5-3, above.

Section 5.2.7 Density and Intensity of Development Calculations
Mobile home parks have their own set of standards. The State of Vermont has approved the mobile home park for 120 units; there are 116 at present. The addition of 3 new housing units is within the state allocation for the park. See Section 5.4.12 for specific standards for mobile home parks. **Affirmative finding.**

Part 3: Non Conformities
The entire mobile home park is non-conforming. See Section 5.4.12 (b), below.

Sec. 5.4.8 Historic Buildings and Sites
Not applicable.

Section 5.4.12 Mobile Home Parks
In addition to the applicable provisions of Stie Plan Design Standards in Article 6 Part 2 and Article 10 Subdivision Review (if applicable), the following additional regulations shall be applicable to any application involving a Mobile Home Park. The provisions of Article 3 Part 5

for Conditional Uses shall also apply to applications involving new or expanded Mobile Home Parks.
The park itself is not new, and is not expanding from its current size of 11.06 acres. Conditional Use Review does not apply.

(a) Mobile Home Parks

Regarding the establishment and operation of a Mobile Home Park:

The North Avenue Co-operative is an existing mobile home park; not one being established. Applicable standards are noted, below.

1. *The required minimum lot size, lot frontage, and waterfront setback, and required maximum density and building height shall be as required per the applicable Zoning District standards found in Tables 4.4.5-1, 4.4.5-2 and 4.4.5-3.*

   The North Avenue Co-op is an existing, non-conforming Mobile Home park. Not applicable.

2. *The required minimum side and rear setback shall be 20' and shall be calculated at the periphery of the Mobile Home Park.*

   Not applicable.

3. *The maximum permissible lot coverage shall be 60% calculated across the entire Mobile Home Park parcel.*

   45.53% proposed. **Affirmative finding.**

4. *The required minimum lot size shall be for the entire Mobile Home Park parcel, not the individual mobile home lots.*

   This is not a newly established mobile home park. Lot size for the entire park remains as existing. The homes are proposed for an interior lot that previously contained a floral shop. **Affirmative finding.**

5. *The required minimum separation distance between individual Mobile Homes within the Mobile Home Park shall be 10'.*

   16' proposed. **Affirmative finding.**

6. *One (1) on-site parking space shall be required per individual Mobile Home.*

   The plan will provide one parking space for each of the new homes. **Affirmative finding.**

7. *The Mobile Home Park shall maintain a circulation network that provides direct access to, and the mobility and replacement of, each individual Mobile Home.*

   The placement of homes will not prohibit circulation or direct access. **Affirmative finding.**

8. *Mobile Home Parks shall be exempt from the requirements of Art 9, Part 1 Inclusionary Zoning.*

As noted.

9. *Individual Mobile Homes may be removed without triggering the requirements of Art 9, Part 2 Replacement Housing provided the total number of permitted Mobile Home lots remain available for occupancy, and any vacant lots are being actively marketed to prospective occupants.*

   Although not direct replacement housing after immediate loss of a unit; these are to replace and fill the occupancy limit of 120 units approved by the State of Vermont. Although there have been more homes within the park in the past, there are 116 at present. **Affirmative finding.**

(b) Non-Conforming Mobile Home Parks

1. *Where a pre-existing Mobile Home Park is nonconforming pursuant to Art 5, Part 4, the entire Mobile Home Park, and not individual Mobile Homes and lots, shall be treated as nonconforming.*

   This is an established mobile home park that is non-conforming.

2. *A Mobile Home Park shall be considered abandoned when the Mobile Home Park as a whole has been vacant for a period of six months or more. An individual Mobile Home lot that is vacated shall not be considered abandoned. No pre-existing nonconforming Mobile Home Park may be resumed once it has been abandoned except in full conformity with these bylaws.*

   The park is not abandoned. Not applicable.

3. *An individual Mobile Home within a nonconforming Mobile Home Park may be altered, expanded, or replaced, provided:*

   a. *the applicant provides proof of adequate water and wastewater capacity;*

   b. *any portion of the relocated or expanded Mobile Home shall not be located less than five (5) feet from any other primary structure(s); and,*

   c. *the expansion or replacement will not:*

      i. *obstruct or prohibit ingress or egress for any primary structure;*

      ii. *obstruct or prohibit mobility or replacement of any primary structure;*

      iii. *obstruct or prohibit the provision of emergency services;*

      iv. *obstruct existing utilities or rights of way; nor*

      v. *threaten or unduly degrade public health, safety, or welfare*

   The City of Burlington Water Department has confirmed adequate water and sewer capacity for the new homes. See attachment. Homes will be placed with adequate space between them and other structures to meet these standards. Their placement will not obstruct or prohibit ingress and egress for any primary structure; obstruct or prohibit mobility or replacement of any primary structure, or obstruct or prohibit the provision of emergency services. They will not obstruct existing utilities or rights of way, or unduly degrade public health, safety or welfare. The proposed three homes will be placed on a site previously occupied by a greenhouse/florist, which has been removed. Free

circulation will remain on Avenues A and B, with entrances on the north and south of this site. The homes will have driveways fronting Avenue A, each providing one parking space. **Affirmative finding.**

4. *Any of the requirements in (3) above may be waived by the DRB provided:*
   a. *the applicant demonstrates that adherence to these standards would have the effect of prohibiting the replacement of a Mobile Home on an existing lot;*
   b. *the DRB shall provide only the minimum waiver that will afford relief and will represent the least deviation possible from the bylaw, while ensuring public health, safety, and welfare; and,*
   c. *in approving any waiver, the DRB may impose conditions requiring design features, screening, or other remedy as may be necessary to mitigate anticipated impacts of granting any such waiver.*

   No waivers are requested. Not applicable.

<u>Article 6: Development Review Standards</u>
Part 1: Land Division Design Standards
Not applicable.

Part 2: Site Plan Design Standards
Sec. 6.2.2 Review Standards

(a)Protection of Important Natural Features:
There are no important natural features at this location in the park. It is empty after the florist building was removed. **Affirmative finding.**

(b) Topographical Alterations:
None proposed. **Affirmative finding.**

(c)Protection of Important Public Views:
There are no protected public views from this parcel**. Affirmative finding.**

(d) Protection of Important Cultural Resources:
Not applicable.

(e) Supporting the Use of Renewable Energy Resources:
The application does not preclude the use of wind, water, solar, geothermal, or other renewable energy resource. **Affirmative finding.**

(f) Brownfield Sites:
The parcel is not on the VT DEC's Brownfield list. **Affirmative finding.**

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

The slabs that will be placed under the homes are pre-case, and the only excavation that will be necessary is a 1-foot-wide "trench" around the perimeter that will be backfilled with the same material. The City's stormwater engineering staff has reviewed the plan and concurred that the small amount of excavation, and the three year phasing of the project limit ground disturbance. No EPSC plan is required.
Affirmative finding.

(h) Building Location and Orientation:

The placement site is interior to the parcel, and surrounded on all four sides by circulation roads within the park. The homes will be situated with parking on the west of the lot. Location and orientation are consistent with other homes on Avenue A and within the park in general.
Affirmative finding.

(i) Vehicular Access:

Access to the parcel remains west of the site. Parking spaces for the three new units will be situated on the westerly side of the lot, with access from Avenue A. **Affirmative finding.**

(j) Pedestrian Access:

All three homes will have double landings for resident access. There are no public sidewalks within the interior of the park, but are available westerly of this lot along North Avenue.
Affirmative finding.

(k) Accessibility for the Handicapped:

Handicap accessibility is under the review of the building inspector.

(l)Parking and Circulation:

Each home with have one parking space, consistent with Section 5.4.12 (a). **Affirmative finding.**

(m) Landscaping and Fences:

The area surrounding the homes will remain green. No other landscaping is proposed at this time. **Affirmative finding.**

(n) Public Plazas and Open Space:

There are no public plazas associated with this site. Not applicable.

(o) Outdoor Lighting:

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

The applicant has provided a plan for overall park lighting, which is not proposed to be altered. Homes are factory manufactured pre-wired for residential scale lighting. **Affirmative finding.**

(p) Integrate infrastructure into the design:

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

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be place underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

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

All utility lines shall be buried for new construction. Mailboxes are provided at each home. Communal trash and recycling facilities are at another location in the park, but roll-off toters will be provided to each of the homeowners. The applicant defines a lot contract agreement that homeowners store their totes out of sight until trash pick-up day. **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 new homes are consistent with the massing, height and scale of existing homes within the park. **Affirmative finding.**

2. Roofs and Rooflines.

The new homes are consistent with the rooflines of existing homes within the park. **Affirmative finding.**

3. Building Openings

The building openings are similar to other homes within the neighborhood. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

Not applicable.

(c) Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

The new units will present a fresh, modern appearance of new homes within the park. **Affirmative finding.**

(e) Quality of materials:

Manufactured housing has standardized construction, including materials. From their product information:

These are homes built entirely in the factory under a federal building code administered by the U.S. Department of Housing and Urban Development (HUD). The Federal Manufactured Home Construction and Safety Standards (commonly known as the HUD Code) went into effect June 15, 1976. Manufactured homes may be single- or multi-section and are transported to the site and installed. The federal standards regulate manufactured housing design and construction, strength and durability, transportability, fire resistance, energy efficiency and quality. The HUD Code also sets performance standards for the heating, plumbing, air conditioning, thermal and electrical systems. It is the only federally-regulated national building code.

As federally regulated, the quality of materials is anticipated to be acceptable. **Affirmative finding.**

(f) Reduce energy utilization:

See above. **Affirmative finding.**

(g) Make advertising features complementary to the site:

Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p), above.

(i) Make spaces secure and safe:

Development is required to meet all applicable building and life safety codes as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

<u>Article 8: Parking</u>

Per Section 5.4.12 (a), one parking space is required for each unit. Three new parking spaces are proposed to serve the three new homes. **Affirmative finding.**

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

1. Impact fees, calculated on the total gross square footage of the principal use of the building(s), shall be paid at least seven (7) days prior to

occupancy unless a waiver is provided by the Housing Trust Fund Manager.

2. This permit is for two phases, with a total permit life of three years.
3. Utility lines shall be buried.
4. Standard Permit Conditions 1-15.

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

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

TO: Development Review Board
FROM: Scott Gustin
DATE: May 15, 2018
RE: 18-0771AP; 12 Weston Street—Administrative Officer's Report
==========

Note: This is the Administrative Officer's Report; decisions on the appeal are made by the Development Review Board, which may uphold, overturn, table or modify the administrative decision. THE APPLICANT OR REPRESENTATIVE <u>MUST</u> ATTEND THE MEETING.

Zone: RL Ward: 1E

Owner/Appellant: Charles & Cynthia Burns / Brian P. Hehir, Esq.

Request: Appeal of notice of zoning violation #336638 pertaining to duplex use.

Overview:
The appellant is requesting that the Development Review Board declare void the notice of zoning violation (NOV) alleging an unpermitted duplex use at 12 Weston Street. The NOV was issued March 1, 2018 following extensive research into the history of the property conducted in response to a complaint from a number of residents asserting an unpermitted duplex use at the property.

The notice of appeal asserts that the city is estopped from asserting the property is in violation now, contradicting prior representations made by the city. The question of estoppel is not properly before the Development Review Board in this appeal.

The appeal also asserts that the city failed to institute enforcement action within 15 years of the date of commencement of the alleged violation. As a use violation; however, the 15-year statute of limitations does not apply. That the present use is a duplex is uncontested.

As the findings demonstrate, use of 12 Weston Street has changed over the years from a single dwelling up to four dwellings and back down to two. None of these use changes received a zoning permit.

Recommendation: **<u>Uphold notice of violation # 336638</u>** based on the following findings and conditions:

I. Findings:

On May 25, 2017, a complaint signed by nineteen residents of Burlington was submitted to the Planning & Zoning Department alleging an unpermitted duplex use at 12 Weston Street.

The complaint was reviewed, and a copy of the complaint was provided to the property owners and their attorney. A written response to the complaint was provided by their attorney on July 17, 2017.

The ensuing months involved research by Planning & Zoning staff into the history of uses at 12 Weston Street. Documents reviewed included zoning permits, assessor records, rental records, affidavits, warranty deeds, Burlington city directories, and Sanborn maps. As outlined in the NOV, the record demonstrates that the residence underwent multiple configurations ranging from a single detached dwelling unit, up to a 4-unit apartment house, and back down to two units. None of the changes received a zoning permit.

Following review of the matter by the City Attorney's Office, Code Enforcement, and Planning & Zoning, the NOV was issued March 1, 2018. The NOV asserted "unpermitted duplex" as the violation. The findings in the NOV are extensive and reflect the various uses of the property and associated chronology.

The NOV was appealed on March 5, 2018, within the 15-day appeal period.

The notice of appeal does not contest the findings in the NOV. Rather, the appeal asserts that the city is estopped from asserting that the property is now in violation of the zoning code. The appeal also asserts that the city did not act to enforce within 15 years of commencement of the violation.

The estoppel argument is not a consideration before the Development Review Board in this appeal. That assertion is to be weighed before the courts.

The assertion of the 15-year statute of limitations (24 V.S.A. §4454 (a)) is without merit. The statute of limitations does not pertain to use violations – it pertains only to physical violations such as unpermitted structures. "A use violation that has never been legally established (and therefore cannot establish itself as a lawful nonconforming use) can be subject to an enforcement action at any time, particularly when the alleged use violation is ongoing." *In re Budget Inn NOV (Appeal of DAAT, Inc., David Singh from City of Barre DRB),* 2013 WL 657039 (Vt. Super. Envtl. Div. Nov. 19, 2013). Also see *City of Burlington v. Richardson,* 2006 WL 4088224 at 5 (Vt. Envtl. Ct. June 27, 2006) (use violations are an exemption from 24 V.S.A. §4454 as use violations are analyzed as continuing or recurring violations). The Development Review Board has consistently applied this standard.

While the history of uses at 12 Weston Street is long and varied, the end result is clear and simple. None of the uses received a zoning permit. The residence was originally constructed as a single family dwelling and may continue to be used as such.

II. Recommended Motion:
Uphold the notice of zoning violation #336638.

BRIAN P. HEHIR
HEHIR LAW OFFICE, PLLC
239 SOUTH UNION ST.
P.O. BOX 1052
BURLINGTON, VT 05402-1052

Brian@hehirlaw.com
www.hehirlaw.com

TEL 802-862-2006
FAX 802-862-2301

March 5, 2015

Chairperson, Development Review Board
City of Burlington
149 Church Street
Burlington, VT 05401

Re: 12 Weston Street, Notice of Violation 336638, Charles and Cynthia Burns.

NOTICE OF APPEAL

Dear DRB Chairperson:

This is an appeal to the Development Review Board of Notice of Zoning Violation 336638, dated March 1, 2018, involving the duplex use of property located at 12 Weston Street.

This property was previously deemed to be a lawful duplex by the City; the Burns purchased this property on June 6, 2014 in reliance on the City's representation in this regard. Specifically, on May 15, 2014, Jeanne Francis, Zoning Specialist from City's Code Enforcement Office, issued a letter stating the following:

> "A sworn affidavit from the owner, Elizabeth L. Gadue, indicates this property has been used as a duplex since at least 1969 forward. This affidavit was supplemented with an affidavit from Monika Busse, the tenant in the third floor apartment. Based on these statements and support by other evidence submitted by the owner, from city records (including a Public Works report regarding permits issued on the property), and lack of evidence to the contrary, the use of the property has been a duplex since at least 1969."

As such the City is estopped from now asserting that the duplex use of the property is unlawful since the Burns relied on this representation in purchasing the property.

In addition, the City has failed to institute enforcement action with fifteen years of the date of the alleged violation, which, according to information provided in the NOV, was at least 1966, and possible earlier. 24 V.S.A. §4454(a).

For these reasons the Burns request that the Notice of Violation be declared void and the enforcement action be dismissed by the Development Review Board.

Very truly yours,

Brian P. Hehir, Esq.

cc: Charles and Cynthia Burns

RECEIVED
MAR 05 2018
DEPARTMENT OF
PLANNING & ZONING

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

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: 12 WESTON ST

Subject Property Owner: CHARLES + CYNTHIA BURNS

Appellant: SAME

Agent/Representative: BRIAN REAIR, ESQ.

Mailing Address: P.O. BOX 1052 BURLINGTON 05402

City, St, Zip:

Day Phone: 862-2006 Email: BRIAN@REAIRLAW.COM

Appellant Signature: Charles + Cynthia Burns by B. J. Reair Date: 3-5-16

In order for your request to be considered complete, **ALL** of the following information **must** b 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.

RECEIV
MAR 05 201
DEPARTMENT
PLANNING & ZO

Office Use Only:
Check No. 9969 Amount Paid 250 Zoning Permit # 16-0771AP

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 336638)

March 1, 2018

Mailed Certified Mail #7015 1520 0000 4418 0437
FIRST CLASS MAIL, and EMAIL

CHARLES C. AND CYNTHIA D. BURNS
475 MEADOWSIDE DR.
CHARLOTTE, VT 05445

NOTICE OF VIOLATION AT:
12 WESTON STREET, BURLINGTON, VT
TAX LOT #045-1-240-000

Dear Owners,

It has come to the attention of this office that a zoning violation exists at 12 Weston Street.

Description of Violation: Unpermitted duplex.

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 12, 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 correction of the violation, however, be advised application and filing fees are subject to a fee increase for permits required to correct a violation.

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 Notice of Violation (NOV) may be appealed to the Burlington 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 NOV (ie. March 1, 2018), 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 (City Hall, 149 Church Street) by **4 pm on March 15, 2018**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call Jeanne at (802) 864-8518.

Sincerely,

David E. White
Zoning Administrative Officer

Sincerely,

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

Enclosures: Violation Details
Cc: Land Records for Tax Lot # 045-1-240-000

VIOLATION DETAILS

LOCATION: **12 WESTON STREET**

DECISION DATE: March 1, 2018

VIOLATION DESCRIPTION: Unpermitted duplex.

FINDINGS:

- There is no zoning permit for the duplex at 12 Weston Street.

- The subject house was built circa 1940
  - 1942 Assessor's card shows $5K valuation
  - House first appears on 1942 Sanborn map, noted as "D" for dwelling (notes 18-20 Weston St as "D/D" for 2 dwellings). The singular "D" suggests a single dwelling unit.
  - The address first appears in the 1940 Burlington directory. Notes Aymer SC Hill & John A Hitchcock. Hitchcock is seemingly in error as the name is also noted at 15 Weston Street.

- <u>1942 Burlington directory</u>
  - Notes 1 name, Aymer SC Hill.

- <u>1944 Burlington directory</u>
  - Notes 1 name, Harry Dalton.

- <u>1946 Burlington directory</u>
  - Notes 2 names, Benjamin J. Towle & Clarence E. Gibbons. Gibbons seemingly in error as the name is also noted at 11 Weston Street.
  - Zoning is adopted in Burlington in 1947.
  - The 1942 Sanborn map contains updates through August 1959. Notes only "D" for 12 Weston St.
  - 12 Weston St in "Zone 1."
  - Dwellings, single or multiple are allowed uses.

- <u>1949 Burlington directory</u>
  - Notes 1 name, Benjamin J Towle.

- <u>1960 Burlington directory</u>
  - Notes 1 name, still Benjamin J Towle – along with "owner" symbol (owner symbol introduced into the directory).

- <u>1962 Zoning Ordinance adopted</u>
  - Weston St in "Residential District – Zone 1."
  - Single family and two family dwellings are allowed uses.

- Apartment house (3+ units) allowed via "special exception" from ZBA.
- Changes in use expressly require issuance of a zoning permit.
- No zoning permit on file for a duplex or other use.

- 1963-64 Burlington directory
  - Notes 1 name, still Benjamin J Towle – along with "owner" symbol.

- 1966 Burlington directory
  - Notes 2 different names, Bertha L Prior & Michl Munro – no "owner" note.
  - The house possibly becomes a rental duplex.
  - No zoning permit on file for a duplex or other use.

- 1967 Burlington directory
  - Notes 3 names, Linda Bennett, Eliz Ching, Eleanor Noonan – no owner note.
  - The house possibly becomes rental triplex.
  - No zoning permit on file for an apartment house or other use.

- 1969 (per 2014 Gadue affidavits)
  - Elizabeth Gadue and husband purchased the property.
  - The house contained 4 apartments.
  - No zoning permit on file for an apartment house or other use.

- 1970 Zoning Ordinance adopted
  - Use standards in Residential District – Zone 1 remain unchanged.

- 1973 Zoning Ordinance adopted
  - 12 Weston St in "R-6" (low density residential) zone.
  - Single family dwellings are a permitted use.
  - Single family to duplex conversion allowed subject to certain standards.
  - Attached multi-family dwellings are not allowed, except that 1 additional unit may be added to existing legitimate multi-family dwellings.
  - Changes in use expressly require issuance of a zoning permit.
  - No zoning permits on file for duplex, additional unit, or other use.

- 1977 (per 2014 Gadue affidavits)
  - Gadue family moved in and lived in 3 of the 4 units.
  - Continued to rent the 3rd floor unit as a separate apartment.

- 1979 Burlington directory (owner symbol seemingly dropped altogether from the directory)
  - Notes 3 names, but all in Gadue family (Mark, Ann, & Robert).

- 1983 Burlington directory
  - Notes 3 names, but all in Gadue family (Anne, Elizabeth, and Patrice).
  - Notes 12 ½ Weston too (possibly the apartment) with name Pike Allison.

- 1985 Assessor's data
  - Assessor's card shows 4 apartments.

- 1987 Rental inspection
  - Public Works Department rental inspection notes 1 unit inspected.

- 1991 Rental inspection
  - Public Works Department rental inspection notes 3rd floor unit.

- 1994 Zoning Ordinance adopted
  - 12 Weston St in "RL" (residential low density) zone.
  - Single family homes are a permitted use.
  - Duplexes are a conditional use.
  - Multi-family attached dwellings not allowed except that 1 additional unit may be added to existing legitimate multi-family dwellings.
  - Changes in use expressly require issuance of a zoning permit.
  - No zoning permit on file for duplex, additional unit, or other use.

- 2004 Rental Registration/Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - Billing recipient – Robert Gadue @ 12 Weston St.

- 2005 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - Billing recipient – Robert Gadue @ 12 Weston St.

- 2006 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - Billing recipient – Robert Gadue @ 12 Weston St.

- 2007 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - No info as to who resides at 12 Weston St.

- 2008 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - No info as to who resides at 12 Weston St.

- 2008 Comprehensive Development Ordinance adopted
  - 12 Weston St in "RL" zone.
  - Single family homes are a permitted use.
  - Duplexes are a conditional use.
  - Multi-family attached dwellings are not allowed except that 1 additional unit may be added to existing legitimate multi-family dwellings
  - Changes in use expressly require issuance of a zoning permit.
  - No zoning permit on file for duplex, additional unit, or other use.

- 2009 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - No info as to who resides at 12 Weston St.

- 2010 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - No info as to who resides at 12 Weston St.

- 2011 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - No info as to who resides at 12 Weston St.

- 2012 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - No info as to who resides at 12 Weston St.

- 2013 Rental Billing
  - 1 rental unit noted.
  - Owner – Elizabeth Gadue (Colchester residence).
  - No info as to who resides at 12 Weston St.

- 2014 Rental Billing
  - 1 rental unit noted.
  - Owner – Charles & Cynthia Burns (Charlotte residence).
  - No info as to who resides at 12 Weston St.

- 2015 Rental Billing
  - 2 rental units noted.
  - Owner – Charles & Cynthia Burns (Charlotte residence).
  - No info as to who resides at 12 Weston St.

- 2016 Rental Billing
  - 2 rental units noted.
  - Owner – Charles & Cynthia Burns (Charlotte residence).
  - No info as to who resides at 12 Weston St.

- 2017 Rental Billing
  - 2 rental units noted.
  - Owner – Charles & Cynthia Burns (Charlotte residence).
  - No info as to who resides at 12 Weston St.

- The record indicate that the house at 12 Weston Street was built circa 1940 as a single family home. It was a single family home through 1964. From there, it contained 2, possibly 3, and 4 apartment units. All configurations would have required a zoning permit under the regulations in effect at the time, but none was received.

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

1. Removing the second dwelling unit and informing the Code Enforcement Office that the violation has been cured so our office may verify compliance, or

2. Executing an Agreement, that includes a reasonable time line to cure the above violation. Agreement shall be executed by April 1, 2018; 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 March 16, 2018.** 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 enforcement officer shall be binding 24 V.S.A §4472(d).*

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

Scott Gustin

From: Kathleen <[redacted]
Sent: Wednesday, May 09, 2018 6:22 PM
To: Scott Gustin
Subject: 12 Weston Street

Dear Scott,

I urge the Development Review Board to require single family use of the property at 12 Weston Street and to encourage the reversion to single family occupancy of properties more generally in the city, especial in areas with high concentrations of student rental housing.

Please help to keep our neighborhoods intact and healthy!

Respectfully submitted,

Kathleen Donohue
96 Henry Street
Burlington VT

Scott Gustin

From: Ashley M Bond [redacted]
Sent: Tuesday, May 08, 2018 10:16 PM
To: Scott Gustin
Subject: 12 Weston DRB

Hi Scott,

I am writing in to reiterate my testimony from the original DRB hearing regarding 12 Weston Street.

James and I moved into 51 Henry Street in 2009, which overlooks the back of 12 Weston, along with 18/20 Weston.

At that time, Ms. Gadue still owned the 12 Weston Street property. I have never met Ms. Gadue, or the woman tha lived in the third floor apartment. I observed the woman (not Ms. Gadue I came to understand), descending from th 3rd floor balcony/ porch. She parked her car in one of the garages at 18/20 Weston, which I knew to be owned by Charles (Chuck) Burns. The backyard of 18/20 Weston is easily accessible from 12 Weston. The off premises parkin situation was later remedied on a separate decison involving 18/20 Weston.

Prior to the sale being completed for 12 Weston, I observed Chuck Burns handyman, a person I had become familiar with because they worked for him on 18/20 Weston Street, performing maintenance on 12 Weston. Porch repairs, window repairs and construction activity was heard from inside the home. At this time I believe a complaint for lack permit was issued to Burlington Zoning by Judy Rosenstreich, who also lives on Henry Street. Eventually, the proper changed ownership from Gadue to Burns.

It appears that there are more than four people now living in 12 Weston, likely 5-7 based on foot traffic, and with Ch Burns now owning both properties, off premises parking continues to be allowed on 18/20 Weston. I am satisfied w the landscaping improvements and current management of parking that resulted from the complaints at 18/20 Wes I am only including this new testimony to support tenant activities that I've observed from my property when I am i yard or using my back door.

I support the decision that this home was not a duplex or zoned to be a duplex based on my observations, and the research noted in the report being contested on May 15.

Respectfully,
Ashley Bond
51 Henry Street

Scott Gustin

From: [redacted]
Sent: Tuesday, May 08, 2018 10:01 PM
To: Scott Gustin
Subject: 12 Weston St.

Dear Scott,

I'm writing to express support for the Notice of Violation issued to the owner of 12 Weston Street. Conversi to student rental housing runs counter to the city's and residents' efforts to create a balanced and livable neighborhood. Enforcement of illegal conversions, which seems to be the case here, is critical and very muc needed. Thanks for your work making the city a better place to live.

Matt Moore
[redacted]
82 Henry Street

Sent from my iPad

Scott Gustin

From: [redacted]
Sent: Tuesday, May 08, 2018 4:35 PM
To: Scott Gustin
Subject: 12 westen st violation

Hello Scott,

I totally support thr DRB regarding your decision on the violation of 12 Weston st. It is not and never has b
a legal duplex. As you know I have lived in Burlington my entire life and my younger sister and I spent tim
that home. It was the family residence of the Gadue family. Never was it a duplex. That was well known v
the new owner purchased the building. We as residence and the DRB need to support one another and put a
to these illegal rentals.
Let us join together and get back our long lost lovely neighborhoods. Hopefully if we continue to show thos
landlords we mean business we can take back these homes and allow families the option to purchase . Our
is worth the fight.

Thank you for reading my email. Respectfully , Nancy Kirby

Sent from Samsung tablet.

RECEIVED
MAY - 8 2018
DEPARTMENT OF
PLANNING & ZONING

May 8, 2018

Dear Austin and Members of the Board:

The photos I sent earlier today were taken the morning after two parties at 18-20 Weston Street and 12 Weston Street. I counted 11 beer cans, bottles and cups littering the front and side yard. The party began in the afternoon in the parking lot at 18-20 Weston Street on April 21, 2018. There is nothing illegal about partying in the daytime hours, but whoops and foul language are not pleasant or welcome and were not common on normally quiet Saturday afternoons before 12 Weston was converted from single family use, creating a *de facto* student compound with the house next door. The parking lot accommodates drinking games and a cheering section.

That evening another party revved up after dark, so I walked over. I saw 5 young adults exit the basement through the open garage door at 12 Weston Street. The basement has festive strings of lights. I could hear music coming from there. A year or two ago I complained about noise from partying in the basement. There used to be white roller shades on the basement windows. After this noise complaint, hard foam insulation sheets cut to size became the sound dampening window treatments of choice. The basement was storage when Mrs. Gadue sold the house in 2014, not living space. Under the current ownership the living space has been expanded.

These two rentals have 16 or 17 UVM students living there. The properties are a nuisance to our neighborhood and diminish its appeal. The buildings are poorly maintained and violate the EMP lead paint ordinance. In fact, a recent inquiry found that no legally mandated EMP Compliance statement had ever been filed.

12 Weston Street was an owner occupied single family house for 37 years. Mrs. Gadue rented the third floor one room dormer accessory unit to her bookkeeper who lived there for 28 years. The existence of this unit (which was never permitted and thus could never be grandfathered) has no bearing on the single family status of this house. And it would have no bearing even if it were permitted because the CDO states pointedly in the Section 13 Definition of "Duplex":

> *"For purposes of this ordinance a single-family detached structure with an accessory apartment shall not be considered a duplex."*

Please uphold our CDO, our planning and zoning staff, our legal team and our Municipal Plan which states bluntly that the city "will encourage the reversion to single family occupancy of properties, especially in areas with high concentrations of student rental housing, which have been converted to multi-unit dwellings."

Thank you,

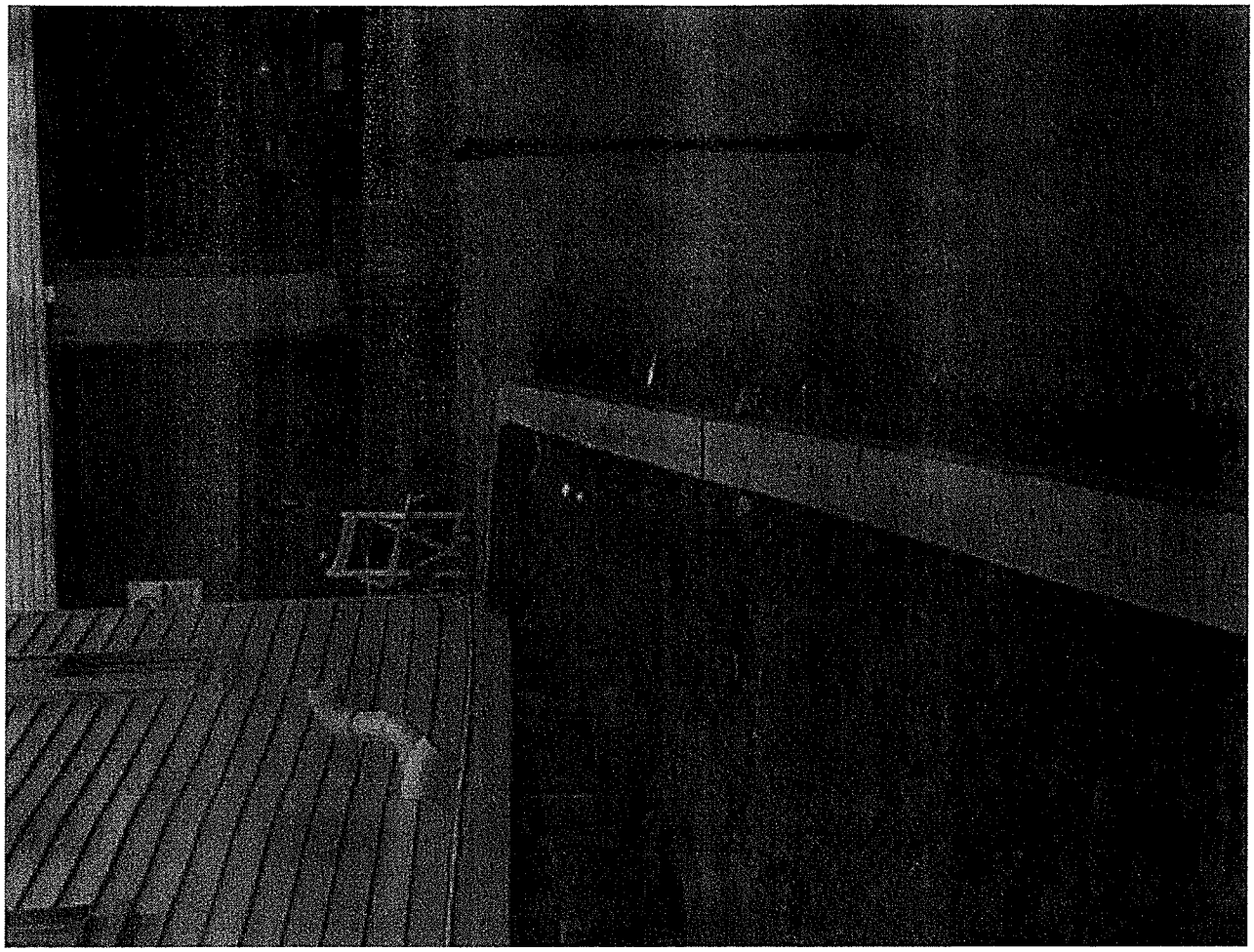
Caryn Long

Scott Gustin

From: Caryn Long <[redacted]>
Sent: Tuesday, May 08, 2018 9:42 AM
To: Scott Gustin; William Ward
Cc: Michael Long
Subject: Fwd: 18 20 Weston Street April 22 am

A letter will follow.
>
>
>
>

>
>
>



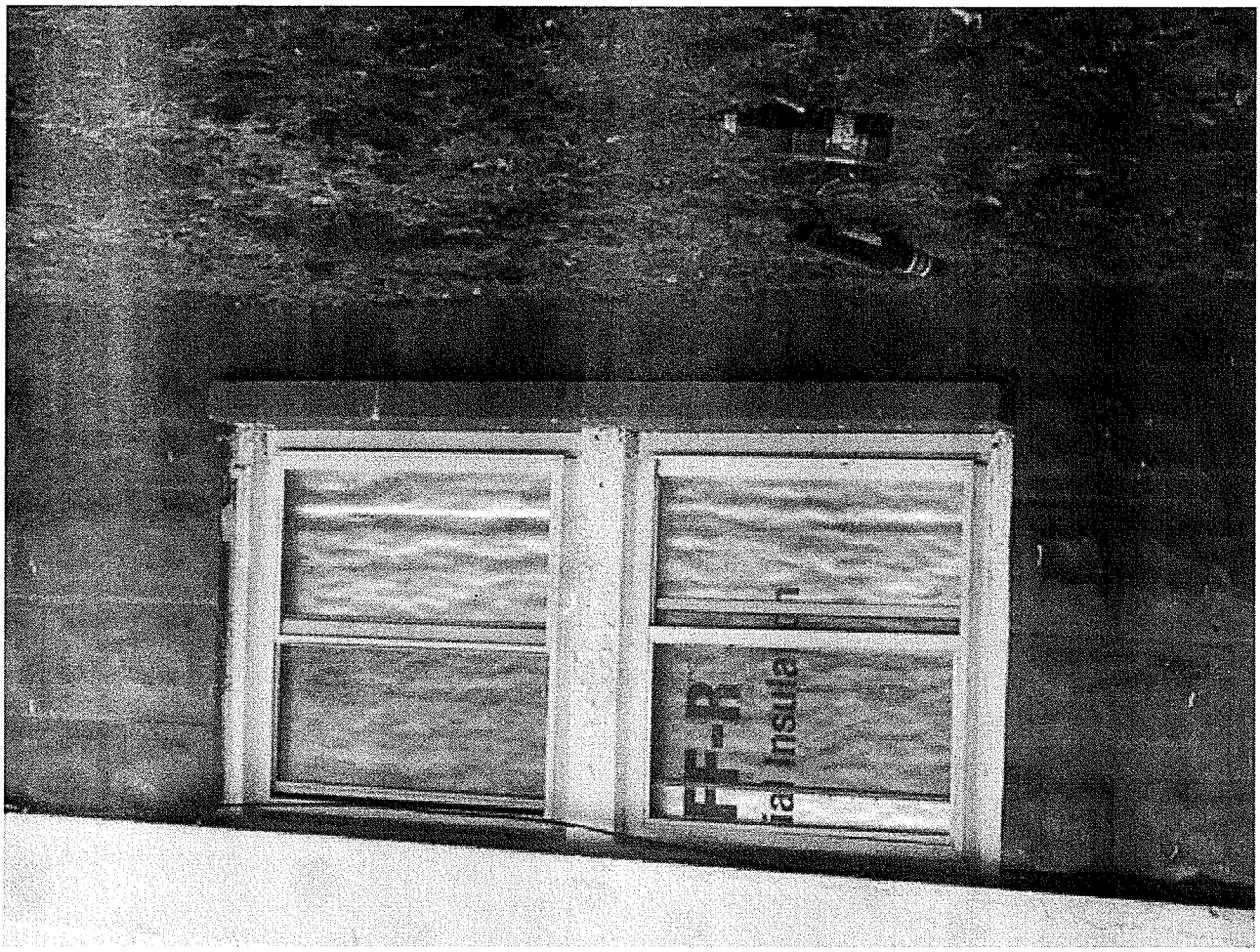
>
>
>

>
>
>
> Sent from my iPhone

Scott Gustin

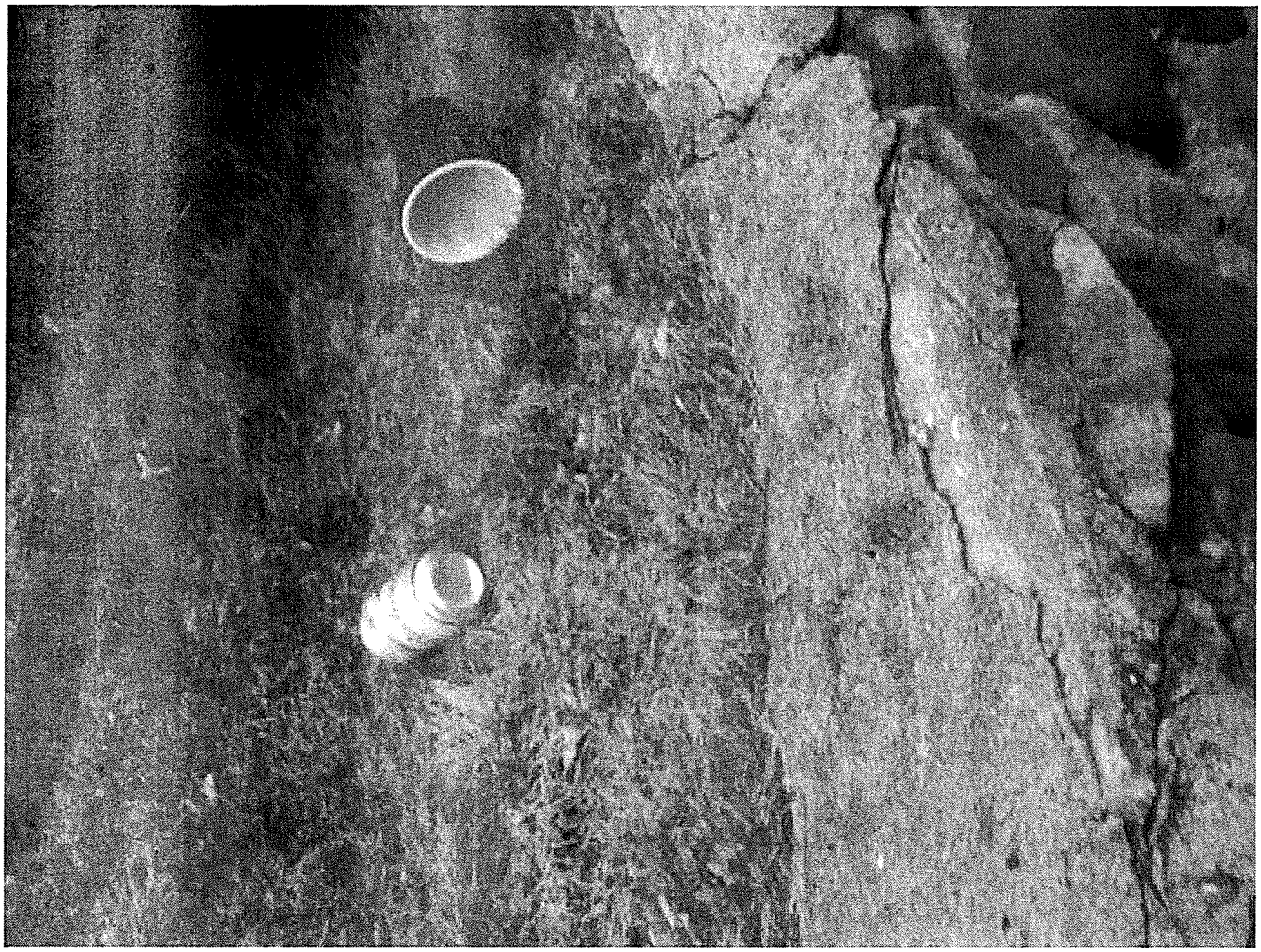
From: Caryn Long <[redacted]>
Sent: Tuesday, May 08, 2018 9:46 AM
To: Scott Gustin; William Ward
Cc: Michael Long
Subject: 12 Weston Street, April 22 am

Letter to follow.
>
>
>



>
>
>

>
>
>



>
>
>

>
>
>

>
>
>
> Sent from my iPhone

Petition to Uphold Enforcement of Illegal Housing Units

After lengthy and detailed research, The Burlington City Attorney's Office and the Burlington Department of Planning an Zoning have determined that 12 Weston Street is being used illegally as a duplex. A Notice of Violation has been issued because the house is legally permitted to be used only as a single-family house. This Notice of Violation is in accordance with the law and with our Municipal Development Plan which states that it is Burlington's policy to:

> "Encourage the reversion to single-family occupancy of properties, especially in areas with high concentrations of student rental housing, which have been converted to multi-unit dwellings."

RECEIVED
MAY - 8 2018
DEPARTMENT OF PLANNING & ZONING

On May 15, 2018, the Burlington Development Review Board will decide whether to uphold that Notice of Violation.

We, the undersigned, urge our leaders to act to enforce the law and uphold the Notice of Violation regarding 12 West Street. Whereas Burlington's Municipal Plan includes a policy of encouraging the return of single-family housing, especially in neighborhoods that have come to be disproportionately dominated by student rental housing, we call upon the city of Burlington and its departments and boards to firmly adhere to this policy and to the Comprehensive Development Ordinance through diligent action and enforcement to prevent and remove illegal units.

Signature	Printed Name	Address	Date of Signature
	MARY MOYNIHAN	53 Henry St.	05.05.18
	James Bond	51 Henry St	05.05.18
	Ashley Bond	51 Henry St.	05/05/18
	Alexander Friend	53 Henry St.	05/05/2018
	MATT MOORE	82 Henry St.	5/5/18
	Susie Monkley	"	5/5/18
	Eamon Friend	53 Henry St.	5/6/18
	Thomas Buck	61 Henry St	5/6/18
	Valerie Esposito	75 Henry St.	5/6/18
	Bryan Davis	75 Henry St	5-6-18
	KATE STROTMEYER	81 HENRY ST.	5.6.18
	JAMIE STROTMEYER	81 HENRY ST.	5-6-18
	Altana Bullard	85 Henry	5-6-18
	THOMAS HUGHES	78 HENRY	5-6-18
	Kathleen Donohue	96 Henry St	5-6-18
	SCOTT W. RICHARDS	96 HENRY ST.	5-6-18
	Robert Downey	101 Henry St.	5-6-18
	Bethany Whitzke	188 Loomis St	5-6-18
	THOMAS DUNN	188 Loomis St	5-6-18
	FIONA DUNN	188 Loomis ST	5/6/18
	Amanda Grace	176 Loomis Street	5/6/18
	David Grace	176 Loomis St	5/6/18

Petition to Uphold Enforcement of Illegal Housing Units

After lengthy and detailed research, The Burlington City Attorney's Office and the Burlington Department of Planning ar Zoning have determined that 12 Weston Street is being used illegally as a duplex. A Notice of Violation has been issued because the house is legally permitted to be used only as a single-family house. This Notice of Violation is in accordance with the law and with our Municipal Development Plan which states that it is Burlington's policy to:

> "Encourage the reversion to single-family occupancy of properties, especially in areas with high concentrations of student rental housing, which have been converted to multi-unit dwellings."

RECEIVE
MAY - 8 2018
DEPARTMENT OF
PLANNING & ZONIN

On May 15, 2018, the Burlington Development Review Board will decide whether to uphold that Notice of Violation.

We, the undersigned, urge our leaders to act to enforce the law and uphold the Notice of Violation regarding 12 Wes Street. Whereas Burlington's Municipal Plan includes a policy of encouraging the return of single-family housing, especially in neighborhoods that have come to be disproportionately dominated by student rental housing, we call upon the city of Burlington and its departments and boards to firmly adhere to this policy and to the Comprehensiv Development Ordinance through diligent action and enforcement to prevent and remove illegal units.

Signature	Printed Name	Address	Date of Signature
	Mordechai Brown	170 Loomis St	5/6/18
	Rebecca Fredman	170 Loomis St.	5/6/18
	SANDRA BAIRD	114 LOOMIS ST	5/6/18
	STONTON TRULL	234 LOOMIS ST	5/6/18
	Hamilton Davis	26 HENRY ST	5/6/2018
Judy P. Rosenstreich	Judy P. Rosenstreich	30 Henry St.	5/6/2018
Karen Hewitt	Karen Hewitt	58 Henry St.	5/6/2018
Greg Hancock	Greg Hancock	69 Henry St	5/6/2018
	Kari Hancock	69 Henry St.	5/6/2018
	Pamela Morein	61 Henry	5/6/18
	Jim Standard	22 Wilson	5.6.18
	Laura Standard	22 Wilson	5.6.18
Beatrice J. Wood	Beatrice J. Wood	64 Henry St	5/7/18
Jared Wood	Jared Wood	64 Henry St	7 May 18
	Claire Raake	117 Henry St.	5/7/18
Sam Donnelly	Sam Donnelly	48 Henry St	5/7/18
Mellisa Cain	Mellisa Cain	195 Weston St	5/7/18
Mac Sullivan	Mac Sullivan	109 N. Willard St	5/7/18
Rebecca Sullivan	Rebecca Sullivan	109 N Willard St	5/7/18
	Elizabeth Wegner	103 N. Willard St.	5/7/18
	Peter Sanson	169 Loomis St	5/7/18
Megan McGrea		180 Loomis St	5/7/18

Petition to Uphold Enforcement of Illegal Housing Units

After lengthy and detailed research, The Burlington City Attorney's Office and the Burlington Department of Planning an Zoning have determined that 12 Weston Street is being used illegally as a duplex. A Notice of Violation has been issued because the house is legally permitted to be used only as a single-family house. This Notice of Violation is in accordance with the law and with our Municipal Development Plan which states that it is Burlington's policy to:

> "Encourage the reversion to single-family occupancy of properties, especially in areas with high concentrations of student rental housing, which have been converted to multi-unit dwellings."

On May 15, 2018, the Burlington Development Review Board will decide whether to uphold that Notice of Violation.

We, the undersigned, urge our leaders to act to enforce the law and uphold the Notice of Violation regarding 12 West Street. Whereas Burlington's Municipal Plan includes a policy of encouraging the return of single-family housing, especially in neighborhoods that have come to be disproportionately dominated by student rental housing, we call upon the city of Burlington and its departments and boards to firmly adhere to this policy and to the Comprehensiv Development Ordinance through diligent action and enforcement to prevent and remove illegal units.

Signature	Printed Name	Address	Date of Signature
Evan Goldstein	Evan Goldstein	229 Loomis	05/07/18
Janet Kilburn	Janet Kilburn	230 Loomis	05/07/18
[illegible]	Marcella Gangsc	106 N Prospect	05/7/18
[illegible]	John Keefe	106 N Prospect	05/7/18
[illegible]	James Laughlin	210 Loomis St	5/7/18
[illegible]	Rebecca Laughlin	210 Loomis St	5/7/18
[illegible]	VANESSA MATOS	91 Henry St	5/7/18
[illegible]	Colleen Hanpmay	111 N Prospect St	5/7/18
[illegible]	Michael Long	55 Henry St. Burlington	5/7/18
[illegible]	Lewis F Brughton	52 Henry St	5.7.2018
[illegible]	caryn Long	55 Henry St. Burlington	5/7/18

RECEIVED
MAY - 8 2018
DEPARTMENT OF
PLANNING & ZONING

Scott Gustin

From: Sandy Wynne <[redacted]
Sent: Tuesday, May 08, 2018 10:14 AM
To: Scott Gustin
Subject: 12 Weston street support for city determination

Hi Scott – I will keep it short and sweet. Count me in for supporting the city's determination that 12 Weston is ope as an illegal duplex. I can't be at the DRB hearing today but feel free to share this with others.Thank you.

Sandy

Sandy Wynne
137 Mansfield Ave
Burlington VT 05401
802.343.9289

RECEIVED
MAY - 7 2018
DEPARTMENT OF
PLANNING & ZONING

Dear Austin and Members of the Board,

My wife Caryn and I regrettably will be unable to attend the May 15 hearing regarding 12 Weston Street because family events out West require us to be there. We submit these written comments instead.

Along with 20 or more other city residents from various neighborhoods, we have been calling for action against the conversion of this property to a duplex without regulatory review ever since it began.

We ask now that you please uphold the Notice of Violation regarding the illegal use of 12 Weston Street as a duplex. This notice was issued after thorough research by city planners and lawyers. It asserts the rule of law, adheres to the CDO, and in doing so properly respects the rights of neighborhoods, residents, and property owners.

Loose and off the cuff readings of the CDO have sometimes in the past served individual agendas, but most often at the expense of neighborhoods and the city community as a whole. Such loose readings, based on cursory analysis or predetermined outcomes, are toxic both in undermining respect for zoning law and in causing direct damage to responsible property owners and whole neighborhoods.

People have been driven from their homes by violations just like this one before you. Since the change of use at 12 Weston there have been numerous instances of noise disturbances, large rowdy groups coming and going, broken glass, discarded cups, bottles and cans, strewn trash, an accumulation of dog droppings and cigarette butts, an excess of vehicles, and at least one isolated and bizarre instance of a metal projectile (CO2 cartridge) launched from or near the property and landing two yards up. None of the aforementioned occurred at 12 Weston in the decades prior to the acquisition of the property by the current owner and the conversion of the property to duplex use.

Such nuisances are contextual and not the central issue before you, but they are relevant nonetheless. While adhering to the CDO does not insure against every possible nuisance that might degrade a neighborhood, it does effectively reduce and is fully intended to reduce the likelihood of such nuisances. The peaceful decades under the prior ownership and single family use of 12 Weston are compelling evidence of this.

Furthermore, not only is the duplex use of 12 Weston a direct violation of the CDO, it is also specifically contrary to Burlington's Municipal Development Plan which states that the City of Burlington "will encourage the reversion to single family occupancy of properties, especially in areas with high concentrations of student rental housing which have been converted to multi-unit

dwellings" (Burlington Municipal Development Plan, Section IX, Housing Plan/City Policies, Page IX-2).

Circumventing or ignoring the CDO's requirements (not to mention those of the Municipal Plan) can be appealing and profitable. Thus when this occurs, citizens depend on city departments and boards such as the DRB to take action to protect the integrity of neighborhoods and the integrity of the CDO. This Notice of Violation addresses just such an abuse.

The fully substantiated illegal use of 12 Weston as a duplex *is* the central issue before you. Please do accordingly deny the appeal and affirm the Notice of Violation as properly issued.

Sincerely,

Michael & Caryn Long

RECEIVED
JUL 17 2017
DEPARTMENT OF
PLANNING & ZONING

RESPONSE TO NEIGHBORS' COMPLAINT
REGARDING DUPLEX USE OF 12 WESTON ST

To: Zoning Administrator, City of Burlington

From: Brian Hehir, Esq., Attorney for Charles and Cynthia Burns, owners of 12 Weston St.

Date: July 17, 2017

The following facts are set forth in support of the duplex use of the Burns' property at 12 Weston Street, to wit:

1) Charles and Cynthia Burns own a two-unit building located at 12 Weston Street, Burlington, Vermont. Appellees purchased this property from Elizabeth L. Gadue, Trustee of the Elizabeth L. Gadue Trust, by Trustee's Deed dated June 6, 2014 and recorded at Volume 1250, Page 74 of the Land Records of the City of Burlington. The transfer tax return filed with the Vermont Tax Department states the following: "Type of Building Construction: Multi-Family Dwelling".

2) 12 Weston Street was previously purchased and owned by the Gadue family in 1969 as an investment property. The property contained four separate apartments and the Gadues rented each of the existing four apartment units to tenants from 1969 to 1977.

3) In 1977, the Gadue family moved into the property and used three of the apartments as a family residence; they continued to rent out the 4th apartment (on the third floor) at all times during their ownership, and, since February 1, 1989, to one tenant, Monica Busse. This duplex use continued up to and after the sale of the property to the Burns in 2014.

4) At no time during the Gadues' ownership, from 1969 to June 6, 2014, was the multi-family / duplex status of the property, abandoned, terminated, discontinued, forfeited, waived or found to be in violation of any City regulation.

5) During the period of ownership by the Gadues, the City of Burlington was aware and on notice of the multifamily use of the property, as shown by the following:

a. The City electric department sent separate utility bills to each of the four units, plus the house meter, each of which are served by a separate meter; there are currently five meters located on the exterior of the property. The five electric bills reference each unit (basement, No. 1, No. 2, 3rd floor, and housemeter).

b. Four of the five electric bills entered into evidence are for each separate apartment and contain a notation showing that electrical service for each unit was initiated in 1950. The fifth bill and meter is the "housemeter".

c. The third floor apartment was inspected by the City of Burlington on March 4, 1987 for a City Housing Code inspection. No violations were found.

d. This apartment was inspected again by the City on November 20, 1991. No violations were found.

e. The City of Burlington assessor's card used as the basis for establishing the property tax, identifies the property as "2 family".

6) The Burnses operate the property as a duplex with one unit on the first floor and one unit on the second and third floors. The units are separated by a locked door and stairway. Each unit has a separate entrance.

7) Michael Long concedes that the property was a legal, four unit building in 1969 (Letter to Burlington DRB dated July 15, 2014). Mr. Long states in his letter that "the use and configuration (four units) under the ownership of the Gadues has always been permitted and conforming."

8) It is the policy of the City of Burlington that uses in effect as of April 26,1973 (the date of the adoption of a revised zoning ordinance) are pre-existing non-conforming uses. This policy was established because the zoning records prior to that date have been lost. Such properties may remain as pre-existing non-conforming uses so long as there is no City record to the contrary.

9) The - then Zoning Administrator Ken Lerner has testified that he applied the substance of this policy to many properties located in Burlington during his approximately 28 years of employment by the City.

10) The City was on notice of the four unit use of the property since at least 1950 because it's electric department issued four separate electric bills, one for each unit, since that time; the property has five electric meters on the north side exterior of the building.

11) The City, in addition to acknowledging the duplex status of the property in the proceeding below, also conducted inspections of the rental unit occupied by the Gadues' tenant in 1987 and 1991.

Dated at Burlington, Vermont, this 17th day of June, 2017.

by: /s/ Brian Hehir

Brian P. Hehir, Esq.
Attorney Charles and Cynthia Burns
Hehir Law Office PLLC
239 South Union St.
Burlington, VT 05401
brian@hehirlaw.com
802-862-2006

RECEIVE
JUN 06 2017
DEPARTMENT OF
PLANNING & ZONIN

May 25, 2017

Scott Gustin, Zoning Administrator
City of Burlington
Department of Planning and Zoning
City Hall
Burlington, VT 05401

Re: 12 Weston Street

Dear Mr. Gustin:

We are writing in accordance with Section 2.7.5 of the Burlington Comprehensive Development Ordinance ("CDO") to notify you that the above property is being rented as a duplex in violation of the CDO. The property does not meet the minimum lot size requirement for a duplex, nor does it have sufficient off-street parking. *See* CDO, App. A- Use Table and Table 8.1.8-1. Such parking could not be supplied without violating lot coverage requirements.

Property owners Charles and Cynthia Burns have asserted that the duplex is a pre-existing non-conforming use which they are entitled to continue. However, the Burnses cannot show that the use was permitted by prior zoning law, as required by state law and the CDO. *See* 24 V.S.A. § 4304(15); CDO § 5.11. As the attached affidavits of the prior owner Elizabeth Gadue and her son Mark Gadue state, the property was being used as a four-plex when the Gadues bought it in 1969 as an investment property. *See* Affidavit of Elizabeth L. Gadue, April 8, 2014, and Affidavit of Mark Gadue, September 1, 2016, enclosed herewith as Exhibits 1 and 2, respectively. A four-plex was not permitted under the 1962 Ordinance in effect at that time, unless the owner obtained a "special exception" from the Zoning Board of Adjustment. *See* 1962 Rev. Ords. § 6509(1) and (2) There is no record that a special exception was issued for the property, although such records are available.[1]

---

1 The title history of the property shows that land at 121-123 Loomis was subdivided in 1939 to form the lot at 12 Weston, and the house was constructed in 1940. The Burlington City directories indicate that it was used as a single-family house until the late 1960's, when it was divided into four units. *See* Burlington City Directories, enclosed herewith as Exhibit 3. This is also consistent with the Sanborn maps.

The Gadue affidavits state that they continued renting 12 Weston Street as a four-plex until 1977, when the Gadue family moved in. The Gadues occupied the basement and lower two floors, but they continued to rent a one-bedroom apartment on the third floor to a tenant. Use of the property as a duplex was not allowed under the 1973 zoning ordinance in effect in 1977, however, based on density limitations and lack of sufficient off-street parking. *See* 1973 Zoning Code, §§ 2, 7(3), 23 and table.

The Gadues obtained a Certificate of Non-Applicability from the prior Zoning Administrator, Ken Lerner, in June, 2014. However, the Environmental Court voided that Certificate on May 11, 2017, after the Burnses stated they would withdraw it rather than proceed to a trial to determine its validity.

Kindly investigate this complaint as promptly as possible and let us know the results of your investigation. Thank you for your consideration.

55 HENRY STREET
137 Mansfield Ave
51 HENRY STREET
55 Henry Street
51 Henry Street (James Bond)
69 Henry St. (Kari Hancock)
69 Henry St. (Greg Hancock)
26 Henry St. (HAMILTON DAVIS)
26 Henry St.
64 Henry St (JARED WOOD)
64 Henry St. (BEATRICE J. WO
69 Mansfield Ave.

Signature Sheet:

Letter dated May 25, 2017
Re: 12 Weston Street
To: Scott Gustin, Zoning Administrator, City of Burlington

Signature	Address
Barbara McGrew (CJ)	76 St. Paul Street Apt 8 NV
Kathleen Lynchue	96 Henry St.
Peg Boyle Single	58 Case Parkway
[illegible]	53 Henry St.
[illegible]	53 Henry
Chris Bullard	166 Loomis St
Todd Schlossberg	166 Loomis Street

RECEIVED
JUN 06 2017
DEPARTMENT OF
PLANNING & ZONING

AFFIDAVIT

Elizabeth L. Gadue, who being duly sworn, states the following in response to a complaint filed by Judy Rosenstreich on March 18, 2014 alleging a zoning violation of (i) Construction without an approved Zoning Permit and (ii) Change in Number of Units (change of use) without an approved Zoning Permit:

1. I am the owner of property located at 12 Weston Street, Burlington, Vermont (the "Property").

2. My husband (now deceased) and I bought the Property on January 30, 1969 as an investment property. At the time we purchased the Property, it was configured as a multi unit building with four apartments (one on each floor) and five separate electrical meters (one meter for each apartment and one "house" meter).

3. During my ownership, I have continuously rented the 3rd floor unit as a separate apartment and the current tenant has resided in that unit since February 1, 1989.

4. The other 3 units were rented until 1977, when my family and I moved into the premises and occupied the three units which include the basement, the first floor and the second floor.

5. During my ownership, I have not reconfigured the pre-existing units.

6. Attached as Exhibit A is a letter addressed to me from the City of Burlington Public Works Department dated March 4, 1987. This letter verifies that a City Housing Code inspection was conducted March 4, 1987 on the third floor rental unit. No violations were found.

7. Attached as Exhibit B is a letter addressed to my late husband and me from the City of Burlington Public Works Department dated November 21, 1991. This letter verifies that a City Housing Code inspection was conducted November 20, 1991 on my third floor unit. No

violations were found.

8. Attached as Exhibit C is documentation from Burlington Electric Department showing the date the five meters were originally installed.

9. I have been working closely with the Burlington Code Enforcement Office and the Burlington Fire Marshal's office to bring the Property into compliance with current minimum housing and fire safety requirements.

10. The Burlington Fire Marshal inspection has required me to update certain electrical items, which an electrician has done under Electrical Permit #14-185436, issued by the City of Burlington Department of Public Works on March 6, 2014.

11. To the best of my knowledge and belief, I have not engaged in any construction that requires a zoning permit. I have made and will continue to make every effort to obtain all necessary permits required to bring my property up to current Minimum Housing and Fire Safety Codes.

12. I am not making any change in the number of units at the Property.

Dated at Burlington, Vermont, this 8 day of April, 2014.

Elizabeth L. Gadue

Elizabeth L. Gadue

State of Vermont
Chittenden County, ss.

Personally appeared before me on this 8 day of April, 2014, the above named Elizabeth L. Gadue, known to me, and made oath that the foregoing Affidavit by her subscribed, is true and correct to the best of her knowledge and belief.

Michelle M. McSweeney

Notary Public
My Commission Expires: 2/10/2015

MY COMMISSION EXPIRES
FEBRUARY 10, 2015
NOTARY PUBLIC

STATE OF VERMONT
ENVIRONMENTAL DIVISION

SUPERIOR COURT
DOCKET NO. 120-8-14 Vtec

RECEIVED
JUN 06 2017
DEPARTMENT OF
PLANNING & ZONING

IN RE: BURNS TWO-UNIT RESIDENTIAL BUILDING

AFFIDAVIT OF A. MARK GADUE

NOW COMES A. Mark Gadue, being duly sworn and based on personal knowledge, and hereby states the following facts, to wit:

1) On June 6, 2016, Elizabeth L Gadue (my mother), as Trustee of the Elizabeth L. Gadue Trust sold a two-unit building located at 12 Weston Street, Burlington, Vermont to Charles and Cynthia Burns; the deed is recorded at Volume 1250, Page 74 of the Land Records of the City of Burlington.

2) The purchase price was $500,000. It is my understanding that the transfer tax return, prepared by my Mother's attorney and at her direction, and filed with the Vermont Tax Department states the following: "Type of Building Construction: Multi-Family Dwelling".

3) My Mother entered into a purchase and sale agreement with the Burns on January 12, 2014. It is my recollection that the property was described in the contract as "a lot of land with all improvements there on, including a 2 unit apartment building." My Mother signed this contract in her capacity as Trustee.

4) My Father (now deceased) and Mother have owned this property since January 30,1969, at which time it was a four unit apartment building, with separate electrical meters and service for each apartment, plus a fifth "house" meter. All meters remain on the building.

5) Upon information and belief, the building at 12 Weston Street was originally constructed in approximately 1940, before the establishment of zoning in the City of Burlington, which I understand occurred in 1947. At some time after its construction, the building was converted into a multi family dwelling. There are no records or memories of when this conversion occurred, either at the City of Burlington or in my family.

6) My Mother and Father bought the building as an investment property and rented all four units to tenants from 1969 to 1977; in 1977 my family moved into the property and occupied and used the three lower floor apartments of the four apartments as our family residence. At all times since our ownership commencing in 1969 the upstairs / 4th floor apartment has been an apartment unit and has been rented.

EXHIB
2

7) At no time during their occupancy did they ever consider that the duplex status of the property was changed, abandoned or otherwise forfeited. At no time did the City of Burlington ever inform them, to my knowledge, that they were in violation of the zoning ordinance by their use of the property as an owner-occupied duplex.

8) The City of Burlington was at all times during their ownership aware that the property was an apartment building because the City sent separate utility bills to each tenant and it conducted inspections of the rented apartment(s).

9) At no time during their occupancy did they ever apply to the City for a permit to use the property as a single family residence with an accessory apartment, nor did the City ever inform them that the use of the building as an apartment building was illegal or that the City's designation of the use had ever changed to a single family residence with an accessory apartment. They used the property from 1977 to 2015 as an owner-occupied duplex and not as a single family house with an accessory apartment. It was always her intention that the property retain its duplex status.

10) Before my Mother sold the building to the Burns, Charles Burns submitted an application to the City for the purpose of reconfiguring the interior such that there would be one unit on the second and third floors and one unit on the first floor. It was stated on the application that there would be no change in the number of rooms or an increase in living space. Each unit so configured has a separate entrance. That application was accepted by the City of Burlington. My Mother understood at the time that the duplex use of the building would continue and that the Burns' were purchasing it as a duplex.

Dated at Burlington, Vermont, this 1st day of September, 2016.

by: A Mark Gadue

A. Mark Gadue, Affiant

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS

At Burlington, Vermont, in said County, on this 1st day of September, 2016, A. Mark Gadue personally appeared and swore to the truth of the statements contained in this Affidavit, based on his personal knowledge.

Before me,

B. O. Wm.

Notary Public

GREEN MOUNTAIN PO

Washington (continued)
10 Emery MacGee
23 Robert A Irish
30 Frank C Whitehouse
32 Hollis Bean
33 Joseph H Barnes
38 Deshie Forgues

WELLS STREET
From 399 Flynn av south to 196 Home av

Even left
10 Erwin H Bowley
— Ferguson av crosses
30 Frank B Cushane
40 B K Wilcox, cheese mfrs
50 Morris R Wilcox
— Lyman av crosses
— Scarff av crosses
161 Mrs Josephine Lee

WESTON STREET
From 118 Loomis north to 17 Henry

Even right
11 Louis Grupe
12 Aymer S C Hill
John A Hitchcock
18 Vacant
19 Vacant
20 [illegible]

WIL
South fro
Mai
Even left
Elihu I
21 Alpha
28 Mary I
28 Napole
28 Vacant
31 Mrs Lo
34 Mrs El
43 Warren
52 Rev M
57 Sigma I
70 John G
71 Arthur
81 Lorenzo
86 John E
— College
112 Mrs M
117 Helen I
146 Elbridg

WILL
Continuati
limit
Fred C
Burlingt

RECEIVED
JUN 06 2017
DEPARTMENT OF
PLANNING & ZONING

EXHIBIT
3

Yandow Tire & Battery Co. one stop service station 1-15 South Winooski Av. BURLINGTON, VT.

Hill Marjorie S (Mrs Nelson S) clk city clk office h66 Caroline
" Mary sten UVM r72 N Willard
" Nelson S emp Elias Lyman Coal Co Inc h66 Caroline
HILL OLNEY W mgr Union Central Life Insurance Co h136 Shelburne rd
HILL PLINY SMITH (Pliny Smith Hill Art Studio) r229 Main
HILL PLINY SMITH ART STUDIO (Pliny Smith Hill) oil painting, gold leafing, signs, etc 229 Main see top edge
" Ralph N Jr dept mgr ACWInc r227 S Willard
HILL RALPH N pres and gen mgr Green Mountain Power Corp r227 S Willard
" Rena B clk B Savings Bank r inq do sum res Starksboro
" Rolla W light attd h47 Caroline
" Rupert h136 Lyman av
" Shirley J student r378 S Union
" Trails Publishing Co Mrs Blanche F Gile prop Hill Trails bi-monthly magazine 68 S Union
" W D & A R William D Hill prop mfg screens and metal weather strips 143 Pearl (6)
" William D prop W D & A R Hill r54 Buell res Lyndon Ctr
" William C cont and builder 410 St Paul h do
Hillard Katherine office asst Dr D Manson r inq do
Hilliard Harry H h178 N Union
" Mildred A r22 Shelburne
" Ned H emp B Free Press r22 George
Hills Charles E Jr clk B J Boynton r169 Locust
" Joseph L dean College of Agriculture and dir Exp Sta UVM h59 N Prospect
Hillyard H Randall h71 S Willard
Himelstein Louis L mgr Radding Sign Service h66 Howard
Hinchey Frederick C atty Fed Housing Adm h349 College
Hinckley Theodore E teacher EHS h65 Harrington ter
Hindley James lab r196 N Willard
Hinds Donald D emp O L Hinds Co Inc r325 S Union
" Florence A wid Oscar L h325 S Union
" Harry H pres The O L Hinds Co Inc r325 S Union
" Kenneth D v-pres-treas The O L Hinds Co Inc h47 Bay View
" O L Co The Inc mfrs children's clothes 167 St Paul pres Harry H Hinds, v-pres-treas Kenneth D Hinds
Hinkley Arthur A state patrolman h13 White pl
Hinsdale Clark W optician 17 Church and prop American Oil Co and gas and oils 123 Cherry and 210 Shelburne h141 Ferguson av
" Mitchell W (Sidney E Hinsdale & Son) and loans 240 College h238 do
Hinsdale Sidney E (Sidney E Hinsdale & Son) h22 Park
" Sidney E & Son (Sidney E and Mitchell W Hinsdale) hay and straw 22 Park
Hinton Henry L pres Burlington Building & Wrecking Co Inc and pres Essex Exterminating Co h44 Caroline
" Margaret K clk Upton's r44 Caroline
" Virginia P student r44 Caroline
Hirshberg Harry bus NYCity h197 N Willard
" Mary r197 N Willard
Hitchcock John A agriculture economist UVM h15 Weston
Hoadley Ruth emp 246 S Willard r do
Hoag Arthur W (Hoag & Howe) h13 Redstone ter
" Charles E caretaker Frank Lyman Austin h37 Catherine
" Frances M clk Converse Kitchen UVM r165 N Winooski av
" Frank S (Hazle) tchr EHS h174 Lyman av
" Hazel clk The Fashion Shop r116 Lyman av
" James H cashier Silver Plan Inc h8 Ludwig ct
" John J Jr emp B Drug Co h116 Lyman av
" John J Sr jan First Baptist Church h73½ Pine
" Leone G (Mrs Charles E) clk J C Penney Co h37 Catherine
" Mary student r174 Lyman av
" Ruth A teacher EHS h165 N Winooski av
" Susan R wid William r165 N Winooski av
" William A h119 N Union
" & Howe (Arthur W Hoag and Gaius W Howe) architects and surveyors 203 Main (7)
Hoar Philip E mgr 75 North h208 Park
Hobbs Milford L inst UVM r95 Brooks av
Hodet George J eng CVRy h182 N Champlain
Hodgdon Winslow R emp B Drug Co r10 S Willard
Hodge Kenneth E slsm and nurse 59 Catherine h do
Hodges John H emp CVRy r32 Orchard ter
Hodgkins Perley J stock clk Westinghouse Electrical Supply Co E S h367 Flynn av
Hoffman Charles W emp First Nat Stores h41 Lakeview ter
" Clarence C emp AWCo h299 N Bend
" Earl acct Gen Ice Cream Corp r37 Buell
" Francis E asst G Ice Cream Corp r65 Bradley
Hofrichter Anna M emp ACWInc h375 Bradley rd
" Otto mech IHCo r375 Bradley rd
Hogan Aline M Mrs r125 Elmwood av
" Allen W gasoline and oils 3 Elmwood av h65 Howard
" Apartments 95-97 Cherry
" Arthur R asst prof UVM and physician 95 Cherry h8 S Willard
" Edward J billiards 131 St Paul h70 North
HOGAN HENRY A prop South End Service Station r14 Shelburne

T DEPT. "PROPERTY OF THE BURLINGTO
Patronize The Peo

WELLS STREET
From 399 Flynn av south to 190 Home av
Even left
19 Roger Y Gagne
— **Ferguson av crosses**
59 Royal N Waldo
60 E K Wilcox, cheese mfrs
60 Costas S Economou, cheese mfr
60 Morris R Wilcox
— **Lyman av crosses**
— **Scarff av crosses**
140 Charles B Anderson
151 Mrs Josephine Lee

WESTON STREET
From 118 Loomis north to 17 Henry
Even right
11 Louis Grupe
12 Aymer S C Hill
15 John A Hitchcock
18 Arthur G Tabor
19 John H Zola
19 Thomas Russell
20 Elliott Merrick
21 Clarke A Gravel
23 Mrs Ada Duval
24 Joseph F Gowette

WHITE PLACE, S B
East from 434 Shelburne to Orchard, S B
Even left

Burlingt

WILL
Southeast
to op
Even left
1 Ronald
3 Rudolph
5 William
7 F Euge
— **St Loui**
39 Mrs Le
43 Morris
45 Harry
47 Florenc
— **St Mar**
52 Ralph
52 Alfred

WIL
From 116
Man
Even left
15 Fred W
16 Tau Ep
17 Elburn
22 Roy C
25 Minnie
28 L Clem
29 Joseph
32 Earl D
35 Mrs M

COAL | CITIZENS COAL CO. | FUEL OIL COKE
Tel. 511-W Office 105 Church St. 511-R Yard

WALNUT STREET
Northeast from 44 Spring to 354 N Bend
Even right
6 John LaBombard
10 Octave E LaVallee
14 Felix A Parizo
— **Archibald crosses**
22 Raymond Williams
32 John A Martell
36 Wilfred Woods
36 Joseph O Sourdiff
39 Hazen N Tyler
40 Edward G Burgess
42 Edward G King
43 Philip J Wheel
44 Conrad LaVallee
45 Armand J Santerre
45 Peter A Francis
46 Alexander Hammond
46 Treffle J Hamlin
49 Mrs Matilda Muir
50 Walter S Medeiros
54 Frank H Charron
55 Harry Garbow
56 Antonio Face
59 James P Medlar
59 Medlar's Express
60 Leon T Collette
61 Donald J Hatin
63 Vacant
65 Edward Gelinas
67 Vacant
68 Ernest E Barnes
69 Edward T McMillan
69 rear Maurice G Streeter
70 Robert M Oliver
— **Willow begins right**
77 Mrs Lucy M Saltus
77 Hermine Meunier
79 Willis R Lombard
79 Mrs Ann Berli
81 Harold J Brown
83 Vacant
87 J William Allard
91 Charles Dorey
93 Adam E Rostkowski
103 Anna Sturgeon
105 Wallace A Smith
114 Emile A Varin
115 Frederick J Keighley
116 Arthur Lefevre
119 Edward J Grady

WARD STREET
Northeast from 768 North av to 125 N Bend
Even left
7 Leonard L Poirier
10 Vacant
10 Seward B Rogers
11 Mrs Josephine F Johns
14 George W Begin
15 Victor Fisher
17 Ervin E Shequin
18 James J Snyder
18 Leon J Snyder, grocer
19 Henry J Godbout
— **Drew ends right**
20 Vacant
20 Mrs Emma Fuller
22 George A Lucia
28 Louis J Bartlett
32 Franklin C Cooley
32 Leon P Dion
37 Albert W Viens
39 Fred H Blair
40 William H Scott
40 Larezo G Bushway
43 Ralph Monahan
43 Harry H Foos
44 Raoul Benoit
44 Arthur R Allard
52 Audlard J Poirier
53 William H White
54 George L Alapa, Jr
56 Raymond B Loiselle
62 Harry Sears
72 Joseph Sourdiffe
76 Charles J Moody
— **Blodgett ends right**
80 Mrs Ruth Bilodeau
83 George L Alapa
83 William A Monahan

WASHINGTON STREET
East from 230 North av to 35 N Bend
Even left
10 James Driscoll
14 William Fortin
16 Leo J Morin
— **Convent sq ends left**
17 George W Miller
21 Gust Klein
25 Wesley Shepard
26 Mrs Irene P Dugan
27 Mrs Delia Mahair
27 Fred W Bacon
27 Charles Millette
28 Karl Reuschel
30 Frank C Whitehouse
32 Hollis Bean
33 William E Kirby
33 Dosithe Forgues

WELLS STREET
From 399 Flynn av south to 190 Home av
Even left
19 Gerald R Lapierre
— **Ferguson av crosses**
59 Frank F Deegan, Sr
60 E K Wilcox, cheese mfrs
60 Wendell W Bell
— **Lyman av crosses**
— **Scarff av crosses**
140 Charles B Anderson
151 Mrs Josephine Lee

WEST ROAD
From 1585 North av westerly
Clovis J Lavalley, right

WESTON STREET
From 118 Loomis north to 17 Henry
Even right
11 Joseph E Gallagher
12 Harry Dalton
15 John A Hitchcock
18 Arthur G Tabor
19 Irving W Naylor
19 Harold F Sikora
20 Clifford J Covillon
21 Mrs Edith A Meegan
23 Mrs Ada Duval
24 Joseph F Gowette

WHITE PLACE, S B
East from 434 Shelburne to Orchard, S B
Even left
9 Harcourt C Grant
11 Lester Heon
12 Arthur W Tousley
12 Arthur W Tousley, rug cleaning
13 Vacant
14 Mrs Elizabeth St Peter
15 Mrs Sylvia Brault
16 George Raymond
18 Henry F Walker
19 Mose Bourdeau
19 Mrs Marion Bourdreau
20 Harold E Crane
22 David C Stevens
26 Burney Harris

WILLIAMS STREET
South from 371 Pearl to 386 Main
Even left
Elihu B Taft School
11 Mrs Mary W Messier
21 Alpha Tau Omega
28 Mary E McGreevy
28 Richard E Allen
28 Vacant
31 Mrs Lois E Isham
34 Mrs Elizabeth G Gage
43 Warren R Austin
52 Rev Matthew F Brady
57 Sigma Nu Lodge
70 Music Dept UVM
71 Arthur K Tudhope
81 Lorenzo W Howe
86 John E Booth
— **College crosses**
112 Mrs Maude F Englesby
117 Mrs Ilse H Andrews
146 Elbridge C Jacobs

WILLISTON ROAD
ont'uation of Main byd limits
Fred C Fiske
Burlington Municipal Airport

WILLOW STREET
Southeast from opp 69 Walnut to opp 154 Intervale av
Even left
1 Roy C Blair
3 Andrew Martin
5 William Charbonneau
7 F Eugene Frank
— **St Louis crosses**
39 Mrs Lena Rothman
43 Morris Moskovitz
43 Arthur A Veins
45 Harry Winnett
47 Lawrence J Gravelle
— St Mary's begins left
52 Edward P Couture

WILSON STREET
From 116 N Prospect east to Mansfield av
Even left
15 William H Crosk
16 James L Kadas
17 Elbum H Truax
22 Omer F Varret
25 George F Ward
28 Clark W Pell
29 Joseph A Erwin
32 Earl Denicore
35 Mrs Margaret N Corbett

WINOOSKI ROAD
(Changed to Riverside av)

WRIGHT AVENUE
From The Lake (crossing Central av at 28) east to Rutland RR
Even left
— **Proctor pl begins right**
38 Armand J Pellerin
40 Honore Jodoin
44 Howard C Cross
46 Arthur Vachereau
47 Vacant
— **Central av crosses**
67 Omer Desilets
68 William Ferrier
69 Albert Babineau
70 Frederick St Jacques
— **Conger av crosses**
1 Mrs Anna Pecor
2 Gedeon Merchant
3 Roland J Brault
4 Mrs Florence Jermyn
5 Almangor Forcier
6 Peter St Martin
7 Mrs Philomena Forcier
8 Albert A Benoit
9 Edward J Couture
10 Andrew Duhaime

Burlington Electric Light Department • Owned and Operated By The Taxpayers of The City For Their Benefit

Ward (continued)
56 Raymond B Loiselle
62 Harry Sears
72 Joseph Sourdiffe
76 Charles J Moody
— **Blodgett ends right**
80 Chester F Ward
83 George L Alapa
83 Mrs Viola H Monahan

WASHINGTON STREET
East from 230 North av to 35 N Bend
Even left
10 James D Driscell
14 William Fortin
16 Leo J Morin
— **Convent sq ends left**
17 Lawrence O Monette
21 Mrs Agnes Klein
23 Wesley J Shepard
26 Ernest R Prim
26 Peter J Mahair
27 Mrs Lucy Bacon
27 Charles Millette
28 Robert A Richling
30 Frank C Whitehouse
32 Hollis Bean
33 Mrs Anna E Duby
33 Donald H Baker

WELLS STREET
From 399 Flynn av south to 190 Home av
Even left
19 Gerald R LaPierre
— **Ferguson av crosses**
59 Frank F Deegan, Sr
60 E K Wilcox, cheese mfrs
60 Wendell W Bell
— **Lyman av crosses**
— **Scarff av crosses**
140 Charles B Anderson
151 Mrs Josephine Lee

WEST ROAD
From 1585 North av westerly
Clovis J Lavalley, right

WESTON STREET
From 118 Loomis north to 17 Henry
Even right
11 Stuart T Tilley
11 F Alan Nelson
12 Clarence E Gibbons
12 Benjamin J Towle
15 Foster B Van Dusen
18 Lewis W Barton
19 Irving W Naylor
19½ Harold F Sikora
20 Clifford J Covillon
21 Mrs Edith A Meegan
23 Kenneth M Rowe
24 Joseph F Gowette

WHITE PLACE, S B
East from 434 Shelburne to Orchard, S B
Even left
9 Harcourt C Grant
11 Dallas R Bouchey
12 Arthur W Tousley
12 Arthur W Tousley, rug cleaning
13 Wallace N Williams
14 Mrs Elizabeth G St Peter
15 Mrs Sylvina Brault
16 George E O'Biren
18 Henry F Walker
19 Moise Bourdeau
19 Rufus Duell
19 Armos Bourdeau
20 Harold E Crane
22 David C Stevens
26 Burney Harris

WILLIAMS STREET
South from 371 Pearl to 386 Main
Even left
Elinu B Taft School
11 Warren H Caryl
21 Alpha Tau Omega
21 Women's Dormitory
21 Mrs Edna T Kennedy
28 Mary E McGreevy
28 Walter E King
28 Vacant
31 Mrs Lois C Isham
34 Mrs Elizabeth G Gage
43 Warren R Austin
52 Most Rev Edward F Ryan
52 Chancery Office Diocese of Burlington
57 Sigma Nu Lodge
57 Women's Dormitory
57 Mrs Carol S Bacon
70 Music Dept UVM
71 Arthur K Tudhope
71 William V Robertson
81 Lorenzo W Howe
86 John E Booth
— **College crosses**
112 Mrs Maude F Englesby
117 Mrs Ilse H Andrews
117 Mrs Eugenie T Northrop
146 Elbridge C Jacobs

WILLISTON ROAD
Continuation of Main byd limits
Burlington Municipal Airport
Burlington Flying Service
Colonial Airlines Inc
Northeast Air Lines
US Weather Bureau

WILLOW STREET
Southeast from opp 69 Walnut to opp 154 Intervale av
Even left
1 Roy C Blair
3 Andrew Martin
5 William Charbonneau
7 F Eugene Trank
— **St Louis crosses**
39 Mrs Lena Rothman
43 Morris Moskovitz
43 Charles J Moroge
45 Harry Winnett
47 Lawrence J Gravelle
— **St Mary's begins left**
52 Edward P Couture

WILSON STREET
From 116 N Prospect east to Mansfield av
Even left
15 Mrs Jeannette E McMaster
16 Phi Chi House
17 Elburn H Truax
22 Omer F Verret
25 Mrs Mabel M Nye
25 Mrs Gratia J Deal
28 Clark W Pell
29 Joseph A Erwin
32 Earl Denicore
35 Mrs Margaret N Corbett

WINOOSKI ROAD
(Changed to Riverside av)

WRIGHT AVENUE
From The Lake (crossing Central av at 28) east to Rutland RR
Even left
— **Proctor pl begins right**
38 Armand J Pellerin
40 Honore Jodoin
44 Howard C Cross
46 Arthur Vachereau
47 John B Hatin
58 James D McCluskey
— **Central av crosses**
67 Omer Desilets
68 William A Ferrier
69 Albert J Babineau
70 Frederick St Jacques
— **Conger av crosses**
1 Mrs Anna E Pecor
2 Gedeon Marchant
3 Roland J Brault
4 Mrs Florence Galyeau
5 Almangor Forcier
6 Peter St Martin
7 Mrs Philomene Forcier
8 J Armand Cote
9 Joseph R Jodoin
10 Andrew Duhaime
11 Mrs Rosanna Smith
12 Arthur A Bergeron
13 Norman A Corrigan
14 Rosaire Allard
15 Armand J Dubois
16 Joseph A Duhaime
17 Conrad U Bergeron
18 Pierre Brissette
19 Edward Ouimette
20 Charles E Joyal
21 Conrad A Michel
22 Ovila T Lussier
23 Gerard R Brault
24 Emery E Ethier

Parks and Points of Interest

ADIRONDACK MOUNTAINS. From Burlington can be seen 77 peaks of these famous mountains, averaging from 2,000 to over 5,000 ft. There is no other spot from which such an extensive view of these mountains at the proper distance can be obtained.

AUSABLE CHASM. On the western side of Lake Champlain nearly opposite Burlington with which it is connected by boat line. A canyon cutting through the mountain for two miles. It is navigable by boat for nearly half its length. It is commonly called the Grand Canyon of the East and it is visited annually by more than fifty thousand people. Shooting the rapids is a delightful and thrilling experience.

LASH FURNITURE CO. FURNITURE — STOVES BEDDINGS — CARPETS
WILL SAVE YOU CASH 190-200 Bank Street Tel. 3910

" Motors Acceptance Corp Carl S Christensen mgr 125 Church
Genereux Carrie wid Louis r28 LaFountain
" Louis E clk Colodny's Pub Market h28 LaFountain
Genest Marie Louise bkpr Colodny's Pub Mkt h222 North
Genet Henry J h633 Riverside av
" Orlando jan Huntington Apts r135 St Paul (33)
Genette Orlando S emp Vt Transit Co Inc r127 St Paul
Genge Beatrice Mrs emp EB&ACWCorp h27 Isham
" Gloria nurse MFHosp r27 Isham
Geno Alice emp GICCorp r12 Monroe
Gentes Lucien J (Margaret M) emp EB&ACWCo r108 North
Geonio Connie waitress Arcadia Restr r280 College
George Anthony A (Virginia) truck driver Ry Express Agency h118 North av
" Barbara A waitress Breton Hotel r45 Howard
" Charles R student r45 Howard
" Daniel (Mary) retired h64 College
" Edith K waitress Breton Hotel & Grill r45 Howard
GEORGE EDWARD S (Ruby V) prop George's Gasoline Station r92 North
" George D (Isabelle F) prop George's Cash Market h46 Sherman
" J S Supply Co James S George prop 112 North
" James S (Irene) auto accessories 112 North h148 N Champlain
" June Mrs cook 555 Shelburne r do
" Lucinda E wid Edward h45 Howard
" Rose wid Albert conf 55 North av h do
" Samuel (Anna) retired h92 North
" Simon A (Rosalie) prop The Star Press h59 North av
" Theodore r277 Flynn
George's Barber Shop George H Ladoux prop 196 Pearl
" Cash Market George D George prop 38 Pearl
" Cleaners George A Giroux prop 8 N Winooski av
GEORGE'S SERVICE STATION Edward S George prop 144 College see p 366
Geprags Augusta L nurse 247 Pearl r do
Gerard—see Girard
Gerber Max (Nettie H) prop The Gerber Press h186 N Winooski av
" Press The Max Gerber prop rear 269 N Winooski av
Germain Clement L (Beulah E) slsm h265 Colchester av
" Estelle E sec B Trust Co r380 Pearl (5)
" Evroul (Dorothy) emp J A Canavan h62 Loomis
" Henry emp Black Cat Cafe & Sea Grill h127 St Paul (111)
" Leon W letter carrier PO res Win
" Marie r28 Hickok pl
" Mary E wid Eugene H h380 Pearl (5)
" Roger O clk PO res Win
GERMAIN S ROGER (Florence) agt Metropolitan Life Insurance Co h28 Hickok pl
" —see Jermyn
German Harold O (Sybil A) (Harold & Sybil's Place) h177 Church
" Order of the Harugari Goethe Lodge No 592 see Gustave Ludwig Goethe Hall
" Sybil A (Mrs Harold O) (Harold & Sybil's Place) h177 Church
Gero Bros Henry J Giroux prop trucking 144 N Champlain
" Corinne D wid Leander h34 Rose
" Donald P (Ellen C) driver Park Taxi r180 Park
" Hazel L wid Hormidas emp AWCo h52 Hyde
" Kathleen A Mrs emp First Nat Stores r62 Henry
" Raymond F (Evelyn M) emp B Rend Co h221 Pine
" Robert L (Margaret M) emp SR&Co h230 Pine
" Ronald USN r52 Hyde
" Sign Co Victor J Giroux prop signs rear 98 S Winooski av
" William H candy mkr h180 Park
Gershoy Alexander (Pauline D) assoc prof UVM h126 N Willard
Gerty—see Gearty
Gervais Cecile (Mrs C Elphage) bkpr H C Humphrey & Son Inc res Winooski
" Ernest garment cutter r40 Lyman av
" Eva A dressmaker 65 N Winooski av r do
" Jeanne A office asst Dr Francis J Arnold r65 N Winooski av
" Stephanie wid Clement h65 N Winooski av
" —see Jarvis
Gitchell Donald S (Catherine R) sta mgr Colonial Airlines Inc r381 Main
Gevry Bridget B dom 288 Maple r do
" Claire A cashier 138 Pearl r97 N Union
Giacomarra Catherine T (Mrs Michael T) sten h98 N Willard
" Michael T (Catherine T) student h98 N Willard
Giannone Concettina M waitress r280 College
" Enrico USA r25 Elmwood av (19)
" Mario G r25 Elmwood av (19)
" Ralph C (Mary M) h83 S Champlain
Giardi Helen L (Mrs Leo P) sten 206 Bank h326 College (15)
" Leo P (Helen L) student h326 College (15)
Gibbons Clarence E (Mary C) insp City Water Dept h11 Weston
Gibson Albert (Irene) USA h35 N Champlain
Giddings James C (Lela M) USA r44 Isham
" Marion C r345 St Paul
" William L emp Vt S&BCo r345 St Paul
Giffin Henrietta B Mrs emp Black Cat r150 Bank
" Mildred E h11 N Union
Gifford A Russell prof UVM h119 N Prospect

26 Thomas M O'Brien △3840-W
27 Harvey H Peck, Jr △5335-J

WESTERN AVENUE

From 222 Stanisford rd northerly to York Drive and south to Woodbury rd

Even right

19 George C Adams △1179-J
House under construction
28 Vacant
5 House under const
— **York drive ends**

WESTON STREET

From 118 Loomis north to 17 Henry

Even right

11 Bernard Wry △1193-W
12 Benjamin J Towle △3779
15 Foster B Van Dusen △1091
Foster B Van Dusen, gen cont
18 James P Whalen △1083
19 Irving W Naylor △747
19½ Arthur C Sikora △1193-R
20 Joanna E Hayes △1193-M
21 Eugene F Boyce △1193-J
23 Ralph C Giannone △4617-W
Rudolph Smith △4617-M
24 Joseph F Gowette △2132-W

WHITE PLACE, S B

East from 434 Shelburne to dead end SB

Even left

8 Tom Thumb Nursery School
8 Evelyn Miner △1102-W
[illegible]19-M

Coal | Citizens Coal & Oi
Tel. UN 2-5501 377 Pine St.

WESTON STREET. E-7
From 118 Loomis north to 17 Henry
Even right
11 Rene W Bonnette △ ◎
11 Mary Wry △
12 Benj J Towle △ ◎
15 Richd E Snow △
17 Marcia Villemaire △
Mary Lou Devault
18 John D Tessier △
19 Mrs Evelyn F Boyce
19½ Frank Tourville
20 Come J De LaRicheliere △
21 Clement Shequin △
23 Lynn Sullivan
23 Geo A Martin △
24 Juanita C Prevost △
24 Mrs Noella Benoit

WESTWARD DRIVE
From 1991 North av west to end
17 Patk O'Kane △ ◎
25 Chas A Von Bruns, Jr △ ◎
— **Hardy av begins right**
31 Geo Cioffi △ ◎
39 Raymond OCrady △ ◎
40 Wm L Lathrop

WHITE PLAINS
[illegible]

195 Louis Bossi △
199 Paul Solari △
200 Lyle F Peterson
206 Meddie J Gingras
208 John M Morin △
209 Bossi Cement P
212 Rene Gendron
216 Vacant
218 Sven O Karell
228 Jerry Blow
— **Myers ct begins**
238 Jerry Blow, Jr △
250 Mrs Albertine D
— **Airport pkwy be**
Jack Johnson
— **Barber ter begin**
343 John T Ewing △
345 John D Baker △
350 Rene J Lacroix △
360 Fredk C Hallsworth
370 Mrs Aime Lawren
— **Peterson ter beg**
380 Thos A Roberts
385 David W Ploof △
390 Fred Deeller
400 Peter [illegible]
[illegible]

BURLINGTON CITY DIRECTORY

1963-64

Western av—continued

42 Conrad N White ⓪
49 Robert L McCarron ⓪
50 Edwin Mutch ⓪
57 Ralph P Paquette ⓪
58 Mrs Nellie T Champagne ⓪
66 Arthur Comtois ⓪
72 Robert A Ellis ⓪
79 Frank E Lavery ⓪
80 Burton F Preston ⓪
88 Vernon F Emerson ⓪
95 Walter A Strub ⓪
101 Raymond H Sabin
— **York dr begins right**
111 Charles E Marvin ⓪

WESTON fr 118 Loomis north to 17 Henry. E-7

Right side even numbers

11 Mrs Mary Wry
11 Rene W Bonnette ⓪
12 Benjamin J Towle ⓪
15 Richard E Snow
17 Stanley J Titus ⓪
18 Frank J Casey ⓪
19 Mrs Evelyn F Boyce ⓪
19½ F Alcott Parks
20 Come J DeLaricheliere
21 Clement J Shequin
23 Thomas B Wilson

WESTWARD DR fr 1991 North av west to end. B-4

17 Patrick J O'Kane ⓪
25 Charles A Von Bruns Jr ⓪
— **Hardy av begins**

C&D
CORCIN ● BROWNE
80 ALLEN ROAD
SOUTH BURLINGTON, VT.
05401
802/862-8033
* Electrical Design
* Test Equipment
* Engineering

Western Av - continued
Right side even numbers
19@ John A Marrier Δ
20@ Willard Melvin Mitchell Δ
27@ Ernest R Prim Δ
28 David E Hathaway
35@ Albert J Bedard Δ
36@ Arth M Giroux Δ
41@ Ralph J Bergeron Δ
42 Donald D Melvin
49@ Jas Martin Δ
50@ Edwin Mutch Δ
57@ Ralph P Paquette Δ
58@ Wm S Hogan Δ
66@ Arth Comtois Δ
72@ Robert A Ellis Δ
79@ Mrs Ruth C Lavery Δ
80@ Burton F Preston Δ
88@ Vernon F Emerson Δ
95@ Walter A Straub Δ
101 Raymond H Sabin Δ
- York dr begins right
111@ Charles E Marvin Δ

WESTON fr 118 Loomis north to 17 Henry E-7 Zip 05401
Right side even numbers
11@ Rene W Bonnette Δ
12 Linda Bennett
12 Eliz Ching
12 Eleanor Noonan
15 Paul Shih Δ
17 Nancy Hickok
18 Fred Fitzgerald
19@ Mrs Evelyn F Boyce Δ
19½ Richd Chapman
20@ Come J DeLaricheliere Δ
21 Clement J Shequin Δ
23 Lawrence Martell Δ
33 Herbert M Barrett Δ
34 Vacant

WESTWARD DR fr 1991 North av west to end B-4 Zip 05401
17 Vacant
23@ Charles A VonBruns Jr
- Harty av begins right
31@ John P Kane Δ
39@ Raymond O Crady Δ

120 Vacant
130 Wm L Morris Δ
132 David W Bevins Δ
133@ Roland J Piche Δ
143 Edw H Dauphin
153@ Mrs Cecile M Meunier Δ
- Cottage Grove av ends right
159@ Mrs Lorraine M Morrell Δ
170@ Neil D Childs Δ
- Maplewood begins left
171@ Ishmiel J Dupray Δ
186@ Charles B Doane Δ
190@ Gordon B O'Brien Δ
190 Vacant
195@ Louis Bossi Δ
199@ Paul B Solari mason Δ
200@ Stanley E Willard Δ
206@ Meddie J Gingras Δ
208@ John N Morin Δ
200 Jean A Bossi Δ
200 Bossi Cement Products Δ
211@ Jas F Crane Δ
212 Michl Murphy Δ
212½ Jos DiGeronimo Δ
218@ Charles G Neary Δ
228@ Mrs Amelia M Blow
238@ Jerry J Blow Jr Δ
- Myers ct begins right
244@ Arnold E Furness Δ
246 Vacant
247@ Thos K Malone Δ
- Suburban sq begins
248 Chas T Green Δ
249 Maurice E Cohler Δ
250@ Donald A Heath
258 No Report
Chamberlin School
268@ Francis G Cross Δ
269@ Jas E Canfield Δ
276 Harris E Corliss Δ
278 Jas Hegarty Δ
279@ Robt M Degsmore Δ
280 Conrad L Racine Δ
- Airport pkwy begins left
293 Richd D Hart Δ
297 Thos J Parent Δ
301 Francis Wayne Cameron
Δ

THE CUPOLA
MOTEL
ıURANT
e 2 at Interstate 89
Tel. 802—862-6576

Y AV (cont)
bert P Petersen Δ
m Calder Δ

r 399 Flynn av south to
me av L-5
even numbers
y Bennett Δ
rguson av crosses
Beson (1)
dell W Bell Δ
Boardman (2)
n E Connors (3A) Δ
ma C Mossey (3B)
nard E Jacobs (4)
E Ennis (4)
Brooke (6)
ry Baker (6) Δ
Report
ald Edw Newton (7)
Nesto (8)
in LaRock (9)
Jenette Solomon (10)
ant (11)
cant (5)
J Lane Δ
nan av crosses
rff av crosses

ant
ley R Shepard Δ

fr 1585 North av west-
-5
n W Thompson Δ
k L Boswell Jr Δ
Bessette
Pearl M LaValley Δ
E Wright Δ
Phyllis Larkin

27@ Ernest R Prim Δ
28 David E Hathaway
35@ Albert J Bedard Δ
36@ Arth M Giroux Δ
41@ Ralph J Bergeron Δ
42@ Conrad N White Δ
49@ Mrs Eliz A McCarron Δ
50@ Edwin Mutch Δ
57@ Ralph P Paquette Δ
58@ Wm S Hogan Δ
66@ Arthur Contois Δ
72@ Robert A Ellis Δ
79@ Mrs Ruth C Lavery Δ
80@ Burton F Preston Δ
88@ Vernon F Emerson Δ
95@ Walter A Straub Δ
101 Raymond H Sabin Δ
- York dr begins right
111@ Charles E Marvin Δ

WESTON fr 118 Loomis north to 17 Henry E-7
Right side even numbers
111@ Rene W Bonnette Δ
12 Bertha L Prior Δ
12 Michl Munro
15 M Craig McKee
17 Gerald P Solomon
18 Fred Fitzgerald
19@ Mrs Evelyn F Boyce Δ
19½ Richd Chamberlian
20@ Come J DeLaricheliere Δ
21 Clement J Shequin Δ
23 Lawrence Martell Δ
33 Herbert M Barrett Δ

WESTWARD DR fr 1991 North av west to end B-4
17 Raymond E Tallman
23@ Charles A VonBruns Jr

132 David
133@ Roland
143 Edw H
153@ Mrs C
- Cotta
rig
159@ Mrs L
Δ
170@ Neil D
- Maple
171@ Ishmie
186@ Charle
190@ Gordo
190 Franc
195@ Louis
199@ Paul E
200@ Stanle
206@ Meddi
208@ John N
200 John A
200 Bossi
Δ
211@ Jas F
212 Michl
212½ Jos D
218@ Charle
228@ Mrs A
238@ Jerry
- Myers
244@ Arnold
246 Joseph
247@ Thos K
- Suburb
248 Chas T
249 Maurice
250@ Donald
258@ Seymo
Chamb
268@ Francis
269@ Jas E C

MASSON'S

BURLINGTON

and

SOUTH BURLINGTON

ZIP CODE 05401

ESSEX JUNCTION—ZIP CODE 05452

and

WINDOOSKI—ZIP CODE 05404

(CHITTENDEN COUNTY, VERMONT)

DIRECTORY

(Area Code 802)

1979

Enumeration Completed February 1979

Numerical Telephone Locator (Cross Reference Telephone Directory)

CONTAINING

Alphabetical Directories of Citizens, Classified Business Directories, Street Directories, a Record of the City and Town Governments, County, State and United States Governments, Societies, Churches, Etc.

VOLUME LXXIX

Sold by Subscription Only

COMPILED AND PUBLISHED BY

H. A. Manning Co., Publishers

101 Sabin Robert A
101 Sabin Ronald N
—YORK DR BEGINS RIGHT
111 Marvin Charles E (w) 864-4616

WESTON

fr 118 Loomis north to 17 Henry (10020)

—RIGHT SIDE EVEN NUMBERS

9 Ambler Charles A
9 Concannon John
9 Goudreau Robert 863-5010
9 Peckman Arthur J
11 Vacant
12 Gadue A Mark
12 Gadue Anne L
12 **GADUE ROBERT A** **862-0479**
15 Oliker Nancy L
15 Sachs Kenneth G 863-1338
15 Sharp Nancy
17 (1) No report
17 (2) No report
18 Delaricheliere Come J (w) 864-6519
19 Tower Elizabeth H 862-7613
19 Tower Mark R
19½ No report
20 No report
21 Shequin Clement J (w) 862-2827
23 (1) Crouter John L 863-6917
23 (1) Marks Erica R
23 (1) Steffer Richard T
23 (2) Kennedy Kevin
24 No report

WESTWARD DR

fr 1991 North Av west to end (10040)

—LEFT SIDE ODD NUMBERS

17 Raymond Michael E

ane J 658-6730
Nebra L 658-6730
port
port
AV CROSSES
d J 862-6285
AV CROSSES
rgaret C
MERVYN T 862-4030

Av westerly
(9960)
ODD NUMBERS
ph W 864-6416
nia A
ry T
m E 864-6775
N J 864-5215
M
vid M 658-2063

C 863-6113
V 862-8153
V 862-8153
S
J
F

..... 864-5954
..... 864-4116
..... 863-5019
H Jr 863-6720
y E
R 863-5958
R 863-5958
et M
..... 864-9157
J 862-8798
F 862-5049
..... 863-5386
..... 862-3614
..... 863-6160
W 862-0667

..... 864-4022
..... 862-2231
..... 864-9138
..... 658-2291

orth to
(9980)

72 Centure Gerald 862-3943
77 Brown Scott 863-1804
79 Lavery Mark R
79 Lavery Ruth C Mrs 862-2016
80 Colby David L 863-3920
88 Emerson Belinda J
88 Emerson Kurt W
88 Emerson Verna D
88 Emerson Vernon F 863-3358
95 Straub Walter A 862-9536
101 Sabin Barbara
101 Sabin Raymond H Jr
101 Sabin Raymond H Sr 863-3594
101 Sabin Ronald N
—YORK DR BEGINS RIGHT
111 Borewicz John 863-2850

WESTON
fr 118 Loomis north to 17
Henry (10020)
—RIGHT SIDE EVEN NUMBERS
9 No report
11 Keppelman Tony 658-0236
12 Gadue Anne L
12 Gadue Elizabeth L 862-0479
12 Gadue Patrice A
12½ Pike Allison
15 No report
17 (1) Schenck R 658-8015
17 (2) Desnoyers Julian I 864-6222
17 (2) Ford Barbara
17 (2) Maciulla Mary Beth 862-1957
18 Delorichelaire Alane B
..... 864-6519
19 Gingras Kenneth
19 Gingras Yvonne L 862-0754
19½ (rear) No report
20 Caldwell Martha
21 Shequin Avis A 862-2827
23 Cheney James 862-7008
23 (1) Bradley Fred
23 (1) Marks Erica R 863-6917
23 (1) Steffen Richard T
23 (2) No report
24 No report

WESTWARD DR
fr 1991 North Av west to dead end (10040)
—LEFT SIDE ODD NUMBERS
17 Raymond Michael E 864-7765
25 VonBrunn Charles A Jr
..... 862-4508

60 United States Post Office Burlington South
—PATCHEN RD CR
90 Bosley Charles A
100 Thibault John
101 White Street Apartments
101 (1) No report
101 (2) Viens Nancy
101 (3) No report
101 (4) No report
105 Williams Robert M
107 Millette Robert A
107 Millette Stacey E
110 Rathbun Maurice
—CHARLES BEGIN
120 No report
122 (1) Pettine James
124 (2) Boardman Randy
124 (2) Cushing Terrence
125 No report
126 No report
128 Namdar Reconi M
130 Gile Eunice S
132 Ready Linda M
132 Rivard Rosemary A
133 Piche Anne
133 Piche Roland
143 No report
153 Kolish Carol
153 Perras Emilia
—COTTAGE GROV
RIGHT
159 Morrell Linda
159 Morrell Lorraine M
170 Tong M
—MAPLEWOOD BI
171 Duprey Ishmael
171 Kinville Elizabeth M
186 Doane Charles R
190 Simard Colette M
190 Simard Emelda
195 Bossi Antoinette
199 Solari Paul B
200 Willard Stanley
206 No report
208 No report
209 Bossi John A
211 Emery Elwin
212 Germaine Louise
212 Germaine Raymond
218 Neary Charles G
218 Neary Jeffrey
238 Blow Brian A

MANNING'S

BURLINGTON
and
SOUTH BURLINGTON
ZIP CODE 05401
ESSEX JUNCTION—ZIP CODE 05452
and
WINOOSKI—ZIP CODE 05404
(CHITTENDEN COUNTY, VERMONT)

DIRECTORY
(Area Code 802)
1983

Enumeration Completed February 1983

Numerical Telephone Locator (Cross Reference Telephone Directory)

CONTAINING
Alphabetical Directories of Citizens, Classified Business Directories, Street Directories, a Record of the City and Town Governments, County, State and United States Governments, Societies, Churches, Etc.

VOLUME 83

Sold by Subscription Only
COMPILED AND PUBLISHED BY

Established 1905 **H. A. Manning Co., Publishers** Area Code 802 Tel. 463-9122

CHERRY STREET, P.O. BOX 317, BELLOWS FALLS, VT. 05101

1905 - Our 78th Year of Service - 1983
Member Association North American Directory Publishers
COPYRIGHT 1983, by H. A. Manning Co. (P. O. 317)

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: May 15, 2018

RE: Report on **Appeal #18-0861AP**; Appeal of an Administrative Officer's Zoning Notice of Violation (ZV # 333035) issued on March 20, 2018, for *"for increasing number of residential units from 9 to 10 without zoning approval"* for Premises Located at 19-21 South Willard Street, Burlington, Vermont.

Note: This is the Administrative Officer's report; decisions are made by the Development Review Board, which may overturn or uphold the Zoning Administrator's Decision. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Location: 19-21 So Willard St, Burlington, VT **Tax Lot #** 045-2-254-000

Appellant: WHN Properties, LLC

Representatives: Kevin A. Lumpkin, Esq.

Applicable Regulations: CDO Articles 2, 3, 5, 8, 12 and VSA § 4451

Appeal # 18-0861AP

Appeal: Sec. 12.2.2 Appeals of Administrative Officer Decisions

- Appeal filed at the Planning/Zoning office on April 4, 2018

Name and address of appellant:

WHN Properties, LLC
PO Box 4045
Burlington, VT

Brief description of the property with respect to which the appeal is taken
The subject property address is 19-21 So Willard St, Burlington, VT 05401, Tax Parcel ID # 045-2-254-000.

Appellant's reference to the regulatory provisions applicable to that appeal
Appellant asserts that the City is estopped from enforcing any purported violation and also barred from doing so pursuant to CDO 5.3.2. and 24 V.S.A. §4454 as certain departments of the City have been aware of the 10th unit.

City's Response:
The City approved a "Special Exception Use" change in the number of units (8 to 9) on June 3, 1969, under Title 27, Chapter 1, Section 6509-5A. There are no zoning permits on record (Zoning would have the underlying authority to consider such requests) approving a change in use from 9 to 10. The Appellant believes the permit for such a change in use has been misplaced, however, Appellant has not provided a copy of such a permit if one did exist, nor has any evidence been submitted to suggest that there is any such permit.

The matter of estoppel is not property before the Development Review Board. A request for relief based upon estoppel is a matter to be weighed by a court of law.

As a use violation, V.S.A. 24 §4454 (the 15-year statute of limitations) does not apply. V.S.A 24 § 4454 pertains only to physical violations such as unpermitted structures. "A use violation that has never been legally established (and therefore cannot establish itself as a lawful nonconforming use) can be subject to an enforcement action at any time, particularly when the alleged use violation is ongoing." *In re Budget Inn NOV (Appeal of DAAT, Inc., David Singh from City of Barre DRB),* 2013 WL 657039 (Vt. Super. Envtl. Div. Nov. 19, 2013). Also see *City of Burlington v. Richardson,* 2006 WL 4088224 at 5 (Vt. Envtl. Ct. June 27, 2006) (use violations are an exemption from 24 V.S.A. §4454 as use violations are analyzed as continuing or recurring violations). The Development Review Board has consistently applied this standard.

City's Submittals
- ZP approved on May 21, 1969.
- NOV Dated March 20, 2018

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.

CDO 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:
…

- 3. Change of use or expansion of use.
- 16. Site improvements…

(b) Interior Work:

- 1. Increase in habitable living space (including, but not limited to, attic, bedroom, basement, garage, …)
- 2. Installation of additional kitchen.
- 3. Change in use.
- 4. Increase or decrease in number of units

CDO Article 5 Citywide General Standards

Appellant stated he will argue the 15-year statute of limitations. However, that argument is misplaced. As indicated above, use violations are exempt from the zoning statute of limitations. "A use violation that has never been legally established (and therefore cannot establish itself as a lawful nonconforming use) can be subject to an enforcement action at any time, particularly when the alleged use violation is ongoing." *In re Budget Inn NOV (Appeal of DAAT, Inc., David Singh from City of Barre DRB),* 2013 WL 657039 (Vt. Super. Envtl. Div. Nov. 19, 2013). Also see *City of Burlington v. Richardson,* 2006 WL 4088224 at 5 (Vt. Envtl. Ct. June 27, 2006) (use violations are an

exemption from 24 V.S.A. §4454 as use violations are analyzed as continuing or recurring violations).

It is also worth noting that Appellant did not seek a determination as a pre-existing legal nonconformity—"grandfathering". To be determined to be a pre-existing legal nonconformity, one must demonstrate legal compliance with the zoning regulations prior to the change in the regulations that made, in this instance, the use, nonconforming.

CDO Article 12. Appeals, Conditional Uses, Variances

- Appellant filed a complete appeal as directed under CDO Article 12 Sec. 12.2.2

24 V.S.A. §4451. Enforcement, penalties

(a) Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than $200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months.

Summary

In 2017 Code Enforcement Office issued a notification letter to Appellant of an alleged change in use – 9 units to 10 without zoning approval. The Appellant responded that the unit was "grandfathered" to which Code replied, that is not a decision of the Code Enforcement Office but of the Administrative Officer. Code suggested he request a determination. Although Appellant did meet with the Zoning Administrative Officer regarding the matter, such a request was never submitted (CDO Section 2.7.11 Appropriate Action).

On March 20, 2018 a Notice of Violation was issued to Appellant for increasing the number of residential units from 9 to 10 without zoning approval. Appellant met with Project Manager at Planning/Zoning Office and was informed the Property does not meet density requirements for another unit.

Appellant reviewed his options with City Departments and met with them on April 17th . Appellant sent an email on May 1, 2018 stating he has the opportunity to purchase additional land from Property located at 17 So. Willard Street and requested to enter into an Agreement to bring Property into compliance. No agreement has yet been executed.

CONCLUSION:

The City has provided sufficient evidence that violations noted in the March 20, 2018 NOV #333035 for *increasing the number of residential units from 9 to 10 without zoning approval* are founded and enforceable.

Any increase in the number of dwellings after 1962 would require zoning approval. There is no zoning permit enabling 10 dwelling units at the subject property. Use violations are exempt from the statute of limitations contained in 24 V.S.A. §4454. Appellant did not submit a determination request as outlined under CDO Sec. 2.7.11.

To date, May 8, 2018, Violation at property has not been remedied.

The Code Enforcement Office, under the auspices of the Zoning Administrator, hereby requests the Development Review Board to uphold their decision that violations cited under NOV #333035 are viable and continue at said Property. Further, we request the Board condition the following:

1. Within 30 days from date of DRB decision, Owner shall enact a Stipulation Agreement with the City with a reasonable timeline in which to remove the violation and convert the space back to its prior state or obtain zoning approval for the 10th unit; an administrative fee would be required.

SHEEHEY FURLONG & BEHM
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SARAH L. J. ACEVES
DAVID T. AUSTIN
R. JEFFREY BEHM
DEBRA L. BOUFFARD
JUSTIN A. BROWN
IAN P. CARLETON
ARLINE P. DUFFY
PETER I. DYSART
MICHAEL G. FURLONG
KEVIN A. LUMPKIN
DIANE M. McCARTHY
WALTER A. McCARTHY
OWEN J. McCLAIN
MARK E. MELENDY
RENEE L. MOBBS
DAPHNE MORITZ
CRAIG S. NOLAN
LEIGH K. PHILLIPS
PETER G. RAYMOND
HEATHER E. ROSS
JAMES W. SPINK

PAUL D. SHEEHEY (1919-2004)

30 MAIN STREET
POST OFFICE BOX 66
BURLINGTON, VERMONT 05402
TELEPHONE (802) 864-9891
FACSIMILE (802) 864-6815

18 ELM STREET
WOODSTOCK, VERMONT 05091
TELEPHONE (802) 457-9492
FACSIMILE (802) 457-9158

WWW.SHEEHEYVT.COM

VIA HAND-DELIVERY
April 4, 2018

RECEIVED
APR 04 2018
DEPARTMENT OF
PLANNING & ZONING

City of Burlington
Department of Planning and Zoning
149 Church St., City Hall
Burlington, VT 05401

Re: Zoning Violation # 333035

To Whom it May Concern:

Please find enclosed a Notice of Appeal and an Appeal of an Administrative Decision Request form in the above-referenced matter, together with a check in the amount of $250.00, representing this applicable filing fee.

Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.

Kevin A. Lumpkin, Esq.

KAL/ktr
Enclosure

CITY OF BURLINGTON
DEVELOPMENT REVIEW BOARD

In re Appeal of	)	**Zoning Violation # 333035**
19-21 South Willard St.	)	

NOTICE OF APPEAL

Pursuant to 24 V.S.A. § 4452 and Sections 2.7.11 and 12.2.2 of the Burlington Comprehensive Development Ordinance (CDO), Appellant WHN Properties, LLC, with an address of P.O. Box 4045 in Burlington, Vermont hereby appeals the Notice of Zoning Violation issued on March 20, 2018 for the property located at 19-21 South Willard St. in Burlington, Vermont (Zoning Violation # 333035.)

The notice of violation alleges "[i]increasing number of residential units from 9 to 10 without Zoning Approval" in violation of CDO Articles 2, 3, 5, 6, 8, 12, and 24 V.S.A. § 4451. As detailed in the notice of violation itself, the City has had ample notice that the subject property has had ten units for more than 30 years. The City has been collecting taxes on 10 units since 1994 and it has consistently recognized that the property has 10 units in various documents since the 1980s. Moreover, Appellant has reason to believe that the 10th unit was permitted but that the City has misplaced the permit in its files.

For the foregoing reasons, the City is estopped from enforcing any purported violation and also barred from doing so pursuant to CDO § 5.3.2 and 24 V.S.A. § 4454.

RECEIVED
APR 04 2018
DEPARTMENT OF
PLANNING & ZONING

Dated at Burlington, Vermont this 4th day of April, 2018.

SHEEHEY FURLONG & BEHM P.C.

By: _____

Kevin A. Lumpkin, Esq.
30 Main Street, 6th Floor
P.O. Box 66
Burlington, VT 05401
(802) 864-9891
klumpkin@sheeheyvt.com

Attorney for Appellant

RECEIVED
APR 04 2018
DEPARTMENT OF
PLANNING & ZONING

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 333035)

March 20, 2018

WHN PROPERTIES, LLC
PO BOX 4045
BURLINGTON VT 05406

Mailed Certified Mail #7015 1520 0000 4418 0529
And FIRST CLASS MAIL

NOTICE OF VIOLATION AT:
19-21 SOUTH WILLARD STREET
BURLINGTON, VT

Dear Owners,

It has come to the attention of this office that a zoning violation exists at 19-21 South Willard Street.

Description of Violation: Increasing number of residential units from 9 to 10 without Zoning Approval.

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 6, 8, 12, 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 a zoning application to attempt correction of the violation; however, be advised, application and filing fees are subject to a fee increase.

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 Notice of Violation (NOV) may be appealed to the Burlington Development Review Board in accordance with the provisions of CDO Sections 2.7.12 and 12.2.2 provided that such appeal is filed within fifteen (15) days from the date of this NOV 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 (City Hall, 149 Church Street) by **4 pm on April 4, 2018**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call Jeanne Francis at (802) 864-8518.

Sincerely,

David E. White
Zoning Administrative Officer

Sincerely,

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

Enclosures: Violation Details
Cc: Land Records for Tax Lot # 045-2-254-000

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

VIOLATION DETAILS

LOCATION: 19-21 South Willard Street

DECISION DATE: March 20, 2018

VIOLATION DESCRIPTION: Increasing number of residential units from 9 to 10 without Zoning Approval

FINDINGS:

- June 3, 1969 Zoning Board of Adjustment approved then-Owner's zoning request to convert an 8-unit building at Property to 9 apartments.
- ZP 85-406: erect a 5' chain link fence around most of the perimeter of the rear yard. Fence permit approved September 3, 1985. Existing use of property noted as "10 apts".
- 1985 Assessor's Records list building as 10 units.
- 1993 Minimum Housing Office Report identifies building as 10 units
- 1993-94 Assessor's Appraisal report identifies building as 10 units.
- 2003 DRB Application to Appeal a Zoning Notice of Violations states there are 10 units in the building. Appeal was regarding a parking violation, however, it was noted to the DRB, the number of units (10) did not coincide with the 1969 Zoning Permit approving 9 units.
- No zoning permit on file, approving an increase in the number of residential units from 9 to 10.
- March 2, 2017 Notification of an alleged violation from Code Enforcement Office to Owner: Increasing number of residential units from 9 to 10 without Zoning Approval.
- March 8, 2017 Owner's attorney emailed and stated his client's position is the unit is "grandfathered". Attorney was directed to the Zoning Administrative Officer and request a "non-conforming grandfathered" determination. To date a non-conforming request has not been requested.
- March 8, Owner's lawyer met with Zoning Administrative Officer wherein submission of a zoning permit application for the 10th unit was discussed. To date a zoning permit has not been requested.
- To date, June 12, 2017 the Property known as 19-21 North Willard Street is in violation of the CDO for creating a 10th residential unit without zoning approval.

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

1. Removing the 10th residential unit from structure and restoring the Premises to its prior state (9-units); **reconfiguration may require building permits, contact Building Inspector at Public Works Department. Owner shall submit a floor plan of the reconfiguration to Planning/Zoning Office and**

informing the Code Enforcement Office when the violation has been remedied so our office may verify compliance; or

2. **Executing an Agreement with the City of Burlington to bring property into compliance with the CDO after seven (7) days from date of this NOV but before the appeal date;** (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 2.7.12 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 4, 2018.** 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 enforcement officer shall be binding 24 V.S.A §4472(d).*

REGULATION CITATION: CDO Article(s): 2, 3, 5, 6, 8, 12 and 24 VSA §4451

RECEIVED
MAR 29 2018
DEPARTMENT OF PLANNING & ZONING

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

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: 62 Venus Avenue

Subject Property Owner: Lorraine Latorre Family Trust

Appellant: Lorraine Latorre, Trustee

Agent/Representative: Jeffrey J Wick Esq. & Joe Obuchowski Esq.

Mailing Address: Wick and Maddocks 308 College St

City, St, Zip: Burlington VT 05401

Day Phone: 917-282-5256 Email: jeff@wickandmaddocks.com

Appellant Signature: Lorraine Latorre Date: 3-29-18

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

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

Office Use Only:
Check No. 24917 Amount Paid 250 Zoning Permit # 18-084AP

RECEIVED
MAR 29 2018
DEPARTMENT OF
PLANNING & ZONING

NOTICE OF APPEAL

To: City of Burlington Development Review Board/Planning Dept.
From: Lorraine Latorre Family Trust
Date: March 29, 2018
Re: Notice of Appeal of Notice of Zoning Violation #NOV 346538
Lorraine Latorre Family Trust, 62 Venus Av, Burlington, VT – Tax Lot #024-1-087-000

This is a notice of appeal in the matter referenced above. Appellant provides the following information in this notice of appeal per CDO Section 12.2.2(a):

Name and Address of Appellant:	Lorraine Latorre, Trustee of the Latorre Family Trust 23 Blondin Circle, Burlington, VT 05408
Brief description of the property with respect to which the appeal is being taken:	The subject property address is 62 Venus Ave, Burlington, VT 05408, Tax Parcel ID# 024-1-087-000. The deed to this property is recorded at Volume 416, Page 355 and the deed-into-trust at Volume 1317, Page 245.
Regulatory provisions applicable to the appeal:	The City issued the NOV pursuant to 24 VSA 4451. This notice of appeal is being filed pursuant to CDO Sections 2.7.12 and 12.2.2. Among other grounds for appeal, we are asserting the enforcement is barred under 24 VSA 4454 (enforcement; limitations).
Relief requested by the appellant:	Appellant requests the following relief, and pleads for such relief in the alternative: 1. The enforcement is barred by 24 VSA 4454; and/or 2. That the property be treated as a legally pre-existing non-conforming use; and/or 3. Zoning approval for the duplex was granted and such approval needs to be located in the municipal records or other private records in the case the municipal records are incomplete or missing documents from the era 1965-1984, which is the time period during which the alleged violation may have been created; and/or 4. A mutually agreeable remediation plan/settlement agreement between the owner and the City can be obtained, and we seek a reasonable opportunity to negotiate such remediation plan/settlement agreement with the City; and/or 5. Alleged use change is a change in density, not a use change, which use remains residential; and/or 6. Appellant reserves the right to request additional relief prior to or at the hearing
Stay of Enforcement also sought:	In addition to the above relief sought, Appellant seeks a **stay of enforcement** (CDO 12.2.2(f)) because irremediable damage will directly result to the owner and the tenants, if such stay is not granted.
The alleged grounds why such relief is believed proper under the circumstances:	Appellant believes the relief sought above is proper to ensure a fair result. The City, in its own research, has determined and alleged the following: • the subject property has been used and taxed as a duplex since 1984. • The assessor inspected the property in 1991 and found it to be a duplex; • A city housing inspection in the year 2000 found two living units at the

	residence. • See the City's Notice of Violation **Detail Report** in this matter to confirm the above. Particularly, the appellant would like the opportunity to attempt to negotiate a solution with the city, given the alleged longstanding, undisturbed use of the property as a duplex (for at least 34 years or more), which solution might include conversion of the alleged duplex back into a single family residence, if after additional research, discussion and negotiation, no other avenue seems viable. Also, if this results in the need to convert back to a single family, the tenants, who are section 8 tenants, will need adequate notice and opportunity to find replacement housing, and a stay of enforcement would help mitigate irremediable damage and hardship on the tenants.

Notice of counsel - please note I am represented by
Joseph F. Obuchowski, Esq.
Obuchowski & Associates
74 Main St, PO Box 8551
Burlington, VT 05402
(802) 658-5368
jobuchowski@btvlaw.com

RECEIVED
MAR 29 2018
DEPARTMENT OF PLANNING & ZONING

DATED at Burlington, Vermont this 29th day of March, 2018.

Lorraine Latorre, Trustee
Latorre Family Trust

Because of the request for a stay of enforcement above, among other relief sought, the appellant must sign above under oath.

Sworn to and subscribed before me by appellant Lorraine Latorre, Trustee.

NOTARY PUBLIC

JEFFREY J. WICK ESQ. NOTARY PUBLIC STATE OF VERMONT

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 346538)

March 16, 2018

Mailed Certified Mail # 7015 1520 0000 4418 0505
And FIRST CLASS MAIL

LORRAINE LATORRE FAMILY TRUST
23 BLONDIN CIR
BURLINGTON VT 05408

NOTICE OF VIOLATION AT:
62 VENUS AVENUE, BURLINGTON, VT
TAX LOT #024-1-087-000

Dear Owners,

It has come to the attention of this office that a zoning violation exists at 62 Venus Avenue.

Description of Violation: Change of use from Single Family Home to Duplex without Zoning Approval.

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 12, 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 correction of the violation, however, be advised application and filing fees are subject to a fee increase for permits required to correct a violation.

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 Notice of Violation (NOV) may be appealed to the Burlington Development Review Board in accordance with the provisions of CDO Sections 2.7.12 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV 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 (City Hall, 149 Church Street) by **4 pm on March 31, 2018**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call Jeanne at (802) 864-8518.

Sincerely,

David E. White
Zoning Administrative Officer

Sincerely,

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

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 024-1-087-000

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

VIOLATION DETAILS

LOCATION: 62 VENUS AVENUE

DECISION DATE: March 16, 2018

VIOLATION DESCRIPTION: Change of use from Single Family Home to Duplex without Zoning Approval.

FINDINGS:

Assessor's Office:

- 1965 built as a single family home with attached garage.
- 1991 first inspection by Assessor's Office noted use changed to a duplex use. Also there is a note that there are no building permits, electrical permits, or plumbing permits on file for this change.
- 1984+ Taxed as a duplex, built as a single family home in 1965.
- Covenant in Land Records allows only single family homes in development (Book 170/230).

Minimum Housing:

- December 13, 2000 housing inspection. Two units, one owner occupied.
- 2003-2018 – Registered 2 Units

Building Permits/Electrical Permits:

- September 14, 2014: Electrical permit to install new 2 gang meter socket and separated circuits between panels for a duplex. Upgrade grounding. All per NEC 2002.
- March 4, 2016: Remove front porch, build new landing and stairs. Remove back porch, building smaller landing with stairs. Replace front door, vinyl siding with new and repair rotten material where needed.
- No known building permits on file to create a 2nd unit.

Zoning Permits:

- April 18, 2006: ZP 06-662FC approved to install a 6 ft. high stockade fence from house to property line on each side (approx. 24.5 ft. total).
- February 2, 2016: ZP 16-0824CA approved to remove front porch, build new landing and stairs. Remove back porch, building smaller with stairs. Replace front door and vinyl siding.
- No known zoning permit on file to change use from single family home to a duplex.

Zoning Enforcement/Code Enforcement Office:

- May 31, 2006 complaint received for a home occupation (auto body repair).
- June 7, 2006 this office received a complaint regarding changing the use from a single family structure to duplex without zoning approval.
- July 17, 2006 during a site visit to the Property, inspector noted two separated entrances to the building, separately identified as 62A and 62B. It appears the garage was converted into a separate unit.
- February 1, 2018 – change of use complaint from single family home to duplex without zoning approved reopened.
- February 1, 2018 notification letter mailed to Owner regarding the change of use noted above. No response.

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

1. Removing the extra unit and **restoring the Premises to its prior state. You must inform the Code Enforcement Office when the violation has been removed so our office may verify compliance; or**

2. Obtaining after-the-fact approval from the Zoning Administrator to change use of a single family unit to a duplex use (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. Executing an Agreement with the City of Burlington to bring property into compliance with the CDO after seven (7) days from date of this NOV but before the appeal date; (**administrative fees required**).

APPEAL RIGHTS: You have the right to appeal the NOV to the Development Review Board in accordance with the provisions of Articles 2.7.12 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 March 31, 2018.** You must submit a complete application with ZV# and appropriate fee to the Department of Planning and Zoning, (located at City Hall), 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 enforcement officer shall be binding 24 V.S.A §4472(d).

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

62
A

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: May 15, 2018

RE: Report on **Appeal #18-0840AP**; Appeal of an Administrative Officer's Zoning Notice of Violation (ZV # 346538) issued on March 16, 2018, for *"change of use from Single Family Home to Duplex without zoning approval"* for Premises Located at 62 Venus Avenue, Burlington, Vermont

Note: This is the Administrative Officer's report; decisions are made by the Development Review Board, which may overturn or uphold the Zoning Administrator's Decision. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Location: 62 Venus Avenue, Burlington, Vermont **Tax Lot #** 024-1-087-000

Appellant: Lorraine Latorre, Trustee

Representatives: Jeffrey J. Wick Esq., and Joe Obuchowski Esq.

Applicable Regulations: CDO Articles 2, 3, 5, 8, 12 and VSA §4451

Appeal # 18-0840AP

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:

  Lorraine Latorre Trustee
  23 Blondin Circle
  Burlington, VT 05408

Brief description of the property with respect to which the appeal is taken
The subject property address is 62 Venus Avenue, Burlington, VT 05408, Tax Parcel ID # 024-1-07. The deed to this property is recorded at Volume 416, Page 355 and the deed-into-trust at Volume 1317 Page 245.

Administrative Officer's Response to Appellant's Appeal:
Reference to the regulatory provisions applicable to that appeal

Appellant: The City issued the NOV pursuant to 24 VSA 4451. This notice of appeal is being filed pursuant to CDO Sections 2.7.12 and 12.2.2. Among other grounds for appeal, we are asserting the enforcement is barred under 24 VSA 4454 (enforcement; limitations).

Administrative Officer's Response: 24 VSA 4454 is not included with the NOV. If Appellant wishes to assert 24 VSA 4454, they should request a "Determination" from the Zoning Administrator.

Structure received a building permit April 21, 1965 for a single family home. Assessor's Office first noted a change in use at an inspection in October 1991.

Relief requested by the appellant:
Appellant requests the following relief, and pleads for such relief in the alternative:

1. The enforcement is barred by *24 VSA 4454*.

   Administrative Officer's Response: *24 VSA §4454* does not apply to use violations. "A use violation that has never been legally established (and therefore cannot establish itself as a lawful nonconforming use) can be subject to an enforcement action at any time, particularly when the alleged use violation is ongoing." *In re Budget Inn NOV (Appeal of DAAT, Inc., David Singh from City of Barre DRB),* 2013 WL 657039 (Vt. Super. Envtl. Div. Nov. 19, 2013). Also see *City of Burlington v. Richardson,* 2006 WL 4088224 at 5 (Vt. Envtl. Ct. June 27, 2006) (use violations are an exemption from 24 V.S.A. §4454 as use violations are analyzed as continuing or recurring violations).

2. That the property be treated as a legally pre-existing non-conforming use.

   Administrative Officer's Response: Appellant would require a legal pre-existing use determination. One has not been sought.

3. Zoning approval for the duplex was granted and such approval needs to be located in the municipal records for other private records in the case the municipal records are incomplete or missing documents from era 1965-1984, which is the time period during which the alleged violation may have been created.

   Administrative Officer's Response: There are no known permits in Municipal Records for a change in use. Covenant on Property prohibits a duplex use. Appellant would require a legal pre-existing use determination, which has not been sought or obtained.

4. A mutually agreeable remediation plan/settlement agreement between the owner and the City can be obtained, and we seek a reasonable opportunity to negotiate such remediation plan/settlement agreement with the City.

   Administrative Officer's Response: Discussions regarding an agreement are occurring, but to date, there is not one in place.

5. Alleged use change is a change in density, not a use change, which use remains residential.

   Administrative Officer's Response: Appendix A – Use Table – All Zoning Districts of the Comprehensive Development Ordinance lists detached single family dwellings and attached dwellings – duplex as separate uses. A change from detached single family dwelling to a duplex is a change in use and requires a zoning permit.

6. Appellant reserves the right to request additional relief prior to or at the hearing.

   Administrative Officer's Response**:** Such a request would be supported with an enacted agreement between parties.

   Appellant also requests a Stay of Enforcement.
   In addition to the above relief sought, Appellant seeks a stay of enforcement (CDO 12.2.2(f), because irremediable damage will directly result to the owner and the tenants, if such is not granted.

   Administrative Officer's Response: Such a request would be supported with an enacted agreement between parties.

City's Submittals

- Assessor's Records
- Code Enforcement: Minimum Housing Records
- Covenant in Land Records restricting development to single family homes
- Building permit #65-656 dated April 21, 1965 for the construction of a 50'x24' single family raised ranch home with 5 rooms and 1 car garage; (signed off by Raymond Wheel, Building Inspector

Background Information:

- Property listed in City's Grand List as a 2 Family structure, 10 rooms, on an 8,673 sf lot.
- RL Zone
- Neighborhood Parking District
- Built 1965
- Ward 7N
- Appellants obtained control of the property in 2016

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.

CDO 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:

…

- 3. Change of use or expansion of use.
- 16. Site improvements…

(b) Interior Work:

- 1. Increase in habitable living space (including, but not limited to, attic, bedroom, basement, garage, …)
- 2. Installation of additional kitchen.
- 3. Change in use.
- 4. Increase or decrease in number of units

CDO Article 5 Citywide General Standards

Appellant stated he will argue the 15-year statute of limitations. However, that argument is misplaced. As indicated above, use violations are exempt from the zoning statute of limitations. "A use violation that has never been legally established (and therefore cannot establish itself as a lawful nonconforming use) can be subject to an enforcement action at any time, particularly when the alleged use violation is ongoing." *In re Budget Inn NOV (Appeal of DAAT, Inc., David Singh from City of Barre DRB),* 2013 WL 657039 (Vt. Super. Envtl. Div. Nov. 19, 2013). Also see *City of Burlington v. Richardson,* 2006 WL 4088224 at 5 (Vt. Envtl. Ct. June 27, 2006) (use violations are an exemption from 24 V.S.A. §4454 as use violations are analyzed as continuing or recurring violations).

It is also worth noting that Appellant did not seek a determination as a pre-existing legal nonconformity—"grandfathering". To be determined to be a pre-existing legal nonconformity, one must demonstrate legal compliance with the zoning regulations prior to the change in the regulations that made, in this instance, the use, nonconforming.

CDO Article 12. Appeals, Conditional Uses, Variances

- Appellant filed a complete appeal as directed under CDO Article 12 Sec. 12.2.2

24 V.S.A. §4451. Enforcement, penalties

(a) Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than $200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months.

Summary

Appellants obtained control of this 1965 home in 2016. The house was permitted for construction of a 50'x24' raised ranch single family home with a one car garage (Building Permit # 65-656). According to Assessor's records, in October of 1991, via an inspection by their staff, it was discovered the single family house at 62 Venus Avenue had changed use to a duplex and had increased the number of rooms from 5 to 8; the one car garage approved in BP 65-656 had been removed. The Assessor's information reveals that building, electrical or plumbing permits had not been issued for changes; Code Enforcement Office confirmed their findings. No zoning permits for these changes are evident in Planning/Zoning records.

In addition, there is a covenant recorded in the City's land records prohibiting uses other than a residential, single-family home with a garage that accommodates up to 2 cars.

In 2006 the Code Enforcement Office received a complaint that the single family home had been converted into a duplex use; complaint verified at that time, however, the enforcement process was not enacted. In February of 2018 the mistake was discovered and the enforcement process was enacted. A notification notice was mailed to the Owner on February 1, 2018 without response. On March 16, 2018 the violation was followed-up with a formal Notice of Violation which was appealed on March 29, 2018.

No determination for a legally pre-existing nonconforming use (grandfathering) has been requested or obtained. Further, application of 24 V.S.A. §4454 is inappropriate as this is a use violation which is exempt from that statutory provision.

CONCLUSION:

The City has provided sufficient evidence that violations noted in the March 16, 2018 NOV #346538 for a *change in use from a single family home to a duplex* are founded and enforceable.

The Code Enforcement Office, under the auspices of the Zoning Administrator, hereby requests the Development Review Board to uphold their decision that violations cited under NOV #346538 are viable and continue at said Property. Further, we request the Board condition the following:

1. Within 30 days from date of DRB decision, Owner shall enact a Stipulation Agreement with the City with a reasonable timeline in which to remove the violation and convert the use back to that of a detached single family dwelling; an administrative fee would be required.

Sheehey
FURLONG & BEHM P.C.

Attorneys at Law

Kevin A. Lumpkin
klumpkin@sheeheyvt.com

May 11, 2018

City of Burlington
Department of Planning and Zoning
149 Church St., City Hall
Burlington, VT 05401

Re: Zoning Violation # 333035

To Whom it May Concern:

Please find enclosed an Unopposed Request To Continue May 15, 2018 Hearing in connection with the above matter.

Sincerely,

SHEEHEY FURLONG & BEHM P.C.

FOR Kevin A. Lumpkin

KAL/srr
Enclosure

CITY OF BURLINGTON
DEVELOPMENT REVIEW BOARD

In re Appeal of	)	**Zoning Violation # 333035**
19-21 South Willard St.	)	

UNOPPOSED REQUEST TO CONTINUE MAY 15, 2018 HEARING

Appellant WHN Properties, LLC, hereby requests that its appeal of Zoning Violation # 333035, for 19-21 South Willard Street, currently set to be heard by the Development Review Board (DRB) on May 15, 2018, be postponed. Undersigned counsel has conferred with Jeanne Francis of Code Enforcement and the City does not object to a continuance of the hearing in order to allow more time to resolve the alleged violation.

Appellant is currently working with the City to cure the alleged violation that is the subject of this appeal. In particular, Appellant has met with City staff to discuss acquisition of land from a neighbor that would allow for a zoning permit to issue. Because of the time required to finalize the boundary line adjustment and obtain all necessary approvals, Appellant requests that this Board continue the scheduled hearing to allow for that process to play out. If all goes according to plan, Appellant expects to dismiss this appeal.

Dated at Burlington, Vermont this 11th day of May, 2018.

SHEEHEY FURLONG & BEHM P.C.

By: for

Kevin A. Lumpkin, Esq.
30 Main Street, 6th Floor
Burlington, VT 05401
(802) 864-9891
klumpkin@sheeheyvt.com

Attorneys for Appellant

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

Austin Hart
Brad Rabinowitz
Israel Smith
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Samantha Tilton
Jim Drummond, (Alternate)
Vacant, (Alternate)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday May 15th, 2018, 5:00 PM
Contois Auditorium, City Hall, 149 Church St, Burlington, VT
MINUTES

Board Members Present: B.Rabinowitz, A.LaRosa, S.Tilton, A.Hart, G. Hand, I.Smith, A.Zipparo
Board Members Absent: J.Drummond(Alt.)
Staff Present: S. Gustin, M. O'Neil, R. Morrison, L. Darfler

I. Agenda

A.Hart: Changes to the agenda include requests for deferral for Public Hearing items 1 and 3; City holds no opposition to these requests and they will be discussed later on in the meeting

II. Communications

M.O'Neil: Dr. Lang submitted a letter regarding 275 Main St shortly before the meeting

III. Minutes

A.Hart: Minutes from the May 3rd 2018 Development Review Board will be discussed at the next deliberative

IV. Consent

1. **18-0809CA; 1106 North Ave (RM, Ward 7N) CDI Development Fund Inc**
   Install 3 new HUD homes 14' X 60'. Add 3 parking pads, one per lot, 9' x 20'.
   (Project Manager: Mary O'Neil)

   A.Hart: Does the applicant have any questions or concerns about conditions or staff findings as presented?
   None
   A.Hart: Any board members object to consent
   None
   A.Hart: Are there any members of the public that wish to comment or have questions regarding the project?
   None
   B.Rabinowitz: Motion to approve and adopt staff findings and recommendations
   G.Hand: Seconds the motion
   7-0-0

2. **15-0923CA/CU; 465 Appletree Point Rd (RL-W, Ward 4N) Alfred R. Senecal Jr Trust**
   Request for Time Extension: Construct single family home with accessory apartment and associated site improvements. Includes lot line adjustment.
   (Project Manager: Scott Gustin)

Project review for 15-0923CA/CU 465 Appletree Pt Rd and 15-0922CA/CU 451 Appletree Pt Rd were reviewed and voted on together
A.Hart and B.Rabinowitz recused
I.Smith: Does the applicant have any questions or concerns about conditions or staff findings as presented?
None
I.Smith: Any board members object to consent or have any questions?
None
A.LaRosa: Motion to approve and adopt staff findings and recommendations
S.Tilton: Seconds the motion
5-0-0

3. **15-0922CA/CU; 451 Appletree Point Rd (RL-W, Ward 4N) Alfred R. Senecal Jr Trust**
Request for Time Extension: Demo existing structures, construct new single-family home with accessory apartment and associated site improvements. Lot line adjustment included. (Project Manager: Scott Gustin)

See above

4. **18-0898CA; 275 Main St (I, Ward 6S) City of Burlington School Dept**
Site improvements including lower level link enclosure between buildings A and C, relocated loading dock, screening, fencing, new student courtyard and removal of pavement. Add a maintenance garage for equipment storage.
(Project Manager: Mary O'Neil)

A.Hart: Does the applicant have any questions or concerns about conditions or staff findings as presented?
None
A.Hart: Any board members object to consent or have any questions?
None
A.Hart: Are there any members of the public that wish to comment or have questions regarding the project? Seeing a few hands, we will open this project up to a public hearing
M.Spaulding: This project is a renovation of Edmunds Campus; renovating building C changing basement storage space into dedicated cafeteria space; new loading dock; new outdoor seating and classroom space.
C.Lindberg: provided handout
R.Burnett: provided an overview of the project; project is a connector between the Middle School and Building C which is currently used as a gym for elementary kids and the campus cafeteria. Most of the work is interior; exterior work includes the loading dock and dinning deck; dining deck provides egress for assembly space as well as extra dining and outdoor classroom space. Showcased before and after renderings and the locations of impervious surfaces, landscape proposals, waste containers, loading docks with screening, and walk-in cooler behind screening.
G.Hand: Regarding the loading dock and the waste containers: is the waste containers in front of the loading dock?
R.Burnett: Loading dock will be elevated behind the waste collection feature
A.Hart: Where is the shed?
R.Burnett: The stair that services faculty and staff parking lot needs replacement so we proposed consolidating functions with that feature; covered stair to protect from the elements, storage unit for on-site snow equipment. Also includes additional bicycle storage/parking.
G.Hand: Where is the handicap access? What is the parking in the rear? This is a

R.Burnett: Buildings A, B, and C are currently accessible with the existing handicap parkin; existing accessibility is improved in this project with the addition of a new elevator as well. Egress is going to be maintained and increased through the new linked enclosure.
B.Rabinowitz: Surprised by the use of wood for the fence, seems out of character for the building
R.Burnett: Trying to match the harmony of the color tones and utilize the fencing as trellis space for plants to grow from the planter boxes to work as screening.
G.Hand: The fencing would be screening the mechanical equipment?
R.Burnett: Correct
A.Hart: As a school educational facility our review as the Development Review Board is limited

M.Lang: Supporter of strong schools; there is no issue that is being discussed here today that has to do with ADA, this Board does not have to review ADA items that is a non-applicability; there is nothing regarding life safety issues; the law states
A.Hart: Where are you pulling this law from?
M.Lang: the ordinance; Stated what the Board is allowed to review per the Comprehensive Development Ordinance (CDO); The project was not properly warned as the assessor's property database has no 275 Main St; tried to look up the permit history, size of the property, etc and couldn't find anything at all.
A.Hart: That may be due to the fact that it is a school and not taxed
M.Lang: it is under 175 South Union St; 150 Colchester Ave that's given public notice. It's always listed 148- 150 Colchester Ave; I didn't have a fighting chance, it took days to figure it out. Went for a permit to get a house built; aware of how strict it is of where the z cards are posted, the z card is at the top of a flight of crumbling stairs at a door that is locked 24, 7; this project was not properly warned. Question regarding courtyard in the back- why put it next to dumpsters and loading docks; very concerned about handicap parking that they will be eliminating- about 4 are being eliminated, is there a parking plan map? What's going to happen to the handicap parking; fire escape next to handicap parking is dangerous; would like more info on parking; listened to NPA meeting and they mentioned at that presentation that there are drainage issues- why put cafeteria in basement where it has been storage for decades and has drainage issues; very concerned about bicycle racks- look at bike racks on site visit- 3 bike racks in elementary school broken or in deep grass; would you ask about bike racks. Gave phone number and email.
R.Hillyard: Ward one NPA steering committee has not been informed about this project; assertion from the superintendent in the Front Porch Forum is that all NPA's have been informed; ward one and eight have not been given any of these details
A.LaRosa: Do you have any actual concerns about the project; it is a ward 6 project
R.Hillyard: We don't know enough about it
A.LaRosa: They just gave a presentation about it
R.Hillyard: NPA's should have been notified about this ward one and eight were not
K.Sturtevant: Procedural questions raised about notice: the standard in the regulations and State law is whether the material is misleading. When looking at the agenda and at the address, when you google 27 Main St Edmunds School pops up immediately. The agenda itself states that it is the City of Burlington School so there is no misleading information here. The Z card notice needs to be posted/seen from the right of way, which it was.

main access and control point for the entire school system; we are not providing the key issues we are taking C building a secure central entrance and making it totally ADA compliant by changing the grading-the feeling is that it's important to make it known that is the entrance. Developing landscape direction changing the grade significantly and illuminating all of the steps and providing ADA access to that entrance. Significance of this project is wonderful ADA improvements. We want to discuss the access with the NPA therefore did not include it in this presentation.
R.Burnett: gearing up for future phase to make C building main entrance; will bring them here this time next year; green space is serving as 2 purposes: losing the room for snow due to linkage between the building so the new green space will be used for snow and storm water improvements
A.Hart: What is the handicap parking?
R.Burnett: Parking spots are about 6 total but only 2 are handicap, those are staying, the additional spots are assigned to the principal and are the ones being removed. The elementary gym and cafeteria serve all of the students as a cafeteria but also the elementary school's gym space.
A.Hart: Closed the public hearing

V. Public Hearing

1. **18-0840AP; 62 Venus Ave (RL, Ward 7N) Lorrain Latorre Family Trust**
   Appeal of NOV # 346538 regarding change of use to duplex. (Project Manager: Jeanne Francis)

   A.Hart: Appellants have requested Deferral; Motion to defer to date certain of July 17th, 2018
   G.Hand: Seconds the motion
   7-0-0

2. **18-0771AP; 12 Weston St (RL, Ward 1E) Charles Chauncey Burns**
   Appeal of NOV 336638 pertaining to duplex use. (Project Manager: Scott Gustin)

   A.Hart: Are there factual issues here in dispute or is it strictly legal issue? No permit and issues are statute of limitations and estoppel?
   K.Sturtevant: Not aware that there are facts of dispute regarding this, the zoning commission of officers set forth the facts as we know them. Questions regarding statute of limitations and estoppel
   A.Hart: Are there factual issues that you want to present?
   B.Heir: the facts since they were first hashed out in 2014 are abundant and agreed on- recent info from old city directories were lists of physical addresses and names of residents we would contest accuracy; may 2014 should be reviewed in context of whether of nor estoppel should apply in new notice; recent similar case happened in Swanton- strictly a legal discussion
   A.Hart: Would like to let the representatives make the arguments on the legal issues
   B.Rabinowitz: Can we get clarification on estoppel?
   A.Hart: I believe we are about to hear all about it; The City provided materials so we will let the appellants make the arguments on these two issues and then give the City the opportunity to respond
   K.Sturtevant: The two legal issues in question are questionable if they are proper to be heard by this Board
   A.Hart: Counselling of facts [illegible] the City's position is if the Board has the ability to

B.Heir: Recommendation and suggestion to the Board is that they dismiss the NOV; there was a May 15th 2015 determination by zoning staff in response to a complaint by a Judy Rosentstrip which was issues and not appealed. The city deemed the property was a legal duplex and did not violate the code- context is important too because the Burns were under contract to purchase property and one of the conditions was to get confirmation by the City that is a legal duplex and sold as a legal duplex; burns have a considerable amount of investment in the property having bought it as a duplex; A case in Swanton's outcome told citizen a permit was not needed for pergola- estoppel applied because the landowner rightly relied and spent money based on the determination of the zoning administrator; hoping board dismiss the case as the law is fairly clear and strong on this one since the May 2015 permit was not appealed. Finality in statute prevents any kind of lateral attack on zoning determination that was not appealed- what would substantiate reopening this issue?
G.Hand: facts related to estoppel argument; your appeal is based off of a letter by Jeanne Francis who is a zoning enforcement officer not zoning administrator
B.Heir: The letter was prepared and signed by Jeanne Francis; in connection to the sale of the property; the document was issues in response to Ms. Rosenstripes complain. The buyers knew this was happening as there were issues raised about the status of the duplex use.
G.Hand: was the letter or determination that you're referring to publicly noticed?
B.Heir: Not sure how Ms. Rosenstripe obtained the notice, but she had the opportunity to appeal and we did not
K.Sturtevant: Estoppel is not within the Board's jurisdiction; this Board's jurisdiction is if there is a violation.
G.Hand: what happens to title of property if violation is found; someone goes to purchase the property seems there would still be an open and active violation?
K.Sturtevant: yes it would be noted in record- City has a year to file enforcement action on that without having to issue a new notice; attorney Heir talked about determination made by Jeanne Francis in 2014- what wasn't brought forth there is that there has been litigation regarding that letter to the Superior Court; decision in 2016 that states there is no finality attached to that letter- it wasn't signed by zoning administrator; there was complaint filed-regarding conversion single-family to duplex; determination letter issues; no appeal taken; letter went to complaintive not adjacents; eventually appellants bought and sought non-applicability for interior renovations to duplex- granted by zoning; appealed to VSCED by neighbors; went to Environmental Division Court held finality attached to letter stating it was a duplex- appealed to the Supreme Court; that case 2016 the Court held that was not a binding decision and no finality to that letter; ultimately the application for interior renovation was withdrawn and case was done.
B.Heir: State statute prohibits the enforcement of the alleged zoning violation after 15 years; there are such things as City inspections of rentals from 1991
A.Hart: The legal issue is the violation which is a use violation and the statute of limitations does not apply to use violations
B.Heir: Disagree with that stance; the Supreme Court has not yet decided, section 24 does not delineate between violations
K.Sturtevant: the use violation is not subject to 15 year statute of limitations as it is an ongoing violation; there have been several examples as well as the City does provide process for someone to request a determination under the 15 years but that has not happened here.
B.Heir: City can see this has been up to a four unit apartment since 1950 with no permit, reverted to a single family use. The non-conformity is less now.
A.LaRosa: 1969 what did the ordinance say?
K.Sturtevant: 1962 would have required a permit to change from single family to

S.Gustin: Before 1962 zoning code just stated residential uses; after 1962 it became more detailed
A.Hart: Are there any members of the public who wish to speak on this project?
N.Will: agree with the prior proceedings but encourage board to read the environmental court's decision; process of code enforcement decision was not in compliance with the law; bases for the DRB upholding this cert of compliance or at least part of it; environmental court agreed that the neighbors could not raise the issue because of the code enforcement office decisions but the code enforcement office decision was not given to anyone but the complainant; Vermont Supreme Court says it is invalid; on the estoppel is the Vermont Supreme Court was a valid complaint and sent it back to the Environmental Court and the app withdrew – forcing neighbors to file another complaint- now rents to about 8 people- statute of limitations; the 4 plus goes back to 1969 then it was a duplex- situation where one family lived there and rented a room and so that may well have been a legal use as an accessory apartment- although maybe not permitted still; the leading case it a Burlington case called my sisters place it is very difficult to estopp on a municipality and it is not the role of the DRB.
K.Lerner: involved in case in 2014 asked to come forward to give background and facts; the notice of violation made reference that there was no zoning permits; 1973 April 26th all permits were purged and thrown out except those related to Zoning Board of Appeals; in 1962 ordinance duplex and single family homes were legal uses. No way to prove whether there was a zoning permit or not. But there are several records that show the multi –family or duplex use. The notice of violation cites directories and errors; bought in 19 69 as multi-family unit- Gaduet (previous owners) family occupied 3 of the units and rented 4th out; in 1977 they should have got a permit to convert 3 into one so violation is the conversion from 4 to 2; 2014 we supported 2 unit configuration; Norman spoke about Superior Court appeal, but there was a determination made that was made and signed by me as zoning administrator for expansion of one unit and shrinking other unit- in that record you'll note it was recognized as duplex and the complaint was that there were 2 units but one was an accessory unit; the fact that there was no such thing as accessory apt back then it came into play in late 80s and 90s; there really the rec shows clearly 2 units- the board in the appeal of the determination of non-applicable recognized the 2 units- staff could easily get you those minutes.
G.Hand: That issue was withdrawn?
K.Lerner: Confirmed; but the Board made a decision, at the hearing the judge said to withdraw as the ordinance was due to change and would have helped but it never did. Can still have a violation but it is not an enforceable violation because the City can't find any permits because they were purged in 1973
A.Hart: Permits needed to create anything other than a single family home; are you saying no permit was required in 1969?
K.Lerner: No violation because if a zoning permit in 1969 would have been required and all of those permits were tossed
A.Hart: Any evidence that a permit was applied for or required?
K.Lerner: No either way
A.Frank: Provided petition; asking Board to uphold the violation
R.Hillyard: Ward one NPA-read resolution. Encouraging return of single family housing as well as preventing and removing illegal units.
C.Long: Sent in written testimony; discussed how the layout of the building did not justify 4 separate units. Discussed the house has become a college party location
S.Tilton: Have you been inside the home?
C.Long: yes when we were with the environmental court did a site visit; but when ms Gaduet lived there I was in there; reason why it could never be legal duplex is that there is not enough parking and it is a very small lot size; we want the CDO to

A.Zipparo:How would turning it back to a single family home reduce the College student problem?
C.Long: help with parking and help keep balance in the neighborhood.
S.Gustin: sworn affidavits in record- from Elizabeth Gaduet in packet notes first change of use to multiple apartments was 1969. In 1969 multifamily requires special permission from Zoning Board of Approvals; I've heard permits back then were burned or thrown out- but we do have written record back to 1964 and found nothing regarding 12 Weston St
B.Rabinowitz: Confused about how this project went to the Superior Court but was never ruled on
K.Sturtevant: provided brief overview on the process in which the Superior Court and the Environmental Division reviewed the project. Regarding the 1973 permits being thrown out, Mr. Lerner provided testimony, we would object to that as it is hearsay and there is no clear understanging; we do have a permit binder showing no proof of permits.
A.Hart: Motion to continue the public hearing at the July 17th 2018 meeting with requests that the parties provide the additional information the Board has requested. Deliberation is scheduled for Monday May 21st at Planning and Zoning at which time the Board could close the hearing and deliberate on this project.
G.Hand: Seconds the motion
7-0-0

3. **18-0861AP; 19-21 South Willard St (RH, Ward 8E) WHN Properties LLC**
Appeal of NOV #333035 for increasing number of residential units from 9 to 10 without zoning approval. (Project Manager: Jeanne Francis)

A.Hart: Appellants have requested Deferral; Motion to defer to date certain on July 17th 2018
G.Hand: Seconds the motion
7-0-0

VI. Adjournment

Deliberation will be held Monday May 21st at 5pm in Planning and Zoning
Adjournment 7pm

Austin D. Hart — June 19, 2018

Austin D. Hart, Chair of Development Review Board — Date

L. Darfler, Planning Technician — June 5th 2018. 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.