

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/PZ/DRB

Phone: (802) 865-7188

Fax: (802) 865-7195

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



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday April 7, 2015

PUBLIC HEARING NOTICE

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

1. **15-0656CA/MA; 289 College St (RH, Ward 8) 289 Live/Work, LLC**
Addition of 12 residential units to existing mixed use building (office and 1 residential unit) for a total of 13 residential units and office use
2. **15-0797AP; 164 North Willard St (RL, Ward 1) Luke Purvis**
Appeal of notice of zoning violation regarding expanded parking
3. **15-0830AP; 18-20 Weston St (RL, Ward 1) Charles Burns**
Appeal of notice of zoning violation regarding expanded parking, trash, and outside storage
4. **15-0840CU; 27 Arlington Ct (RL, Ward 7) Nathan Caswell**
Establish 1 bedroom bed & breakfast within existing single family home
5. **15-0865VR; 2-4 North Winooski Ave (DT, Ward 3) Miller North Properties/Tom & Deb Miller**
Variance request to change use from café to bar/tavern

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/drbb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/pz/drb

Phone: (802) 865-7188

Fax: (802) 865-7195

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



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, April 7, 2015, 5:00 p.m.

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

AGENDA

- I. Agenda**
- II. Communications**
- III. Minutes**
- IV. Public Hearing**
 - 1. 15-0865VR; 2-4 North Winooski Ave (DT, Ward 3) Miller North Properties/Tom & Deb Miller**
Variance request to change use from café to bar/tavern (Project Manager, Scott Gustin)
 - 2. 15-0656CA/MA; 289 College St (RH, Ward 8) 289 Live/Work, LLC**
Addition of 12 residential units to existing mixed use building (office and 1 residential unit) for a total of 13 residential units and office use (Project Manager, Mary O'Neil)
 - 3. 15-0840CU; 27 Arlington Ct (RL, Ward 7) Nathan Caswell**
Establish 1 bedroom bed & breakfast within existing single family home (Project Manager, Ken Lerner)
 - 4. 15-0797AP; 164 North Willard St (RL, Ward 1) Luke Purvis**
Appeal of notice of zoning violation regarding expanded parking (Project Managers, Ken Lerner & Jeanne Francis)
 - 5. 15-0830AP; 18-20 Weston St (RL, Ward 1) Charles Burns**
Appeal of notice of zoning violation regarding expanded parking, trash, and outside storage (Project Managers, Ken Lerner & Jeanne Francis)
- V. Other Business**
- VI. Adjournment**

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

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

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

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

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
Printed on 100% Recycled Paper

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

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

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

David E. White, AICP, Director

Ken Lerner, Assistant Director

Sandrine Thibault, AICP, Comprehensive Planner

Jay Appleton, Senior GIS/IT Programmer/Analyst

Scott Gustin, AICP, CFM, Senior Planner

Mary O'Neil, AICP, Senior Planner

vacant, Zoning Clerk

Elsie Tillotson, Department Secretary



MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Senior Planner

Date: April 7, 2015

RE: 289 College Street; ZP15-0656CA/MA

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



File: ZP15-0656 CA/MA

Location: 289 College Street

Zone: RH **Ward:** 2

Sketch Plan Review: November, 2014

NPA Meeting Date: October 8, 2014

Date application accepted: November 26, 2015

Design Advisory Board Review: December 9, 2014.

Request for deferral: December 17, 2014

Revised Plans Submitted: March 12, 2015

Applicant/ Owner: Bob Duncan / 289 Live/Work LLC; Bruce Baker and Gregory Doremus

Request: Addition to existing mixed use (office/1 residence) historic building; joined building to include 12 apartments, flat roof connector building with lobby, exercise room, storage, laundry, mechanicals. Parking for 19 cars in rear lot; reduced and formalized from current parking size and layout.

Background:

- Zoning Sketch Plan Review ZP15-0539SP; Addition to existing mixed use (office/1 residence) historic building. November 18, 2014.
- Zoning Permit 11-0503CA; replace existing gas boiler, new vent through exterior back wall, south side. Approved December 2010.
- Zoning Permit 90-138; 2' x 4' parallel sign on façade of existing office building. April 1990.
- Zoning Permit 87-909 / COA 88-053; expansion of parking area. Required to provide revised landscaping plan. Approved May 13, 1988. [27 parking spaces illustrated on approved site plan.]
- Zoning Permit 82-245 / COA 82-47; enclose front porch and make improvements to entrance drive. No additional coverage. May, 1982.
- Zoning Permit 80-846; two apartment to remain, alteration work for office use. Addition is a porch and a stair hall. April 1980.
- Zoning Permit 80-723; convert nine rooms into two apartments. No construction needed. Three existing [apartments] for a total of four apartments in existing building. Approved January 18, 1980.
- Zoning Permit 80-727; six unit apartment addition. Approved January 22, 1980.
- Zoning Permit 78-32; expand present use to a total of 16 dwelling units. (Apartments total 4 dwelling units.) Permit issued August 8, 1978. [16 parking spaces illustrated on site plan.]
- Zoning Permit 76-938; addition of bedroom extension between two existing porches on the first floor, 13' x 16'. Approved May 21, 1976.
- Zoning Permit 76-257; erect a 6' x 85' stockade fence on the rear of the property. Approved August 1975.

Overview: This application for Major Impact review of an addition to provide 12 new residential units and a reduced parking area follows Sketch Plan Review. The principal structure is known as the Peck House (c. 1835), and is listed on the National Register of Historic Places within the Main Street College Street Historic District. There is existing office space (5800 sq. ft.) and one residential unit on the 2nd floor. The application reflects significant building changes from the one provided at Sketch Plan.

The applicant requested deferral for DRB review to allow for further consultation with neighbors, and for plan revision. The new plans are the focus of this review.

The **Design Advisory Board** reviewed the application (with first revisions) at their December 9, 2014 meeting, and voted 4-0 to forward to the DRB with a recommendation for approval. Board comments included:

1. It is the opinion of the Design Advisory Board that through massing and detailing, the project addition is sufficiently compatible and differentiated from the existing structure.
2. The applicant is asked to look at material that is less prominent in contrast to existing brick, i.e. color.
3. It is the DAB's opinion that the parking lot layout provides sufficient pedestrian access to the rear of the building.
4. Short term bicycle parking (rack) meeting the *City of Burlington Bicycle Parking Guidelines* will need to be defined on the site plan.
5. The dumpster shall be brought into compliance, out of required setbacks.
6. The rear walkway shall be differentiated, other than typical striping.

Recommendation: Major Impact / Certificate of Appropriateness Approval per the following findings and conditions:

I. Findings:

Article 3: Applications, Permits, and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

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

Impacts fees will be based upon the gross new square footage submitted by the applicant. Any residential project containing newly constructed dwelling units or substantially rehabilitated housing units that are affordable for households (see subsections (1), (2) or (3) of Section 3.3.3.) are eligible for a waiver of impact fees for that portion of the project. The applicant is advised to consult with the City Housing Trust Manager relative to ordinance pertaining to Inclusionary Zoning (Article 9) for applicability for this project. **Affirmative finding as conditioned.**

Major Impact Review

Section 3.5.2 Applicability

(b) Major Impact Review

1. *The Construction or substantial rehabilitation of five (5) or more dwelling units or the creation through adaptive reuse-conversion of 10 or more dwelling units.*

The construction of 12 new apartments will trigger Major Impact Review.

Section 3.5.6 Review Criteria

The application and supporting documentation submitted for proposed development involving Conditional Use and/or Major Impact Review, including the plans contained therein, shall indicate how the proposed use and associated development will comply with the review criteria specified below:

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

1. The capacity of existing or planned community facilities;

This is an existing high density residential area. The net addition of twelve new residential units will increase the intensity of use at the site, but are anticipated within the High Density Residential Zoning District. The increase in the number of dwelling units should be off-set by the payment of Impact Fees, and should ultimately pose no adverse impact to existing or planned community facilities. **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 addition of twelve new residential units in this high-density residential district would meet the character and specified intent of the zoning district. The applicant has defined the specific intent to create smaller units with fewer bedrooms, rather than a fewer number of residential units with a high bedroom count. Previous applications have been approved for units that were likely to have multiple roommates and require higher parking counts and management plans. This proposal is answering the demand for housing that has become a recent focus; finding residential options for professionals that wish to live close to where they work and play. The small unit size and limited bedroom count is the development response to the change to the Functional Family Housing provision, which now extends into the RH zone. Given the design intent and occupancy likelihood, this is a different archetype than the four bedroom units previously entertained by this board. This substantial change decreases the chance that the units will unduly and adversely affect the character of the area. As proposed, the increased number of units as a result of a significant decrease in unit size would seem to meet targets of the ordinance as well as the character of the zoning district. See attached narrative for applicant summary.

From the MDP:

- *Support housing models, organizations, and programs that insure perpetual affordability, fill gaps in the housing tenure ladder, and increase the overall supply of housing the community. (Municipal Development Plan, Housing Plan, Page IX-2.)*
- *Support the development of additional housing opportunities within the city... (Municipal Development Plan, Housing Plan, Page IX-1.)*
- *Retain [Burlington's] moderate scale and urban form in its most densely developed areas, while creating opportunities for increased densities. (MDP, Page III-1.)*
- *Encourage new land uses and housing designs that serve changing demographics and benefit from new technologies where appropriate. (MDP, Page III-1.)*

Affirmative finding.

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

The proposal includes appropriate consideration for resident parking, while utilizing an existing curb cut. As there is an existing office use and a single residential unit, there is active vehicular circulation on-site at present. Neighborhood traffic is not anticipated to be of measurable difference, given the existing conditions on College Street and the close proximity to institutions and downtown. An ordinance amendment (ZA 14-07) changed both the parking district (from Neighborhood to Shared Use) and the required number of parking spaces for the uses proposed. The application was submitted within the warning period, therefore rights are vested.

This is the last application to be reviewed under that parking amendment.

See discussion under Article 8, below. **Affirmative finding.**

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

The zoning district and the City Master Plan support increased residential development in the RH zone. The application will be required to be compliant with provisions of Chapter 26; Burlington's wastewater, stormwater and pollution control ordinance. The Functional Family provisions of the ordinance will apply to the new residential units.

There is no identified conflict with City bylaws or state ordinances. **Affirmative finding as conditioned.**

5. The utilization of renewable energy resources

No part of this application will prevent the use of wind, solar, or water energy sources.

Southerly exposure will complement the rear access/lobby for residential use; the broad westerly exposure will provide an opportunity for solar gain in the new apartments. All development will be required to meet energy efficiency standards as defined by Burlington Electric. **Affirmative finding as conditioned.**

and,

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

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

The parcel is zoned for high density residential housing, and can accommodate the proposed density. The cumulative impact must be considered negligible. **Affirmative finding.**

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

Zoning Amendment ZA-13-01 extended the Functional Family provisions of the ordinance to the RH district. *In all residential districts ~~except the RH district~~, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13.*

Those restrictions will apply to the new residential units. **Affirmative finding as conditioned.**

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

The proposal intends to utilize the existing vehicular access point off College Street. The edges of this parking access (and rear lot) are not currently clearly defined, but constrained by landscaping. The proposed site plan reflects a continued access from College to a rear parking lot that will now be defined and largely observant of required setbacks except where noted as previous encroachment. Additional landscaping is proposed for the southwesterly corner; parking is constrained on the west and east by significant grade changes. **Affirmative finding.**

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

Signage is limited to ADA handicap access/parking signage, which does not require zoning approval. Any additional signage will require a separate sign permit. **Affirmative finding as conditioned.**

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

Whenever parking is proposed against a property line, headlight trespass is a concern. It is appropriate to consider landscaping or some other device to prevent light from crossing the property line to the south, and perhaps the west. (There is a significant grade change to the west, with the Fairpoint parking lot immediately adjacent.) The goal is to prevent headlights reaching neighboring properties in a manner that would be unwelcome or introduce a nuisance. The applicant has submitted a landscaping plan (revision date 3/12/2015) that includes new trees on the southwesterly portion of the lot (immediately abutting a neighboring daycare); existing trees on the property of the southerly abutter will likely provide an adequate screen from most headlights. A fence may be illustrated there as well, however the annotation is scrambled on the plan.

An existing cedar hedge is noted on the westerly property line, and significant planting along the westerly elevation of the new building. **Affirmative finding as conditioned.**

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

The Comprehensive Development Ordinance Section 3.2.9 (d) effects a two year time limit on project construction and completion. **Affirmative finding as conditioned.**

12. may specify hours of operation and/or construction to reduce the impact on surrounding properties.

Typical and reasonable hours for development are Monday through Friday 7am to 6 pm with a limit on weekend hours (Saturday 9 am to 5 pm for interior work only.) **Affirmative finding as conditioned.**

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

This is a statutory requirement. **Affirmative finding as conditioned.**

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

Hours of construction are proposed to be limited. Any other performance standards would be at the discretion of the DRB. **Affirmative finding.**

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

Conditions would be proposed under the appropriate findings.

(b) Major Impact Review Standards:

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

The addition of 12 residential units within the RH zoning district is not anticipated to unduly impact water, air or noise pollution. The permit history defines approval for as many as 16 dwelling units at one time within this building (see permit history, 1978.) If implemented, those units must have been very limited in size. Similarly, the building addition proposed includes small dwelling units (bedroom count is not specified; however parking is calculated based on studio/1 bedroom units) which are typically associated with singles or couples.

Limitation on the hours of construction will address undue noise during the actual construction period. **Affirmative finding.**

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

An email communication 12/16/2014 from the City Water/Wastewater Engineer confirmed adequate capacity for the project; however the applicant will be required to provide written documentation from the Department of Public Works that there is sufficient water and wastewater service for the proposed new residential units. **Affirmative finding as conditioned.**

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

See above for written assurance condition.

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

The applicant is required to submit a *Small Project Sediment and Erosion Control Plan* [approved December 17, 2014] as well as a *Stormwater Management Plan*. The project was reviewed by the Conservation Board March 2, 2015 for recommendations and guidance. All plans must be sufficient to meet the requirements of Chapter 26 review, and receive written

approval by the City Stormwater Administrator. Post construction compliance with any conditions imposed by those approvals will be a condition of approval.

Affirmative finding as conditioned.

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

The addition of new residential units in an existing, developed high-density residential neighborhood should not cause unreasonable congestion or unsafe conditions. The project is located within walking distance of downtown and major institutions, such as UVM, Champlain College, and the University of Vermont Medical Center. It is on the route of the College Street Shuttle with connections to other CCTA bus routes. The applicant has provided a weekday hourly parking demand count (Exhibit “HP” and a chart for anticipated hourly total traffic generation of the 12 new units (Exhibit “HT”, as previously provided at Sketch Plan.) The maximum demand reported is 20 vehicles; slightly more than the number of parking spaces provided. The origination of this reporting is not given.

The development is on and near several CCTA bus routes.

Any impacts will be largely mitigated by Impact fees. **Affirmative finding as conditioned.**

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

The size and limited bedroom count of the proposed new 12 residential units are unlikely to attract families with children; however the new units should not unreasonably burden the City’s educational services. Any potential impacts will be mitigated by Impact fees. **Affirmative finding as conditioned.**

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

Infrastructure is already in place; the addition of new residential units will be offset by the payment of required Impact Fees. **Affirmative finding as conditioned.**

8. *Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;*

The existing building is within the **Main Street College Street National Register Historic District** (see attached.) The applicant has presented a flat roofed connector between the old and the proposed new building, issuing functional advantages to both buildings (shared handicap access, common mail, laundry, fitness facilities). This revised plan is the direct response to encouragement offered by the DRB at Sketch Plan in November, 2014; providing a strongly articulated counterpoint to the existing historic structure. In that the buildings are connected at the rear, it is possible to find the new development reversible per Section 5.4.8 (b) 10.

Affirmative finding.

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

The increase in residential units is anticipated to be inconsequential on future growth patterns; rather, is in concert with Burlington's Municipal Development Plan. **Affirmative finding.**

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

The Municipal Development plan defines the mission to respect the city's architectural and cultural heritage (Page I-4), to conserve the existing elements and design characteristics of its neighborhoods and maintain neighborhood proportions of scale and mass (page III-1), as well as supporting the development of additional housing within the city (Page IX-1.) Additionally, the MDP directs development to respect the character of existing buildings and settings (Page IV-5.) The Design Advisory Board has found that the proposed new development is sufficiently compatible with the existing historic building to which it is attached. **Affirmative finding.**

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

The development is specifically proposed to meet a deficiency in housing types; one bedroom rental units. The project is intended to increase both the number and quality of housing units within the City. **Affirmative finding.**

and/or

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

Any impact of the development of new residential units will be offset by required Impact Fees. **Affirmative finding as conditioned.**

Article 4: Maps and Districts

Section 4.4.5 Residential Districts (b) Dimensional Standards and Density

Table 4.4.5-2 Base Residential Density

RH (high density)		40 dwelling units/acre allowable	Allowable intensity of use per Section 5.2.7 (a)
289 College Street (existing)	Lot size 21,810	Existing units: 5 1 residential, equivalent of 4 in office space. (5800/1500 = 3.8, or 4. 4 + 1 = 5 existing)	21,810/43560 = .5 acres 17 units proposed (13 residential, office sq.ft. 5800/1500 = equivalent of 4 units) 17/.5 = 34 (<40, res. Density cap for RH, 46 with IZ)* Meets allowable density as proposed.
Proposed		Proposed units: 12 new, 1 existing residential, office space equivalent to 4 dwelling units. (5800/1500 = 3.8, or 4) Total 17 proposed.	

*** Please note:** Calculations for Density and Intensity of Development are made utilizing specific method outlined in Section 5.2.7 (a).

Affirmative finding.

Table 4.4.5-3 Residential Dimensional Standards

Zoning District	Max. Lot Coverage	Setbacks			Maximum Height
		Front	Side	Rear	
RH	80%/ 92% with IZ requirement	Ave. of 2 adjacent lots on both sides +/- 5'	10% of lot width or average of side yard setback of two neighboring properties	25% of lot depth, not less than 20'	35'
Existing	57.3% as provided on Plan C1.1	Approx. 31' as scaled from submitted plan.	Approx. 58' on west, specific measurements not given.	Approx. 66' as scaled from plan	Not provided
Proposed	65.7% as provided on Plan C1.1 Lot size and specific component sq. ft not provided.*	Addition is equal in setback with existing building frontage approx. 4'	7.5' as averaged from adjacent properties (2 on east; westerly setbacks only)*	Approx. 43' as scaled from plan. Lot depth of 169' would require 42.43'.	Does not exceed existing building height. < 35' offered. Needs accurate number to confirm.

*Applicant had provided 71.1% as proposed coverage on previously submitted Plan C1.1; although a calculation of lot coverage $17,426/21,810 = 79.9\%$. Proposed coverage is now given as 65.7%. The applicant should confirm proposed square foot coverage as current version is substantially less than previously provided.

Affirmative finding as conditioned.

Article 5: Citywide General Regulations

Section 5.1.1 Uses

Offices are not a permitted use in the RH zone (See **Appendix A, Use Table**, and **Section 5.1.1. (a), Preexisting uses**); however this is an existing, permitted office and therefore may remain. Attached dwellings, multi-family are a permitted use in the RH zone. See Appendix A, Use Table. **Affirmative finding.**

Part 2: Dimensional Requirements

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access

The lot has access to a public road. (College Street.)

Affirmative finding.

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

Section 5.2.4 Buildable Area Calculation

Not within the RCO, WRM, RM, WRL or RL zoning district.
Not applicable.

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

See Table 4.4.5-2, above.

Part 4: Special Use Regulations

Section 5.4.8 Historic Buildings and Sites

289 College Street is on the National Register of Historic Places, within the Main Street College Street Historic District.

See attached excerpt from the Main Street College Street Historic District.

(b) Standards and Guidelines:

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

289 College Street was constructed as a residential structure. Its conversion to office space in 1980, with a small residential component, has not altered the essential character of the structure. Development is proposed as a new addition and connector, which will be associated with new residential use. **Affirmative finding.**

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

The original structure will be retained, with a connector limiting the physical contact between old and new. The new development will utilize the large lawn area that has been associated with the property for more than 180 years, but this reflects infill associated with growing communities and as typified on this street.

Affirmative finding.

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

289 College Street illustrates how buildings evolve; illustrating not less than four appended structural alterations. Still, the classic Greek Revival remains prominent, distinctive and discernable.

No conjectural features from other historic properties are proposed. **Affirmative finding.**

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

By and large, the existing structure will remain; the point of contact is relegated to the rear (south) of the structure; the contact point being at a later addition and at a less visible location.

Affirmative finding.

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

This is no identified loss or harm to significant historic features, materials or finishes.

Affirmative finding.

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

Any alteration to historic features or materials will require that they be replaced in kind.

Affirmative finding.

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

The connector is proposed to be attached at a point in the rear where there exists a later addition. Although not contemporary with the core structure, it retains significance unto itself. The connector should not meaningfully impair either. **Affirmative finding.**

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

None have been identified. If ground disturbance brings significant artifacts or other resources to light, appropriate measures will be exercised in the treatment and handling of such items.

Affirmative finding as conditioned.

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

The proposed development attaches itself to the historic building at the rear, and at an area that is, itself a building addition. In this manner, it has the least physical intrusion, and minimizes loss of historic materials at a location that is the least visible.

The use of a “hyphen” connector structure separates the two building volumes, and is recessed behind both. Its appearance is further minimized by the dark choice of materials on the upper floor; easing the transition between buildings.

The new work is clearly differentiated from the existing historic structure. The significant change in vocabulary provides a striking contrast that challenges compatibility between this building and its host, as well as those who flank on either side. Compatibility has been identified with the massing, arrangement of bays, and prominent orientation to the street; subtle design cues from the historic building. This stark contrast is, however, the direction given by the DRB at Sketch Plan.

Typical additions to historic buildings do not enjoy equal prominence with the principle structure, but observe a presence that is smaller, subordinate and deferential. In this matter, additional direction may be taken from the National Park Service Preservation Briefs (#14, in particular) which are not regulations themselves, but guidelines for interpreting the Secretary of the Interiors Standards. That document recognizes that in some instances, particularly in urban areas, additions cannot always be located on side or rear elevations and must face the streetfront prominently. This may occur with large buildings, like museums, libraries, or government buildings that require additional space. A local example would be the addition to the Carnegie/Fletcher Free Library, also on College Street.

Height and setback from the street should generally be consistent with those of the historic building and other surrounding buildings in the district...Large new additions may sometimes be successful if they read as a separate volume, rather than as an extension of an historic structure, although the scale, massing and proportions of the addition still need to be compatible with the historic building.¹

The rear connector is deeply recessed between the existing building and the new development, separating the structures visually so as to appear more as separate structures than a single entity. When designed as an infill building, with the least impact on the existing historic structure, the plan can be viewed as abiding by the direction of that document and course laid out by the Development Review Board at Sketch Plan.

Affirmative finding if found in conformance with this standard.

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

It may be possible to deconstruct the new work and find the historic structure relatively unimpaired. **Affirmative finding.**

Article 6: Development Review Standards

PART 2: SITE PLAN DESIGN STANDARDS

Section 6.2.2 Review Standards

(a) Protection of Important Natural Features:

Similar to 323-325 College Street (ZP11-0086CA), there is a substantial lawn west of the existing structure which is proposed to accommodate the new residential addition. A landscaping/planting plan has been provided (Plan L-1.0, L2.0). Stormwater Management and Erosion Protection and Sediment Control plan approvals will be required prior to release of the zoning permit. The Conservation Board found the application to be acceptable March 2, 2015.

¹ Ann Grimmer and Kay D. Weeks, "New Exterior Additions to Historic Buildings; Preservation Concerns", Preservation Brief 14 (Washington D.C.: National Park Service, Department of the Interior, 2010) 6.

Affirmative finding as conditioned.

(b) Topographical Alterations:

Again, the existing lawn slopes very gradually to the west, an area that is proposed to accommodate the development. The new addition is proposed to have an exposed concrete foundation. Revised plans include both a principle entrance to the new building from College Street, and a board formed concrete entrance area to a below-grade resident entry to the ground floor level. Functionally, the living area on the lowest level will emerge from the grade change, benefiting from that topography. **Affirmative finding.**

(c) Protection of Important Public Views:

This is a private parcel, where there are no publically accessible views. New residents, however, may have the opportunity to enjoy westerly views toward Lake Champlain.
Not applicable.

(d) Protection of Important Cultural Resources:

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

See Section 5.4.8 above.

(e) Supporting the Use of Renewable Energy Resources:

No part of this application will preclude an opportunity to use direct sunlight, solar, wind, or geothermal; all of which are encouraged.

Buildings should, where appropriate within the context of the neighborhood development pattern, maximize their solar exposure by being oriented to maximize natural light and heat gain during winter months, and to minimize casting shadows into ground floor living space of a building on an adjacent property.

Significant fenestration on the west, and in a more limited fashion on the south elevation, will allow access to available solar.

It does not appear that the building connector or addition exceeds the height of the existing building. Due to placement of the new addition, no neighbors to the north, and a parking lot to the west; adverse shadow impacts are not anticipated by the new addition. **Affirmative finding.**

(f) Brownfield Sites:

None identified.

(g) Provide for nature's events:

The connector porch will provide a covered, dry access point for residents to transition from the parking lot to the building. Pedestrian access from the College Street sidewalk will continue via paired walkways from College Street; the westerly one to a revised streetfront entry that squarely faces the public right-of-way. Both will provide sheltered access. **Affirmative finding.**

(h) Building Location and Orientation:

The introduction of new buildings and additions shall maintain the existing development pattern and rhythm of structures along the existing streetscape. New buildings and additions should be aligned with the front façade of neighboring buildings to reinforce the existing “street-edge,” or where necessary, located in such a way that complements existing natural features and landscapes.

The proposed addition is situated so as to re-inforce the street edge; presenting what appears to be an individual stand-alone building fronting College Street.

Principal buildings shall have their main entrance facing and clearly identifiable from the public street.

A revised entryway to the new development presents a clear front door to the new building.

While the new addition will likely have some solar/ shadow impacts, they are not likely to negatively impact the ground floor area of neighboring properties. **Affirmative finding.**

(i) Vehicular Access:

There is no change proposed to the vehicular access. The existing curb cut and driveway will be utilized. The dumpster has been relocated to the terminus of the access drive and outside a required setback. **Affirmative finding.**

(j) Pedestrian Access:

Pedestrians shall be provided one or more direct and unobstructed paths between a public sidewalk and the primary building entrance. Well defined pedestrian routes shall be provided through parking areas to primary building access points and be designed to provide a physical separation between vehicles and pedestrians in a manner that minimizes conflicts and improves safety. Where sidewalks and driveways meet, the sidewalk shall be clearly marked by differentiated ground materials and/or pavement markings.

There is an existing pedestrian walkway to 289 College Street offices; a new walkway is proposed to the College Street residential addition.

A small concrete entrance ramp is identified on the site plan for the rear entry, directly connected to a handicapped parking space and striped h/c access area. The DAB has accepted the handicap access alley as a pedestrian pathway, if demarcation is made by some other method than standard striping. **Affirmative finding as conditioned.**

(k) Accessibility for the Handicapped:

Special attention shall be given to the location and integration of accessible routes, parking spaces, and ramps for the disabled. Special attention shall also be given to identifying accessible access points between buildings and parking areas, public streets and sidewalks. The federal Americans with Disabilities Act Accessibility Guidelines (ADAAG) shall be used as a guide in determining the adequacy of the proposed development in addressing the needs of the disabled.

The supporting narrative defines one fully ADA compliant unit, with the four new first floor units meeting VT Access Rules.

A new ADA compliant handicapped access lift is proposed that will result in complete access for all first floor office space as well.

One handicapped parking space with loading area is identified on the site plan immediately adjacent to the entry ramp.

Affirmative finding.

(l) Parking and Circulation:

To the extent possible, parking should be placed at the side or rear of the lot and screened from view from surrounding properties and adjacent public rights of ways. Parking areas of more than 20 spaces should be broken into smaller areas separated by landscaping.

Parking shall be laid out to provide ease in maneuvering of vehicles and so that vehicles do not have to back out onto city streets. Dimensions of spaces shall at a minimum meet the requirements as provided in Article 8. The perimeter of all parking areas shall be designed with anchored curb stops, landscaping, or other such physical barriers to prevent vehicles from encroaching into adjacent green spaces.

The parking area is existing, and is proposed to be significantly diminished in size to accommodate the new addition. Previous permits acknowledged up to 27 parking spaces. The “existing” site plan and a site visit confirm the loose boundaries of the parking area. Nineteen parking spaces (19) are now proposed is a defined within a specific parameter and bound by landscaping and terrain changes.

*Surface parking and maneuvering areas should be shaded in an effort to reduce their effect on the local microclimate, air quality, and stormwater runoff with an objective of shading at least 30% of the parking lot. Shading should be distributed throughout the parking area to the greatest extent practical, including within the interior depending on the configuration. New or substantially improved parking areas with 15 or more parking spaces shall include a minimum of **1 shade tree per 5 parking spaces** with a minimum caliper size of 2.5”-3” at planting. Up to a 30% waiver of the tree planting requirement may be granted by the development review board if it is found that the standard requirement would prove impractical given physical site constraints and required compliance with minimum parking requirements. All new shade trees shall be of a species appropriate for such planting environments, expected to provide a mature canopy of no less than 25-feet in diameter, and selected from an approved list maintained by the city arborist. Existing trees retained within 25-feet of the perimeter of the parking area (including public street trees), and with a minimum caliper size greater than 3-inches, may be counted towards the new tree planting requirement.*

The landscaping plan provides for 2 new shade trees (Honey Locust) at the south of the parking lot. For 19 parking spaces, 4 trees would be required to meet this standard. There are existing trees to the south of the lot, but remain on the abutting property. Similarly, 2 trees are illustrated to the east; however not entirely on this parcel. The DRB will be required to ascertain whether the proposed configuration meets this standard, or may be deemed acceptable given the existing landscaping.

All parking areas shall provide a physical separation between moving and parked vehicles and pedestrians in a manner that minimizes conflicts and gives pedestrians a safe and unobstructed route to building entrance(s) or a public sidewalk.

The DAB has accepted the handicap access lane as a pedestrian walkway between the parking area and the building. That board has conditioned this upon walkway differentiation by some other method than traditional striping. The chosen method must be identified prior to release of any zoning permit.

Where bicycle parking is provided, access shall be provided along vehicular driveways or separate paths, with clearly marked signs indicating the location of parking areas. Where bicycle parking is located proximate to a building entrance, all shared walkways shall be of sufficient width to separate bicycles and pedestrians, and be clearly marked to avoid conflicts. All bicycle parking areas shall link directly to a pedestrian route to a building entrance. All bicycle parking shall be in conformance with applicable design & construction details as provided by the dept. of public works.

Long term bicycle storage is proposed in the basement of the existing structure. The number to be accommodated has not been identified. The narrative defines a wall mounted bike rack for one bike in each apartment. “Moveable” bicycle racks are proposed for the site; however a short term bicycle parking rack meeting the *City of Burlington Bicycle Parking Guidelines* will need to be defined on the site plan to assure its installation and to guarantee long term realization. The DAB has re-iterated this requirement.

See attached narrative about proposed carrier trolleys.

Affirmative finding as conditioned.

(m) Landscaping and Fences:

A landscaping/planting plan has been provided (Plan L-1.0 and L-2.0.) The street tree species and number shall be selected in coordination with the city arborist.

The courtyard area has been characterized as assisting with stormwater management. A green roof had been proposed in Sketch Plan review for the flat roof rear connector building. Although illustrated in green ink, it is not clear if that is still within the project plans. If so, a long term maintenance plan is required to assure its continued performance. See Section 6.3.2. (2), below.

Affirmative finding as conditioned.

(n) Public Plazas and Open Space:

Where public open space is provided as an amenity to the site plan, it should be sited on the parcel to maximize solar exposure, with landscaping and hardscape (including fountains, sitting walls, public art, and street furniture) to encourage its use by the public in all seasons. Public plazas should be visually and physically accessible from public rights-of-ways and building entrances where appropriate and shall be designed to maximize accessibility for all individuals, including the disabled and encourage social interaction.

An area identified as both a courtyard and raingarden is proposed between the buildings and fronting College Street. The applicant team has submitted that this area is not intended for residential circulation, but as a stormwater infrastructure feature.

A carriage step (“upping stone”) is proposed to be relocated as a site feature just west of the driveway.

Public space should be coordinated with the surrounding buildings without compromising safety and visibility. Public spaces should be surrounded by active uses that generate pedestrian traffic, and connect the space to major activity centers, streets, or corridors.

More recently revised elevations provide for an entrance to the lower level within that courtyard area, as well as a principle entrance facing College Street. Activity and use at both entrances should preclude any safety concern, especially as windows from the connector structure will have clear visibility of the site interior.

New structures and additions to existing structures shall be shaped to reduce shadows on public plazas and other publicly accessible spaces. In determining the impact of shadows, the following factors shall be taken into account: the mass of area shaded, the duration of shading, and the importance of sunlight to the utility of the type of open space being shadowed. Proposed development shall be considered for solar impact based the sun angle during the Vernal and Autumnal equinox.

Shading will be prone to the north and east; areas that are unlikely to induce negative shadow impacts. College Street is to the north, and the existing structure to the east.

Affirmative finding.

(o)Outdoor Lighting:

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

Lighting fixture selection has been provided. 2 types of full cut-off fixtures and bollards are presented. Fixture placement, height, and a photometric will be required to assure appropriate light levels and compliance with Sec. 5.5.2.

Affirmative finding as conditioned.

(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.

A dumpster has been relocated from within a required setback to the terminus of the access driveway. It is proposed to be screened, with a 60” high wood gate facing the street. The rest of the enclosure is not defined, and needs to be.

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.

Rooftop mechanicals are proposed to be situated on the new addition, with a fenced enclosure as concealment designed to match. **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:

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

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

The proposed addition is similar to the mass, height and scale of the existing building.

Affirmative finding.

2. Roofs and Rooflines.

New buildings should incorporate predominant roof forms and pitches within the existing neighborhood and appropriate to the context. Large expanses of undifferentiated roof forms shall be avoided. This can be achieved by incorporating dormers or some variation in the roof form to lessen the impact of the massing against the sky. While flat roofs can be a reasonable architectural solution, pitched roof forms and architectural elements that enhance the city's skyline are strongly encouraged. Roof eaves, parapets, and cornices should be articulated as an architectural detail.

The flat roof has a few examples on College Street: 383 College (Astra Apartments, designed by Benjamin Stein and constructed in 1960 as a Tau Epsilon fraternity); the easterly addition to Fletcher Free Library; the former Ethan Allen Club; and the more recent addition at 323-325 College. The flat roof generally reflects modern infill.

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

Mechanicals are proposed to be screened on the rooftop of the new addition.

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

A green roof has been suggested in previous plans on the rear connector. If this remains in the plan, it will require an articulated maintenance plan to assure its continued performance.

Affirmative finding as conditioned.

3. Building Openings

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

See Sec. 6.2.2.(h) and (k).

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

The submitted narrative suggests that window placement attempts to reflect the streetfront rhythm of the existing historic building. The expanse of the westerly elevation has a strong horizontal effect, although the arrangement and proportions appear appropriate to the residential use. The windows themselves are without detail; casement and/or slider operation (or fixed light, in the case of the window bay.) The general arrangement and style reflect the more modern aesthetic of the new development.

A small canopy over the College Street entrance is now proposed. It is not within the public right-of-way.

No awnings are proposed.

Affirmative finding.

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

Not applicable.

(b) Protection of Important Architectural Resources:

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

See Section 5.4.8, above.

(c) Protection of Important Public Views:

See Section 6.2.2. (c) above.

(d) Provide an active and inviting street edge:

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

The strong geometric theme has a distinctive horizontal cornice line, continuous around the perimeter of the building and echoed in the horizontal metal siding. A small 1st floor bay projection hugs the northwest corner, and is punctured with a fixed window on the north and two casements on the west. The ground floor is largely indiscernible from (College) street view by the change of grade, change of materials, and a constructed window well. A vantage from the west provides greater visibility of that level.

The connector is recessed behind the existing office space, with window openings for the exercise room (below grade) and laundry. Metal siding tops the link, with small window openings to provide what appears to be clerestory lighting for an interior stair.

Non-residential buildings should provide visual access into the interior of building at the street level through the use of large transparent windows and/or window displays in order to create a dynamic and engaging public streetscape. The use of mirrored, frosted, or tinted glass shall not be permitted along an active pedestrian street-level façade. In contrast, residential buildings may be slightly recessed and/or elevated from the street-level in order to provide privacy. In such cases, visual interest along the streetscape can be provided through the use of landscaping, porches, and other similar features that offer a transition between public and private space.

No changes are proposed to the existing office space, which is within the historic Peck structure.

Buildings in downtown districts that provide open space by way of building setbacks at the ground level shall utilize landscaping, street furniture, public art, sitting walls, fountains, etc. to

maintain a sense of the existing street wall, define a sense of entry for the building and create a space that enhances the pedestrian's experience. Urban "open" space shall maximize accessibility for all individuals including the disabled, and encourage social interaction.

Although not within the Downtown District (this is RH), a courtyard/raingarden is proposed between the buildings and accessed via a new pedestrian walkway and a below-grade building entrance.

A carriage step had been proposed to be relocated just west of the driveway. (Plan C1.1.)

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.

The connector building is proposed to have either wood clapboard or fiber cement board at the first floor, and corrugated metal above the roof. The addition on the west is proposed to have flat metal panels, chosen to be a color similar to brick. Corrugated metal is proposed for the accent siding around the projecting bay.

Windows are proposed to be fiberglass. A storefront entryway is identified at the rear. The information provided indicates that a range of finishes is available, products meet energy efficiency standards, and they will provide durable service.

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.

The new development will impact the historic building only at the point of connector. No repair, restoration or replacement of historic materials is included within the application.

Affirmative finding.

(f) Reduce energy utilization:

The new construction will be required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.

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

See Section 6.2.2. (e).

Affirmative finding as conditioned.

(g) Make advertising features complementary to the site:

No signage is proposed. Any signs will require a separate sign permit.

Affirmative finding as conditioned.

(h) Integrate infrastructure into the building design:

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

Gas and water service currently have a direct connection to the College Street frontage of the existing building, and are screened by landscaping. Electricity, telephone and cable are overhead. These should be called out on elevations or site plans, as appropriate, to review for the necessity for screening. Any new electrical service must be undergrounded. Other utility connections must remain screened, if they remain on the primary elevation.

Mailboxes are assumed to be located within the rear lobby area. The applicant shall define.

Bike racks have been defined on site plans (C1.1, L1.0). The type of rack is not defined, nor the number of bicycles it may accommodate. It is required that they meet the style and location requirements of Article 8 and Section 6.2.2. (l). Bike parking guidelines may be viewed here:

http://www.burlingtonvt.gov/uploadedFiles/BurlingtonVTgov/Departments/Public_Works/Transportation_Policy_and_Planning/Bicycling_and_Walking/Bicycle%20Parking%20Guidelines.pdf

Via this link:

<http://www.burlingtonvt.gov/DPW/Walk-Bike-In-Burlington>

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

Rooftop mechanicals are proposed to be screened behind a barrier sheathed to match the building. It does not appear that they would exceed 10% of the rooftop; however the applicant shall confirm.

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

The applicant has provided information relative to potential noise emission from the rooftop equipment. Decible levels for performance of individual units are in the range of a hairdryer or

vacuum cleaner; as submitted, they are not expected to introduce undue negative impacts to residents or neighboring properties. **Affirmative finding as conditioned.**

(i) Make spaces secure and safe:

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

All appropriate ingress and egress standards, including access for emergency vehicles, shall meet the requirements of the building inspector and the fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

Zoning Amendment 14-07 altered the parking district for this parcel, as well as the specific parking requirement. The amendment was within a 150 day active period (warned June, 2014) when the applicant made the original Sketch Plan application; therefore there are vested rights that allow the applicant team to avail themselves of its substance. Previously mapped as part of the Neighborhood Parking District, Map 8.1.3-1 was modified by the proposed amendment to expand the Shared Use Parking District to this neighborhood. New requirements per Table 8.1.8-1, as modified by ZA14-07, require .33 parking spaces per Studio/1 bedroom unit. The applicant will need to break down the bedroom count for all residential units to appropriately assign a parking requirement to this proposal; however if all residential units are 1 bedroom or studio apartments, the calculation is:

$13 (1 \text{ existing and } 12 \text{ new}) \times .33 = 4.29 (4)$

Office space 5800 existing at 1 parking space/500 sf. = 11.6 (12)

$12 + 4 = 16$ parking spaces required; 19 are provided on the site plan. As proposed, parking requirements are satisfied for 13 residential (Studio or 1 bedroom) units and 5800 sq. ft. of office space. **Affirmative finding.**

Section 8.1.12 Limitations, Location, Use of Facilities

(h) Compact Car Parking

Compact parking spaces maybe used in parking structure or lots. Up to fifteen (15%) percent of the total parking spaces in a parking garage may be designated for compact cars. Such spaces shall be signed or the space painted with the words "Compact Car Only."

The submitted site plan illustrates parking spaces ranging from 8' x 18' to 9' x 18'; the westerly 3 spaces designated as Compact. The remaining spaces meet the minimum parking standard when the bumper overhang is accounted for. This is an existing parking area and has previously been permitted for up to 27 vehicles.

Minimum back-up length in Table 8.1.11-1 for a 90 degree parking space is 24.0'. The plan varies from 21.4 to 24'; some less than the stated standard; however the lesser back-up space is associated with the compact car spaces, and therefore acceptable.

The 15% limitation noted in this standard is identified for parking garages, not lots. Compact cars have no specific limitation in parking lots.

Affirmative finding.

Section 8.1.3 Parking for Disabled Persons

Parking spaces for disabled persons shall comply with current Americans with Disabilities Act guidelines and shall be at least eight feet (8') wide with an adjacent access aisle at least five feet (5') wide. Parking access aisles shall be part of an accessible route to the building or facility entrance. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility. Painting of the paved area for the dedicated parking spaces alone shall not be sufficient as the sole means of identifying these spaces.

One handicapped parking space is identified on the submitted site plan, with an adjacent access lane that appears to immediately connect to the building access ramp. Signage to identify the space as reserved must be included, as noted. **Affirmative finding.**

Section. 8.2.5 Bicycle Parking Requirements

Table 8.2.5-1

Requirement per CDO	Residential Housing Living, multi unit, 1 per 4 units Long Term; 1 per 10 units Short term. Office use: 1 per 5,000 sq. ft Long term.; 1 per 10,000 sq. ft. short term.
289 College Street requirement	Residential: 3 long term, 1 short term. Office use: 1 long term, 1 short term. Total bicycle parking requirement: 4 long term, 2 short term.

Outside bicycle parking is identified on site plans. The applicant has provided testimony previously that there is the intent to install bike hangers in each unit. These are not evident on floor plans; however there is a large storage room on the ground floor that may provide additional room for bicycle storage. The applicant is encouraged to provide bicycle parking in excess of the (minimal) requirement, to meet the anticipated need of residents.

Affirmative finding.

Section 8.2.7. Location and Design Standards

- (a) All bicycle parking facilities shall be installed in accordance with the department of public works "Bicycle Parking Guidelines."*
- (b) Bicycle parking or a sign leading thereto shall be visible from the main entrance of the structure or facility.*
- (c) Bicycle parking shall be visible, well lit, and as convenient to cyclists as auto parking.*
- (d) Bicycle parking facilities shall provide sufficient security from theft and damage. They shall be securely anchored to the ground, shall allow the bicycle wheel and frame to be locked to the facility, and shall be in a location with sufficient lighting and visibility.*
- (e) Bicycle parking facilities shall be visually compatible and of a design standard consistent with their environment and the development standards of Art 6.*

- (f) *Required bicycle parking spaces shall be of a sufficient dimension to accommodate a full-sized bicycle, including space for access and maneuvering.*
- (g) *Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles.*
- (h) *The surfacing of bicycle parking facilities shall be designed and maintained to be clear of mud and snow.*
- (i) *Bicycle parking racks and lockers shall be anchored securely.*
- (j) *Existing bicycle parking may be used to satisfy the requirements of this section provided the rack design is consistent with the department of public works "Bicycle Parking Guidelines."*

Bicycle parking is identified on site plans and/or floor plans as appropriate; meeting the above standards. **Affirmative finding as conditioned.**

Article 9: Inclusionary and Replacement Housing

Section 9.1.5 Applicability

- (a) *The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures...*

The application for 12 new residential units requires inclusion of IZ units. Typically, 15% of new units are required to be perpetually affordable. 15% of 12 new units = 2 units. The applicants are encouraged to work with the Housing Trust Manager through CEDO to confirm the number of units, to agree on the level of affordability and corresponding rents, and to secure a letter of compliance that may reduce Impact Fees proportionately for the development.

Affirmative finding as conditioned.

Article 11: Planned Development

Section 11.1.3 Major and Minor Planned Unit Development

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

- (a) *5 or more units in a single structure, prompting the requirements of Article 9, Inclusionary and Replacement Housing.*

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

Although the number of new residential units triggers identification as a minor Planned Unit Development, this project is exempt as noted from the specific requirements of Article 11. See Article 9, above for review of Inclusionary requirement.

Not applicable.

II. Conditions of Approval

1. **Prior to release of the zoning permit**, the applicant shall define the gross new habitable floor area and provide to staff.
2. Impact fees, based upon the gross new square footage submitted by the applicant, must be paid at least seven (7) days prior to occupancy of the new building. Any residential project containing newly constructed dwelling units or substantially rehabilitated housing units that are affordable for households (see subsections (1), (2) or (3) of Section 3.3.3.) are eligible for a waiver of impact fees for that portion of the project. The applicant is

- advised to consult with the City Housing Trust Manager relative to ordinance pertaining to Inclusionary Zoning (Article 9) for applicability for this project.
3. The new residential units will be subject to occupancy limits related to Functional Family provisions of the ordinance.
 4. Signage will require a separate sign permit.
 5. Hours for construction are limited to Monday through Friday 7am to 6 pm with a limit on weekend hours (Saturday 9 am to 5 pm for interior work only) unless otherwise directed by the DRB.
 6. It is the opinion of the Design Advisory Board that through massing and detailing, the project addition is sufficiently compatible and differentiated from the existing structure.
 7. The applicant is asked to look at material that is less prominent in contrast to existing brick, i.e. color.
 8. It is the DAB's opinion that the parking lot layout provides sufficient pedestrian access to the rear of the building. The area marked for handicap access will provide that differentiated area for general pedestrian entry. The rear pedestrian walkway shall be differentiated, other than typical striping. The manner shall be provided to staff **prior to release of the zoning permit.**
 9. Short term bicycle parking (rack) meeting the *City of Burlington Bicycle Parking Guidelines* will be required. The manner of rack shall be provided to staff for review and approval.
 10. The applicant shall define the presence or absence of a fence, and a description, along the southwesterly property line as appears evident on Plan L-2.0 and noted on Plan C1.1.
 11. Plans for the dumpster enclosure shall be submitted to staff for review and approval **prior to release of the zoning permit.**
 12. The applicant shall confirm coverage for the proposed development, to reflect changes made during plan revision and to clearly define coverage percentage.
 13. Stormwater Management and Erosion Protection and Sediment Control plan approvals will be required **prior to release of the zoning permit.** [EPSC approved December 17, 2014.]
 14. A long term maintenance plan is required to assure the continued performance of the proposed Green Roof **prior to release of the zoning permit**, if that feature remains in the plans.
 15. The DRB must determine whether the existing (some on neighboring properties) and proposed trees will meet the shading requirement for the rear parking lot.
 16. Lighting fixture placement, height, and a photometric will be required to assure appropriate light levels and compliance with Sec. 5.5.2. **prior to release of the zoning permit.**
 17. The applicants are directed to confer with the Housing Trust Manager through CEDO to confirm the number of Inclusionary residential units required, to agree on the level of affordability and corresponding rents, and to secure a **letter of compliance** that may reduce Impact Fees proportionately for the development.
 18. The new construction will be required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.

19. The applicant shall provide a roof plan illustrating the area dedicated to mechanicals; confirming that not more than 10% of the roof area exceeds height limitations **prior to release of the building permit.**
20. Standard Permit Conditions 1-15.

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

RECEIVED
NOV 26 2014

DEPARTMENT OF
PLANNING & ZONING

PROJECT DESCRIPTION - 289 College Street
Burlington, VT 05401

PROJECT OVERVIEW

The site is located in the RH district. The existing conditions consist of an historic residence that was changed into office space in ca 1989 while retaining a one bedroom unit with private stair entering from the rear of the property. An addition to the historic structure, consisting of a one story addition to the West and steps to the rear and South, was added in the 1980s.

The property comprises one-half acre, and includes a graveled parking area at the rear and West portions of the parcel. Currently, office space use totals approximately 5800 SF on three different levels, and is proposed to remain. Likewise, the existing one (1) bedroom apartment is also proposed to remain.

The Proposal would provide for an addition to the existing structure on the site. The addition would contain twelve (12) one bedroom residential units, (to include two (2) inclusionary units), associated common areas including lobby, exercise room and provision for handicap access. A portion of the existing basement is now used for office storage and mechanicals and that would continue. Storage and bicycle storage to serve both the existing uses and the new residential apartments would be incorporated into the existing basement. A small makers space/hobby room would also be housed in the existing basement.

The proposed addition is connected to, and yet separated from, the historic building by a new stair tower that serves the twelve (12) proposed apartments. The proposed addition also incorporates the existing stair that serves the current second floor apartment in second floor rear portion of the historic building. Even though the new construction is connected to the existing, it will be constructed as a separate building for building code purposes.

PROPOSED DESIGN

The building addition has been sited to create a courtyard space to the west of current basement office space. This courtyard space will serve several purposes, including 1) spatial separation between new and old, 2) provide open space, 3) easy pedestrian access to College Street. The entrance to the new stair serving the proposed apartments is accessed through this courtyard space, providing direct access for residents to easily connect to College Street for a direct connection to downtown, City Market, and other amenities of downtown Burlington.

The proposal contains environmentally sensitive features to include:

- i) A green roof tray system will be added over a flat roofed section of the connector structure out of street view.
- ii) A proposed rain garden feature in the courtyard space.

The form of the addition takes two shapes:

- 1) a flat roofed section that connects new to old, thereby minimizing impacts on the existing historic structure by connecting primarily to the rear and to the features added in the 1980s which are not historic. The materials in this connector are of two types: 1) wood clapboard or fiber cement siding at the first floor to relate to the siding of the 1980's addition; and 2) corrugated metal above the roof of the first floor connector. This metal siding encloses the new stair for the apartments, as well as provides a new enclosure for the separate stair serving the existing second floor apartment, as its current headroom is far too low to meet code requirements.
- 2) the addition comprising the twelve new units takes a form that is clearly different from the historic building to which it connects via the connector described above. While the new portion is flat roofed, it very tastefully gestures to the overall size, massing and configuration of the historic gabled end facade. The building

NOV 26 2014

DEPARTMENT OF
PLANNING & ZONING

width of 28' matches the original building, its three bay window pattern is the same, and the bay window on the northwest corner is designed and proportioned to recall the pedimented entry gable on the northeast corner of the existing building. The roof edge/fascia matches the eave height of the historic building, and the asymmetric rooftop parapet walls both balance the massing of the original gable roof while creating an enclosure to hide rooftop mechanicals from view of pedestrians and passersby. The board formed concrete wall parallel to the front facade recalls the textured foundation of the original building, and the metal flat panels forming the building's skin give a subtle horizontality to the facade in a color that refers to coloration of brick. The building now has two entrances to College Street, one for the offices and one for the new residential units. Parking to support office workers and residents is conveniently located at the rear, which also serves to provide on-grade handicapped accessible entrance with interior lift to the first floor. The concept of the contrasting but subordinate new construction connecting to the historic portion reveals itself again in the glass entry.

The addition will have a maximum of four (4) units/floor in three (3) floors, to total the twelve (12) units added. Each residential unit will have one (1) bedroom.

Parking for ~~20~~¹⁹ cars will be located at the rear of the property in the general location of the existing parking area, albeit in a reduced footprint. The first floor of the new apartments will match the historic building first floor, so that a new ADA compliant handicapped access lift and common lobby will provide handicapped access to the first floor office spaces and first floor apartments. This will provide the majority of the office space with handicapped access as there is none now. This will also allow the four (4) new first floor units to comply with the VT Access Rules 2012 as well as providing one fully accessible residential unit as per the requirements of the Burlington Code of Ordinances.

STANDARD AND CUSTOM ENTRANCES

Tubelite® Standard and Custom Entrances are designed for a lifetime of performance and crafted from the same quality components for years of dependable service. Whether you require doors and frames, a storefront, or Curtainwall framing for the entire building envelope, Tubelite is your supplier of choice.

Narrow, Medium, or Wide Stiles, Traditional 1-3/4" thickness or Monumental 2" stiles and rails, high bottom rails, mid-rails in a variety of dimensions, and unlimited hardware options can be selected to match existing or new cutting-edge architectural styles.

EcoLuminum
by TUBELITE

More recycled content, eco-efficient finishes

TUBELITE®
DEPENDABLE

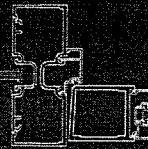
LEADERS IN ECO-EFFICIENT STOREFRONT,
CURTAINWALL AND ENTRANCE SYSTEMS

800-866-2227 | www.tubeliteinc.com | dependable@tubeliteinc.com

STANDARD AND CUSTOM ENTRANCES

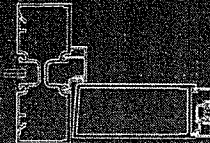
Narrow Stile Doors

Designed to accommodate standard hardware and everyday pedestrian traffic in retail and commercial buildings, the Top Rail and Vertical Stiles measure 2-1/8", while Bottom Rail heights of 4" or 10" meet code requirements.



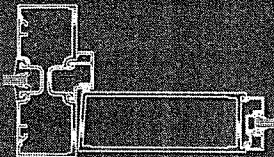
Medium Stile Doors

Engineered for additional pedestrian traffic in educational and institutional buildings, the Top Rail and Vertical Stiles measure 4", while Bottom Rail heights of 6-1/2" or 10" meet code requirements. The wider vertical stiles also accommodate a wider selection of operating hardware.



Wide Stile Doors

Top Rail and Vertical Stile widths of 5", and Bottom Rail heights of 6-1/2" or 10" provide for high volume usage and additional years of durability. These components can be used in wider and taller door openings, or to create a classic visual appearance in normal size entrance doors.



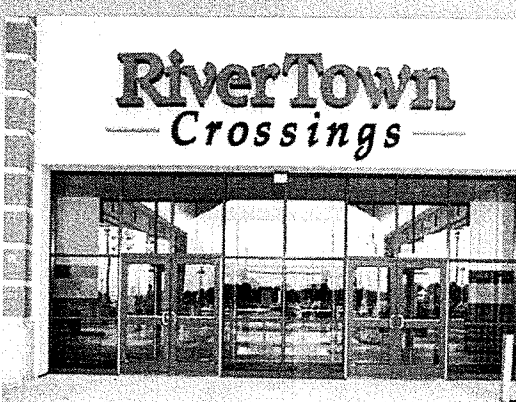
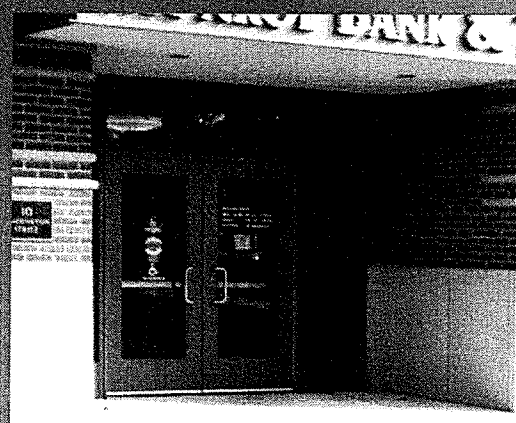
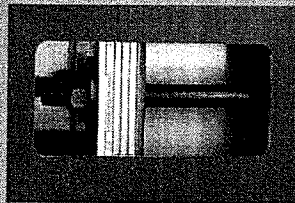
Application Design

Typical door heights range to 9 feet, while widths of up to 4 feet are common. Standard glass thicknesses are 1/4" and 1" insulated and must be safety glass or tempered to provide user safety. Swinging hardware selections are mortised butts or continuous gear hinges, and offset or center pivots. Locking options are manual deadlocks or concealed rod and rim-type exit devices. 1" diameter pull handle with offset grip, and tapered pushbars complete the standard package. Glazing stop and gasketing combinations provide for glass or panel thickness from 1/4" to more than 1".

Standard frame widths of 1-3/4" or 2", and depths of 4-1/2" are selected to match adjacent storefront framing systems. Optional framing members up to 4-1/2" wide and up to 6-1/2" deep are also available.

Performance

Time-tested tie rod construction on all Tubelite doors has provided dependable service since the 1950's with many doors still in operation. This assembly method also allows replacement of damaged components if necessary, or reuse in a different size opening after its original installation. Optional tack welding of corners is available but does not negate the benefits previously described.



TUBELITE
DEPENDABLE

LEADERS IN ECO-EFFICIENT STOREFRONT,
CURTAINWALL AND ENTRANCE SYSTEMS

DEPARTMENT OF
PLANNING & ZONING

EcoLuminum
by TUBELITE

More recycled content, eco-efficient finishes

800-866-2227 | www.tubeliteinc.com | dependable@tubeliteinc.com

RECEIVED
NOV 26 2014

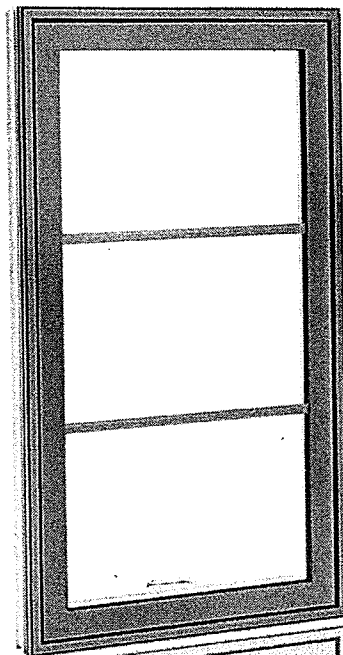


RECEIVED
NOV 26 2014

DEPARTMENT OF
PLANNING & ZONING

Casement & Awning

BUILT FOR STRENGTH. DESIGNED FOR FLEXIBILITY.



Dual point sequential locking system provides superior DP40 rated performance with single lever operation.

ENERGY STAR[®] qualified and available with LoE[®]-180[™], LoE[®]-272[™] or LoE[®]-366[™] insulated glass.

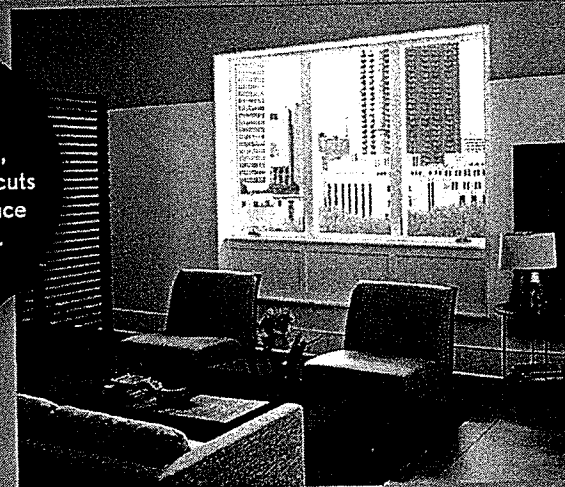
Folding handle provides easy operation and neatly stows out of the way of window treatments and blinds — available in five finishes; White, Almond Frost, Brass, Satin Nickel, Wood and Oil Rubbed Bronze.

Interior screen features an extruded aluminum surround and concealed pressure mounting points for ease of operation and enhanced aesthetics.

Stationary, operating, transom and picture units available.

The amazing strength of Ultrex[®] now in a Casement and Awning. These dynamic windows deliver high end performance with the strength and sustainable characteristics of Ultrex. Dual arm operating hardware and a single lever sequential locking system deliver DP40 performance. A clean design and measured sight lines provide visual depth and a modern classic feel. Six exterior finish colors, five hardware finishes, assorted lite cut configurations, special sizing to 1/64", and available picture and transom units allow for stunning and unique combinations.

A selection of hardware finishes, divided lites and lite cuts provide an abundance of design options.



VELO-CITY 2013
THE SOUND OF CYCLING
URBAN CYCLING CULTURES
VIENNA, JUNE 11 - 14



*Velo-city
2013
Conference
Magazine*

*Velo-city
2013 Photo
Gallery*

*Download
Session
Materials*

Vienna Memorandum

Conference Magazine

Photos, Videos and Press

Cycling Visionaries Awards

Cycling Stories

Basic Information

Program

Committees

Expo

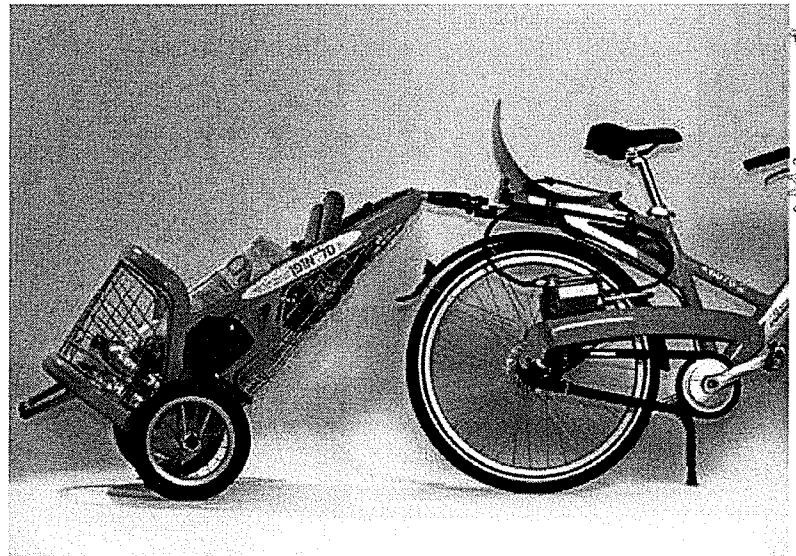
Sponsors & Partners

Contact

Newsletter sign up

Sign up to the Velo-city Newsletter

Tel-O-Porter DEPARTMENT OF
PLANNING & ZONING



Tel-O-Porter

Tel-O-Porter is a shared bike trailer that will boost Bike Sharing Schemes (BSS) and private bike use in cities around the world. It is an add-on solution to an already existing BSS and its purpose is transportation of various goods by bike. The trailer can be rented at any BSS rental station across the city and easily hitch to a shared or private bike and even be carried by hand as a "carry all"

The Concept

The Bike Sharing Schemes (BSS) is becoming more popular and widespread around the world. Developing a bike trailer in a similar concept can allow overcoming most barriers that prevent cyclists using bicycle for the transport of goods and prefer motorized transportation for that. The concept is to enable a "use by need" approach that will allow an available trailer when required, that hitches easily to the bike and can carry a wide range of goods by having a high volume and heavy load-carry design and capability. The fact that it is shared, makes it the ideal "door opener" to the transport of goods by bike.

The solution

Tel-O-Porter is a shared bike trailer. It is an add-on solution to an already existing BSS. The trailer can be rented at any BSS rental station

Voting closed. Thank you

0 votes

Udi Rimon
Tel Aviv, Israel

Category: **Design, Fashion and Cycling Equipment**

Links to this projects

• <http://youtu.be/fQ38KHt5tnw>

across the city and easily hitch to a shared or private bike (adding a generic connecting latch) and even be carried by hand as a "carry all", in supermarkets for example. The main purpose of the Tel-O-Porter is transport of groceries and running errands, but it is also ideal for transporting work-related and leisure activities equipment. It is rugged and durable enough to withstand harsh weather and heavy use strains. The trailer can integrate seamlessly into the existing BSS infrastructure (i.e. docking stations, transporting vehicles etc.) so that no special infrastructure modification is needed.

RECEIVED
NOV 26 2014
DEPARTMENT OF
PLANNING & ZONING

Key Features

Capacity: 45 Kg

Cargo space: 90 liters

Latch: fast, intuitive and easy to use latch will be mounted on all shared bikes. Private bike users will need to install a generic latch on their bikes to use the service.

Safety measures: frame strength, impact, structural integrity in rollover, tip-over resistance, coupling security and reflector placement makes the Tel-O-Porter a very safe trailer.

Theft: heavy duty coded lock to secure the trailer for short periods during rent. A distinct appearance makes the trailer easily identifiable and discourages attempts to steal and repaint units.

Advertising spaces in the front and rear of the trailer.

Beneficiaries

End users:

Good value for money: low initial cost, pay per use (depending on the chosen payment model)

Cost savings: less use of private car\ public transportation

Time savings: in many cases, it is faster to use a bike in the city than motorized transportation

Positive and healthy physical exercise

Flexibility of use and accessibility: wide spread of stations across the city

No need for storage space

No risk of theft

No maintenance hassle

Politician and planners:

Improves the city image

Increase in overall cycling

Increase in BSS users and overall BSS rentals

Increase in local business traffic

BSS operators:

Increase in BSS users

Increase of market share- private bike users, elderly users, green shoppers, household shoppers

New, dynamic and target-oriented (supermarkets etc.) advertising space

Low investment costs: the infrastructure already exists and running

Low running costs: no complicated systems, low maintenance

Increased visibility around the city

Local retailers:

Increase in costumers and in total sale per visit

Save on costs for parking spaces

Brings more business for central located small businesses with parking problems such as farmers market etc.

[Back to project overview](#)

United States Department of the Interior
National Park Service

**National Register of Historic Places
Continuation Sheet**

Section number 7 Page 39

The house has a rear wing of 1 1/2 stories and 4 x 1 bays with a gable roof and cornice returns. Extending to the west side of this wing is an ell of 2 x 1 bays, with a shed roof that meets the west porch.

The alcove formed by the main block and east ell is filled with a 2 story, 1 x 2 bay porch of which the second story is enclosed with panels behind a balustrade and glazing between the boxed posts supporting a molded cornice and flat roof. The first story is open with boxed posts and serves a side entrance. A second porch, 3 x 1 bays and 1 story, spans the full width of the west elevation. The shed roof is supported by undecorated columns tapering toward the top. Spanning between the columns is a balustrade with turned posts.

The house has a single, square, interior chimney that lies on the rear wing ridge. The windows have 6/6 sash with flat arches and wooden sills; most of the windows have louvered shutters.

This house is one of the houses on the south side of College Street constructed by the Morse Brothers (#s 46 and 47 are others). It is thought to have been built by T.S. Peck for one of his sons or sons-in-law.

45. Town Center Condominiums (295-297 College Street); 1980

This modern structure is an infill building between two of the Peck estate Greek Revival houses on College Street (See #44 and #46). It attempts to be unobtrusive by keeping a deep setback similar to the older buildings surrounding it. The 2-story, gable-roofed, aluminum-sided, 4-unit condominium is evidence of the continued development pressures in the district. This is non-contributing due to age.

46. Peck House (289 College Street); c.1835

This Greek Revival house of 2 stories, 3 x 3 bays, and gable front roof was, like #s44 and 47, built by the Morse brothers for the Peck family (Dr. John Peck was a wealthy druggist and merchant.). It is constructed in L-plan with a pedimented gable facing north onto College Street. This building is currently used for professional office space.

The classically molded front pediment encloses a semi-elliptical louver while a similar east facing pediment crowns the 2 story, 1 x 2 bay east ell. An interior wall chimney breaks the roof line at the ridge of this ell.

United States Department of the Interior
National Park Service

**National Register of Historic Places
Continuation Sheet**

Section number 7 Page 40

A 1 x 3 bay, 1 1/2 story, brick, rear wing with a 1 story, 1 x 2 bay east wing extend the structure to a rear parking area. A 1 story, clapboard sided, enclosed porch with an Italianate bay window fills the alcove between the pedimented east and north faces. A 1 story enclosed porch extends along the west elevation, its rolled asphalt half-hip roof ending abruptly at the rear to meet an enclosed stairwell leading to the second floor; banks of modern, single-pane casement windows run along the west wall.

The gabled, left (east) sidehall entrance portico boasts a classically molded pediment supported by Doric columns and pilasters at the wall line. Heavy Italianate double doors have ornate cut glass lights and bolection molded panels over a granite sill.

Two-over-two replacement sash, flat arches and wooden sills are common throughout the house with the exception of casement windows in the west enclosed porch. A single, round-headed, Italianate window gazes toward the lake from the west second story elevation. Louvered shutters flank front elevation windows.

47. Thomas Peck House (Langrock, Parker, Sperry & Wool Offices)
(275 College Street); c.1835

As with #s44 and 46, this Greek Revival residence on the southeast corner of College and South Union Streets was constructed by Morse Brothers c.1835 for the Peck family (in this case Thomas Peck, son of Dr. John Peck). The structure features a gable front main block with rear wing and side ells. The building sets on a coursed yellowstone foundation, is constructed with brick in American bond, and roofed with slate. Fenestration is primarily 6/6 sash with flat brick arches and projecting wood sills.

The 2 story, 3 x 2 bay, main block faces College Street and is surmounted by a pedimented, gable front roof with a trefoil louver. The left (east) side-hall entry has a heavy granite lintel over the Italianate double doors whose upper panels are round-arched and glazed, and whose lower panels bear bolection moldings. A brick, interior, wall chimney with corbelled cap pierces the roof near the center of the west wall.

Inset from the main facade is the 2 story, 3 x 2 bay, gabled, east ell. Across the north (front) side is a Gothic porch with slotted posts and a second story (deck) "Union Jack" balustrade. Modern paneled doors occupy the upper and lower west bay; in the other bays, the windows rest on modern (possibly replacement) wooden spandrels.

RECEIVED

MAR 12 2015

DEPARTMENT OF
PLANNING & ZONING



PHOTO RENDERING FROM NORTH WEST

289 COLLEGE STREET

BURLINGTON, VERMONT

COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN • WISNIEWSKI ARCHITECTURE
A Professional Corporation

DRB SUBMISSION

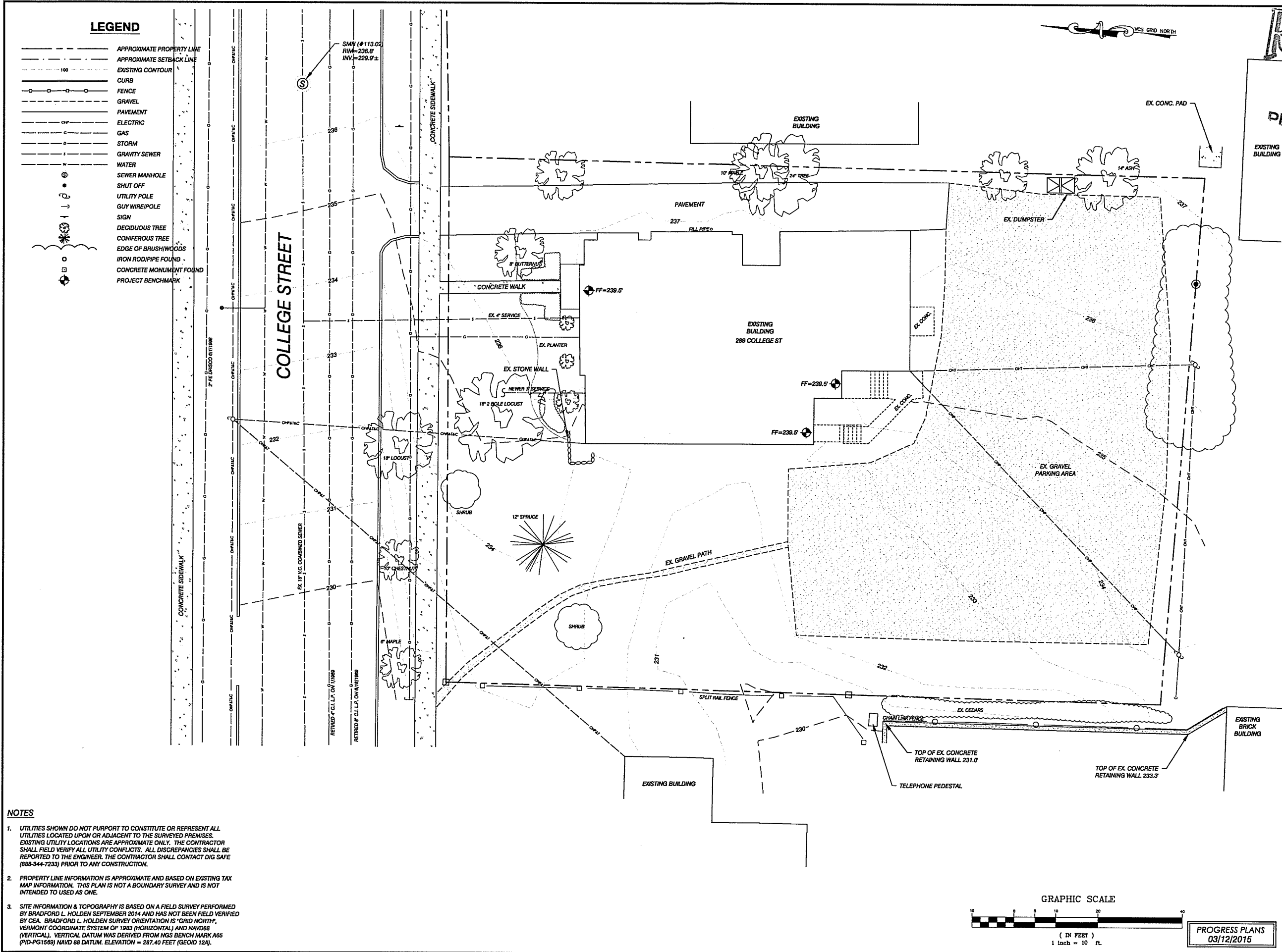
Duncan
Wisniewski 
ARCHITECTURE

255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T. 802.864.6693

DATE: 03.12.2015



289 COLLEGE STREET
BURLINGTON, VERMONT



s:\CADD Projects\2014\1412161-CADD Files\Drawings\14216 - Site\dwg - 3/12/2015 1:33:13 PM DWG To PDF.pct

RECEIVED
CIVIL ENGINEERING ASSOCIATES, INC.
10 MANSFIELD VIEW LANE, SOUTH BURLINGTON, VT 05403
802-864-2323 FAX: 802-864-2271 WWW.COE-VE.COM

DEPARTMENT OF
PLANNING & ZONING

EXISTING BUILDING

SITE ENGINEER:
CIVIL ENGINEERING ASSOCIATES, INC.
10 MANSFIELD VIEW LANE, SOUTH BURLINGTON, VT 05403
802-864-2323 FAX: 802-864-2271 WWW.COE-VE.COM

CHECKED
PBS
APPROVED
PBS

OWNER:
289 COLLEGE STREET ASSOCIATES
289-291 COLLEGE STREET
BURLINGTON VERMONT
05401

PROJECT:
289 COLLEGE STREET ASSOCIATES
289-291 COLLEGE STREET
BURLINGTON, VT

LOCATION MAP
1" = 2000'

DATE	CHECKED	REVISION
11/20/14	PBS	LOCAL SUBMITTAL
03/12/15	PBS	LOCAL REVISIONS

EXISTING
CONDITIONS SITE
PLAN
PERMIT PLANS

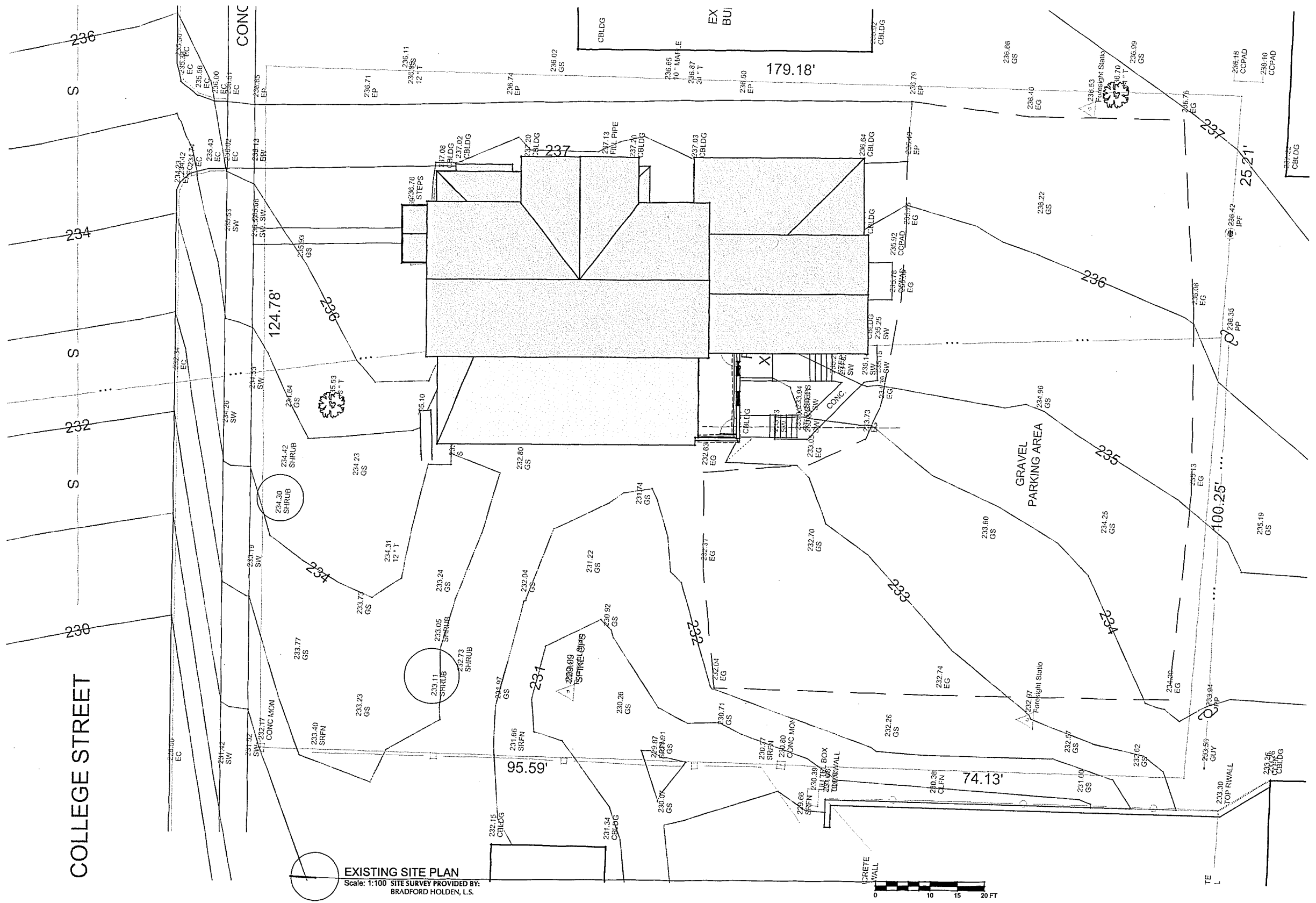
DATE
10/20/2014

SCALE
1" = 10'

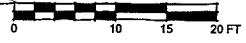
PROJ. NO.
14216

DRAWING NUMBER
C1.0

RECEIVED
MAR 12 2015
DEPARTMENT
PLANNING & ZONING



EXISTING SITE PLAN
Scale: 1:100 SITE SURVEY PROVIDED BY:
BRADFORD HOLDEN, L.S.



289 COLLEGE STREET
BURLINGTON, VERMONT

COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN • WISNIEWSKI ARCHITECTURE
A Professional Corporation

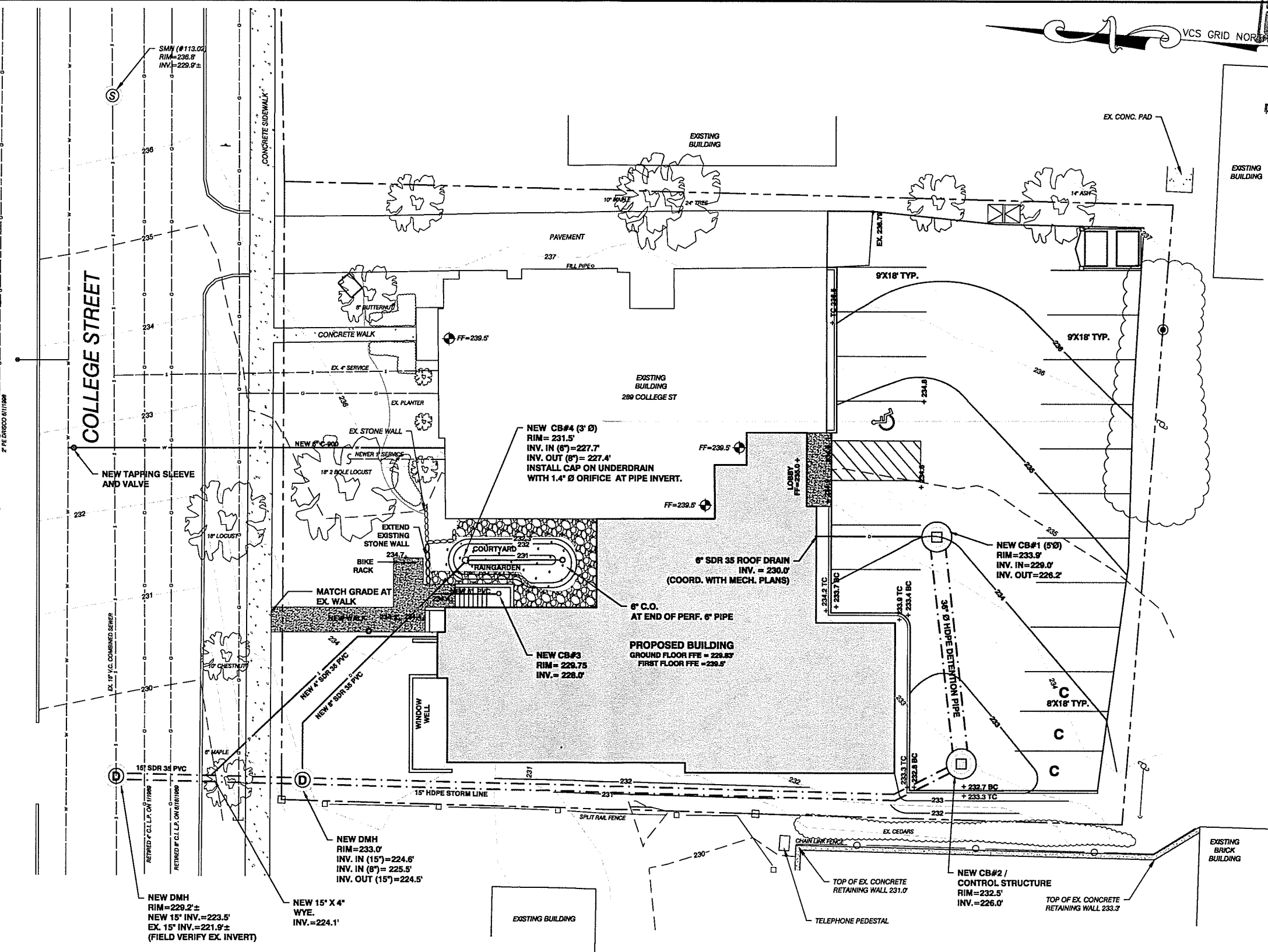
DRB SUBMISSION

Duncan
Wisniewski
ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

DATE: 03.12.2015
X-2.0

LEGEND

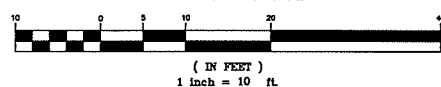
---	APPROXIMATE PROPERTY LINE
---	SETBACK LINE
---	EXISTING CONTOUR
---	CURB
---	FENCE
---	GRAVEL
---	PAVEMENT
---	ELECTRIC
---	GAS
---	STORM
---	GRAVITY SEWER
---	WATER
---	SEWER MANHOLE
---	SHUT OFF
---	UTILITY POLE
---	GUY WIRE/POLE
---	DECIDUOUS TREE
---	CONIFEROUS TREE
---	EDGE OF BRUSH/WOODS
---	IRON ROD/PIPE FOUND
---	CONCRETE MONUMENT FOUND
---	PROJECT BENCHMARK



NOTES

- 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.
- 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.
- SITE INFORMATION & TOPOGRAPHY IS BASED ON A FIELD SURVEY PERFORMED BY BRADFORD L. HOLDEN SEPTEMBER 2014 AND HAS NOT BEEN FIELD VERIFIED BY CEA. BRADFORD L. HOLDEN SURVEY ORIENTATION IS "GRID NORTH", VERMONT COORDINATE SYSTEM OF 1983 (HORIZONTAL) AND NAVD88 (VERTICAL). VERTICAL DATUM WAS DERIVED FROM NGS BENCH MARK 85 (PID-PG1569) NAVD 88 DATUM. ELEVATION = 287.40 FEET (GEOID 12A).

GRAPHIC SCALE



RECEIVED
 ENGINEER
 MAR 11 2015

CIVIL ENGINEERING ASSOCIATES, INC.
 289 COLLEGE STREET, SOUTH BURLINGTON, VT 05403
 (802) 253-1111 FAX: (802) 253-1112 WWW.CEA-VERMONT.COM
 COPYRIGHT © 2015 ALL RIGHTS RESERVED

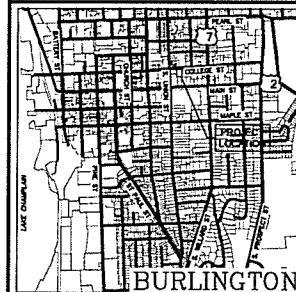
DRAWN	GAC
CHECKED	PBS
APPROVED	PBS

OWNER:
289 COLLEGE STREET ASSOCIATES

289-291 COLLEGE STREET
 BURLINGTON VERMONT
 05401

PROJECT:
289 COLLEGE STREET ASSOCIATES

289-291 COLLEGE STREET
 BURLINGTON, VT



LOCATION MAP

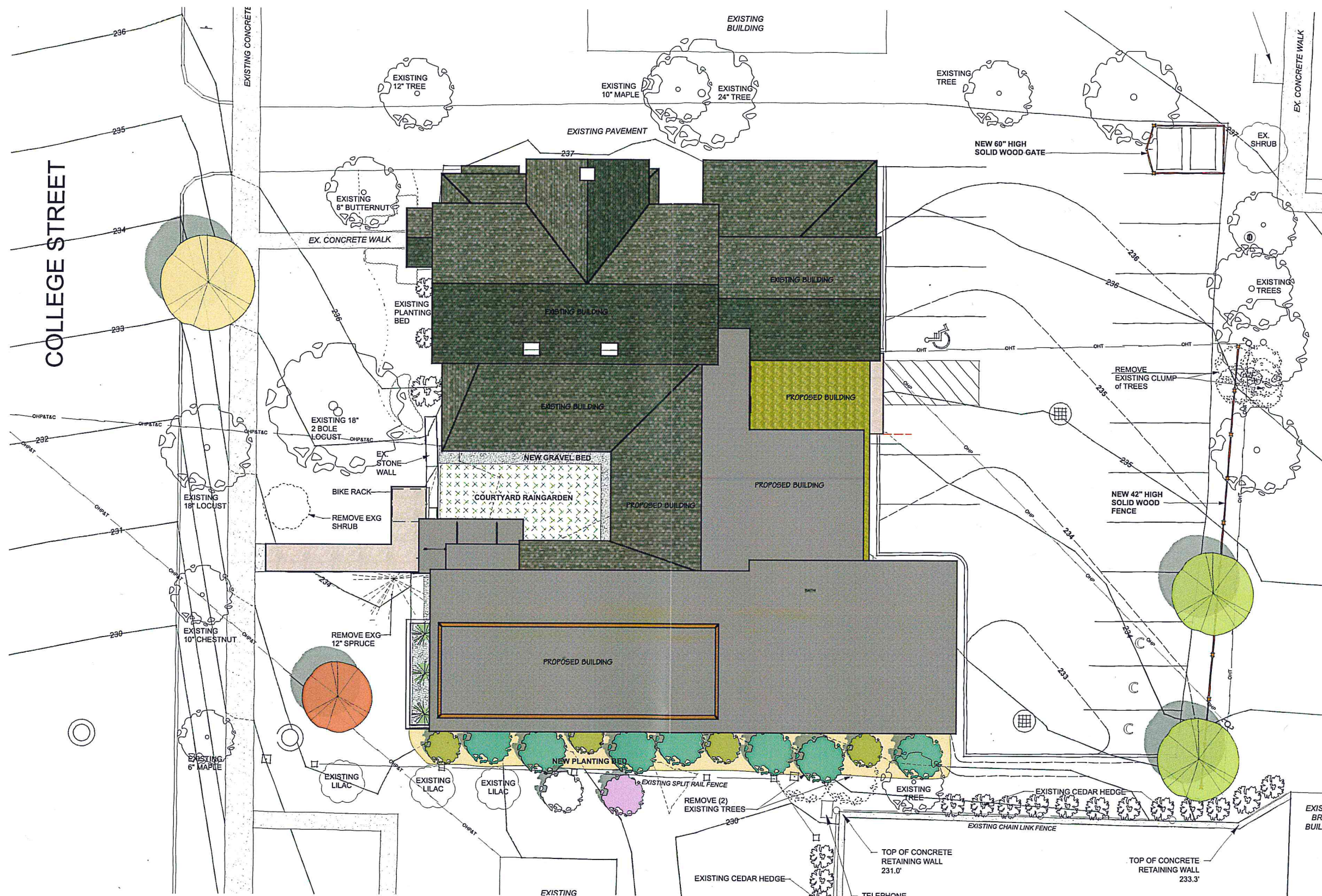
DATE	CHECKED	REVISION
11/20/14	PBS	LOCAL SUBMITTAL
2/17/15	PBS	LOCAL STORMWATER SUBMITTAL

PROPOSED GRADING AND DRAINAGE PLAN

PERMIT PLANS

DATE	DRAWING NUMBER
NOV., 2014	C1.3
SCALE 1" = 10'	
PROJ. NO. 14216	

PROGRESS PLANS
 3/12/2015



PROPOSED SITE PLAN
Scale: 1:100



289 COLLEGE STREET
BURLINGTON, VERMONT

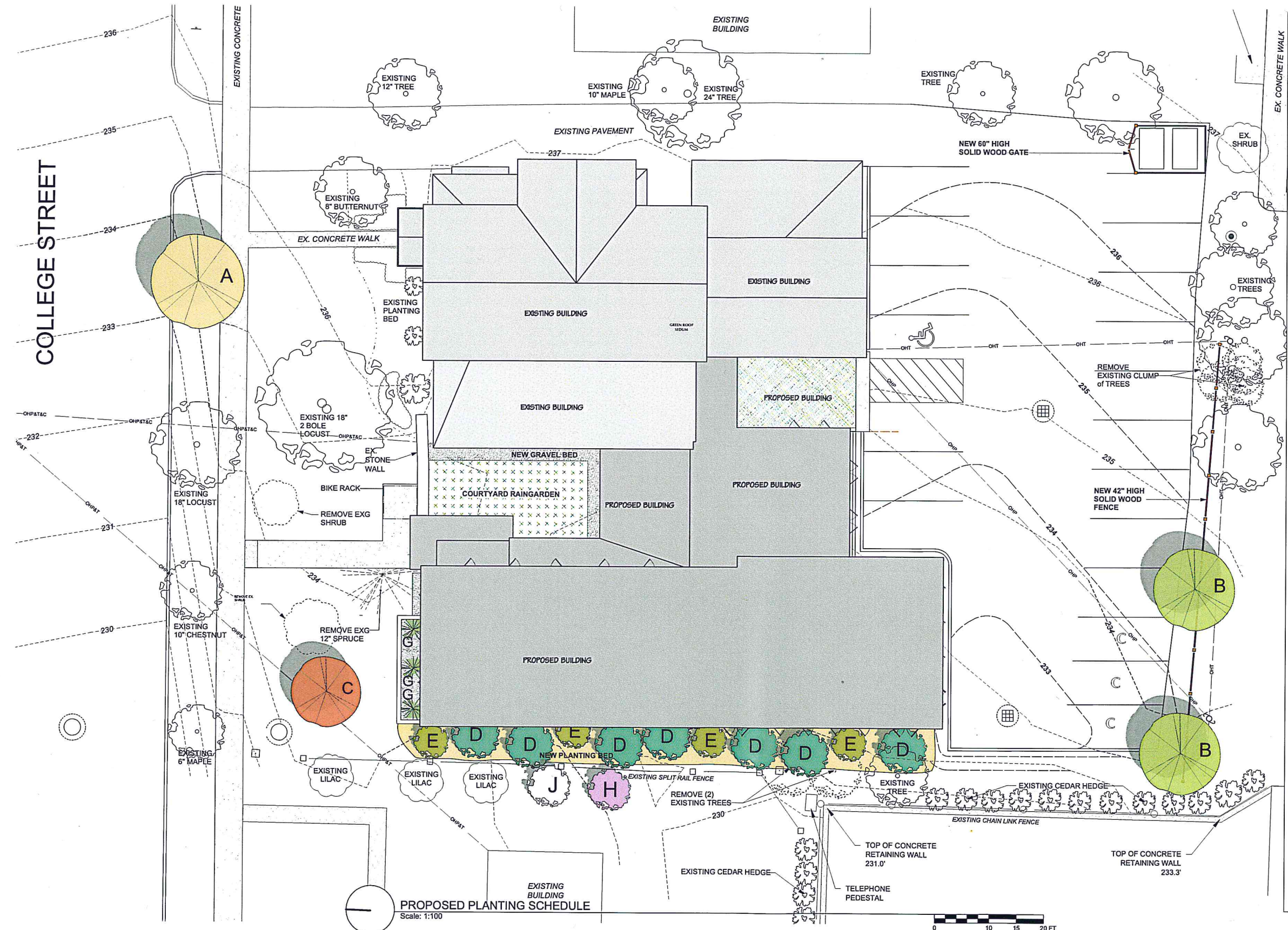
COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN • WISNIEWSKI ARCHITECTURE
A Professional Corporation

DRB SUBMISSION

**Duncan
Wisniewski** 
ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

DATE: 03.12.2015

L-1.0

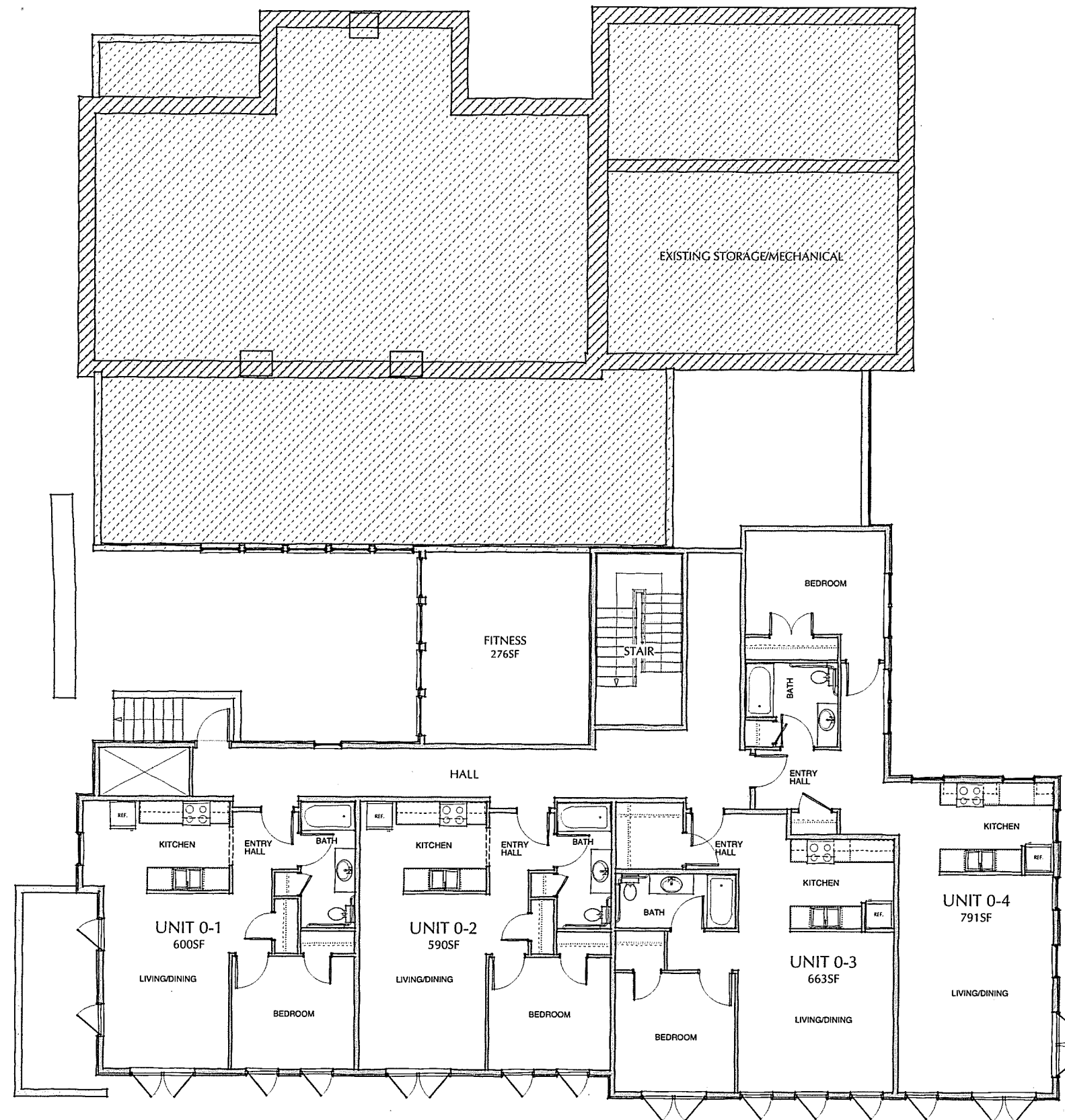


PLANTING LEGEND	
DEPARTMENT OF PLANNING & ZONING	
	(1) Street Tree, Size & Species to be coordinated w/ City Arborist
	(2) 2'-2 1/2" Gleditsia Triacanthos Inermis "Halka" - Honey Locust
	(1) 2'-2 1/2" Single Stem Amelanchier x grandiflora "Autumn Brilliance" - Serviceberry
	(7) 8"-12" Juniperus horizontalis "Blue Chip" Juniper (8-10' spread)
	(4) 12-24" Juniperus sabina "Broadmoor" Juniper (4-6' spread)
	(7) 6' tall Thuja occidentalis "Smaragd" Emerald Green Arborvitae
	(3) 6" pots of Calamagrostis x acutiflora "Karl Foerster" Reed Grass (4-5' tall)
	(1) 1 gallon Syringa vulgaris var. "Common Purple" Common Purple Lilac
	(1) 1 gallon Syringa vulgaris var. "Alba" Common White Lilac
	(4) plants/SF of Pachysandra terminalis Common Japanese Spurge

289 COLLEGE STREET

BURLINGTON, VERMONT

RECEIVED
MAR 12 2015
DEPARTMENT OF
PLANNING & ZONING



GROUND FLOOR PLAN
Scale: 3/16" = 1'-0"

0 5 10 15 20 FT

289 COLLEGE STREET
BURLINGTON, VERMONT

COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN • WISNIEWSKI ARCHITECTURE
A Professional Corporation

DRB SUBMISSION

Duncan
Wisniewski
ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

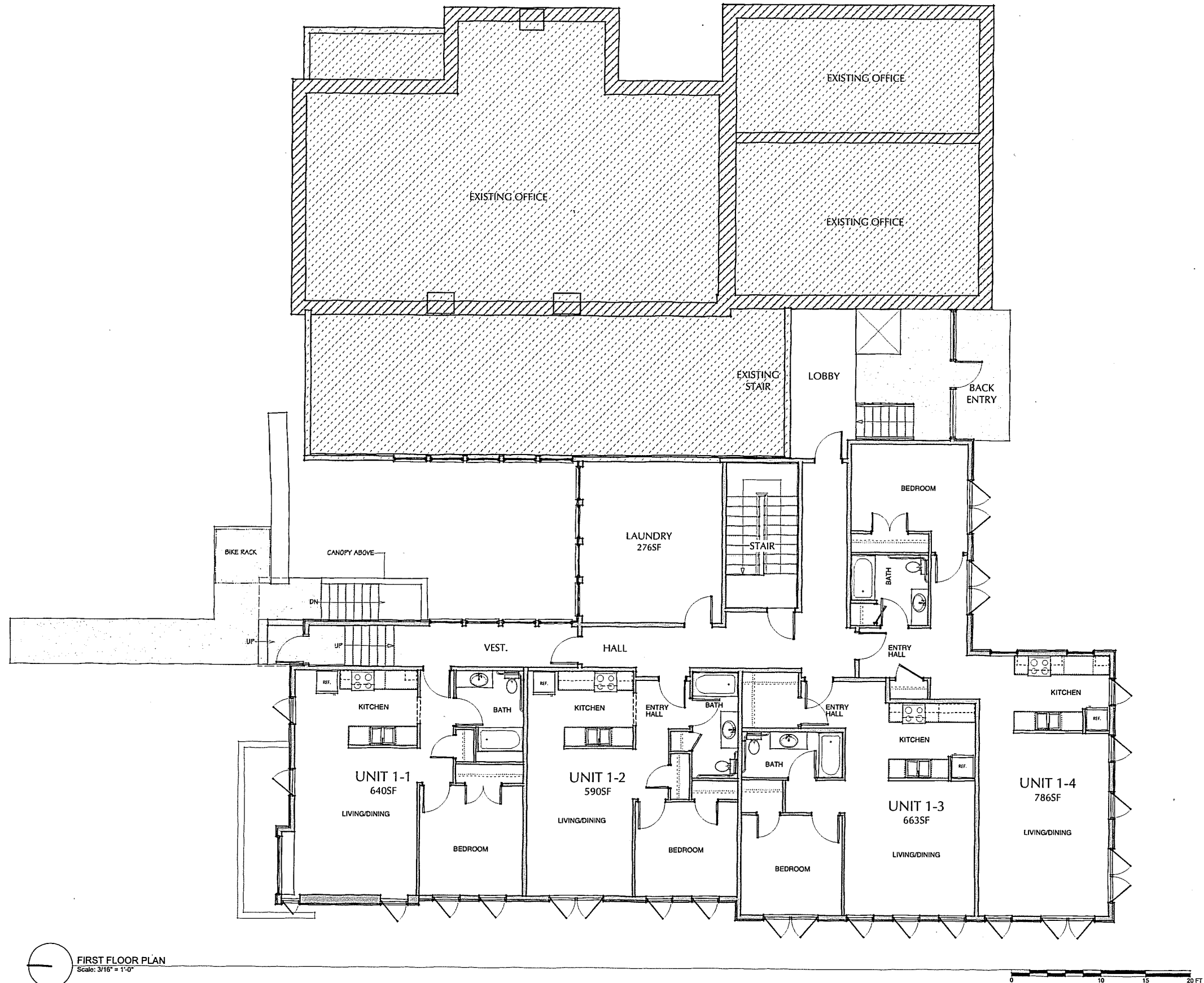
DATE: 03.12.2015

A-0.0

RECEIVED

MAR 12 2015

DEPARTMENT OF
PLANNING & ZONING



289 COLLEGE STREET
BURLINGTON, VERMONT

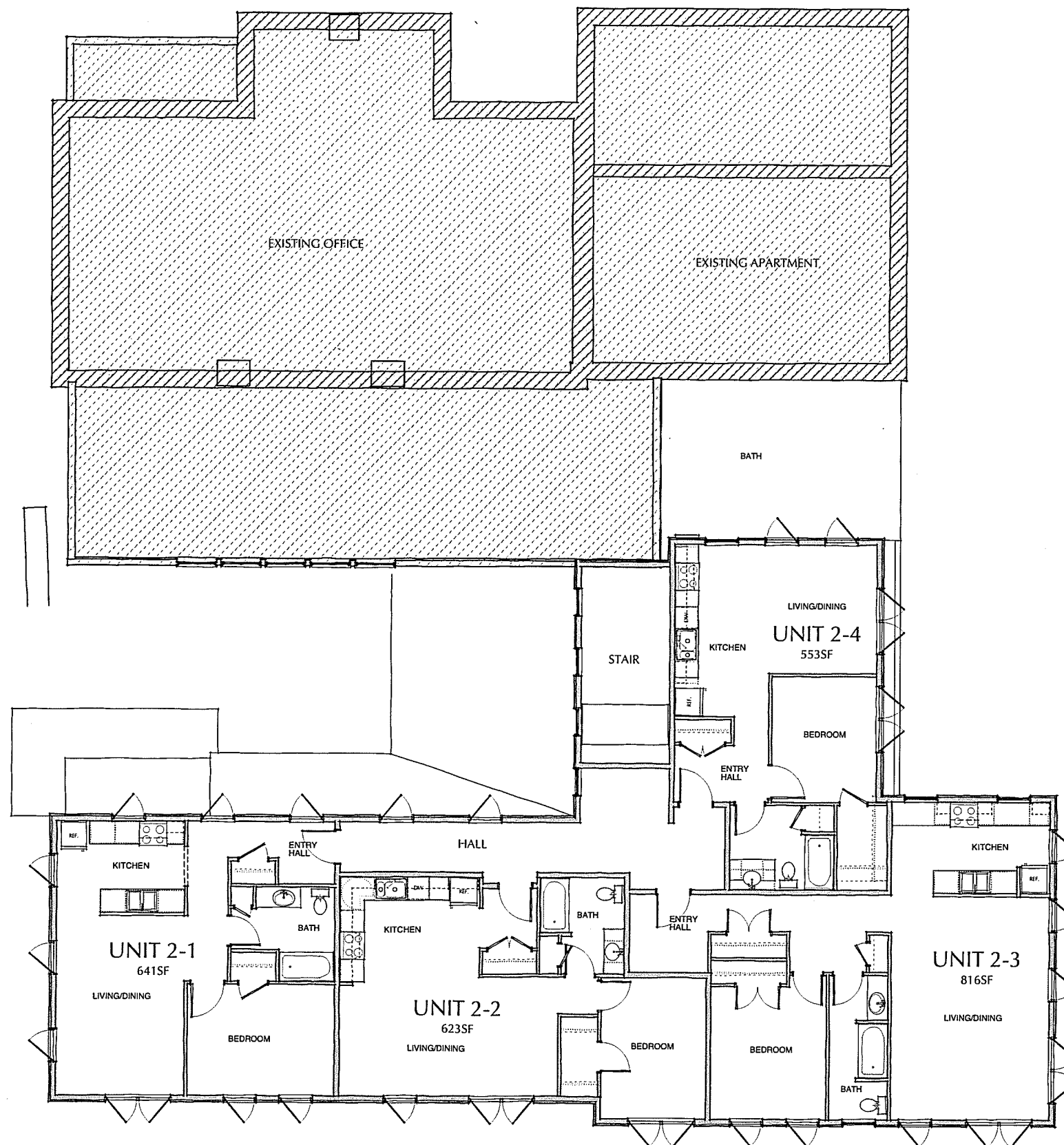
COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN • WISNIEWSKI ARCHITECTURE
A Professional Corporation

DRB SUBMISSION

Duncan
Wisniewski
ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

DATE: 03.12.2015

A-1.0



SECOND FLOOR PLAN
Scale: 3/16" = 1'-0"



289 COLLEGE STREET
BURLINGTON, VERMONT

COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN • WISNIEWSKI ARCHITECTURE
A Professional Corporation

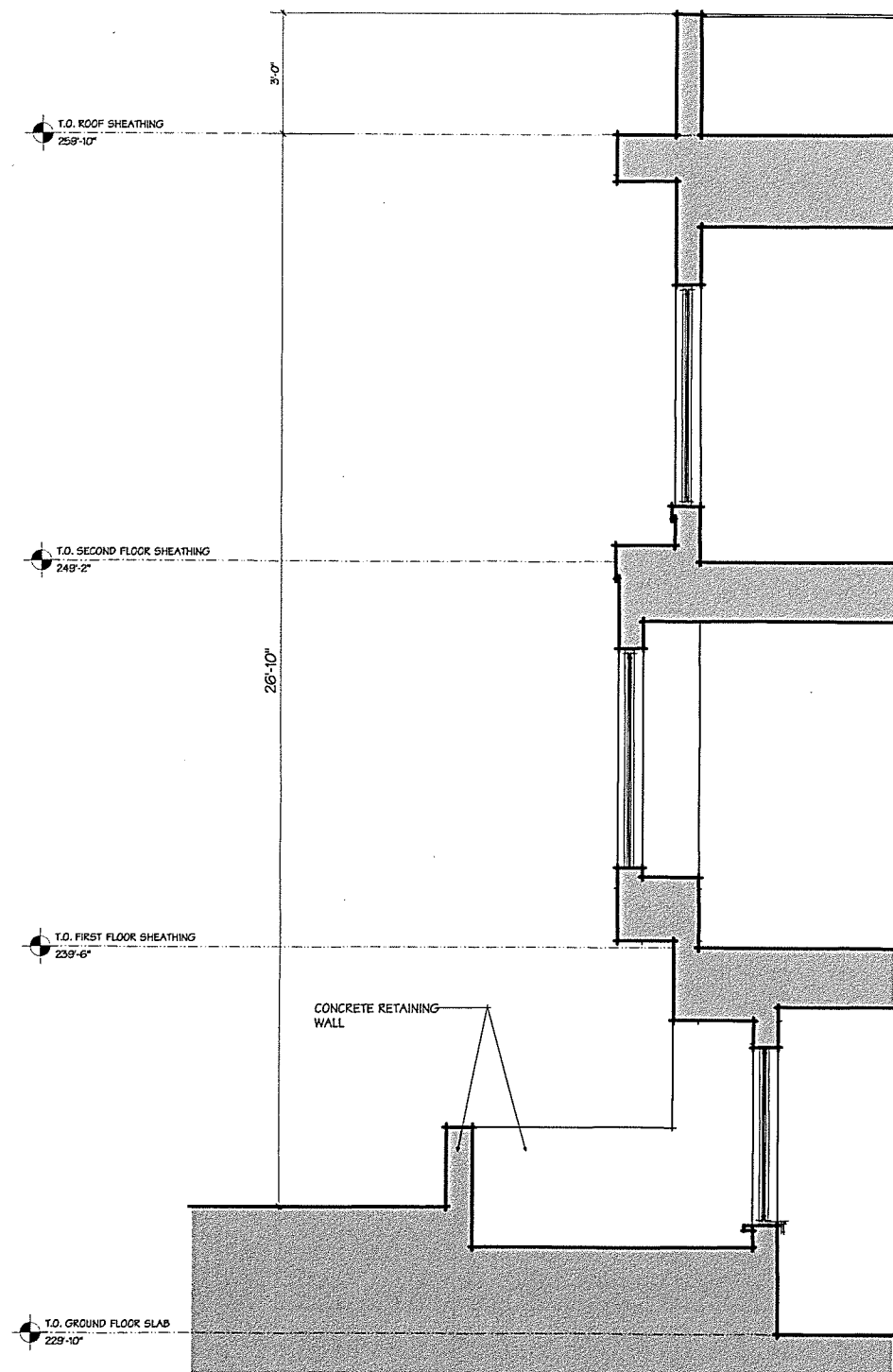
DRB SUBMISSION

**Duncan
Wisniewski** 
ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

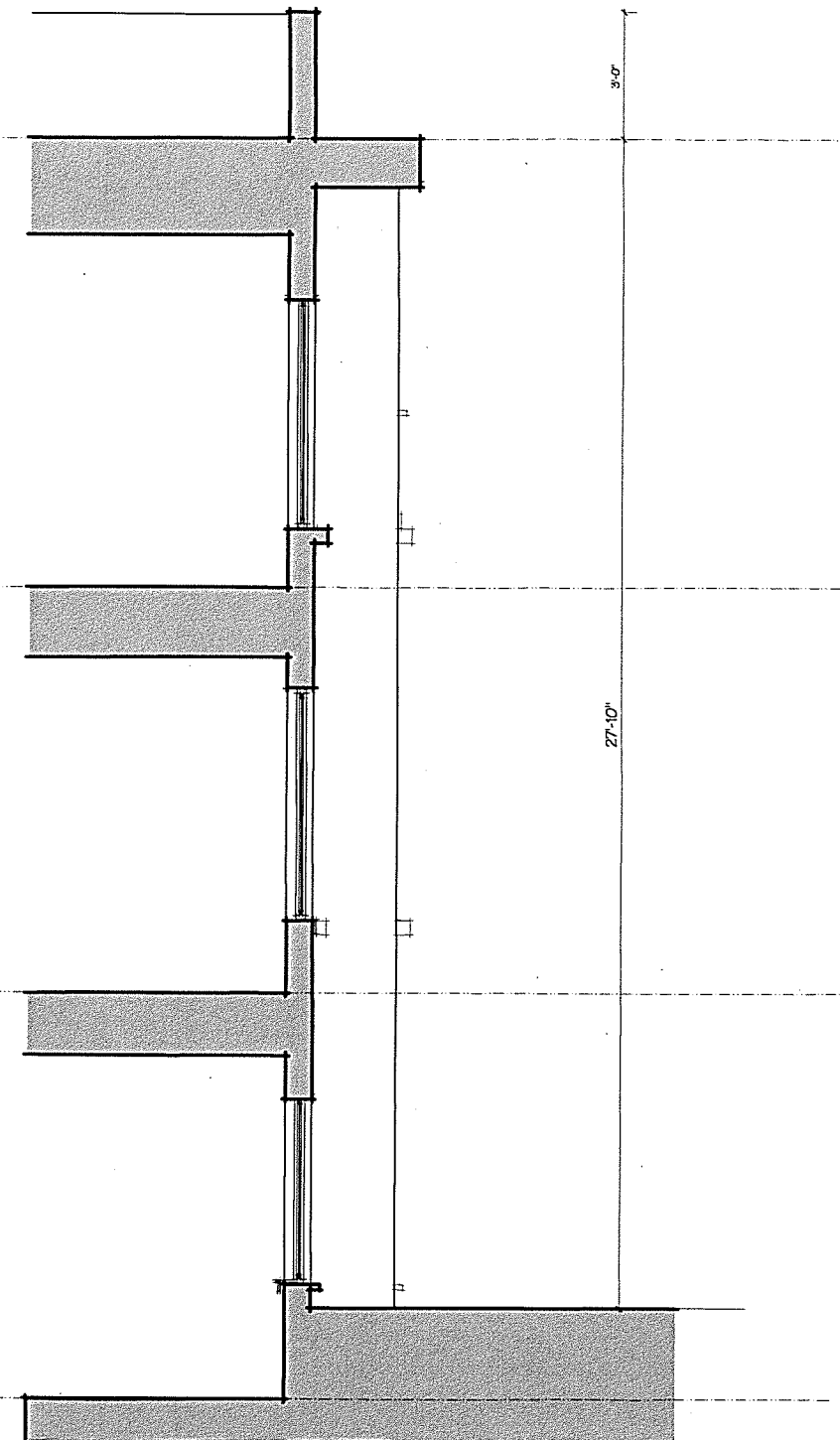
DATE: 03.12.2015

A-2.0

RECEIVED
MAR 12 2015
DEPARTMENT OF
PLANNING & ZONING



A SECTION THRU NORTH WALL
Scale: 1/2" = 1'-0"



B SECTION THRU WEST WALL
Scale: 1/2" = 1'-0"

289 COLLEGE STREET
BURLINGTON, VERMONT

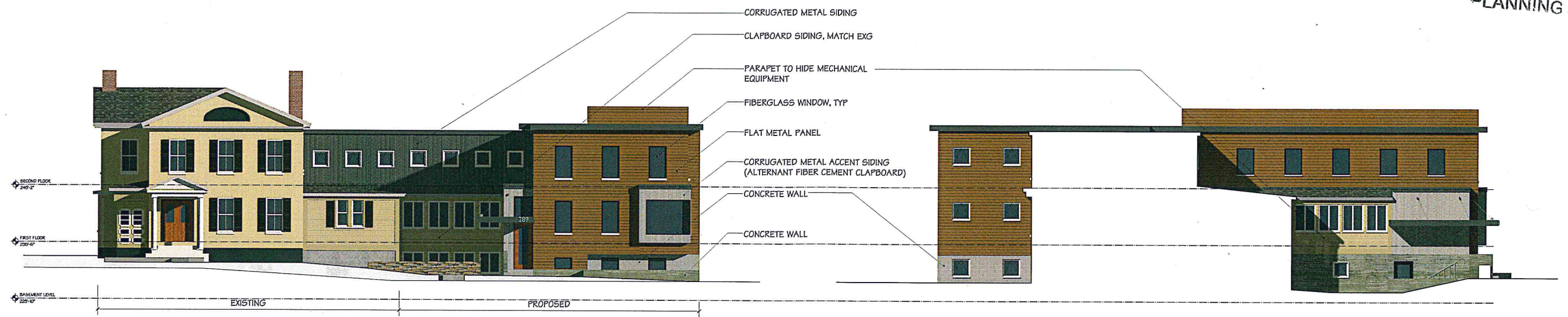
COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN • WISNIEWSKI ARCHITECTURE
A Professional Corporation

DRB SUBMISSION

Duncan
Wisniewski
ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

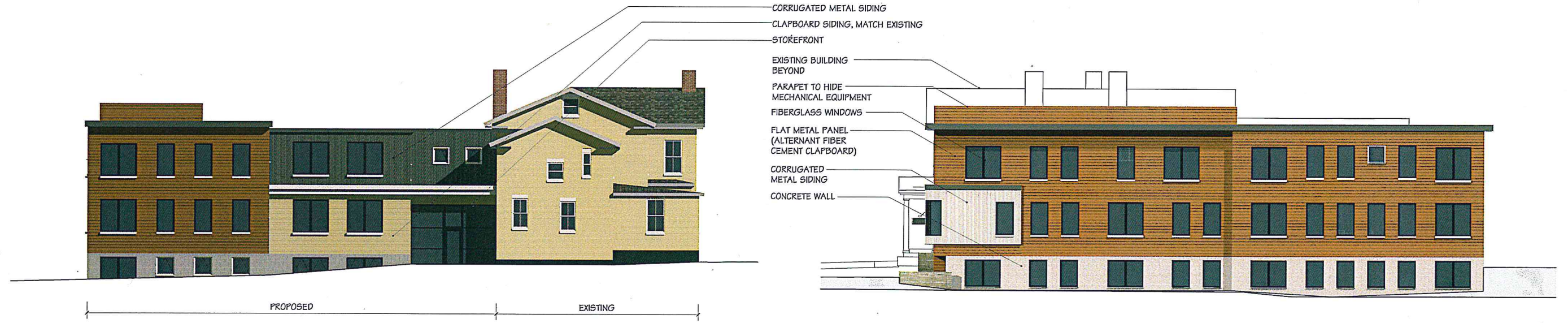
DATE: 03.12.2015

A-4.0



NORTH ELEVATION
Scale: 1/8" = 1'-0"

EAST ELEVATION
Scale: 1/8" = 1'-0"



SOUTH ELEVATION
Scale: 1/8" = 1'-0"

WEST ELEVATION
Scale: 1/8" = 1'-0"



289 COLLEGE STREET

BURLINGTON, VERMONT

Duncan
Wisniewski
ARCHITECTURE

255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

DATE: 03.12.2015

A-3.0

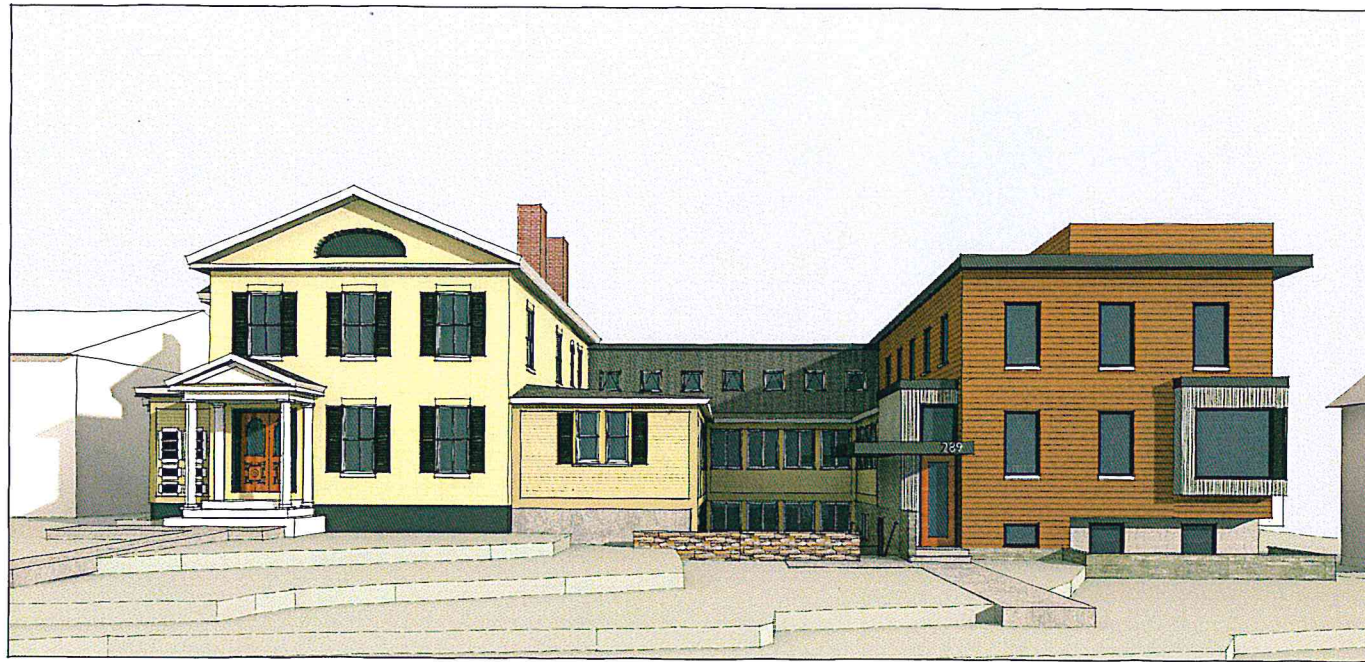
COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN • WISNIEWSKI ARCHITECTURE
A Professional Corporation

DRB SUBMISSION

RECEIVED

MAR 12 2015

DEPARTMENT OF
PLANNING & ZONING



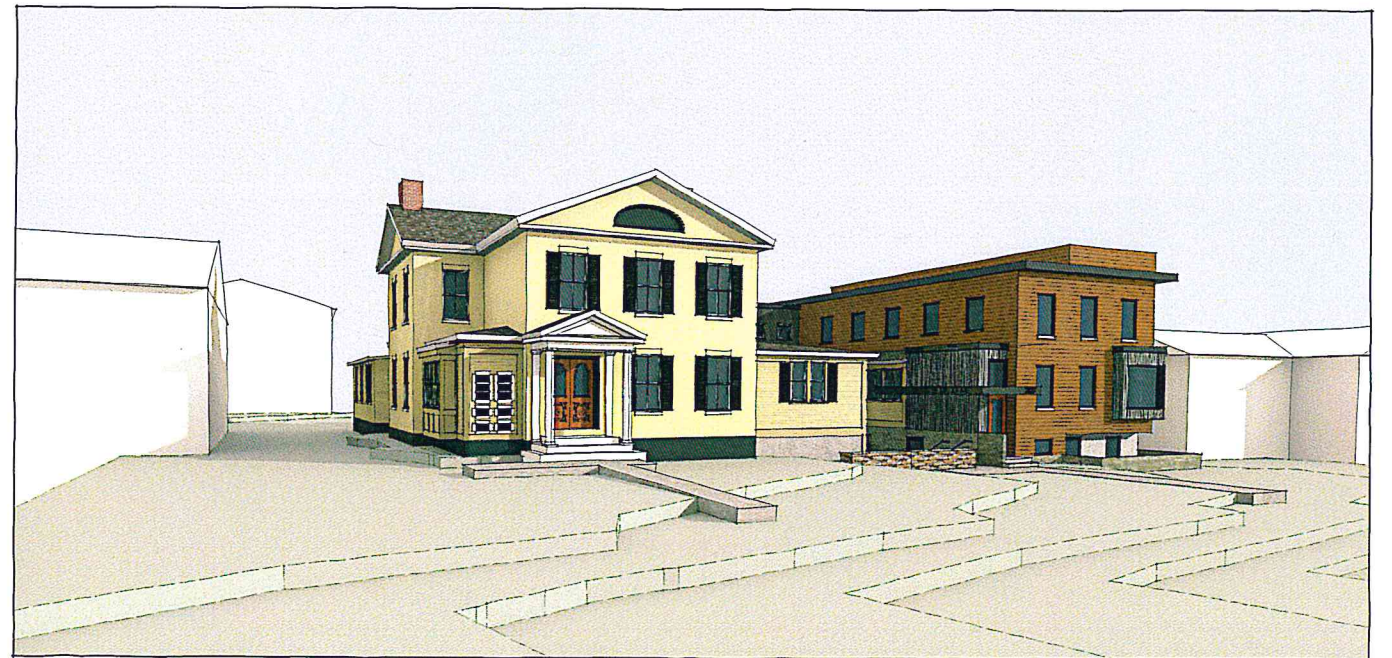
VIEW FROM NORTH



VIEW FROM NORTH WEST



VIEW FROM SOUTH



VIEW FROM NORTH EAST

289 COLLEGE STREET
BURLINGTON, VERMONT

COPYRIGHT © 2014 ALL RIGHTS RESERVED
DUNCAN - WISNIEWSKI ARCHITECTURE
A Professional Corporation

DRB SUBMISSION

Duncan
Wisniewski
ARCHITECTURE
255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T. 802.864.6693

DATE: 03.12.2015

A-5.0

Department of Planning and Zoning

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

David White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
vacant, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin
DATE: April 7, 2015
RE: 15-0865VR; 2-4 North Winooski Avenue

=====

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

Zone: DT Ward: 2C

Owner/Representative: Miller North Properties, LLC / Tom & Deb Miller

Request: Variance to change use from café to bar/tavern

Applicable Regulations:
Article 12 (Appeals and Variances)

Background Information:

The applicant is seeking a variance to allow expansion of a bar/tavern into an adjacent (vacant) deli space. The subject property is located in the Downtown Transitional (DT) zone. Bar/tavern is a prohibited use in this zone. The existing bar/tavern is a pre-existing nonconforming use. No site or exterior building alterations are included in this proposal.

The requested variance is predicated on a potential change in zoning that might allow a bar/tavern use on this property in the future. The city's form based zoning code that is presently under development might allow bar/tavern use in what is now the DT zone, but it might not. The form base code remains under development and is far from final. To allow the expansion of a nonconforming use under the existing zoning code because it might change in the future is not sound land use planning policy. It also runs contrary to the existing zoning regulations.

Previous zoning actions for this property are as follows:

- 9/23/13, Approval for new signage
- 5/28/12, Approval for replacement awning
- 1/31/07, Approval for awning
- 1/11/07, Approval for sign
- 4/26/99, Approval to establish deli/grocery store (VT Sandwich Company)
- 12/9/94, Approval for installation of 7 gas meters
- 5/12/76, Approval for 4 signs
- 6/26/74, Approval for renovations to front facade

Recommendation: Variance denial as per the following findings:

I. Findings

Article 12: Variances and Appeals

Sec. 12.1.1 Variances

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

The subject property is very small at just over 1,700 sf; however, its small size has nothing to do with the requested variance. The requested use variance does not pertain to any physical circumstances or conditions peculiar to the property. The hardship prohibiting the establishment of new or expanded bars/taverns within this property is entirely created by the provisions of the zoning regulation. **(Adverse finding)**

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

The requested use variance does not pertain to any physical circumstances or conditions. No variance is necessary to enable the reasonable use of the property. **(Adverse finding)**

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

There is no unnecessary hardship. The DT zone allows for a wide variety of uses. Bar/tavern, however, is not one of them. **(Adverse finding)**

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

The variance, if authorized, would not alter the essential character of the neighborhood primarily because the bar/tavern exists already. The proposed variance, however, would enable that prohibited bar/tavern to expand on a property that is immediately bordered by a residential zoning district. Enabling the expansion of a nonconforming bar next to a residential zone is contrary to the city's intended land use patterns. A larger bar/tavern next to residential properties may well adversely impact the appropriate use or development of those properties. Access to renewable energy resources would be unaffected. Whether the expanded bar/tavern would be detrimental to the public welfare cannot be determined based on the application materials submitted. **(Adverse finding)**

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

The requested variance is not a matter of degrees. It is a requested change in use from a permitted deli to a prohibited bar/tavern. As noted previously, there are a number of potential uses that may be allowed on the subject property. A bar/tavern is not one of them. **(Adverse finding)**

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

The variance, if granted, would indeed result in the extension of a nonconforming use. The presently existing nonconforming bar/tavern next door would expand into the now vacant deli space.

Sec. 5.3.4, *Nonconforming Uses*, (a) *Changes and Modifications*, 1, *Nonconforming Non-Residential Use*, states that a nonconforming non-residential use shall not be expanded or altered in any way, other than to full conformity under this Ordinance except for conversion to residential use or changes involving neighborhood commercial uses. The proposed bar/tavern expansion does not qualify under either exception. **(Adverse finding)**

II. Reasons for denial

Per the adverse findings above.

TO: DEPT. OF PLANNING AND ZONING
RE: VARIANCE REQUEST
DATE: March 10, 2015

RECEIVED
MAR 10 2015

FROM: Miller North Properties, LLC/The Other Place
Tom and Deb Miller

DEPARTMENT OF
PLANNING & ZONING

We are the owners of the building and the business in this FD5 District.

We are requesting to expand our bar/tavern, (The Other Place), to the corner space at 2 North Winooski Avenue. We would make a large doorway/wall opening through in the connecting wall to join the two together.

The Other Place has been in business since 1980, and there has been a bar in this space since the 1960's. We have a good track record with DLC as we are strict about enforcing the DLC laws. This is a neighborhood bar that most patrons walk to.

We know that current zoning states no bars are allowed on this block, but the Form-Based Draft (if approved) would allow a Bar in this space. We hope that since we wish to expand a bar that has been in place for so long and the zoning is possibly changing anyway you may grant this variance at this time.

This would benefit us by:

- having access to a handicap accessible bathroom**
- with the additional space we could serve more food, other than just tacos**
- accommodate more patrons to increase sales**
- eliminate the waiting line on the sidewalk**
- have a tenant that could stay longer than a year**
- employing more staff**
- being able to stay in business**

With the expansion of Radio Bean and Three Needs Bar coming into this area we are struggling to stay in business, and feel this expansion could help by enhancing food service and have the space to put in more TV's for more of a sports bar atmosphere.

Time is of the essence as our current tenant, a sandwich shop, has closed his doors and we need to have paying tenants to support the building.

We feel that if The Other Place and the corner space are empty, we would end up having to accept a chain tenant such as Dunkin Donuts or Subway.

The 116 year old brick building is located at 2-4 North Winooski Ave. on the corner of Pearl Street and North Winooski Ave, facing North Winooski Ave. 2 North Winooski is 792 square feet, and 4 North Winooski is 851 square feet.

PHOTO ATTACHED

RECEIVED
MAR 10 2015

DEPARTMENT OF
PLANNING & ZONING

RECEIVED

MAR 10 2015

SUBJECT PROPERTY PHOTOGRAPHS

DEPARTMENT OF
PLANNING & ZONING



Date Taken: January 12, 2015
By: Marc A. O'Grady
Direction: Southeasterly
Identification: Westerly side of the building



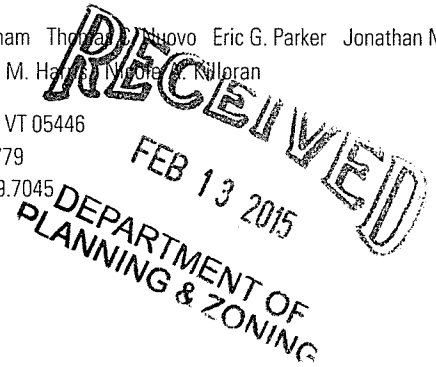
Date Taken: January 12, 2015
By: Marc A. O'Grady
Direction: Northerly
Identification: Southerly side of the building



PARTNERS Joseph P. Bauer John C. Gravel Daniel N. Farnham Thomas P. DiStasio Eric G. Parker Jonathan M. S.
ASSOCIATES John J. Balkunas, Jr. Renee L. Mobbs Gregg M. Hayes Nicholas C. Killoran

COLCHESTER 401 Water Tower Circle, Suite 101, Colchester, VT 05446
General Phone: 802.863.5538 · Fax: 802.864.7779
Real Estate Phone: 802.879.6323 · Fax: 802.879.7045

MONTPELIER By Appointment Only · Phone: 802.229.2000



February 12, 2015

Burlington Development Review Board
c/o Burlington Planning and Zoning Office
City Hall, 149 Church Street
Burlington, VT 05401

Jeanne Francis, Zoning Specialist
Burlington Code Enforcement
PO Box 849
Burlington, VT 05402

**Re: 164 North Willard St., Burlington
Notice of Appeal**

To Whom It May Concern:

Our office represents Luke Purvis, the owner of 164 North Willard Street, Burlington (the "Property") since July 2013. Mr. Purvis has received a notice of violation issued by the Burlington Code Enforcement Office ("BCE") claiming that the parking area that touches the southern boundary of the Property has been expanded, that it cannot be determined whether the parking area has been in existence for 15 years, and that the area must be restored to green space by May 1, 2015. By this letter Mr. Purvis hereby appeals this decision pursuant to Sections 2.7.11 and 12.2.2 of the Burlington Comprehensive Development Ordinance ("CDO").

The Property resides in Burlington's Residential Low Density Zone, which permits a maximum lot coverage of 35%. See CDO § 4.4.5, Table 4.4.5-3. Pursuant to 24 V.S.A. § 4454, an action to enforce a municipal code violation must be commenced "within 15 years from the date the alleged violation first occurred and not thereafter." 24 V.S.A. § 4454(a). Mr. Purvis alleges that, and will submit evidence to the Board demonstrating, the area has been in use as a parking area in the same footprint for at least the last 15 years. He therefore requests that the Board reverse BCE's decision and find that the parking area constitutes an unenforceable violation pursuant to 24 V.S.A. § 4454(a). Further evidence documenting the history of use in this parking area will be submitted to the Board in advance of the public hearing on this matter.

A check for the filing fee for the appeal is enclosed herewith. Please direct all correspondence regarding this matter to my attention at the address above.

Very truly yours,



Nicole A. Killoran, Esq.
nkilloran@vtlawoffices.com

cc: Luke Purvis

RECEIVED
FEB 13 2015
DEPARTMENT OF
PLANNING & ZONING

 **Bauer
Gravel
Farnham**
Attorneys at Law

PARTNERS Joseph P. Bauer John C. Gravel Daniel N. Farnham Thomas C. Nuovo Eric G. Parker Jonathan M. Stebbins

ASSOCIATES John J. Balkunas, Jr. Renee L. Mobbs Gregg M. Harris Nicole A. Killoran

COLCHESTER 401 Water Tower Circle, Suite 101, Colchester, VT 05446

General Phone: 802.863.5538 · Fax: 802.864.7779

Real Estate Phone: 802.879.6323 · Fax: 802.879.7045

MONTPELIER By Appointment Only · Phone: 802.229.2000

February 27, 2015

Burlington Development Review Board
c/o Burlington Planning and Zoning Office
City Hall, 149 Church Street
Burlington, VT 05401

Jeanne Francis, Zoning Specialist
Burlington Code Enforcement
PO Box 849
Burlington, VT 05402

**Re: 164 North Willard St., Burlington
Documentation in Advance of Public Hearing**

To Whom It May Concern:

This letter will provide additional information and documentation in support of the appeal of Luke Purvis, owner of the above-referenced property. As you know, Mr. Purvis received a notice of violation (the "Decision") from Ms. Francis with Burlington Code Enforcement ("BCE"). A copy of the January 29, 2015 Decision is enclosed and marked as Exhibit 1.

The Decision claims that Mr. Purvis' parking area that touches the southern boundary of the Property (the "Parking Area") has been expanded, that it cannot be determined whether the Parking Area has been in existence for 15 years, and that the Parking Area must be restored to green space by May 1, 2015. Mr. Purvis has appealed this decision because he understands that the same parking area has been used for parking since at least 1983. As a result, even if the parking area causes the lot to exceed the maximum coverage amount of 35%, we believe this is an unenforceable violation pursuant to 24 V.S.A. § 4454(a).

The City's 2000 aerial photograph of the Property, enclosed and marked Exhibit 2, demonstrates the layout of the property at 164 North Willard Street, Burlington (the "Property"). The Property is oriented east-west, with North Willard Street along the western boundary. There is a multi-family dwelling on the northwestern portion of the Property. A driveway accessing the rear of the Property runs along the southern boundary. The Parking Area for which the City has issued the Decision, depicted in Ms. Francis' photograph attached to Exhibit 1, sits on the southern boundary of the Property in front of the barn at the eastern end of the Property.

The previous owner, Hector LeClair, purchased the Property in 1966. Mr. LeClair's testimony will be helpful in determining the past usage of this Property, and we will be attempting to secure his attendance at the public hearing. In 1968, Mr. LeClair purchased a small, rectangular (approximately 12' by 30') parcel of the property to the South, 158 North Willard Street, to allow better access to the area south of the barn. The purchase of this small piece of land resulted in an unusual shape for the Property, with the southeastern portion jutting into 158 North Willard Street by about 12 feet. For reference, see Exhibit 2.

In 1983, Mr. LeClair received the benefit of an easement (the "Easement") from the neighboring 158 North Willard Street property to allow him the use of the triangular area extending from the southeast portion of the Property to the southern boundary of the Property, further west toward North Willard Street. This area, roughly 75' by 12' by 76', has been shaded in on the photograph marked as Exhibit 2.

After obtaining the Easement in 1983, Mr. LeClair immediately laid down gravel in a footprint that extended onto the Easement area to create the Parking Area. The purpose of the Easement was for Mr. LeClair, and the occupants and guests of the apartments in the multi-family dwelling on the Property, to be able to park in the Parking Area. Over the years Mr. LeClair maintained the Parking Area and combatted the encroaching grass and vegetation by laying new dirt and gravel in the same footprint to maintain it for this purpose.

Mr. LeClair used one of the units in the multi-family dwelling as his business office, and visited the Property and his office regularly. He and his tenants over the years parked frequently in the Parking Area while on the Property. Two affidavits Mr. LeClair made describing the history and usage of the Property are enclosed and marked Exhibit 3.

In addition, Mr. Purvis has done an extensive amount of research in his attempt to document usage of the Parking Area between 1988 and 2013 with aerial photography that clearly shows the graveled Parking Area, and vehicle(s) parked on it. Those materials are enclosed and marked as Exhibit 4. Mr. Purvis has been able to pinpoint the years on some of the photographs by reference to the zoning records (for surrounding properties' visible projects). He has notated these photographs with his comments and notes, and some arrows to bring the Board's attention to certain relevant portions. If the Board would prefer to see any unannotated versions of these photographs I would be happy to provide them.

A graveled parking area contributes to the total lot coverage for a property, which in Burlington's Residential Low Density Zone, where the Property is located, must be no more than 35% of the lot area. *See Burlington Code of Development Ordinances ("BCDO") § 4.4.5, Table 4.4.5-3.* If a property feature does not conform to municipal land use regulations, the City must bring an action to enforce the violation "within 15 years from the date the alleged violation first occurred and not thereafter." 24 V.S.A. § 4454(a). A nonconforming use under the BCDO is considered abandoned if it is discontinued for a period of one year or longer. BCDO § 5.3.4(b).

Mr. LeClair's statements regarding his and his tenants' usage of the Property and the Parking Area, and the aerial photography, clearly demonstrate that for at least the past thirty years the Parking Area has been graveled and continuously used for parking. At no point was there a period of one year or more when the Parking Area was abandoned or discontinued. In

her Decision, Ms. Francis notes that on the few occasions she visited the Property she did not see anyone parking in the Parking Area, and documents one visit at 3:30 PM. However, these isolated visits, which were likely made during the day when no one was at home, do not establish a pattern of non-use or discontinuance of use for one year or more such that this is an enforceable violation. This Parking Area has been in continuous use by Mr. Purvis and his tenants, and Mr. LeClair and his tenants before him, for well beyond the 15-year limitation on enforcement.

If there is any additional information the Board may require in advance of the hearing, please don't hesitate to contact me. Thank you for your consideration of the enclosed materials and information laid out above. I look forward to discussing this with the Board at the public hearing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nicole A. Killoran", written over a horizontal line.

Nicole A. Killoran, Esq.
nkilloran@vtlawoffices.com

cc: Luke Purvis

Enclosures

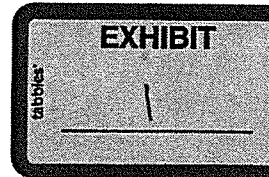


CODE ENFORCEMENT OFFICE

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

VOICE (802) 863-0442

FAX: (802) 652-4221



January 29, 2015

LUKE PURVIS
164 NORTH WILLARD ST
BURLINGTON, VT 05401

RE: Complaint # 275063 Located at 164 North Willard Street

Dear LUKE PURVIS:

On September 22, 2014, a notification letter was mailed informing you that the Code Enforcement Office received a complaint regarding *expansion of the parking area at the above address without a permit; see attached photo.*

Follow-up inspections were conducted; with you at the property and in the Code Enforcement office. Code Enforcement staff found no parking on your property during the months of September, October and November. After reviewing the affidavits submitted in response to the complaint, they have been found inconclusive to determine that the 15-year enforcement statute of limitations is applicable on your property. An additional inspection was conducted on January 28, 2015 and no parking was found within the easement. Note that any determination regarding parking on your property has absolutely no effect on the easement rights of property owners as these are private property agreements of which the City is not a party.

All disturbed areas, as a result of previous parking, must be restored to green space by May 1, 2015; to conform to coverage allowances and respect of the setback.

The above is a decision of the Zoning Enforcement Officer, designee of the Burlington Zoning Administrator, and may be appealed to the Development Review Board in accordance with the provisions of Comprehensive Development Ordinance (CDO) Sec. 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of January 29, 2015, date of this decision, and accompanied by the appropriate fee (\$250.000) in accordance with Sec. 3.2.4 (a) of the CDO. Appeal application shall be filed with the City's Planning and Zoning Office (City Hall, 149 Church Street) by 4 pm on February 13, 2015; an appeal is not perfected until the fee is received.

Please feel free to contact me at (802) 864-8518 or jfrancis@burlingtonvt.gov if you have any questions or concerns.

Sincerely,

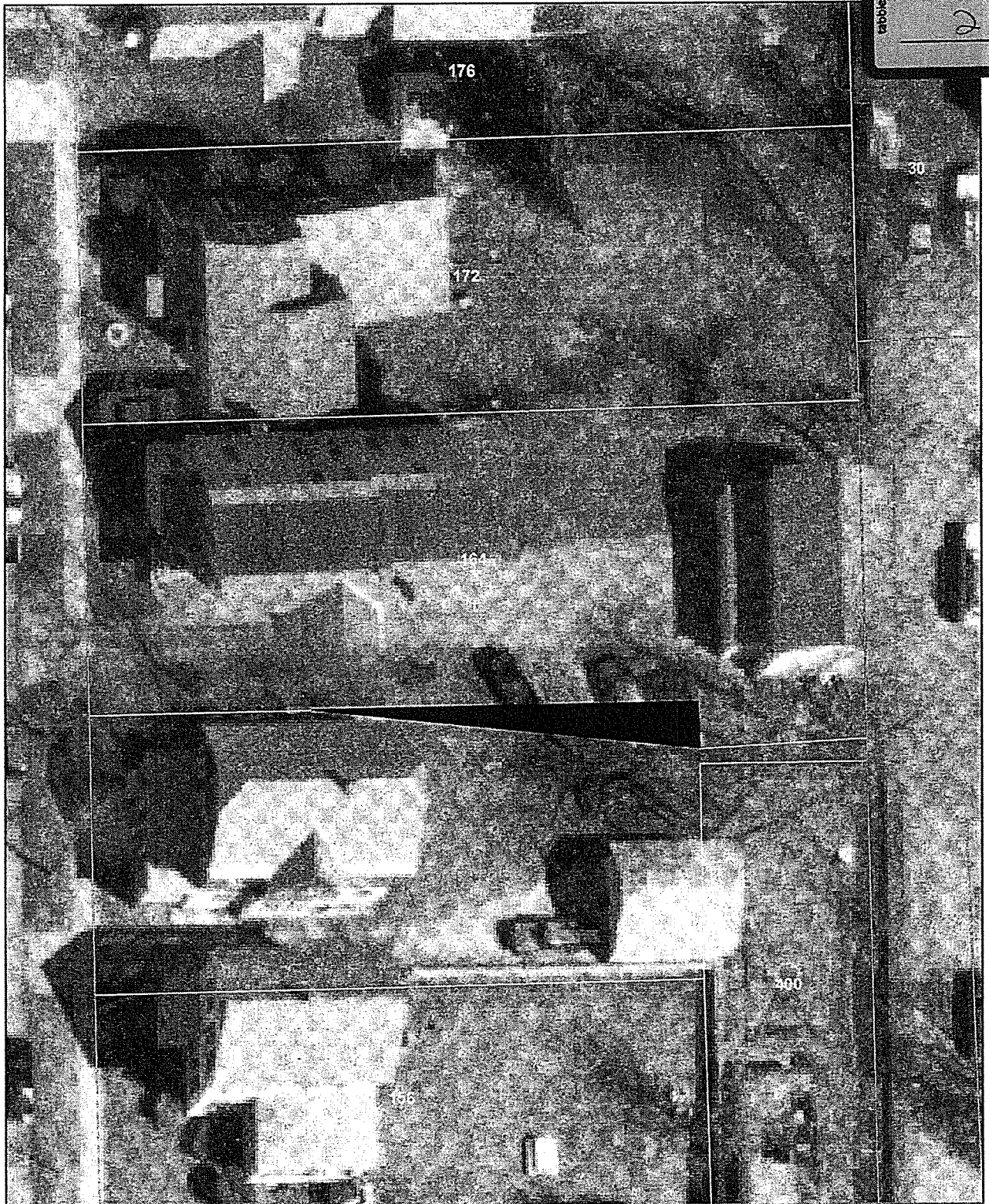
Jeanne Francis
Zoning Specialist

Enclosure: Photo dated November 10, 2014 of area in question – no parking

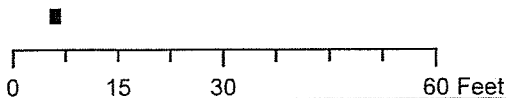
Cc: Nicole A. Killoran, Esq.
Joseph Cleary, property owner 158 No Willard St



No parking found. Area damaged by previous parking shall be restored by May 1, 2015.



164 North Willard St 2000



Property lines are assumed only and are not considered accurate
Produced by N. Anderson at City of Burlington Planning and Zoning

Statement of Historical Usage for 164 North Willard St

I, Hector J. Leclair, being duly sworn hereby state as follows:

History/Description:

I purchased 164 North Willard St., Burlington VT 05401 in April, 1966. I raised my family in this house. This property served as my home office since the date of purchase until July 2013 when I sold the property. In May, 1968, I purchased the rectangular parcel of land immediately to the south of the barn structure. In August 1983, the 164 North Willard property gained benefit of an exclusive easement over a north eastern triangle of the property located at 158 North Willard Street Burlington Vt, 05401. This triangle easement adjoins the entire westerly edge of the rectangular parcel transferred in 1968.

Usage:

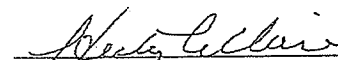
Barn/Garage - This structure never served to accommodate the parking needs of the property. It has always been used as a shop. Its first use was as automotive shop to support mechanical and storage needs to successfully own and drive the #59 stock car from the late 1960s and through the 1970s. After the stock car operation outgrew the barn, the usage of the structure transitioned to support the storage and construction needs of my real estate development businesses and the barn served those purposes until the property was sold in 2013.

Parking - The north side of the driveway to the east of the house has been used for parking since purchasing the property in 1966 and to my knowledge before 1966. Beginning in the late-1960s, early-1970s, I added gravel to this lot at regular intervals to maintain the parking lot. Each time I added new gravel to the parking area, I maintained the same footprint as the previous area, and did not expand or change the covered area. Most recently, I added gravel in 1996, 2005, and 2013. I have added gravel on this lot many times since my ownership began as vegetation quickly encroaches on the parking area. This northeast lot is able to park 4 vehicles and spans approximately 35 feet from east to west.

This property has always had high usage needs due to mechanics and contractors visiting the barn, business associates meeting in my home office, and tenant parking. The north east lot was never able to accommodate the off street parking needs of the property. In 1983, an easement was created to address the parking shortage. This easement was intended for and has been used as parking for 164 North Willard since its creation. Up to 4 cars are able to park on this easement. I installed a metal fence and planted trees along the easement line as part of this easement's creation. The metal fence stayed in existence, uninterrupted, without complaint from owners of 158 North Willard as a boundary line until it was removed and replaced by a wooden stockade fence in 2012, prior to the sale of 158 North Willard. I agreed to the replacement of the metal fence line to wooden stockade because of the improvement to privacy. The wooden fence was intended to be the boundary line replacement of the metal fence. Maintenance of this easement area, since its creation, included weeding, mowing, adding gravel and dirt as needed and snow removal, which I performed.

Finally, I parked trailered equipment on the rectangular parcel that was transferred in 1968 as needed.

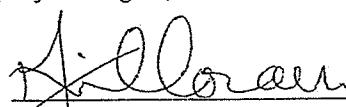
Dated at Burlington, Vermont this 4th day of August, 2014.


Hector J. Leclair

STATE OF VERMONT
COUNTY OF CHITTENDEN

Subscribed and sworn to before me this 4th day of August, 2014.

By:


Notary Public

My Commission Expires: 2/10/2015

AFFIDAVIT OF HECTOR LECLAIR

NOW COMES Hector LeClair and, being duly sworn under oath, hereby deposes and states as follows:

1. My name is Hector LeClair and I am the former owner of the property located at 164 North Willard Street in Burlington, Vermont (hereinafter the "Property"). I purchased the Property, which contains a multi-unit dwelling containing three apartments, in 1966.

2. Until I sold the Property to Luke Purvis in the Summer of 2013, I continuously used one of the apartments as my business office. I regularly visited the Property and spent time in my office at least several times per year.

3. In 1983, I received the benefit of an easement (the "Easement") for a portion of the Northeast corner of my neighbor's property at 158 North Willard Street, Burlington, for "ingress and egress and for all other lawful purposes." A copy of the 1983 Easement, recorded at Book 297, Page 80 of the City of Burlington Land Records, is attached hereto.

4. In 1983, after the Easement was recorded, I laid gravel and dirt in the easement and on a portion of the Southern portion of the Property to create a parking area for my guests and occupants. An aerial photograph from 1988 showing parking in the Easement and the gravel footprint is attached hereto. The footprint of the graveled area when I first laid it down was a rough triangular area of 14' X 53' X 55', abutting on the Northern edge onto the paved driveway.

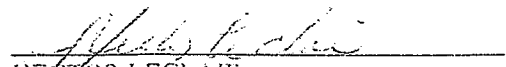
5. Because grass and other vegetation encroached on the graveled area quickly, I laid new gravel and dirt in the same footprint in the Easement area several times over the years to maintain the parking area for occupants and guests. From the first time I laid gravel and dirt in 1983, until the last time I did so before selling the Property in 2013, any new gravel and dirt was placed in the same footprint as the previously gravel and dirt, maintaining the same 14' X 53' X 55' footprint. At no time did I expand the graveled area beyond its original footprint.

6. Whenever I had tenants living in the other apartments on the Property, they and their guests would regularly park in the Easement area. This is demonstrated in the series of photographs attached hereto, which show either my vehicle or tenants' vehicles parked in the Easement area in 1988, 2000, 2004, approximately 2005, 2011, and 2013.

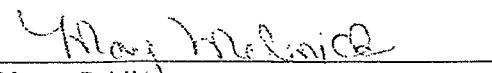
7. From the late-1960s/early-1970s forward I also maintained a parking area in the Northern portion of the Property (the "Northern Parking Area"), and would regularly park there, as would occupants and guests. The Northern Parking Area footprint is a roughly rectangular shape with slightly longer Western and Eastern sides, approximately 32' long and 19' or 23' wide on either end. The Southern boundary of this Area is the paved driveway. Each time I laid new gravel in the Northern Parking Area I did so in the same footprint as I originally established in the late-60s/early-70s.

8. The number of tenants I rented to over the years fluctuated; however, from 1983 until I sold the Property in 2013, even if I did not have any active tenants I continued to use my business office on the Property regularly. When I would visit my office, I would park in the Easement area, or in the Northern Parking Area.

DATED at Essex St., Vermont this 25th day of August, 2014.


HECTOR LECLAIR

Subscribed and sworn to before me this ____ day of August, 2014.

By: 
Notary Public
My Commission Expires: 2/10/2015



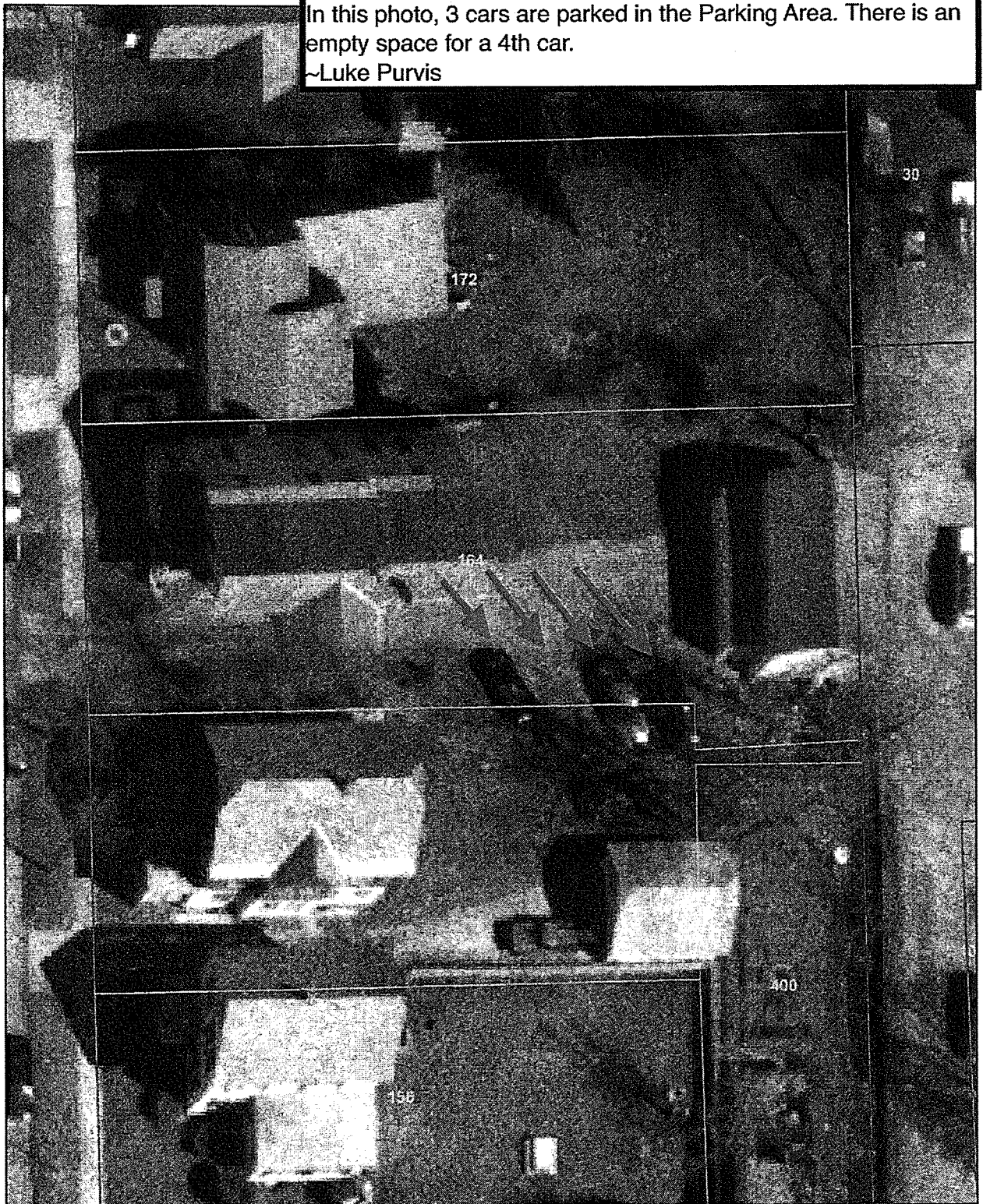
1988

ortho photo

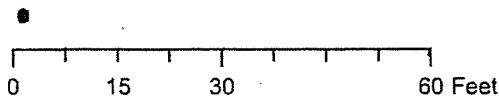
EXHIBIT

4

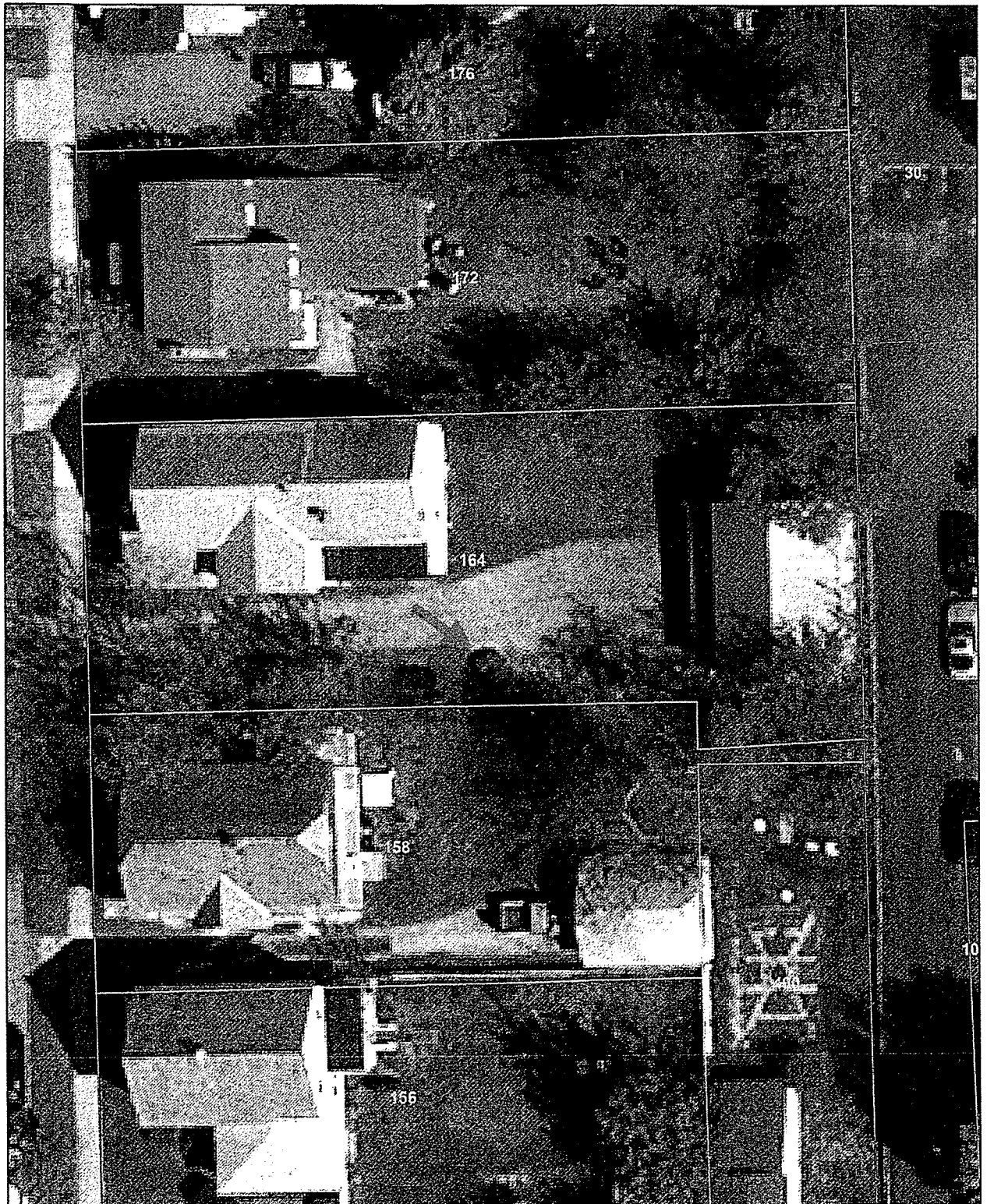
In this photo, 3 cars are parked in the Parking Area. There is an empty space for a 4th car.
~Luke Purvis



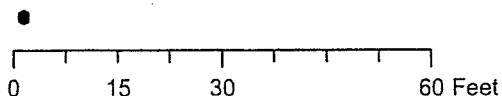
164 North Willard St 2000



Property lines are assumed only and are not considered accurate
Produced by N. Anderson at City of Burlington Planning and Zoning



164 North Willard St 2004



Property lines are assumed only and are not considered accurate
Produced by N. Anderson at City of Burlington Planning and Zoning

NORTH PROFESSIONALS

[Property search](#)[Home values](#)[Get advice](#)[Agents/Offices](#)[Ab](#)[Property Search](#) Burlington, VT

**164 N WILLARD ST,
BURLINGTON, VT HOME VALU**

This picture is from spring, not earlier than 2007.

The deck for 158 North Willard is visible. The Office of the Assessor for Burlington attributes construction to 2006. The roof damage from the fire in fall 2006 is visible at 398 North St. There are many permits for the fire caused by this damage including roof repair.
~Luke Purvis

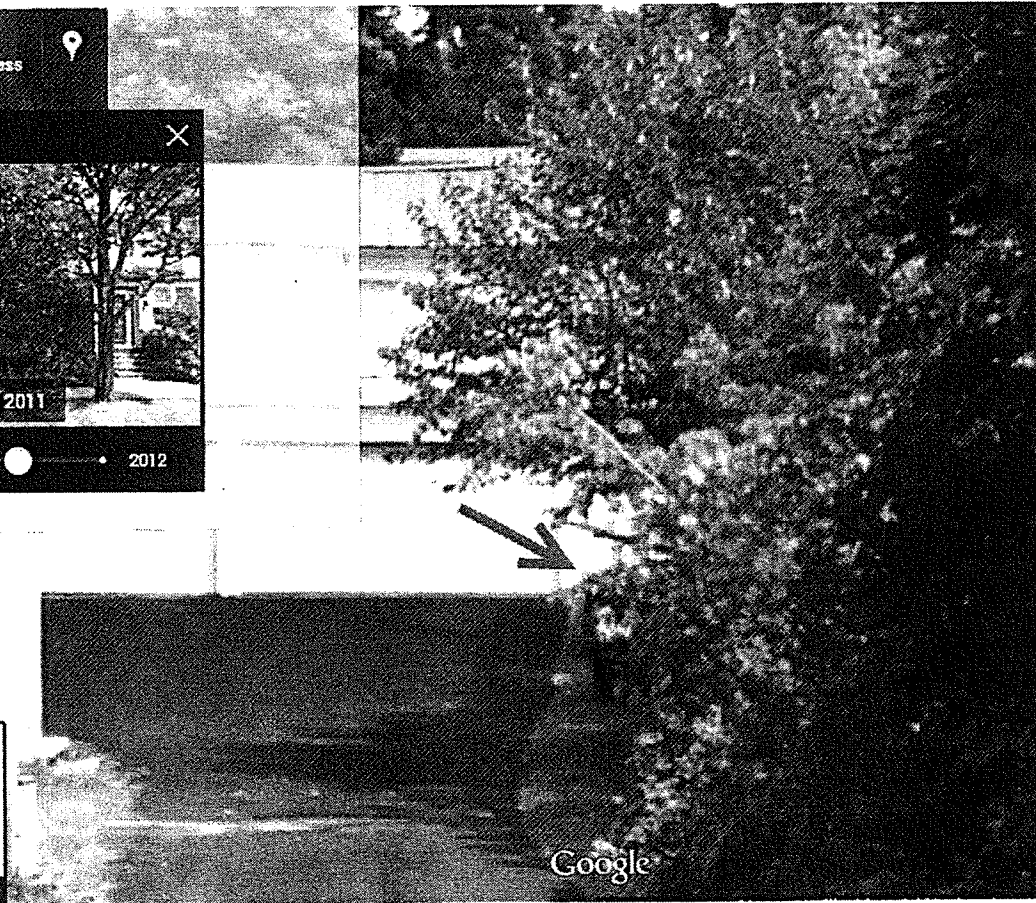
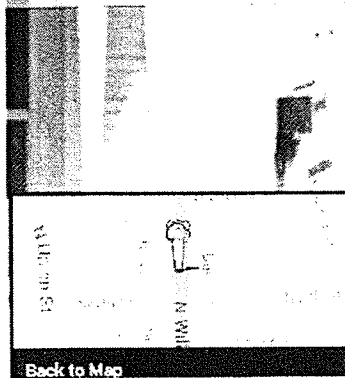
[Map](#)[Nearby Amenities](#)



I found this image on 6/11/2013. The deck of 158 North Willard attributed to 2006 by The Office of the Assessor for Burlington is visible. So the photo was take in summer, not before 2006.

~Luke Purvis

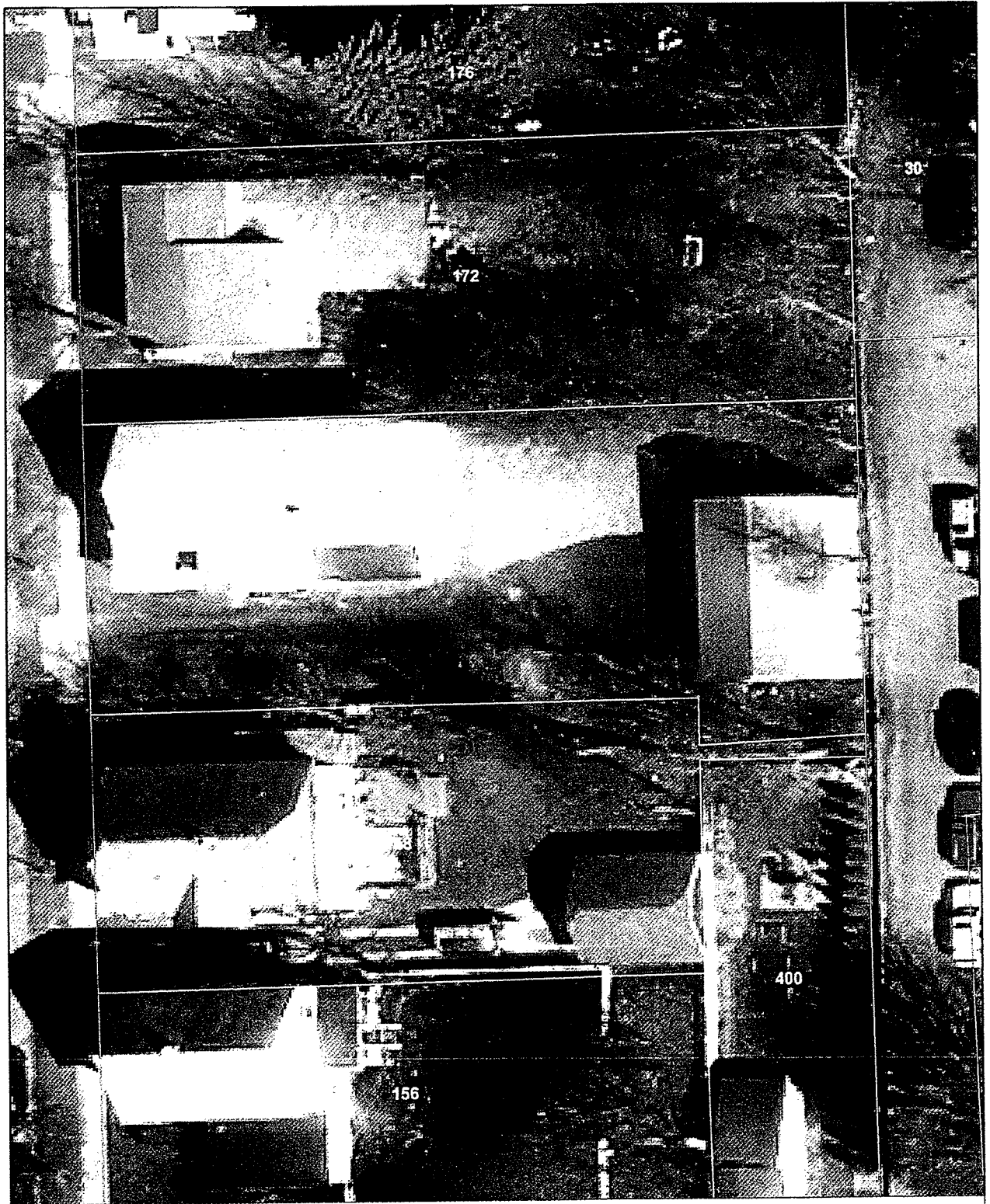
6/11/2013



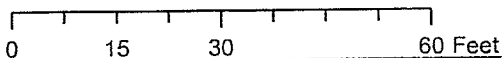
Single Car

8/2011

August, 2011 is the month when 158 North Willard was listed for sale. Concurrent to the listing, this was a parking area for 164 North Willard.
~Luke Purvis

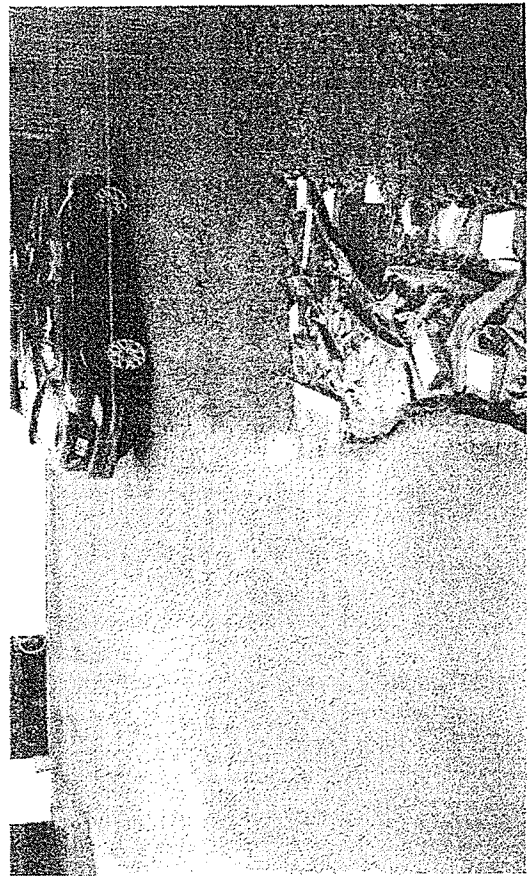
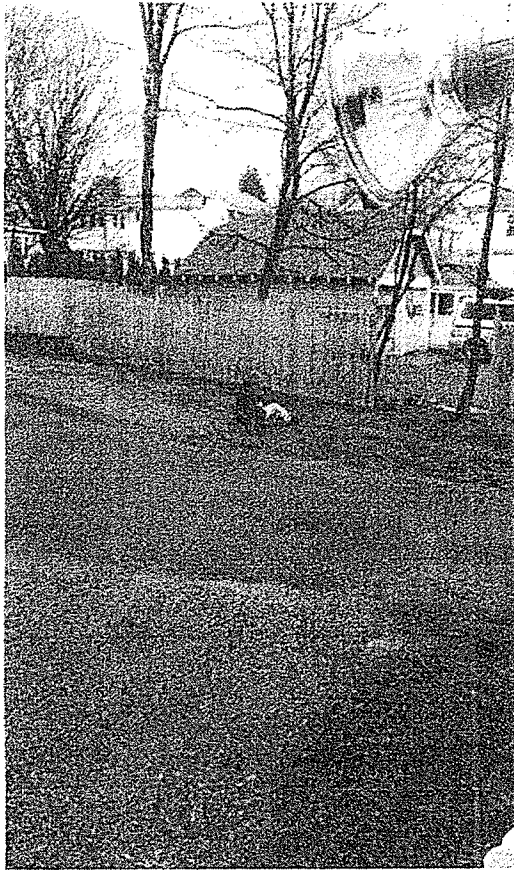


164 North Willard St 2013

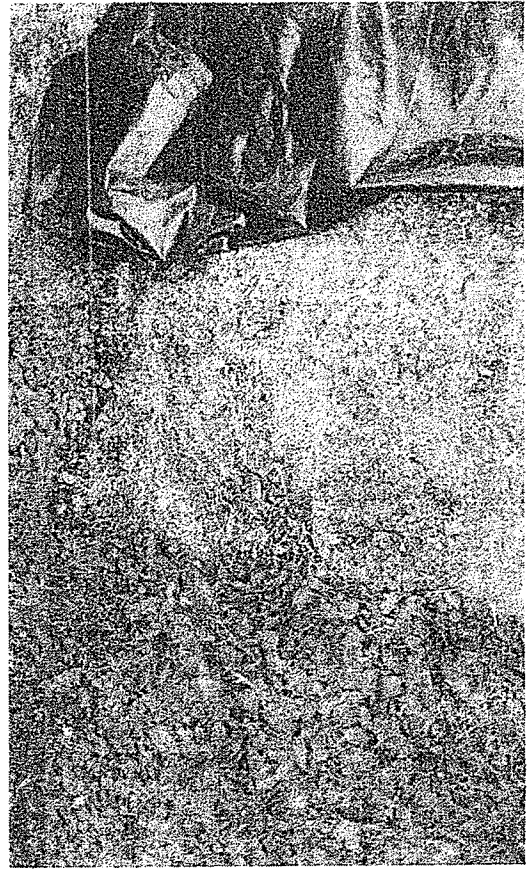


Property lines are assumed only and are not considered accurate
Produced by N. Anderson at City of Burlington Planning and Zoning

April 26, 2014



July 8, 2014



July 8, 2014



Miscellaneous Appeal – Code Enforcement Report

ZP #: 15-0797AP

Tax ID: 045-1-091-000

Application Date: February 17,
2015

Property Address: 164 NORTH WILLARD STREET

To: Development Review Board
From: Jeanne Francis, Zoning Specialist, Code Enforcement Office
Date: April 7, 2015
RE: 15-0797AP 164 NORTH WILLARD STREET (TAX LOT #: 045-1-091-000)

Description: Appeal of Code Enforcement Officer's January 29, 2015 "Unsubstantiated Complaint" determination that parking, along the southern boundary of Property, has been expanded.

For clarification, decision issued to Appellant on January 29, 2015 only pertains to the Property at 164 North Willard. The "easement" referred to frequently in documents is located on part of the adjacent property at 158 North Willard Street. Thus, the expansion of parking referred to in the Appellant's decision refers to a strip of land, approximately 2' (w) x 60' (l) on the south side of the driveway and north of the easement on the adjacent property(see attached drawing).

APPELLANT/Representative: Luke Purvis/Nicole Killoran, Esq.

DATE APPEAL FILED: February 13, 2015
Zone: RL Ward: 1

APPLICABLE REGULATIONS:

Sections 2.7.11, 12.2.2, and 5.3.2 of the Comprehensive Development Ordinance (CDO); appeal indicates Appellant will argue 24 V.S.A. § 4454 (a).

RELIEF REQUESTED BY APPELLANT:

That the board reverse Code Enforcement Office's decision and find that the parking area constitutes an unenforceable violation pursuant to 24 V.S.A. § 4454 (a).

GROUND FOR RELIEF BY APPELLANT:

Appellant provided documents of Property history and parking use arguing 15 years statute of limitations for enforcement.

APPELLANT'S SUBMITTALS:

- February 27, 2015 Summary of Appeal

- January 29, 2015 Decision – Exhibit 1
- 2000 Property Lines – Exhibit 2
- Statement of Historical Usage for 164 North Willard St. – Exhibit 3
- 1988 Ortho Photo – Exhibit 4

CITY's SUBMITTALS:

- Appeal
- January 29, 2015 Decision
- February 4, 2015 Decision
- Affidavits submitted by Property Owner Cleary (158 North Willard St)
- Affidavits submitted by Property Owner Purvis (164 North Willard St)
- Aerial Photos of Property (164 North Willard St)
- Drawing of the two Properties indicating approximate location of easement
- Photos dated September, October, November and January.
- Complaint

BACKGROUND:

A written complaint was submitted to the Code Enforcement Office on June 30, 2014; "North and south sides of driveway in rear has new parking constructed March 2013, parking on lawn ongoing especially since April/May 2014 (also visible from Dan's Ct.)".

Code Enforcement Office staff followed up with numerous meetings and correspondence with the parties. A number of site visits and monitoring were conducted at the Property, as well as, research of City records, review of aerial photos and supporting documentation from Appellant and neighbor. Between September 10, 2014 and January 2015 Code Enforcement staff did not observe any parking south of driveway at 164 North Willard.

In response to the complaint the previous owner of 164 North Willard, Hector LeClair, wrote that he purchased the Property in 1966. He stated two of the three dwelling units of Property were rentals while the third acted as an office (see attached affidavit – although there are no permits on record for an office use at 164 North Willard). According to the affidavit, parking was never assigned (still isn't), tenants, clients, and Mr. LeClair (who lived in Essex) parked wherever there was a space available.

There are no City records on file indicating location or number of parking spaces at 164 North Willard.

In 1983 Mr. LeClair, as supported by testimony, obtained easement rights from "property to the south" (158 North Willard) to be used for "ingress and egress and for all other lawful purposes". LeClair indicated that parking had occurred within the easement for a period of 15+ years, until 2013.

Since Appellant's purchase of 164 North Willard in 2013, he states there has been parking within the easement.

This contention is refuted by neighbor Cleary, who purchased 158 North Willard in 2012. Mr. Cleary denies Appellant's statements and states that "... between July, 2012 and April of 2014, a

period of approximately 19 months, or ONE year and 7 months, the easement was never used for parking vehicles. In addition, I [as owner of 158 North Willard] never gave consent for cars to be parked on this [easement] area". See attached drawing indicating approximate location of easement.

A review of City records revealed no zoning permits were on file for Property.

- Photos (attested date of March 7, 2013) show contractors spreading gravel and a compacted material north and south of driveway.
- Photos (attested date of "summer of 2013") show delineated parking areas north and south of Property driveway with 1-2 vehicles parked perpendicular south of Property driveway.

DETERMINATION:

Based on the research conducted, information provided, including but not limited to statements by the owner of 158 North Willard and on-site observations by Code Enforcement it was determined that the violation complaint was unfounded as parking in the area at issue had ceased. Further, as the parking had ceased for a period in excess of 60 days, Appellant lost any potential claim to reestablishment or the 15 year statute of limitation. See CDO Sec. 5.3.2 below. This determination was issued on January 29, 2015 and is the subject of the appeal. Note that this determination only addresses parking south of the driveway.

CDO Sec. 5.3.2. "Bianchi" controlled uses, structures, and lots.

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

RECOMMENDATION:

Code Enforcement Office recommends that as the parking has been discontinued south of driveway for over a period of 60 days, the Board to uphold the January 29, 2015 decision. Any argument put forth under 24 V.S.A. § 4454(a) would be lost under CDO Sec. 5.3.2's 60 day provision.





March 7, 2013 – dump truck in driveway of Property dumping gravel. Area south of driveway shows signs of disturbance but not parking.



Photo taken from neighbor/complainant



September 7, 2015 two vehicles parked south of driveway of 164 No Willard



September 10, 2014 – no parking south of driveway



Scott Gustin

From: ccburnsrealestate@gmail.com on behalf of Charles Burns <ccburns@c21jack.com>
Sent: Wednesday, April 01, 2015 4:30 PM
To: Scott Gustin
Subject: Fwd: 18-20 Weston

Hi Scott, Elsie suggested I send this request to you as Ken's email has the auto reply that he is away. Please let me know. Thanks, Chuck cell802-343-0462

----- Forwarded message -----

From: Charles Burns <ccburns@c21jack.com>
Date: Wed, Apr 1, 2015 at 4:23 PM
Subject: 18-20 Weston
To: klerner@burlingtonvt.gov

Hi Ken, We would like to postpone our hearing with the DRB until a later date. My attorney, Brian Hehir has not been able to communicate with Kim Sturtevant and we are still unsure of the actual violations. This is a follow up request from Brian Hehir's request earlier in the week to the Chairman of the DRB. Thank You and we look forward to hearing back. My Best, Chuck



Chuck Burns, Broker/REALTOR
The Burns Real Estate Team
Specializing in Apartment Sales
and Residential Homes

CENTURY 21 JACK ASSOCIATES
44 Shelburne Street
Burlington, VT 05401
Cell - 802-343-0462
Office 802-864-9856
www.c21jack.com

Agency Disclosure: The Vermont Real Estate Commission requires all real estate licensees to disclose Agency relationships with all real estate consumers. Our firm represents both Buyers and Sellers. Unless our firm has a Listing Agreement or a Buyer Broker Agreement with you, we do not have a broker/client relationship with you. We can assist you in the purchase of any Vermont property whether listed by our office, another agency or if it is for sale by owner. If you are a prospective buyer and we send you information concerning properties you may be interested in, we are doing so as the seller's agent or as a cooperating broker with agents who represent the seller. If you would like Buyer Representation the Burns Real Estate Team would be happy to discuss this option with you.

General Disclaimer: The data contained herein is for informational purposes only and is not represented to be error free. We have made every effort to obtain information regarding listings from sources deemed reliable. However, we cannot warrant the complete accuracy thereof subject to errors, omissions, change of price, rental or other conditions, prior sale, lease or financing, or withdrawal without notice.

Notwithstanding any attachments of scanned and signed documents to the contrary, nothing contained herein constitutes nor is intended to constitute an offer of inducement, promise, or contract of any kind. Only signed documents are adequate to enter into a contract or to modify, amend, change or provide any required notice to a previously signed contract.

This is not a solicitation for your business if you already have a client relationship with another real estate agency.

To opt out of emails just reply with a request. Thank you the Burns Real Estate Team.

BRIAN P. HEHIR
ATTORNEY AT LAW
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 31, 2015

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

HAND DELIVERED

Re: 18-20 Weston Street, Notice of Violation 15-0830AP, Charles and Cynthia Burns

Dear Chairperson:

I represent the Burns in this appeal of an alleged zoning violation.

This is a request to continue the hearing set for Tuesday April 7 at 5:00pm.

The reason for this request is that I have been working with the City Attorney (Kim Sturtevant) to determine exactly which sections of the Ordinance are alleged to have been violated. At this time, it is unclear from the Notice of Violation and the attached Findings, which sections of the Ordinance are involved. Ms. Sturtevant says that her information will be forthcoming.

We would like the opportunity to prepare fully for the hearing and can do that when we know exactly which sections or provisions of the Ordinance must be addressed at the hearing.

It is also very likely that the owners and the City can agree to a settlement of this matter without the need for a hearing.

As such, we request that the hearing be continued for 60 days.

Thank you for your consideration.

Very truly yours,



Brian P. Hehir, Esq.

cc: Charles and Cynthia Burns

RECEIVED
MAR 31 2015
DEPARTMENT OF
PLANNING & ZONING

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

RECEIVED
MAR 11 2015

DEPARTMENT OF
PLANNING & ZONING

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

Brian@hehirlaw.com
www.hehirlaw.com

March 9, 2015

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

Re: Appeal of Charles and Cynthia Burns, 18-20 Weston Street.

Dear DRB Clerk:

Please find enclosed an appeal of a Notice of Appeal in response to Notice of Zoning Violation No. 279187. The Burns have previously filed an Appeal in this matter, dated February 24, 2015, and have paid the appeal fee. This supplements that previous filing.

Thank you for your assistance.

Very truly yours,



Brian P. Hehir, Esq.

enclosures

cc: Charles and Cynthia Burns

RECEIVED
MAR 11 2015

CITY OF BURLINGTON

IN RE: 18-20 WESTON STREET

DEVELOPMENT REVIEW BOARD
DEPARTMENT OF
PLANNING & ZONING

NOTICE OF APPEAL

NOW COME Charles and Cynthia Burns, owners of 18-20 Weston Street, by and through their attorney, Brian P. Hehir, Esq., and pursuant to Article 12 of the Burlington Zoning Ordinance, hereby appeal to the Burlington Development Review Board a Notice of Zoning Violation dated February 12, 2014; this Notice of Appeal supplements an earlier appeal filed by Chuck Burns on February 24, 2015 (attached).

In support of their appeal, appellants state as follows:

- 1) Charles and Cynthia Burns reside in Charlotte, Vermont and own a duplex located at 18-20 Weston Street.
- 2) The regulatory provisions which apply to this appeal are contained in the Burlington Zoning Ordinance; the Notice of Zoning Violation fails to state which specific sections of the Ordinance appellants' property is alleged to violate.
- 3) Appellants request that the Notice of Violation be dismissed because the parking lot in question is a pre-existing nonconforming use, and the alleged uses complained of, have, upon information and belief, existed continuously for over 15 years.

Dated at Burlington, Vermont this 9th day of March, 2015.

BRIAN P. HEHIR
ATTORNEY AT LAW
19 SOUTH UNION STREET
P. O. BOX 1052
BURLINGTON, VT 05402-1052
802-862-2006

By:

Brian P. Hehir
Brian P. Hehir, Esq., Attorney for
Charles and Cynthia Burns



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVED

MAR 11 2015

RECEIVED

FEB 24 2015

DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 18-20 Weston St.

PROPERTY

OWNER*: Charles Burns

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

APPLICANT: _____

POSTAL ADDRESS: 44 Shelburne St

POSTAL ADDRESS: _____

CITY, ST, ZIP: Burlington, VT, 05401

CITY, ST, ZIP: _____

DAY PHONE: 864-9856 or 343-0462

DAY PHONE: _____

EMAIL: ccburns@c21jack.com

EMAIL: _____

SIGNATURE: Charles Burns

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

SIGNATURE: _____

Description of Proposed Project: Appeal of Zoning Violation
279187

Existing Use of Property: ☐ Single Family ☒ Multi Family: # 2 Units ☐ Other: _____

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

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

Estimated Construction Cost (value)*: \$ _____

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

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

Office Use Only: Zone: _____ Eligible for Design Review? _____ Age of House: _____ Lot Size: _____
Type: SN _____ AW _____ FC _____ BA _____ COA-1 _____ COA-2 _____ COA-3 _____ CU _____ MA _____ VR _____ HO _____ SP _____ DTB _____ MP _____
Check No: _____ Amount Paid: _____ Zoning Permit # _____

24/4454(a) SOL



CODE ENFORCEMENT OFFICE

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

VOICE (802) 863-0442
FAX: (802) 652-4221

RECEIVED
MAR 11 2015

February 12, 2015

Cynthia and Charles Burns
475 Meadowside Drive
Charlotte, VT 05445

**DEPARTMENT OF
PLANNING & ZONING**

RE: 18-20 Weston Street

Dear Mr. Burns:

As you may recall, I met with you at the Premises known as 18-20 Weston Street, on November 12, 2015. At that time we discussed the parking and the 2005 Drawing, storage in the garage and the occupancy at 18-20 Weston Street.

It has come to the attention of this office that the parking on the southern boundary continues; we have received several complaints. When I spoke with you in November you noted that a couple of the cars on the southern boundary belonged to your tenants at 12 Weston Street. You also mentioned you would inform those tenants not to park at 18-20 Weston Street; parking for 18-20 Weston Street is restricted by use of those tenants and guests, parking by 12 Weston Street results in a "private parking lot" situation; apparently your 12 Weston Street tenants are not listening to you and as the property owner, it is your responsibility to ensure compliance. If you wish to apply for a zoning permit to include a private parking lot at this Premise for your 12 Weston Street tenants, that is your right.

We also talked about storage within each of the garages. I noted to you that I had spoken to your maintenance person prior to our visit and he informed me two of the garages were being used for maintenance and storage relating to all your properties. In addition, you mentioned that you and your daughter were storing items in two of the garages. These garages are used in the parking requirement calculation and should be used for tenants at 18-20 Weston Street. It is permissible for 18-20 Weston Street tenants to use a partial of each of the garages for their personal storage, same scenario of a single family house, park in the garage and use part of the garage as storage – accessory to the garage. If you wish to apply for a zoning permit to include storage for off-site use and storage of maintenance equipment for all your properties, that is your right.

RECEIVED
MAR 11 2015

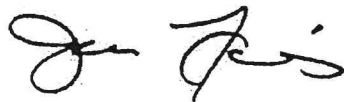
Cynthia and Charles Burns
Page 2

DEPARTMENT OF
PLANNING & ZONING

Our office, in consultation with Planning/Zoning staff and City Attorney's office are still occurring, thus citing use of premises inconsistent with the Family Definition of the Zoning Ordinance (CDO) has not been included in this notice of violation, however, if appropriate, may be part of a future notice of violation.

Attached is the formal notice of violation. Please feel free to call me at 864-8518 or e-mail me at jfrancis@burlingtonvt.gov when you are ready to discuss your options (within each noted timeframe, of course).

Sincerely,



Jeanne Francis
Zoning Specialist

Attachments: Notice of Violation for Premises located at 18-20 Weston Street.

**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)

February 12, 2015

Mailed Certified Mail 7013 3020 0001 6717 6912
And FIRST CLASS MAIL

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

NOTICE OF VIOLATION AT:
18-20 WESTON ST, BURLINGTON, VT
TAX LOT #045-1-236-000

Zoning Violation# 279187

Dear Mr. and Mrs. Burns,

It has come to the attention of this office that a zoning violation exists at 18-20 Weston St.

Description of Violation:

1. Green space along southern boundary of property used as a "Private Parking Lot". Change of a conforming use to a non-conforming use, without zoning approval; and
2. Replacing green space with additional parking without zoning approval, an increase in lot coverage; and
3. Change of accessory use: parking allocated to duplex use as regulated in the CDO, to storage, that is not accessory to the duplex use, without zoning approval; and
4. Placement of trash recepticals in an unapproved area of property, without zoning approval; and
5. Exterior storage along the southern boundary of property, in excess of 16 sf, without zoning approval.

(See attached findings, photos, and 2005 plan)

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 8, 12, 13 and 24 VSA §4451.

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

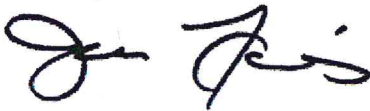
This correspondence serves as a formal notice of a zoning violation pursuant to 24 V.S.A §4451. You have seven (7) days from receipt of this notice to cure the referenced violation. Additional warnings for the violation are not required and will not be forthcoming. In the event that the violation is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

This NOV is a decision of the Zoning Enforcement Officer, designee of the Burlington Zoning Administrator, may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV December 5, 2014, 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 February 27, 2015**; an appeal shall not be perfected until the fee is received.

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

Sincerely,



Jeanne Francis
Zoning Compliance Officer

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 045-1-236-000

FINDINGS

VIOLATION DETAILS

LOCATION: 18-20 Weston ST

DECISION DATE: February 12, 2015

**VIOLATION
DESCRIPTION:**

1. Green space along southern boundary of property used as a "Private Parking Lot". Change of a conforming use to a non-conforming use, without zoning approval; and
2. Replacing green space with additional parking without zoning approval, an increase in lot coverage; and
3. Change of accessory use: parking allocated to duplex use as regulated in the CDO, to storage that is not accessory to the duplex use, without zoning approval; and
4. Placement of trash recepticals in an unapproved area of property, without zoning approval; and
5. Exterior storage along the southern boundary of property, in excess of 16 sf, without zoning approval.

FINDINGS:

1. Green space along southern boundary of property used as a "Private Parking Lot". Change of a conforming use (lawn) to a non-conforming use (parking), without zoning approval:
Findings: Up to 3 vehicles found parked along the southern boundary of property. Owner admitted he allows parking for tenants at 12 Weston St. Spoke with tenants at 12 Weston Street, they admitted tenants park at 18 Weston St. in area I identified to them. No record of zoning approval to operate a private parking lot.
2. Replacing green space with additional parking without zoning approval, an increase in lot coverage:
Findings: Several site visits verified parking along the southern boundary of property. Photos from prior years show green space which has not been replaced with private parking. No record of permits on file.
3. Change in accessory use: garage (parking bays), allocated to the duplex use, as

regulated in the CDO, has changed to storage for maintenance and storage of all Burn properties; such use is not accessory to the duplex use, without zoning approval:

Findings: see attached photo.

4. Placement of trash recepticals in an unapproved area of property, without zoning approval; and
5. Exterior storage along the southern boundary of property, in excess of 16 sf, without zoning approval. **Findings:** see attached photo.
6. May 31, 2005 "Show Cause Letter" mailed to Owners Cynthia and Charles Burns citing an increase in parking area. Owner could not document a consistent 15 year use of parking along the southern boundry to "grandfather" parking on the southern boundary. Aerial photos were not clear but it did appear one car had been parking on the southern boundary. Owner worked and together agreed to the attached 2005 plan to remedy violation. Decision was not appealed. Notice of Violation was not sent.
7. 2005 City and Owner agreed to 4 existing parking spaces on the northern boundary and one on the southern border. Shrubs were planted in front of northern parking lot and west of the one space southern parking lot. Concrete curbs were placed to mark 4 parking spaces along the northern boundary.
8. November 21 2014 spoke with Owner Chuck Burns at property. At the time 3 vehicles were parked on the southern boundary. Mr. Burns noted 2 of the parking spaces were allocated to 12 Weston St. (property south of this property which is also owned by Mr. Burns) but would ask tenants to move them. At the same time Mr. Burns noted garages were being used by himself, his daughter, tenants, and maintenance space for his properties.
9. As of February 11, 2015, parking violations are repeated.

REMEDY OPTIONS:

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

1. To remedy #1 and #2 above by complying with attached 2005 drawing. All landscaping and barriers shall comply with the drawing. All areas destroyed to Premises from the illegal parking shall be **restored to its prior state (ie. lawn).** **Owner shall inform the Code Enforcement Office when violations have been removed so our office may verify compliance;**
2. **To remedy #3 above by removing storage in garages and replace with parking (garage spaces are used in calculating the parking required for the duplex;**
3. **To remedy #4: Relocate trash receptacles in front of parking space #1 as indicated on 2005 drawing;**
4. **To remedy #5 remove all exterior storage (ladders, boats, and wood) along the southern boundary; or**

2) - Obtaining approval from the City's Department of Planning and Zoning for a private parking lot, add coverage, change use of garage to accesory storage by others than tenants, site improvements (other than those indicated on 2005 drawing), and trash receptacle relocation, without an approved zoning permit (permit application **fee is doubled** if complete application is submitted within seven days from receipt of the NOV, **tripled** if a complete application is submitted 7-15 days from receipt of the NOV, **or triple plus \$75 per hour of Code Enforcement staff time** (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8. **PLEASE NOTE:** If the zoning permit request is denied, the violation is **NOT** cured. Owner shall be required to remove the violation as noted in #1 above or request

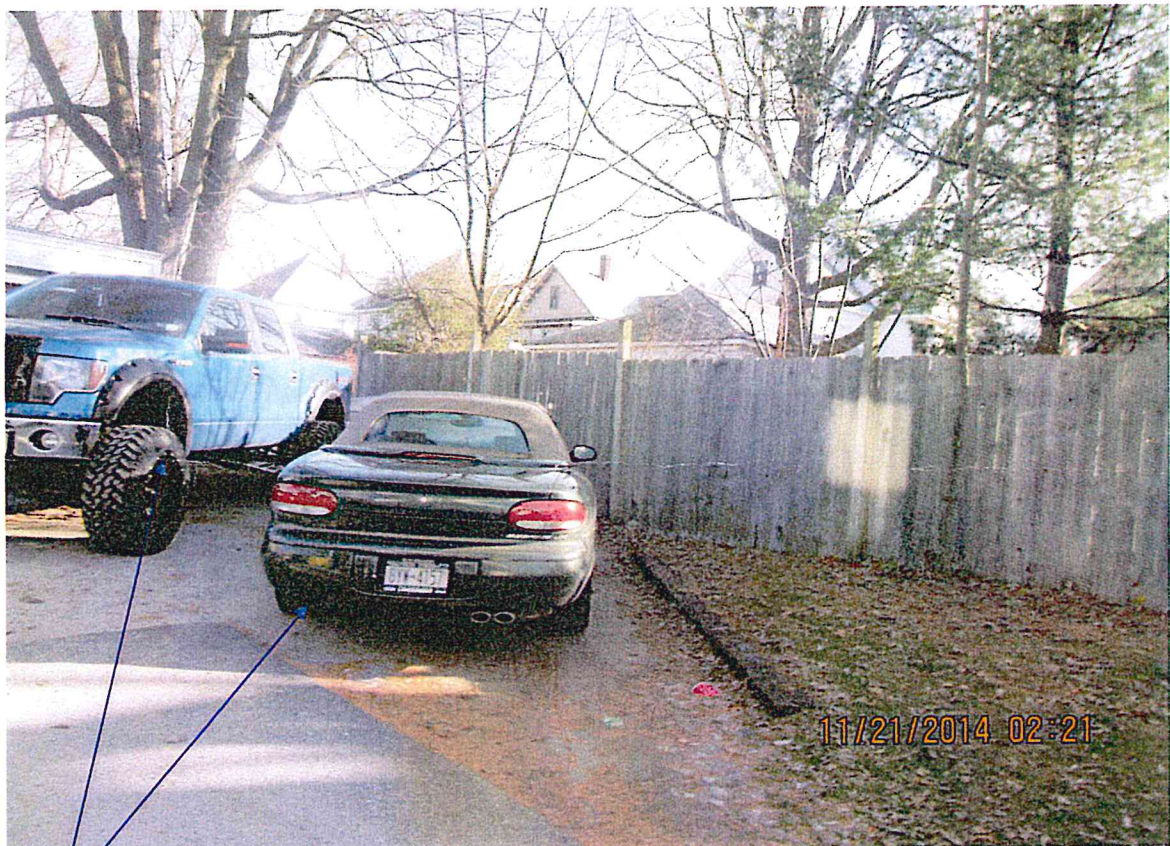
an agreement as noted in #3 below within five (5) business days from date of the permit denial to remedy the violation; or

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

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days **from the date of this notice**. **The deadline for filing an appeal is 4 pm on February 27, 2015.** 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

PHOTOS



Parking exceeds agreed upon parking – see attached 2005 plan.



Southern boundary. Boats and other exterior materials exceeding 16' sf require zoning approval.



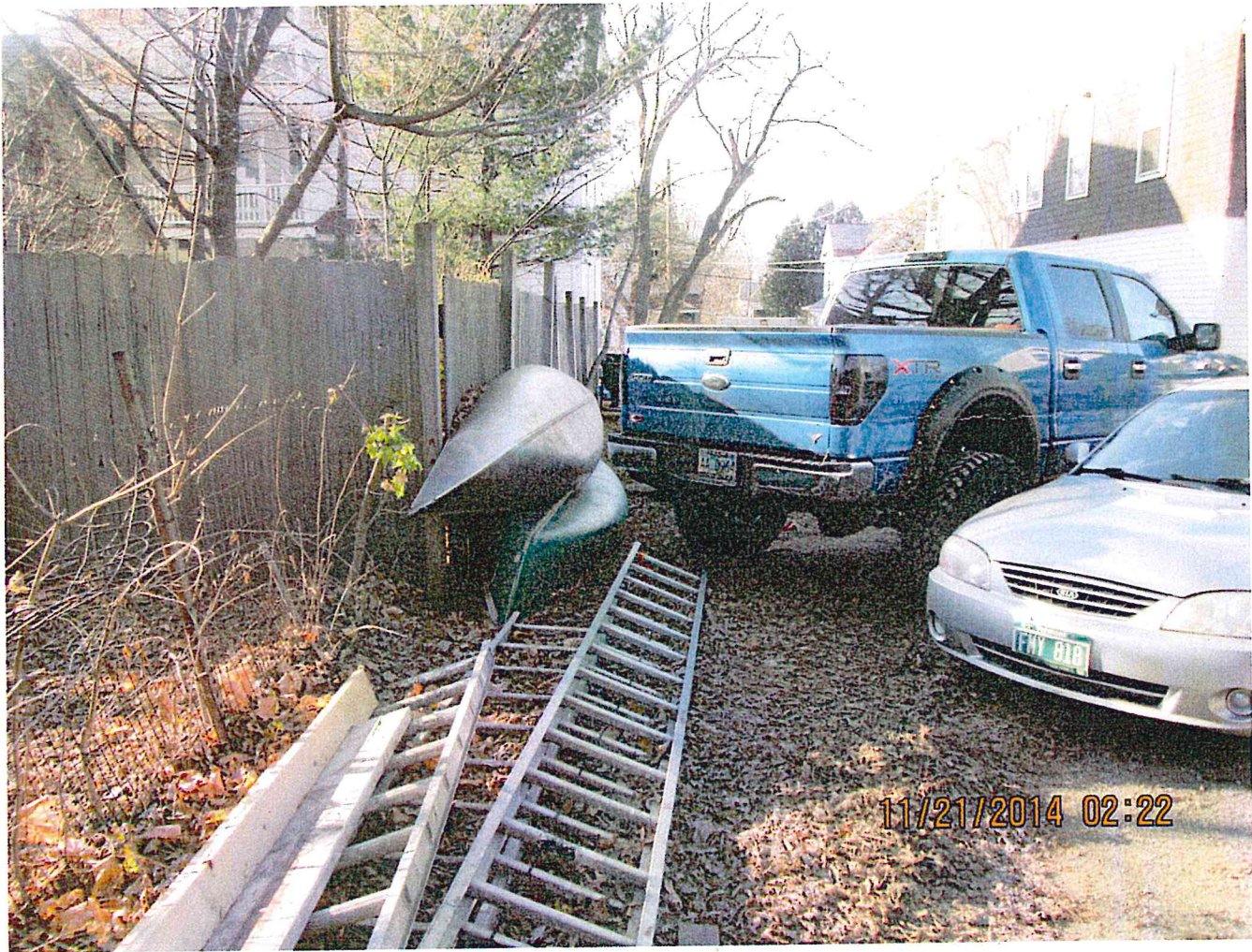
Southern parking area. In 2005 we agreed to one 9'x20' parking space (with barrier) surrounded by landscaping. Lately three vehicles have been using this area for parking. At least one vehicle belongs to a tenant at 12 Weston St (other than tenants of 18-20 Weston), thereby making this a private parking lot. See attached plan.



North parking lot – in 2005 we agreed to four 9'x20' parking spaces on the northern boundary with dumpster located in front (north) of parking space #1. Parking spaces were to be contained within a barrier to be reviewed and approved by our office. See attached plan.



Not an approved location for the trash receptacles. Garage units 1 and 2 are used for personal storage by owner – non conforming use would require zoning approval. The six garages are counted as part of the parking requirement for a duplex.



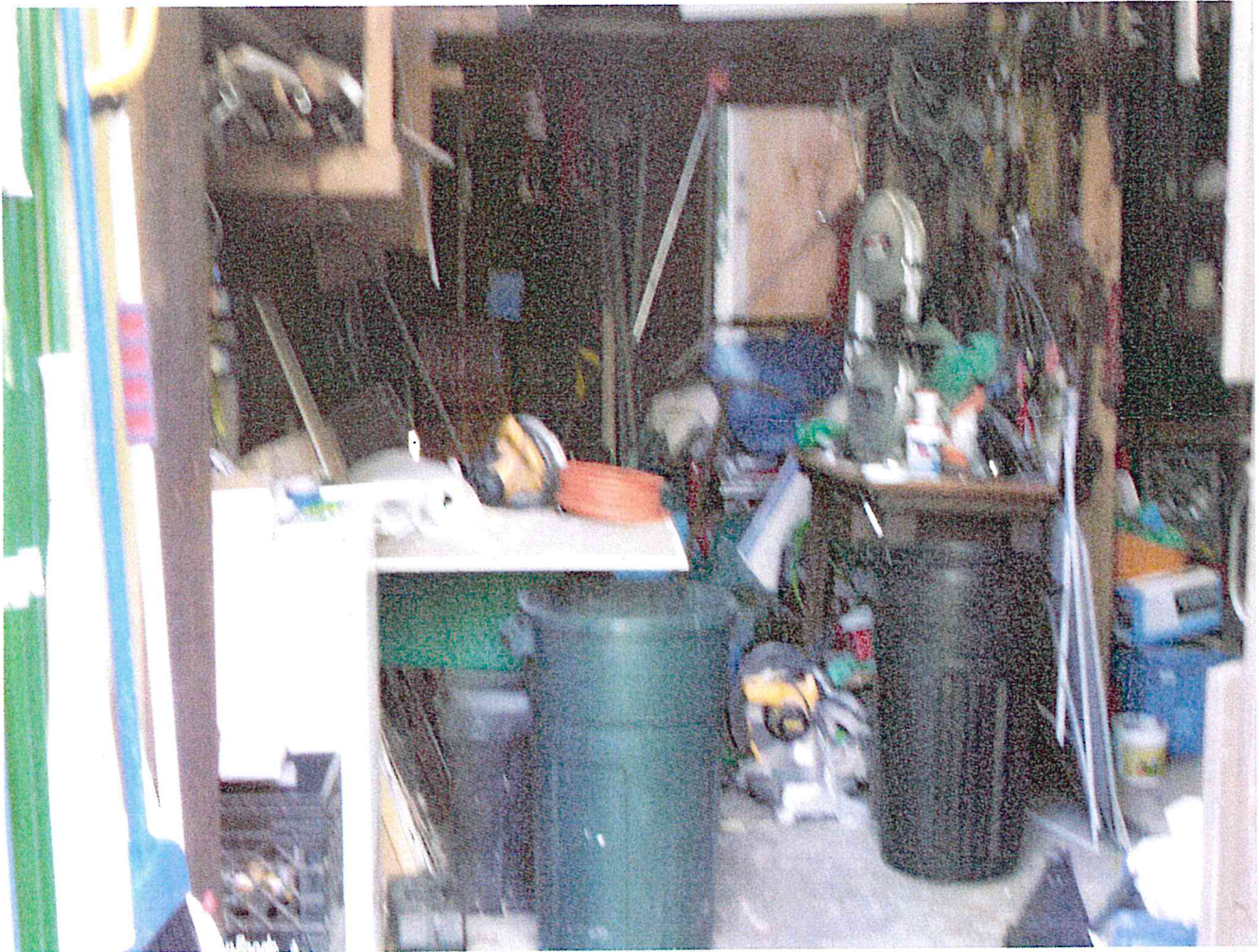
Exterior storage in excess of 16 sf along the southern boundary of property without a zoning permit.



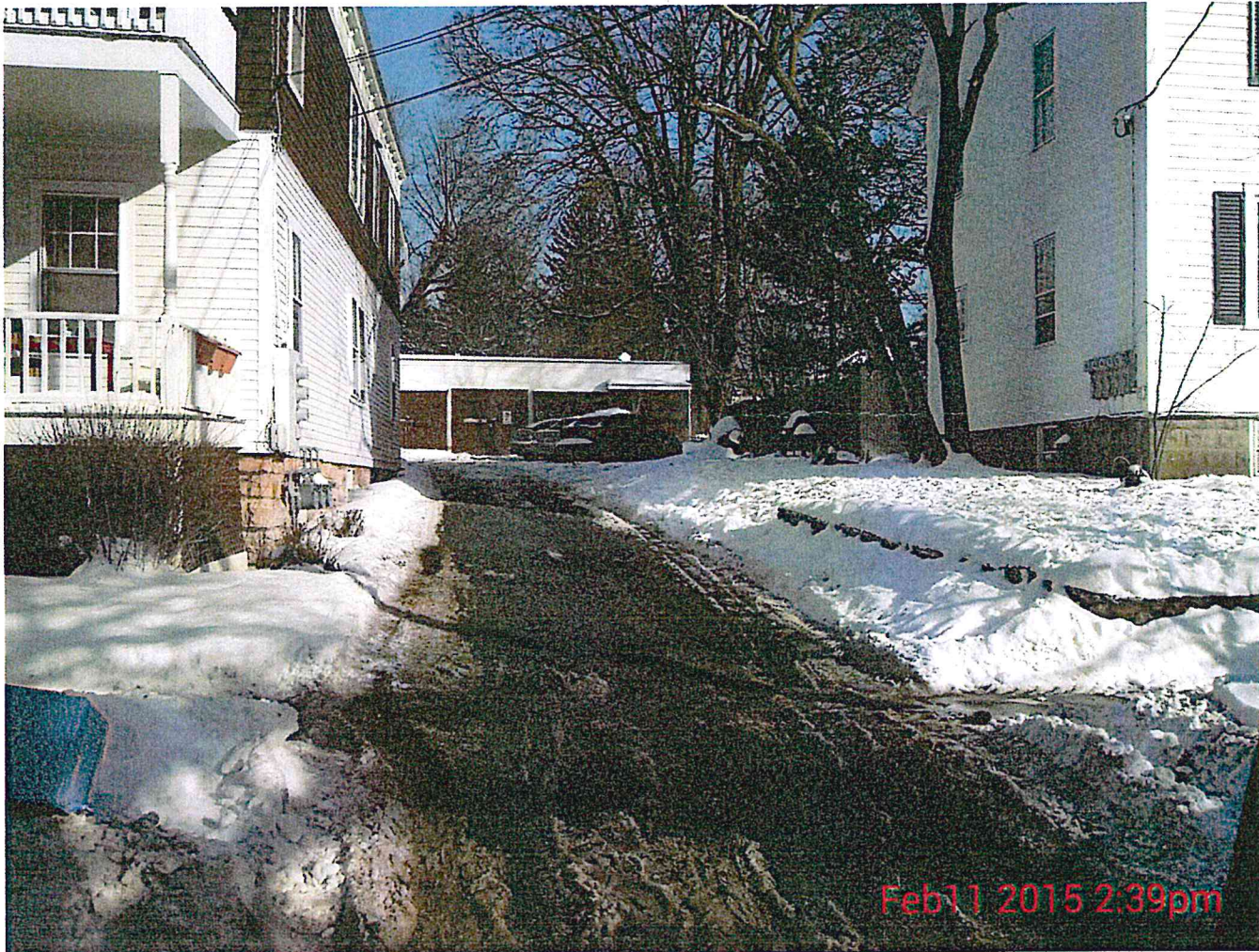
Storage of materials relating to repair and maintenance for other rental properties. Garage spaces #1 and 2 (southern edge of garage) are used for storage and maintenance space for all properties owned by Mr. Burns. Change of use from garage (conforming use) to private storage, without zoning approval.



Storage of materials relating to repair and maintenance for other rental properties. Garage spaces #1 and #2 (southern edge of garage) are used for storage and maintenance space for all properties owned by Mr. Burns. This is #2.



Unit #1. Maintenance personnel was present at the property in November and indicated units #1 and #2 were being used for storage of maintenance materials that are used for all Burn properties.



Today 3 vehicles parked along the southern boundary of 18-20 Weston Street.



EUGENE BERGMAN
Interim Director
865-5382

KATHLEEN BUTLER
Health Policy/Case Management Specialist
865-7510

JEANNE FRANCIS
Zoning Specialist
865-7544

Code Enforcement Administrators
GLORIA ALLEN
863-0442
SHIRLEY GILMAN
863-6247



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

Code Enforcement Inspector
GEORGE COUTRAY
652-4221
MATTHEW PER
864-2111
FRANCES POL
865-7511
DONALD ROBE
865-7511
JOHN RY
865-7511

Zoning Inspector
TIMOTHY AHON
652-4221

June 13, 2005

Charles and Cynthia Burns
475 Meadowside Drive
Charlotte, VT 05445

RE: Functional Family Application

Dear Mr. and Mrs. Burns:

You have requested to apply for Functional Family status pursuant to the definition of "Family" in Article 30 of the Burlington Zoning Ordinance. In order for us to process your request our office needs you to complete the enclosed Functional Family Application and submit the information requested therein.

Our office will also need to conduct a site visit and interview the residents at the property individually. At the interview, we request the residents to have copies of the following documents available for the interviewer to review: voter registration, driver's license, motor vehicle registration and last years tax form.

The application will not be deemed complete until all of this information is obtained. Further, there may be additional information requested during our review of the application if additional issues arise.

Please do not hesitate to contact me with any questions.

Sincerely,

Jeanne Francis
Zoning Specialist

231170-00002 FF Appl. Ltr. Form 3-4-2005

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

Cynthia and Charles Burns
Page 2

Our office, in consultation with Planning/Zoning staff and City Attorney's office are still occurring, thus citing use of premises inconsistent with the Family Definition of the Zoning Ordinance (CDO) has not been included in this notice of violation, however, if appropriate, may be part of a future notice of violation.

Attached is the formal notice of violation. Please feel free to call me at 864-8518 or e-mail me at jfrancis@burlingtonvt.gov when you are ready to discuss your options (within each noted timeframe, of course).

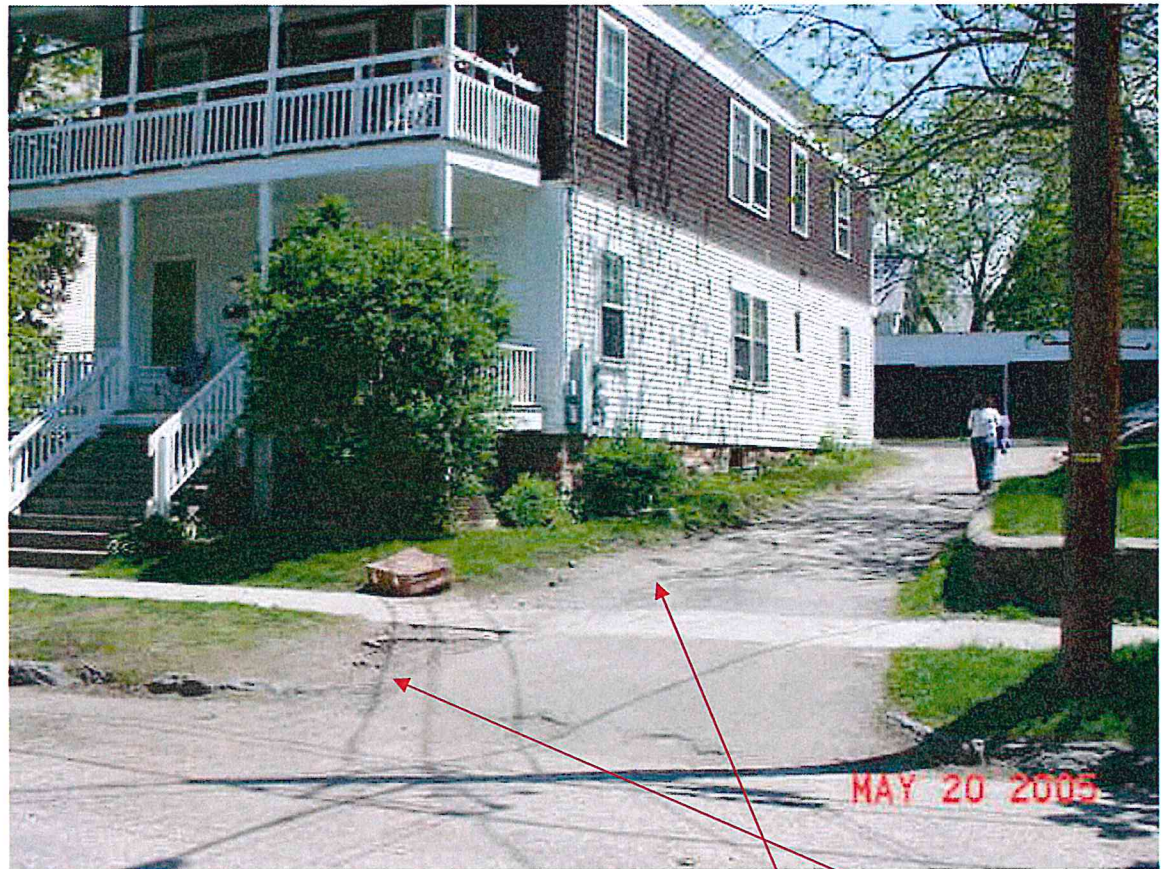
Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne Francis". The signature is fluid and cursive, with the first name "Jeanne" and last name "Francis" clearly distinguishable.

Jeanne Francis
Zoning Specialist

Attachments: Notice of Violation for Premises located at 18-20 Weston Street.

18-20 WESTON STREET MAY 20, 2005



The Driveway does not conform to the single width curb cut, the greenbelt is damaged. Curbing and greenbelt have been damaged by cars driving over the area.

18-20 WESTON STREET MAY 20, 2005

The



The Driveway does not conform to the single width curb cut, the greenbelt is damaged. Curbing and greenbelt have been damaged by cars driving over the area.

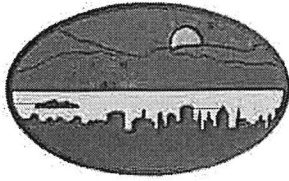
18-20 WESTON STREET MAY 20, 2005



The driveway area has allegedly been increased.

18-20 WESTON STREET MAY 20, 2005



**ZONING PERMIT****BASIC**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 4/15/1998

Appeal Expiration Date: 5/2/1998

Project Location: 18 WESTON STREET

District: RL

Owner: Scott Rieley

Address: PO BOX 4279

BURLINGTON VT 05406

Ward: 1

Tax ID: 045-1-236-000

Project Type: Residential - Renovation/Facade

Project Description: Installation of a stair within the existing rear porch to the duplex. No additional coverage or change in use.

Construction Cost:	\$1,000	Lot Size (Sq Ft):	
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	4

Zoning Permit #: 98-442

Decision By: Administrative

Level of Review: 1

Decision: Approved

See Conditions of Approval

Decision Date: April 17, 1998

Project File #: NA

Zoning Administrative Officer

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on May 2, 1998.

Fee Type	Amount	Paid in Full	Balance Due:	\$25.00
Application Fee:	\$25.00	Yes	Date Paid:	_____
Development Review Fee:	\$0.00	NA	Check #	_____
Impact Fee:	Not Applicable			

Building Permit Required: Yes

Permit Received by: _____

Date: _____

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

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

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

David E. White, AICP, Director

Ken Lerner, Assistant Director

Sandrine Thibault, AICP, Comprehensive Planner

Jay Appleton, Senior GIS/IT Programmer/Analyst

Scott Gustin, AICP, CFM, Senior Planner

Mary O'Neil, AICP, Senior Planner

vacant, Zoning Clerk

Elsie Tillotson, Department Secretary



MEMORANDUM

To: Development Review Board

From: Ken Lerner

Date: April 7, 2015

RE: ZP 15-0840CU 27 Arlington Court

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

File: ZP 15-0840CU

Location: 27 Arlington Court

Zone: RL **Ward:** 7

Date application accepted: March 2, 2015

Applicant/ Owner: Nathan Casewell

Request Change of use from single family to single family with bed and breakfast (one bedroom only).



Background:

- **August 24, 1987 Conditional Use** request to establish a youth hostel. Request approved as a home occupation but limited to six months. Returned after six months and was approved to continue operating. Specifically conditione for the applicant, Nancy Farrell,

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).

and that it does not run with the property and is not transferable. Decision not appealed. Note that at that time the basement was used as quarters for the hostel. It is not clear as to whether this space meets current requirements as habitable space.

Overview: The applicant wishes to convert one bedroom to bed and breakfast use. There exists a 10 ft. wide single width driveway that widens alongside the house to 18 ft. wide. Three parking spaces are required – two for the residential use and one additional for the rented room for a total of three.

Recommendation: Approval, subject to the following findings and conditions:

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review

Sec. 3.5.6 (a) Conditional Use Review Standards

1. Capacity of existing or planned community facilities.

The change of use to a bed and breakfast appears to pose no identified impact to the capacity of existing or planned community facilities. **Affirmative finding.**

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

This is an existing, developed residential neighborhood. The conversion of one bedroom in a low density residential neighborhood to rental lodging may have some impact on traffic and circulation, but not noticeably greater than a family with multiple drivers. If most cars are located on-site and only 1 bedroom is intended for rental, the anticipated impact would be negligible. **Affirmative finding.**

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

The proposed rental of one bedroom would result in one more vehicle to the parking demand, which already has a requirement for 2 parking spaces for the existing single family residential use, as noted above. The change of use will likely increase traffic and circulation from the present residential demand of this parcel, however not so noticeable as to affect the overall neighborhood.

Affirmative finding.

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

The application and resultant change in use will be required to meet all bylaws and city and state ordinances in effect at the time of decision. Specific to the proposed use the applicant will have to ensure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes. **Affirmative finding as conditioned.**

5. The utilization of renewable energy resources;

See Section 6.2.2 (e), below.

and,

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

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

A Bed and Breakfast is a special category residential use. The application for a single room is minimal, particularly in this location as it is not close to downtown or other short term rentals. It is possible to consider a conditioned Bed and Breakfast use within the low density residential district with limitations to address potential impacts of traffic, circulation, parking, and intensity of activity.

Affirmative finding.

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

The change-of-use proposed is for a special residential use, and has different review criteria than identified within this standard.

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

No change to existing proposed. However, the driveway may be widened in order provide the minmum parkig required under Article 8. **Affirmative finding as conditioned.**

9. *may limit the number, location and size of signs.*

Any signage will require a separate permit, and will be limited by the standards for this zoning district. **Affirmative finding as conditioned.**

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

Nothing is proposed. However, in order to meet the parking requirements a widening of the driveway needs to occur. If this is not done then the parking as configured cannot function and the applcaition cannot be approved. **Affirmative finding as conditioned.**

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

No construction proposed, although there may be a widening of the driveway. Not Applciable.

12. *may specify hours of operation and/or construction to reduce the impact on surrounding properties.*

The applicant states that rental s will be at will; this implies being open 24 hours a day 7 days a week. If approved, arrivals are recommended to commence after 7:00 am and cease after 10:00 pm to preserve characteristic neighborhood quiet. Any limitations are at the discretion of the board. **Affirmative finding as conditioned.**

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

Footnote #4 in Appendix A informs that not more than 3 rooms may be let for that purpose in the RL district. Proposed is for the rental of one room. **Affirmative finding as conditioned.**

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

The parking circulation is of the most concern. While there can be two cars parking side by side along the house only one space is able to exit the driveway without moving another vehicle. This is not sufficient to meet the parking requirements as discussed in Article 8. **Affirmative finding as conditioned**

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

If the permit is granted the DRB may request the applicant/owner to return after a period of time to assess neighborhood impacts, if appropriate. **Affirmative finding as conditioned**

Article 4: Zoning Maps and Districts

Sec. 4.4.5 (c) Permitted and Conditional Uses

A Bed and Breakfast is a Conditional Use in the RL zoning district.

Appendix A – Use Table has 2 footnotes for Bed and Breakfast Use:

#4 :no more than 3 rooms permitted to be let in the RL district.

This is in a RL zone and the application proposes one bedroom. **Affirmative finding as conditioned**

#6: *Must be owner occupied.*

The applicant lives at the subject property.

The property has previously been approved for a hostel as a home occupation. The hostel was confined to the basement that is not included in the subject request. It is not clear as to whether the use of the basement as habitable space would meet current life safety standards. **Affirmative finding as conditioned.**

Article 5: Citywide General Regulations

Sec. 5.1.1 Uses

(d) Conditional Uses

A conditional use is listed in any district where denoted by the letters “CU” in Appendix A – Use Table. Such uses may be permitted by the DRB only after review under the conditional use provisions provided in Article 3, Part 5, such further restrictions as the DRB may establish and such additional requirements as may be established by this ordinance such as but not limited to dimensional and intensity limitations, performance and design standards, and parking requirements.

A Bed and Breakfast is a Conditional Use in Appendix A, Use Table, for the RL District. The project meets the two footnote requirements; see Sec. 4.4.5(c), above. The subject parcel, however, does not meet the parking requirements for the proposed use. A driveway widening to 18 ft. may be possible in lieu of shuffling parking as would need to occur if this is not widened; see Article 8, Sec. 8.1.12, (c), below. Given the limitation that the driveway cannot be wider than 18', the driveway expansion should be considered. **Affirmative finding as conditioned.**

Part 2: Dimensional Requirements

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.3. Lot Coverage Requirements

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.4. Buildable Area Calculation

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

The subject property is not more than two acres in size. This standard does not apply.

Sec. 5.2.5. Setbacks

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.6, Building Height Limits.

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.7, Density and Intensity of Development Calculations

The application is for a change-of-use to a specialty residential use. It is viewed the same as a single dwelling unit for intensity purposes.

Affirmative finding.

Part 4: Special Use Regulations

Not applicable.

Article 7: Signs

Any signage will require a separate sign permit. Any signage will be required to meet the standards of this article and specific standards of the zoning district. **Affirmative finding as conditioned.**

Article 8: Parking

Sec. 8.1.1 Purpose

It is the purpose of this article to:

- (a) Ensure there are adequate parking and loading facilities to serve the use or uses of the property;*
- (b) Ensure that parking facilities are designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street;*
- (c) Reduce congestion in the streets and contribute to traffic safety; and*
- (d) Encourage alternate modes of travel that will reduce dependence upon the single-occupancy automobile.*

Table 8.1.8-1 Minimum Off-Street Parking Requirements

Single family residential use (Neighborhood Parking District) requires 2 parking spaces, the One room Bed and Breakfast (in addition to single-family residence) at 1 per room; requires 1 additional space for a total of 3 spaces required.

On-site parking: 2 are recognized based on the tandem limitations (one in the garage or in front of garage, one in the single-lane driveway.) The applicant claims that four spaces are provided. His sketch shows those four spaces all in tandem lined up one behind the other – three in the driveway and one in the garage.

Tandem spaces are only allowed for a maximum of 2 spaces with one space behind the other. The parking proposal as submitted is not acceptable for a bed & breakfast as it requires shuffling of spaces at all hours, and that tandem spaces are not allowable for a B&B situation.

There are two solutions that can be considered in order for the DRB to approve this request:

1. Expanding the driveway width to the full 18' in width to provide an additional parking space for a total of 3. Although after discussions the applicant believes that the existing layout may be able to accommodate the three spaces.
2. Requiring the owner to be present at all times to move a vehicle when the room is rented to insure maneuverability of vehicles.

Option #2 may be feasible in a larger B&B situation but is not conducive to the subject single family situation as it exists here, nor is it easily enforceable. Therefore, if the applicant is unable to demonstrate that three spaces are available the driveway would have to be expanded, up to 18 ft. wide, by obtaining a zoning permit and installing the widened driveway. **Affirmative finding as conditioned.**

Article 13: Definitions

Bed and Breakfast: An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.

The applicant has proposed 1 room to let in the proposed Bed and Breakfast.

Affirmative finding as conditioned.

Owner: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who alone, jointly or severally with others hold(s) legal or equitable title to any property.

Per the ordinance, the owner (who must be listed on the deed) is required to be a resident of the Bed and Breakfast. **Affirmative finding as conditioned.**

Owner Occupied: Where owner occupancy is required by this ordinance, owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year.

As a Bed and Breakfast, an owner, whose name is on the title, is required to live on the premises at least 6 months of the year. **Affirmative finding as conditioned.**

II. Conditions of Approval

1. **Prior to release of the zoning period for the Bed & Breakfast**, the applicant shall either provide a site plan that demonstrates that three vehicles can be accommodated in the existing driveway so that the third vehicle can egress the property without moving another car; or apply for and obtain approval of a zoning permit to pave an additional width of the driveway (to a maximum of 18 feet) in order to accommodate vehicles parking side by side and allow for a third vehicle to egress the property without moving another car. This widening shall be installed **prior to issuance of a certificate of occupancy** for the Bed and Breakfast. The driveway shall meet all required setback (not less than 5' from any property boundary), lot coverage and any other applicable dimensional requirements

2. This approval is for a ONE bedroom Bed and Breakfast use. The applicant will allow Code Enforcement to periodically confirm that the use is limited to the one bedroom rental limitation. This may include review of web-based advertising, posted guest comments, or response to neighborhood complaint.
3. The subject property must be, and remain owner occupied as long as the Bed & Breakfast remains in operation.
4. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
5. All guest parking shall be on-site and off-street.
6. No sign of the Bed and Breakfast use, other than a (separately permitted) sign, shall be visible on the exterior of the residence. Any sign will require a separate sign permit.
7. The applicant shall return to the DRB in one year after issuance of a certificate of occupancy for the Bed and Breakfast to report on any neighborhood concerns or complaints relative to the Bed and Breakfast use.
8. Regarding Standard Permit Condition #1 below the applicant will have to insure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes.
9. Standard Permit Conditions 1-15:
 1. **Other City, State or Federal Permits.** The owner is solely responsible for obtaining all other required City, state and federal approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions.
Note: All projects receiving a Zoning Permit also require a Construction Permit or written confirmation that a Construction Permit is not required from Department of Public Works-Inspection Services Division (DPW-ISD). All construction permits must be closed out by way of approved inspections by DPW-ISD before issuance of a Unified Certificate of Occupancy (UCO) by the Code Enforcement Office as per Condition 3, below.
 2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced within one year of approval. The owner shall complete the approved project and obtain a UCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) within two years of approval, or be subject to enforcement actions.

 These time limits are binding upon the owner unless one of the following apply: a) longer or shorter time limits are specifically imposed by a condition of approval; or b) the time limits are tolled by additional state or federal permitting for the project or by an appeal; or c) an extension of time has been granted. An extension of time must be requested in writing PRIOR to the expiration of the permit. If the owner has enacted the permit and it lapses, the owner may be responsible to obtain a new zoning permit, if required, which shall be subject to the current Comprehensive Development Ordinance (CDO).
 3. **Unified Certificate of Occupancy (UCO):** It shall be unlawful to use or occupy (or allow the use or occupancy of) any land or structure or part thereof which has been created, changed, converted, or wholly or partly altered or enlarged in its use or structure without a UCO.

If the project is partially completed, meets “prior to issuance of a UCO” conditions of approval, meets all health and safety standards, and all municipal fees for the project are paid, a Temporary Zoning CO may be requested and issued. **Upon completion of the project**, applicant shall request and obtain a Final UCO from the Code Enforcement Office (located at 645 Pine Street). Additional information on how to request and obtain this UCO is available at this office. **Failure to obtain a certificate of occupancy** places the property in violation of the CDO and is subject to enforcement. In addition, **Failure to obtain a UCO within the time limits above is subject to** “after the fact” fees ranging from \$75 - \$1500 (in addition to the UCO fee).

4. **Project Modifications.** The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the administrative officer. The project shall not deviate from the approved plans or conditions of approval without prior written approval from the administrative officer.
5. **Property Inspection.** By acceptance of this permit, the owner authorizes City Officials and/or their authorized representatives, access to the subject property for the purpose of observing work in progress, inspecting and/or measuring the property or improvements until such time the project has been issued a Final UCO.
6. **Completion and Maintenance of Improvements and Landscaping.** Owner or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Owner agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.
10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to one hundred dollars (\$100) per day, municipal tickets, and/or additional permitting fees.
11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the

jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined based upon the best evidence available, for instance a survey or other official document. If a permit is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City.

If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.

13. **Damage to City Property.** The Owner is responsible for any damage to the City of Burlington's property, including but not limited to its right-of-way, sewer/water lines, etcetera, that occurs during the site improvements authorized by this permit. If damage occurs, the Owner shall restore the property to a condition equal to or better than the condition of the property prior to such damage.
14. **City Rights-of-Way and Ownership.** Permit approval does NOT authorize any work to be undertaken within the public ROW. Any work in the ROW can only occur with prior authorization by DPW and City Council, as required. Any work or improvements that are taken within the City's right of way does not diminish the City's ownership or authority regarding said right of way.
15. **Liquor License Required.** An approval of any use that includes the sale of alcoholic beverages is contingent upon the receipt of a liquor license from the City of Burlington or the State of Vermont, whichever is applicable.

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

RECEIVED
MAR 02 2015
Nathan Caswell
27 Arlington Court
Burlington, VT 05408
802-488-4063
DEPARTMENT OF PLANNING & ZONING
nathan@nathancaswell.com

March 2, 2015

Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401

Dear Sir/Madam

**SUBJECT: CONDITIONAL USE ZONING PERMIT APPLICATION
FOR 27 ARLINGTON COURT**

Please consider the following information in support of an application for conditional use as an owner-occupied Bed and Breakfast in my home at 27 Arlington Court.

Proposed Use

I propose to list on the website AirBnB.com one bedroom to rent for temporary stays. Maximum occupancy for the room would be two guests. The maximum duration of a temporary stay would be seven nights. Renters would occupy the bedroom for the duration of their stay, and they would have access to the common areas of the home, including the bathroom, kitchen, dining room, living room and back yard. This proposal involves no alteration to any existing structure or land.

Days and Hours of Operation

Rental availability would be "at will," meaning that the room will not always be available to rent. I anticipate that the room would be occupied an average of 2 or 3 nights per week, or between 100 and 150 nights per year. Check in time would be after 5PM. Check out time would be before noon. Check in and check out times will be flexible to accommodate guest needs.

Number of Employees

This business will be owner-occupied and owner-operated. There will be no employees.

Traffic Generation and Parking

This use would generate one passenger vehicle traveling to and from the property per day of rental. This traffic would be consistent with the residential traffic in this neighborhood – akin to the coming and going of friends, family, or houseguests. There is off-street parking for up to four vehicles on this property. The driveway on this property is ~56'x10' (156 square feet) and can accommodate three vehicles. A garage at the top of the driveway can accommodate one additional vehicle. I have attached a drawing labeled 27 Arlington Court - Parking.

Floor Plans

This proposal involves no alteration to the existing floor plan of the home. The dimensions of the guest bedroom are 10'x12'. All facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. I have attached a floor plan, indicating the location and dimensions of the guest bedroom.

Additional Information

This proposal does not involve any exterior signage. This home is equipped with hardwired interconnected smoke and carbon monoxide detectors. I have spoken with Ned Holt at the Department of Public Works, and he indicated that there are no additional safety systems required for this proposed use.

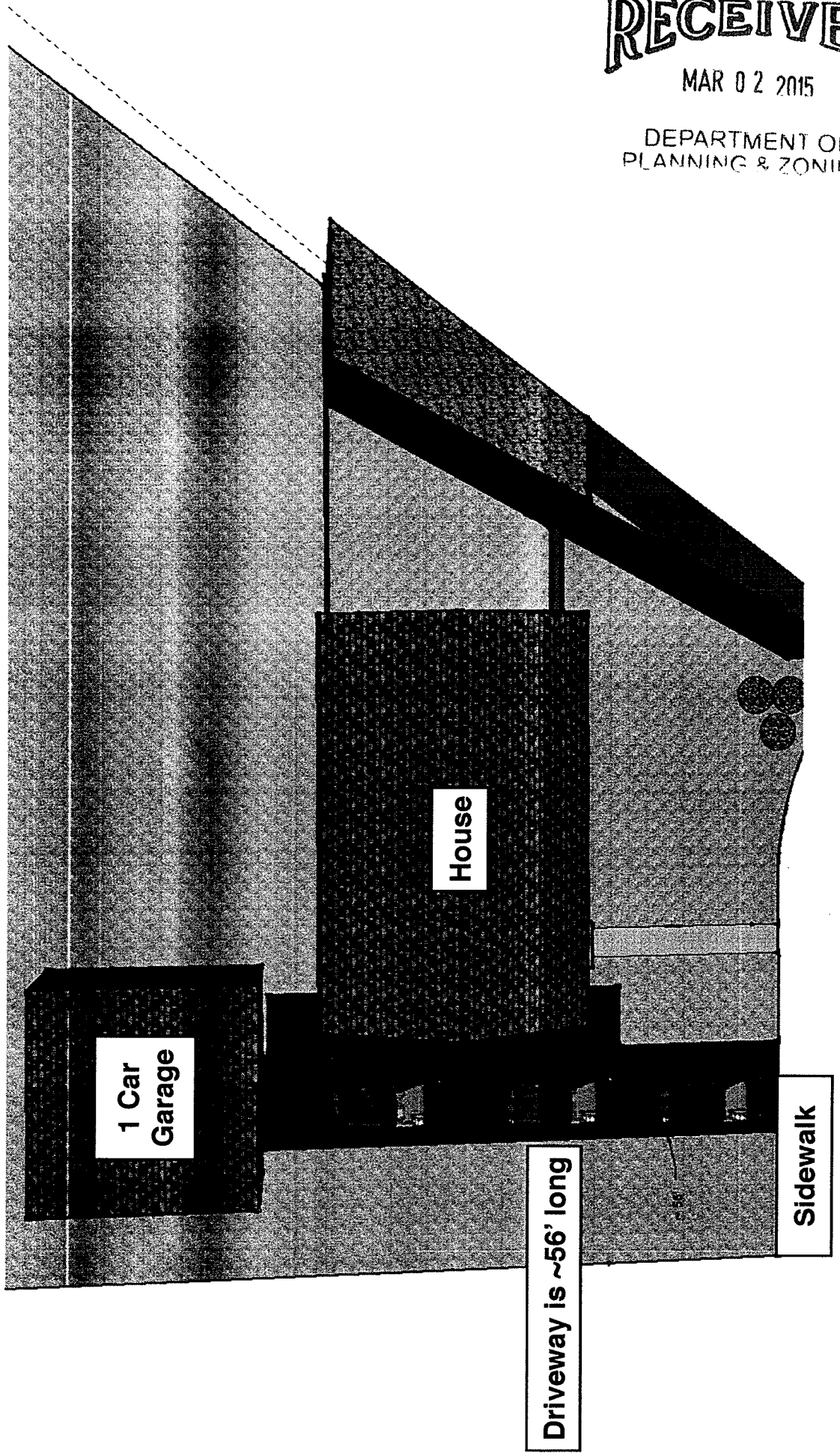
Thank you for your consideration of this application. I'm happy to answer any questions or to provide any additional information you might require.

Sincerely,



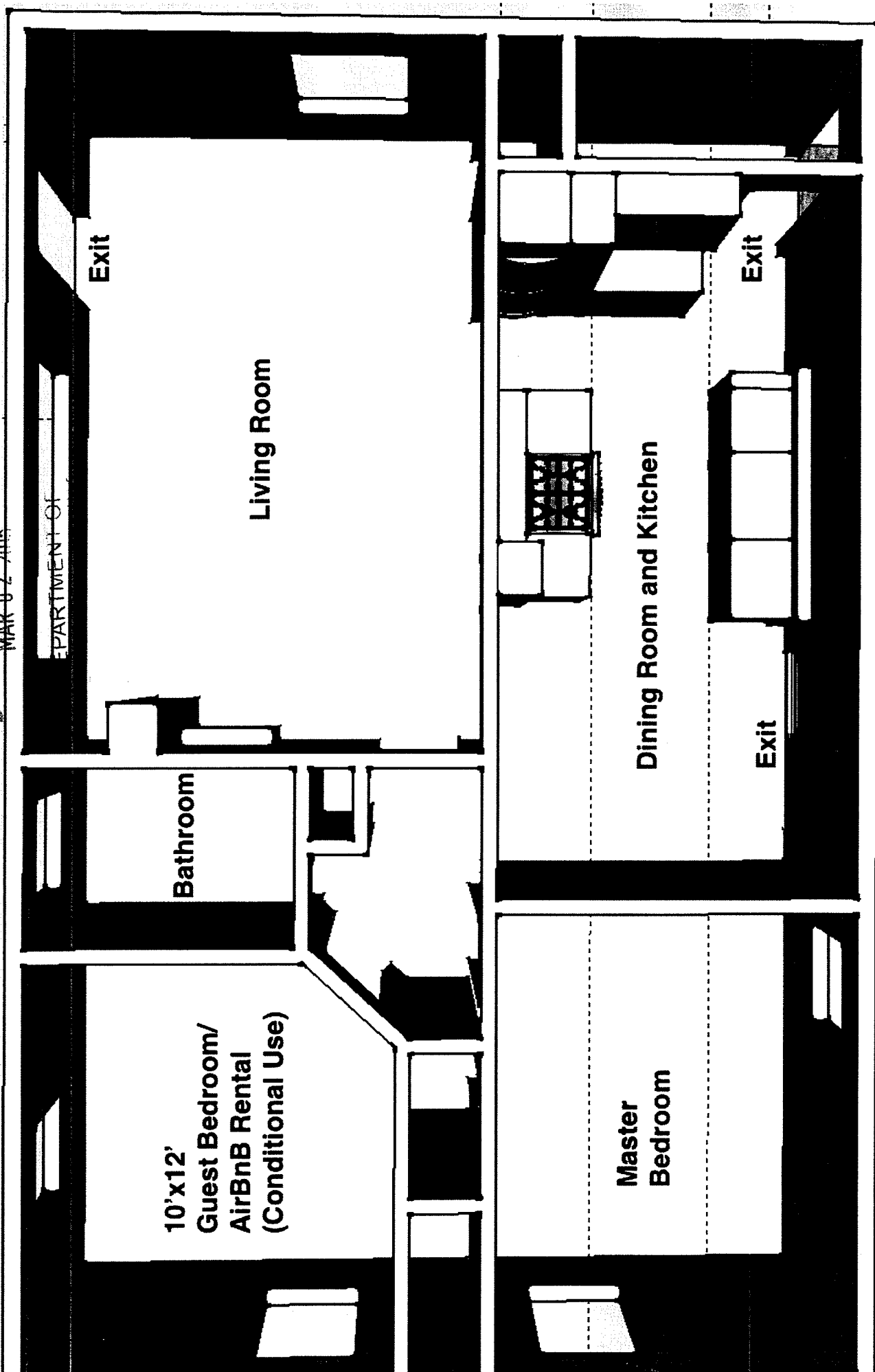
Nathan Caswell

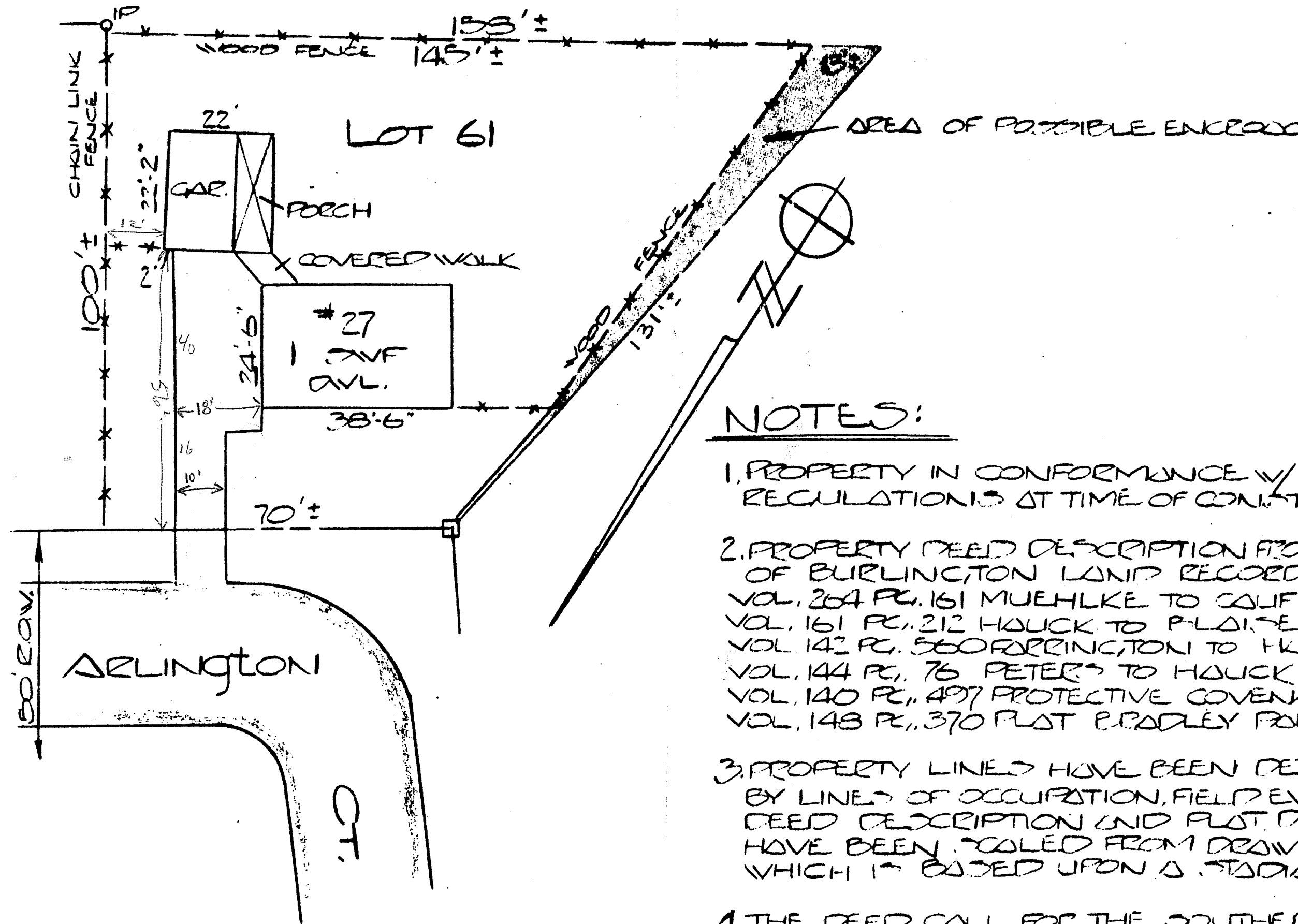
27 Arlington Court - Parking



RECEIVED

MAR 02 2015





NOTES:

1. PROPERTY IN CONFORMANCE W/ REGULATIONS AT TIME OF CONSTRUCTION
2. PROPERTY DEED DESCRIPTION FROM OF BURLINGTON LAND RECORD VOL. 264 PG. 161 MUEHLKE TO CALIF VOL. 161 PG. 212 HAUCK TO PLAISE VOL. 142 PG. 560 FARRINGTON TO FR VOL. 144 PG. 76 PETER'S TO HAUCK VOL. 140 PG. 497 PROTECTIVE COVEN VOL. 148 PG. 370 PLAT BRADLEY FROM
3. PROPERTY LINES HAVE BEEN DETERMINED BY LINES OF OCCUPATION, FIELD EXAMINATION, DEED DESCRIPTION AND PLAT OF RECORD HAVE BEEN TOOK FROM DRAWING WHICH IS BASED UPON A STANDARD
4. THE DEED CALL FOR THE SOUTHERLY

BURLINGTON ZONING BOARD OF ADJUSTMENT
STAFF COMMENTS
March 28, 1988

LOCATION: 27 Arlington Court
ZONE: R6

REQUEST: Conditional Use for home occupation for a youth
home hostel

COMMENTS:

- Rehearing required under Conditions of Approval August 24, 1987.
- One general objection was received.
- Another objection was specified regarding:
 1. The lack of parking;
 2. A commercial use in a residential zone; and
 3. Lack of site upkeep particularly in reference to a fence. In addition a nuisance complaint was included regarding a dog - however, this is not a zoning issue and should be referred to the police or animal control authority.

Recommendation:

In order to meet the requirements of a home occupation staff recommends that if approved the following conditions should be applied:

1. The number of "guests" with vehicles shall be limited to one per night;
2. The subject site shall be fenced along all adjacent side and rear yards with a fence that adequately screens the subject site; and
3. This approval is valid for a period not to exceed six (6) months from date of action and shall be re-considered by the Zoning Board of Adjustment.

FINDINGS OF FACT
BURLINGTON ZONING BOARD OF ADJUSTMENT

IN RE: 27 Arlington Court, Nancy Lee Farrell

Hearing was held August 10, 1987 before Board Chair Mary Gade and members Michael Long, Adele Dienno, L. Randolph Amis, and Herman Thomas. At issue was the request by Nancy Lee Farrell for conditional use approval to establish a youth home hostel in an R-6 zone at 27 Arlington Court under the provisions of Amendment #87-02 to Section 27 of Appendix A, Burlington Code of Ordinances.

EVIDENCE PRESENTED

"I respectfully request continuation of the American Youth Home Hostel that I previously had in Colchester for 11 years. A home hostel allows those who belong to the American Youth Hostel Association or the International Youth Hostel Association to spend the night at an inexpensive dormitory or home lodging. In my basement I have 2 bedrooms, (9' x 15' each) one each for boys and girl, a bathroom with shower will be built, and there is a common room approx, 14' x 9', for relaxing and having snacks. There are hostel rules, including no use of alcohol or drugs, lights out at 11:00, helping the hostel manager with a small chore, and not remaining in the hostel between 9:00 a.m. and 5:00 p.m. In the 11 years that I have had a hostel, I have never had a problem of anyone breaking these rules. Hostellers are most often bicyclists or backpackers, and occasionally skiers. In general, they are considerate, healthy independent and resourceful people whom I have come to greatly admire and respect. Not once did I have a complaint from my neighbors in Colchester. On the contrary, my neighbors enjoyed meeting and talking with these international visitors.

"There is adequate parking in the driveway for those few hostellers who arrive by car."

Two letters from former neighbors of Farrell's in Colchester were entered into the record.

"My name is Armand Greenough Jr. and I've lived next door to Mrs. Nancy Farrell for at least 10 years. The homes are about 20 ft. apart.

"Mrs. Farrell has had bikers and other youth hostellers staying with her for one or more nights and they have never given me any problem. Most of the time you would not know that they are there."

From Barbara and Daniel Dorso the following: "We have lived behind Nancy Farrell for 6 years with our houses approximately 50' apart. During that time Nancy has had a Youth Hostel in her home.

"We have never been disturbed by the hostellers and on the contrary have enjoyed some interesting conversations with them.

Findings of Fact in re 27 Arlington Court
Page 2

Nancy was always considerate of the neighbors in that the hostellers comings and goings were never noticed by anyone unless you happened to see them on their bicycles.

"We believe that Nancy Farrell and the Youth Hostel program provide a beneficial service in promoting the most positive aspects of the American people while giving visitors an alternative form of vacation."

Nancy Farrell indicated to the Board that the space to be used consists of two 9' x 15' bedrooms, one each for boys and girls, plus a 9' x 15' common room for a total space of 405 square feet.

The application was made as a home occupation and Farrell stated that ordinarily home hostels are not subject to zoning. She applied for a building permit to install a bathroom and was referred to the Planning Office for the applicable zoning permit by the building inspector.

The maximum number of guests per night would be six although most nights there would be less. The hostellers would be required to be out of the home between 9:00 a.m. and 5:00 p.m. Arrivals by car are sporadic but not expected to exceed two to three per night. Parking is available for four cars. In addition, a neighbor has offered use of her driveway for parking.

Eileen McGinley of 11 Arlington Court told the Board that Farrell is a teacher with an outstanding reputation. She supports the proposal.

Tony Trombley of 293 Colchester Avenue has met Farrell several times and offered a supportive character reference.

Wayne Goss of 56 Arlington Court for thirty-three years addressed the Board. Ten of the twenty homes on the street are occupied by retired couples and he would not like to see the tranquility of the street disrupted.

Gilbert Bosterle of 35 Arlington Court asked the Board if approval were granted if there could be a review in six months followed by another review one year later.

Reginald Lessor of 47 Arlington Court reiterated Bosterle's request for a review in six months. He asked if Farrell were full if requests from additional hostellers needing lodging would be denied. Farrell answered that they would be referred elsewhere.

Paul Cattieu of 34 Arlington Court asked if a condition could be placed on approval stipulating that the permit is issued to the applicant only and does not run with the property.

Jerry Tomlinson does a lot of backpacking and has stayed in hostels. They require a reservation and the men and women are separated. His experience has been that hostellers are very quiet and interested only in a good night's sleep. Many professionals use hostels.

Findings of Fact in re 27 Arlington Court
Page 3

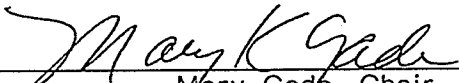
Farrell explained that she will be a designated home hostel which are generally located in residential neighborhoods and are part of the home. There are eight hostels in Vermont. Her motives are not financial as she only charges \$6.00 per night.

FINDINGS AND ORDER

Approval is granted for six months for an American Youth Home Hostel for not more than six guests with a maximum of two cars as a home occupation. The approval is specific to the applicant, does not run with the property, and is not transferable.

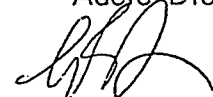
Dated at Burlington, VT this 24th day of August, 1987.

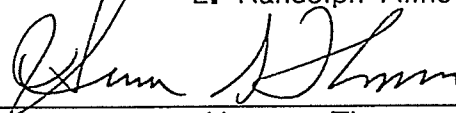
ZONING BOARD OF ADJUSTMENT


Mary Gade, Chair


Michael Long


Adele Dienno


L. Randolph Amis


Herman Thomas



18-20 WESTON ST (Q2)

Folder Property (1) People (5) Info (2) Process (3) Document (1) Inspection Req. Comment (8) Attachment (2)

Folder #	F
1995 004911 000 00 EP	2754
1997 005728 000 00 EP	3075
1998 004182 000 00 ZB	98-4
1998 013542 000 00 PP	3319
1998 026692 000 00 BP	3271
1998 026781 000 00 BP	3289
1998 026917 000 00 BP	3318
2003 001679 000 00 RR	1439
2004 103524 000 00 RB	1439
2004 106669 000 00 PP	
2005 102356 000 00 RB	1439
2005 112969 000 00 Q2	
2005 113042 000 00 RI	
2005 114757 000 00 VL	
2006 102498 000 00 RB	1439
2006 108570 000 00 MH	
2007 102186 000 00 RB	1439
2007 123114 000 00 QC	IOC
2008 130700 000 00 RB	1439
2008 134828 000 00 Q1	
2008 134829 000 00 QC	
2008 135435 000 00 Q1	
2008 135436 000 00 QC	

Folder: 05 112969 000 00 Q2

Parking - increased parking area without permits. Mrs. Mahoney, complainant, has lived at her property for 30 years and will testify the parking has increased over the years.

Reminder Date: Thu Mar 31, 2005

Remind: SGilman

Include: ☐

Made On: Thu Mar 31, 2005

Made By: SGilman

Comment Date: Thu Mar 31, 2005

List View Related View

8 Rows Returned

Show no. of rows on tabs

54 Rows Returned

GREGORY B. McKNIGHT II

Director
865-5382

KATHLEEN BUTLER

Health Policy/Case Management Specialist
865-7510

JEANNE FRANCIS

Zoning Specialist
865-7544

Code Enforcement Administrators

GLORIA ALLEN

863-0442

SHIRLEY GILMAN

863-6247



CODE ENFORCEMENT OFFICE

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

Code Enforcement Inspectors

GEORGE COUTRAYER

652-4235

MATTHEW PERRY

864-2156

FRANCES POLITI

865-7565

DONALD ROBEAR

865-7563

JOHN RYAN

865-7525

Zoning Inspector

TIMOTHY AHONEN

652-4222

SHOW CAUSE LETTER

May 31, 2005

Cynthia and Charles Burns
475 Meadowside Drive
Charlotte, Vermont 05445

COPY

RE: 18-20 Weston Street (hereinafter referred to as "Premises")

Dear Cynthia and Charles Burns:

It has come to the attention of this office that a potential zoning violation exists at the above referenced Premises.

Nature of Alleged Violation: increasing the parking area at the Premises without an approved zoning permit (see attached).
Burlington Zoning Ordinance Articles: 4, 5, 10, and 19.

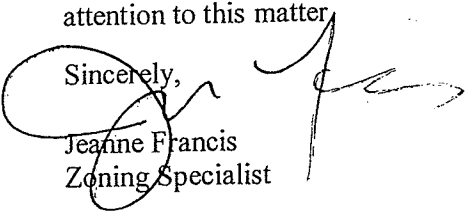
You, as the Owner of the Premises (hereinafter "Owner") have **TEN (10) CALENDAR DAYS** from the date of this memo (ie. June 11, 2005) to show cause that the alleged violation does not exist or, **within the same time frame**, remedy the alleged violation by either:

1. removing the violation (see attached photo indicating location of alleged violation), installing barriers around the City's recognized parking area to be reviewed and approved by this office and re-seed any damaged lawn areas (including greenbelts); or
2. submitting a complete application to the Burlington Department of Planning and Zoning (located in City Hall) to cure the alleged violation. **If the application or the portion of the application that deals with the alleged violation is denied, you have TEN (10) CALENDAR DAYS from the application denial date to remove the violation and comply with number 1 above.**

There will be no further warnings forthcoming. Pursuant to Burlington Zoning Ordinance Article 19 and 24 V.S.A. §§1974a, 4451 and 4452, if the alleged violation has not been cured or Owner has not shown a violation does not exist within ten (10) calendar days from the date of this letter, either a Municipal Complaint Ticket or a Notice of Violation will be issued to you as Owner. Please note the first Municipal Complaint Ticket carries a waiver fee of \$100, the second ticket carries a waiver fee of \$150, and the third ticket carries a waiver fee of \$250; there is a five (5) calendar day cure period between each ticket. The Notice of Violation has a fee of up to \$100.00 for each offense. Each day that a violation is continued shall be a separate offense.

Should you have questions, don't hesitate to call me at 865-7544. Thank you for your anticipated cooperation and prompt attention to this matter.

Sincerely,



Jeanne Francis
Zoning Specialist

Enclosures: see above

Cc: Department Planning/Zoning
Code Files

D:/documents/templates/show cause memo parking 051705

18-20 Weston Street

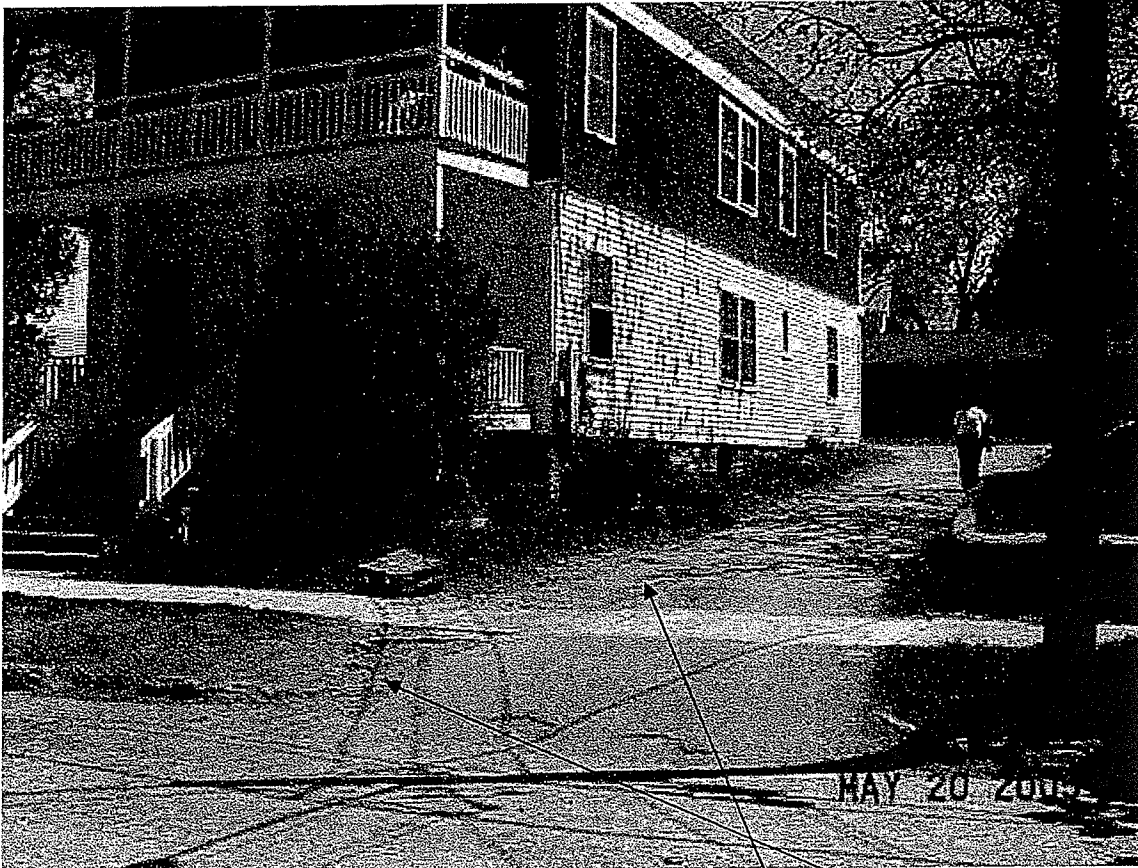


18-20 WESTON STREET MAY 20, 2005



The driveway area has allegedly been increased.

18-20 WESTON STREET MAY 20, 2005



The Driveway does not conform to the single width curb cut, the greenbelt is damaged. Curbing and greenbelt have been damaged by cars driving over the area.



City of
Burlington, Vermont
149 Church Street

Code Enforcement Report

ZP #: 15-0830AP

Tax ID: 045-1-236-000

Application Date: February 24, 2015 **Zone:** RL Ward 1

Property Address: 18-20 WESTON STREET

TO: Development Review Board
FROM: Jeanne Francis, Zoning Specialist, Code Enforcement Office
DATE: April 7, 2015
RE: 15-0830AP 18-20 Weston Street (Tax Lot # 045-1-23600) – hereinafter referred to as Premises

DESCRIPTION: Appeal of zoning violation # 279187: (1) Green space along southern boundary of property used as a Parking Lot; (2) Replacing green space with additional parking (increasing coverage); (3) Change of accessory use – garage; (4) Placement of trash receptacles; (5) Exterior storage.

APPELLANT: Charles and Cynthia Burns Represented by Brian Hehir, Attorney at Law

APPLICABLE REGULATIONS:

- Article 2, 3, 5, 8, 12; 24 V.S.A. §4454(a) and §4470

RELIEF REQUESTED BY APPELLANT:

- Appellant contends the parking lot in question has existed continuously for over 15 years and therefore, the City is barred from enforcement.

APPLICANT'S APPEAL SUBMITTALS

- Appeal
- February 12, 2015 Letter from Jeanne Francis: RE: Parking at Premises, Storage within Garage of Premises, and Occupancy of Residential Structural
- Notice of Violation # 279187 Dated February 12, 2105
 - ✓ Green space along southern boundary of property used as a Parking Lot ...
 - ✓ Replacing green space with additional parking
 - ✓ Change of accessory use: ... storage in garage
 - ✓ Placement of trash receptacles ...
 - ✓ Exterior Storage along the boundary of property...

CITY'S APPEAL SUBMITTALS

- Note to File: 3/31/2005, Mrs. Mahoney, 51 Henry St (complaint # 128416), complaint of parking at Premises; lived at property for 30 years and will testify the parking has increased over the years.
- May 31, 2005 "Show Cause Letter"

BACKGROUND:

- Pursuant to City Assessor records, Appellant purchased this 2-family 5,634 sf c.1915 structure in 2002. A detached garage is included on the property. As currently configured, one unit has 4 bedrooms, one unit has 5 bedrooms.
- March 31, 2005 Owner of property located at 51 Henry Street, abutting on the northeast corner of Premises, complained that Appellant increased the rear parking area; complainant stated “*she had lived at her property for 30 years and will testify the parking had increased over the years*”.
- May 31, 2005 Code Office mailed a “Show Cause Letter” (currently referred to as a “Notification Letter”) to Appellants, informing them of a potential parking violation. Appellant contacted Code Office on June 7, stated he could not produce sufficient documentation to prove parking had existed for a consistent period of 15+ years (24 V.S.A. § 4454(a)). I met Appellant at Premises on June 10 and discussed (1) location of dumpster, (2) parking along the southern boundary, (3) parking along the northern boundary, (4) use of the garage for storage, and (5) need for so much parking—Appellant identified 9 tenants, however, ordinance only requires four parking spaces for a duplex use and there is a 6-space garage on site.
- Appellant requested “grandfathering” for the parking so Code revisited City records (aerial photos, statements, etc.), and concluded, based on the information available, it was reasonable for the City to recognize 4-exterior parking spaces on the northern property boundary, one exterior parking space on the southern boundary (not 8 as requested by Appellant) and a six-car garage at Premises. An informal plan was drawn up showing parking recognized by the City; Appellant did not argue. Appellant placed barriers and shrubbery around the recognized parking area, no further parking complaints were received at the Code Office until 2014.
- November 2014 Code complaint regarding parking concerns at Premises. Notification letter sent to Appellant. Met with Appellant on Premises, reviewed concerns, found violations, and issued a formal Notice of Violation; notice appealed.

FINDINGS:

- (1) November 12, 2014 site visit to Premises with Appellant present; discussed parking and garage issues. Appellant noted two of the three vehicles parked along the southern boundary belonged to his tenants at 12 Weston Street. Parking for the six-car garage was replaced with storage owned by Appellant, Appellant’s daughter, two units for maintenance storage and repair shop for all of Appellant’s properties, and two units were being used for tenant storage.
- (2) November 21, 2014 site visit to Premises revealed: (a) 3 vehicles parked along the southern boundary; (b) exterior storage along the southern boundary in excess of 16 sf; (c) green space within the green space destroyed by illegal parking; (d) garage bays used for storage rather than parking; and (e) relocation of trash recepticals.
- (3) November 24, 2014 site visit to Premises revealed: (a) 1 vehicle parked along the southern boundary; (b) knocked on doors to each unit, nobody was home; (c) spoke with 2 tenants at 12 Weston Street, reviewed living and parking scenarios for tenants at 12 Weston Street. Interview concluded parking is allocated to one space in driveway, and along Weston Street, no parking at 18-20 Weston Street.

- (4) February 11, 2015, met with Appellant at Premises; there were three vehicles parked along the southern boundary of Premises and 4 in the northern parking area.

DETERMINATION:

(1) Green space along southern boundary of property used as a “Private” Parking Lot; Allowing tenants at 12 Weston Street to park at 18-20 Weston Street creates a parking lot use that is not accessory to the residential use at 18-20 Weston Street. The Premises are restricted to one principal use which is the duplex. See *CDO sections 5.1.1(f) and Appendix A—Use Table—All Zoning Districts*. Accessory parking for the residents of 18-20 Weston Street is permissible as an accessory use, provided it meets the requirements of the CDO. However, parking for non-residents creates a parking lot use. While the parking is for tenants of another property owned by Appellant, it is still integrating a new use at the Property. Under the CDO, “Surface/Lot Parking” is defined as, “Parking facilities that are at grade and uncovered or not within a structure.” *CDO 13.1.2*. Appellants have created a parking lot. In addition, A “Parking Lot” is not allowed in any residential zoning district. *CDO Appendix A—Use Table—All Zoning Districts*. The distinction regarding parking that is accessory and non-accessory has been identified in a prior appeal that went before the Vermont Environmental Court, *City of Burlington v. Wesco, Inc.*, 2008 WL 7242596 at 7 (Vt. Env’tl. Ct. March 6, 2008) (parking spaces rented out created separate use from permitted use of property convenience store/gas station/deli and the associated parking).

With respect to any 15 year statute of limitations argument, Appellants have not demonstrated 15 years of continuous use. Further, pursuant to case law, use violations are exempt from that limitation. See *City of Burlington v. Richardson*, 2006 WL 4088224 at 5 (Vt. Env’tl. Ct. June 27, 2006) (case law analyzes use violations as continuing violations, therefore each and every day is a new violation).

(2) Replacing green space with additional parking (increasing coverage). Increased parking destroyed green space and increased lot coverage and setbacks regulated in the CDO without zoning permit. See *CDO §3.1.2(a)(5)* and (12).

(3) Change of accessory use – garage (parking of vehicles) to private use of storage and maintenance repair shop. Premises requires 4 parking spaces for a duplex use. If storage and maintenance/repair shop were removed, the six space garage would meet the 4 parking space regulation and allow for two additional parking spaces. Change of use requires zoning permit. *CDO §3.1.2(b)(3)*. Storage related to residents own use of property is accessory to the primary residential use. Storage for non-residents is not related to the residential use of the Property.

(4) Placement of trash receptacles. At time of site visit, receptacles were placed in front of the garage, in 2005 they were located on area within the “Parking Lot” area, now they are placed in front of the garage; relocation happened without zoning approval. See *CDO §3.1.2(a)(17)*.

(5) Exterior storage.

Building materials placed on the southern boundary of Premises, larger than 16 sf. in area, This exterior storage requires zoning approval and is subject to coverage and setback regulations. See *CDO §3.1.2(a)(5)*.

RECOMMENDATION:

Uphold Code Office’s determination that Premises is in violation with the CDO. We further ask that the Board condition Appellant to remedy the violations within 30 days of Board’s decision:

- (1) remove all parking along the southern boundary of Premises (as identified in photos below), restore green space, and place a landscaped barrier, to be reviewed and approved by Planning/Zoning staff, around the southern area to prevent future parking in this area.
- (2) Submit, for review and approval to Planning/Zoning, a plan for parking at Premises. Plan shall also include location of trash receptacles and exterior storage, and, if appropriate, screening and implemented within 45 days from Board approval.
- (3) Change of accessory use – garage. All storage and maintenance/repair shop shall be removed from structure within 30 days from date of DRB approval and its parking use (for tenants of Premises only).
- (4) Owner and/or assigns shall prohibit parking at Premises for anyone other than residents of Premises and their guests. Appellant shall incorporate wording into leases of adjacent property (ie. 12 Weston Street) language that prohibits tenants from parking at 18-20 Weston St.

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/pz/drb
Phone: (802) 865-7188
Fax: (802) 865-7195

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



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, March 17, 2015 Contois Auditorium, City Hall, 149 Church Street, Burlington, VT Minutes

Board members present: Austin Hart, Chair; Jonathan Stevens, Jim Drummond, Brad Rabinowitz, Israel Smith, A. J. LaRosa, Alexandra Zipparo.

Staff present: Ken Lerner, Mary O'Neil

- I. **Agenda** – No changes.
- II. **Communications** - None
- III. **Minutes** – In packet for DRB meeting 3.4.2015. Board is advised to review and comment at next deliberative.
- IV. **Certificate of Appropriateness**
 - 1. **15-0803CA: 20 PINE ST (D, Ward 3) CCTA / Cathedral of the Immaculate Conception Parish Charitable Trust**

Curbing and pavement within an 8' wide easement along western edge of St. Paul Street right-of-way (Project Manager: Mary O'Neil)

Austin Hart recused from this review.

This item had been on Consent Agenda. Brad Rabinowitz has questions – so Jonathan Stevens, Vice Chair opens the hearing. Invites applicant to come forward.

Project Manager Stephen Carlson sworn in by Jonathan Stevens.

Steve Carlson speaks on behalf of CCTA.

Brad Rabinowitz – Some concern about taking property away from the Cathedral, landscaping part of it. Plan does not show trees that are there. A fence is being proposed, but not part of this application.

Steve Carlson – the fence is a safety issue for us. The roadway will be counter to normal travel. We proposed a fence because we don't want people on our platform running across the street to the church property to have a cigarette.

Brad Rabinowitz – No sidewalk?

Steve Carlson – It will become the sidewalk.

Jonathan Stevens – Which side of the street will have the platform?

Steve Carlson – the center of the street. Small building on the south end.

Brad Rabinowitz – What kind of fence?

Steve Carlson – 6', black aluminum fence. Would you like to see it?

Brad Rabinowitz – yes. You are changing what is a beautiful little area. We have no jurisdiction over anything else. The fence is a rumor at this point.

Steve Carlson – Not part of this application. We understood our application for a fence will be handled administratively. Not very imposing.

Brad Rabinowitz – This is a very attractive fence. I hope it gets approved. How close to the curb is the fence?

Steve Carlson – There is a 2' distance from the curb. So about 18" from the curb.

Brad Rabinowitz – eliminating the sidewalk, eliminating the diagonal sidewalk.

Steve Carlson – It will go nowhere.

Jonathan Stevens – Will there be structures on the platform?

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

Printed on 100% Recycled Paper

Steve Carlson – There will be a canopy over it, plus a little bit beyond that to cover the doors of the buses when people disembark. Four or five windscreens on the platform. If windy, somebody can stand on the east side and be protected.

Jim Drummond – How much are you widening the sidewalk?

Steve Carlson – 8' easement.

Jim Drummond – the church is losing trees?

Steve Carlson – the trees are within the public ROW. We will be doing pruning, re-planting missing trees, aerate the soil, add plant and animal fiber; doing extensive landscape restoration.

Jim Drummond – If you wanted to put a sidewalk on the west side, you would lose another row of trees?

Steve Carlson – It would be very difficult.

Jim Drummond – you are creating a very closed zone. There is nothing connecting these pockets but grass. I have walked around these, and people sleep here. By not having a sidewalk, it is making it more private.

Steve Carlson – the intent is to cross the sidewalk, use the center platform. It will be covered, have snowmelt, won't be slippery. A far better alternative.

Jim Drummond – it feels to me that the landscape area on the east side of the cathedral will be less passively supervised; behind a big fence and no pedestrian connection. Less easy to know what was going on in there?

Steve Carlson – the counter argument is that there will be busses on the other side of that fence until midnight. People on the platform will be observing. It will be well observed; not as private as it might seem.

Jonathan Stevens – I wish I had driven past this site. How will people exit the state office building?

Steve Carlson – There will be a sidewalk on the east side. Vehicular traffic will come south on the east side, can continue on Cherry Street.

Alexandra Zipparo – that side of the state office building has no entrance. There is only a garage entrance.

Jim Drummond – the east side is just for cars, the west side for busses?

Steve Carlson – east side is south bound; west side is north bound.

Ali Zipparo – Is there only going to be pick-up and drop-off at this location?

Steve Carlson – east and west of St. Paul, north side of Pearl.

Ali Zipparo – Asks about working with other entities.

Steve Carlson – we have had extensive conversations about it with the state.

Ali Zipparo – Are you addressing landscaping for this easement site only, or all the landscaping on the church property?

Steve Carlson – Yes, the entire property.

No one in the audience to give testimony on this. Jonathan Stevens closes the public hearing on this item at 5:16 pm.

V. Sketch Plan

1. 15-0810SP; 10 University PI (I, Ward 1) UVM / Redstone & American Campus Communities

Sketch plan review of proposed undergraduate student housing on Central Campus (Project Manager: Mary O'Neil)

Austin Hart not participating.

Lani Ravin, Erik Hoekstra, Bill Nedde, Tyler Scott of Scott and Partners,, Keith Wagner of Wagner Hodgson, Adam XXX, Gail Henderson King of White and Burke.

Lani and Erik do presentation for Sketch Plan review of first year housing; proposed in partnership with Redstone and American Campus Communities.

Erik Hoekstra goes through modeling images. Brad Rabinowitz asks for orientation, identification with existing buildings. Some images have only proposed or approved buildings (STEM.)

Erik Hoekstra – There aren't a lot of existing buildings that this plan relates to. You have Converse, which is up hill, up gradient from this site, which is in a depressed area. Converse will stand much taller than this. Most of the existing buildings are a fair distance from this building.

Jim Drummond – What about the new Fletcher Allen building?

Erik Hoekstra – I don't know, hard question. In general, it is higher.

Brad Rabinowitz – we want elevation numbers, to know what they are. What is Bailey Howe? What is the base elevation of Converse?

Jonathan Stevens – That is why we are at Sketch Plan.

Jim Drummond – What about the grove of trees. They appear to be in rows.

Keith Wagner, landscape architect.

Jonathan Stevens – we are not under oath. Please state your name and who are you working with.

Keith Wagner – Each tree has been surveyed.

Jim Drummond – not getting "nipped off?"

Keith Wagner – extend it. Honey Locust on the east side. A complete box of Honey Locust.

Jonathan Stevens – Have you read staff notes? Staff raises the question about the view corridor of Converse. I have a question for staff. I can't tell from staff notes where you would be standing to get a view. I drove there and could not see Converse.

Mary O'Neil – I wonder how you could drive to this site?

Jonathan Stevens – I drove to the Royal Tyler Theatre, got out, walked around. Could not find Converse.

Mary O'Neil – view eastward, across the quad. From the west toward the east. Converse is terminus view.

Jonathan Stevens – asks to see the site plan.

Erik Hoekstra provides this on the screen.

Jonathan Stevens – who is going to own these buildings?

Erik Hoekstra – on university lands. Ground lease to Redstone, and our partners American Campus Communities. The difference with Redstone Lofts, we lease the land, own the building, deal with day to day operations, including tenant relations. With this project, first year students, UVM Res life wants to have a high level of contact with that use. We will own the facility, maintain the capital improvements. But UVM Res life will deal with all the day to day interaction with residents.

Jonathan Stevens – our jurisdiction on matters that involve certain kinds of institution is limited by statute. A private developer is not one of those institutions. I am not arguing with you. We have to make a decision about how broad the scope of review is, based on this information.

Erik Hoekstra – staff will concur. Not really who is the developer. The project is within the Central Campus overlay. It doesn't count.

Ken Lerner – This is an interesting question. You may wish to ask your attorney. The statute says "State or community owned and operated institutions." An attorney could clarify.

Jonathan Stevens – I am thinking of the view corridor of Converse. Under Historic Preservation, we could not have an opinion.

Erik Hoekstra – Staff is pointing out, even with this statute exemption, there is review of views of public places and landmarks. Are any of these places public places or public spaces? That is a question.

Jonathan Stevens – that is a question we should consider.

Mary O'Neil – points out the standards that are relevant.

Jonathan Stevens – is University land public?

Erik Hoekstra – that is the essential question.

Brad Rabinowitz – the view that is being discussed crosses the hospital land. That is not considered public. May not be relevant as hospital land part of that corridor.

Erik Hoekstra presents further perspectives.

Jim Drummond – On Axis with STEM?

Erik Hoekstra – a little off, but yes.

Brad Rabinowitz – the seven story building will be on that axis...partially.

Erik Hoekstra – Yes.

Jim Drummond asks about the walkway, an off-set.

Keith Wagner – it will actually jog further north, when completed. How you will be a pedestrian through there, you will be further north than the photograph shows.

Erik Hoekstra – it really is only when you standing between Buckham and Wills that you get that view of Converse. You can't see it from behind the Fleming Museum.

Jim Drummond – but you will see it when those dorms are torn down.

Erik Hoekstra – That area is identified in Master Plan documents as a potential place for future university buildings.

Jim Drummond – I don't really get this. This is kind of a backwater area, not very lively.

Erik Hoekstra – There was a building here; it was taken down. Not the main green. That is on University Place. This will add 308 new beds to the campus; fairly central. From a land use perspective, building tall, dense building is the right idea. If you don't like the idea of buildings here, then where? That's where the conversation goes. There are a lot of historic buildings that people don't want to see changed. We have tried to enhance this green space. This Green Mountain Walkway will create a new lawn area, a different type of open space. When you look at the footprint of these buildings versus nothing, we are not taking up that much land.

Brad Rabinowitz – University trying to create areas for us – the contrast with the hospital that is a non-public area – how nice to see that kind of landscaping creep onto the hospital land.

Lani Ravin – the university does not need to address historic preservation under city's regulations, but under Act 250. We hired a historic preservation consultant. This project will address historic preservation issues both under previous reports and this project. We are not ignoring it.

Jim Drummond – you are adding 300+ beds. What about the total number of students. Increasing also?

Lani Ravin – No.

Brad Rabinowitz – students off campus – There is some language about transportation parking plan. Will students be bused to other locations on campus?

Lani Ravin – There will be transportation from Quarry Hill.

Brad Rabinowitz – From the Sheraton?

Lani Ravin – I will ask.

Ali Zipparo – I want to ask about other buildings on campus. Are they historic?

Erik Hoekstra – absolutely.

Ali Zipparo – That corner has a gorgeous view. What about views from University Place?

Erik Hoekstra – You don't really see it –

Ali Zipparo – Yes, you can see it from that corner. Will you no longer be able to see that view? On the corner in between the new development....

Erik Hoekstra point to the map. Ali agrees to a spot on the Quad.

Erik Hoekstra – I have not experienced them from that vantage point. Even if I could see it, there are newer additions on the back of other buildings. Maybe if you are up, in one of the buildings looking down....

Ali Zipparo – no. A beautiful view. I want to mention development pressure and infill. What is the logic about relieving pressure from the neighborhoods?

Erik Hoekstra – this project is not intended to relieve pressure in the neighborhoods. This is intended to relieve pressure on the campus. A "de-densification" of existing dorms – remove students from triples that were not intended to house three students.

Ali Zipparo – and the dining hall?

Erik Hoekstra – Anyone can come in and pay with cash.

Lani Ravin – I would point out that the major view of Converse Hall is from the East, not from the west.

Jonathan Stevens – Our question is from a public place.

Lani Ravin – but we are working with historic preservation consultant, who says the view is from the east, not the west.

Sharon Bushor, City Councilor, Ward 1. Applicant has made presentations to Ward 1 and 8 to make presentations. One thing identified, there is a parking area with shoeboxes. We were told they would be replaced. More people living here. First year students are not allowed to bring cars on campus. We know many students bring them, and plop them around the neighborhoods. How many people are offered a waiver to have a car? When you double the amount of people there, are 84 spaces sufficient for that site? Parking is an issue near and dear to the heart of people who live in the city. The other concern is the Green Mountain Walkway. More collaboration with the city. We like the students moving internally. The issue for us is at Main Street, there is a crossing. At Colchester Avenue, there is not a good crossway. It is down, where Trinity Campus is. More study or more

emphasis on how to get people safely from one place to the next. Internal enhancements wonderful for everybody. There is a little bit of an irony here; when the hospital moved ahead with their renovation, they acted under the information that Converse was a jewel; a lot of history, a lot of folklore, incredibly interesting. It was important not to cast shadows on it, not surround it. As I look at these pictures that are presented, I am worried about this new building. (She asks Erik to post image.) If indeed it appeared that the new building is within the visual corridor, possible to inch it over if it was a visual obstruction. I don't know if it is necessary or not. When Brad asked his question, I thought it was a visual obstruction. My last item: If UVM is going forward with Sketch Plan, Fletcher Allen has construction, UVM has other projects, has the city looked at these cumulatively for traffic, impacts to the city? In the past, cumulative impact has been considered. I hope the DRB is considering this. I know there will be some overlap. I want to make sure we don't end up strangling the end of the city. Ambulances will have to access the site. Overall, I want to end on a positive note. This is exactly what we had hoped UVM would do. We worked years ago to give UVM the ability to build to greater height. I would rather go up than sprawl. Green space is shrinking a little bit. I work at the hospital, I live on East Avenue. A lot of people value that green space. I am pleased with the enhancements. We all are.

A.J. LaRosa – asks Sharon about cumulative impact of construction?

Sharon Bushor – during development. Also, the technical review team should have addressed all of this – need for city services, run-off. Sometimes when things are looked at in isolation, you miss the big picture. Wastewater, run-off, is all that being looked at cumulatively, not individually.

Jim Drummond – Where is the parking for this?

Erik Hoekstra – points to the map – what is Medical Center, what is UVM. Accounting for in either the UVM parking plan, or hospital parking plan. When we go forward with an application, we will address how this conforms to the Joint Institutional Parking Management Plan.

Jim Drummond – Is that CATMA?

Erik Hoekstra – CATMA is part of that. We believe this project is included within that planning. We are working with RSG. Also working with us and the medical center about site access, including STEM project. We have a very detailed logistics plan, coordinated with both institutions. For this project, all construction traffic will come from Main Street. None of this traffic will come from the other side, Colchester Avenue. We are talking a few seconds of traffic. Only a handful of trucks certain times of day and certain times of construction. We have gone to Technical Review, various pieces of the Department of Public Works. Fire Marshal concerned about vehicle access during all stages of construction. Run-off, erosion control; we have to put up a surety, a bond to assure compliance. The same thing with the state. All of these things are looked at. They may not be addressed in detail in a public forum, but they are relevant in a very technical way. The crossing on Colchester Avenue, we know it is an issue. When traffic lights start blinking, there is no way to push a button and initiate a red light to cross. We brought this up at Technical Review. Hopefully we will see some traction on that. We want residents to know that public works will address this.

Ken Lerner – We found there are no dining facilities at Trinity. This is critical, how the Green Mountain Walkway will move students across campus.

Erik Hoekstra – A sense of the timeline: UVM has selected our development team. Next week we plan on submitting our full COA application. We will get back before the Conservation Board, the DAB, before you by early May. Our state level permitting is on-going and moving in parallel with this process so we can roll into Act 250. Our goal is to start construction October 2015, student move-in Fall 2017.

Ken Lerner – The COA process beginning next week: We need to know what we are reviewing here. We need an opinion from your attorney, what your application will address.

Jonathan Stevens – a copy of the statute, has to do with who OWNS the project. It is not as clear as one entity, one owner. I would like you to state the nature of Redstone's ownership, UVM's ownership.

Brad Rabinowitz – asks about previous UVM application, lot coverage issue.

Ken Lerner – This is clearer. Core Campus.

A.J. LaRosa – I would ask that that analysis come from our side.

Jonathan Stevens – What issue?

A.J. LaRosa – Ken suggested the applicant's counsel provide the opinion. I think it would be more appropriate for our representative provide a legal opinion.

Jonathan Stevens - If you want to submit an opinion, we will consider it.
Erik Hoekstra – There is university counsel involved, and we will wrap this into it.
Closes Sketch Plan Review, 6:18 pm.

VI. Other Business None.

VII. Adjournment 6:19 pm.

Deliberative for the Diocesan Property immediately after DRB agenda.

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz/drbb

Phone: (802) 865-7188

Fax: (802) 865-7195

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



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, April 7, 2015, 5:00 p.m.

Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
Minutes

Board member present: Austin Hart (Chair), Jonathan Stevens, Brad Rabinowitz, Missa Aloisi, Michael Long, Israel Smith. **Board members absent:** Jim Drummond, A.J. LaRosa and Ali Zipparo
Staff members present: Ken Lerner, Scott Gustin, Mary O'Neil, and Anita Wade.

I. Agenda

No change to agenda.

II. Communications

Supplemental communication accepted by Board regarding Weston St.

III. Minutes: In packet. Chair advises board member to bring comments or corrections to deliberative.

IV. Public Hearing

1. 15-0865VR; 2-4 North Winooski Ave (DT, Ward 3) Miller North Properties/Tom & Deb Miller

Variance request to change use from café to bar/tavern (Project Manager, Scott Gustin)
Applicants were sworn in by A. Hart.

D. Miller one owners of Bar presented an expansion of existing bar including more tables, expanded kitchen. Not near residential buildings.

A.Hart, said use is not permitted under current zoning code and the question is whether Board can approve a nonconforming use or perhaps present to Planning Commission for a change in zoning.

Jonathan Stevens, previous owners expanded into the two stores.

K.Lerner said it was a coffee shop selling food.

B.Rabinowitz said it could be accessible space as separate business.

Jonathan Stevens questioned the debate

K.Lerner to maintain bar business, it must be separate from other business.

D Miller said there are no guarantees and need to consider Code enforcement. The former Radio Bean served more food than alcohol.

M.O'Neil noted the benchmark to look at.

Jonathan Stevens cannot grant variance.

A.Hart Board will deliberate on matter and speak to P & Z about options.

Public Hearing Closed.

2. 15-0656CA/MA; 289 College St (RH, Ward 8) 289 Live/Work, LLC

Addition of 12 residential units to existing mixed use building (office and 1 residential unit) for a total of 13 residential units and office use (Project Manager, Mary O'Neil)

Bruce Baker, Architect Bob Duncan and Greg Doremus were sworn in by A.Hart.

B.Baker, Pre-existing use; rental office sharing cafeteria; live work concept as two choices; The fallback to 3 or 4 bedroom ended up as a decision to go to 1 unit for residents to live and work same in building and with easier management of building.

Greg Doremus described the work done with staff at Planning and Zoning last year getting input for project. A full application was put through in November with input from DRB about design, color, entry and parking. A new design was worked up and presented

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

Printed on 100% Recycled Paper

to DAB and Planning and Zoning on the bike rack, entryway, color; with the final application tonight. Positive meeting with Conservation Board about rain garden; parking counts, offices, a one unit apartment and one parking lot for daytime and evening use. Greg made reference to studies of parking through ITE Parking Analysis report. ITE recommended 2 spaces per 1,000sq ft or every 1.2 spaces/unit. Actual Parking Analysis performed were from 120 observations, 7 days a week. At 5,800sq ft, 12 spaces are needed at peak for office use and 15 spaces at peak for residential. Picked highest observations over 8 weeks and peaked out with parking at noon time. 16 metered spaces available.

Jonathan Stevens had questions on metered spaces;

M. Aloisi had questions on parking.

M Long asked if space was staying same.

M. Aloisi asked if residents were allowed to leave car in lot.

Greg affirmed that residential parking was allowed during day.

Bob Duncan presented design drawing to Board showing gravel parking lot addition, and existing site plan. Proposal to create additional building similar as original bldg. Greg mentioned advantage in making entrance ADA with lift for 1 unit accessible and other 3 fully adaptable and a rain garden heavily vegetated for stormwater collection in center; new bike racks, new stairs to serve to all locations of building, significant perimeter vegetation, and a dumpster location which reduces park spaces by only one space. Height of original building is same as new with fiber cement wood product, 8" to weather, natural brick color, bay window galvanized finish, handicap entrance in rear and main entrance off College St.

M. Aloisi questioned the connector between buildings.

Jonathan Stevens questioned the dumpster and how far a tenant needs to walk to dumpster or B Duncan guess-estimate is 65 ft from entrance to dumpster;

B Duncan, presented solid fencing and biking pictures; under lot coverage requirements;

M. Aloisi had questions about rain garden and roof

B Rabinowitz trouble with the presence of the building and its character;

B Duncan said he was comfortable with the design. He mentioned that differential was a term used in regard to a historic structure calling for similar pattern, mirror image of buildings, which the site plan promotes with the prominent entrance from College St link courtyard

B Rabinowitz said the color looks more brown than red brick

A Hart question about landscaping, shading from existing properties,

B Duncan said significant vegetation will be incorporated

A Hart concerns about screening particularly in rear of parking lot

B Duncan said plantings are done to avoid mowing;

Other general questions by Board members;

Public Hearing Closed.

3. 15-0840CU; 27 Arlington Ct (RL, Ward 7) Nathan Caswell

Establish 1 bedroom bed & breakfast within existing single family home (Project Manager, Ken Lerner)

A Hart swears in Nathan Caswell

N.Caswell said Air B&B is no change to property only its use where he will rent one of two bedrooms for temporary stay, but not every day of week. On average 2 to 3 nights per week. N Caswell worked w/ Zoning Administrator on expectations of parking. He shared paper document information on parking with Board.

A Hart asked him to walk thru parking;

N Caswell, showed how two parking in tandem worked in photos.

A Hart, question on whether previous use will exist

N.Caswell said it will not.

A Hart said Board will remove previous use;

A Hart asked if he would follow staff clarification/conditions;
N Caswell can abide by the conditions
Public Hearing Closed at 6:20pm.

4. 15-0797AP; 164 North Willard St (RL, Ward 1) Luke Purvis

Appeal of Notice of zoning violation regarding expanded parking (Project Managers, Ken Lerner & Jeanne Francis)

A.Hart swore in all willing to comment on project.

Code Enforcement said a decision on a violation was remedied; encroachment of parking on 158 North Willard violations was remedied.

A Hart are the easement and parking strip different;

Code Enforcement: easement is owned by 158 No Willard, parking strip is 164 No W.;

Code Enforcement determined no violation, documented no parking; reviewed affidavit,

A Hart said that Board has two affidavits.

A Hart has not established 15 year statute of limitations.

Code Enforcement said 158 No W claims no parking has occurred within area;

A Hart, explained materials;

Code Enforcement commented that a violation that more than 60 days is a discontinuance..

Attorney mentioned a discussion on ordinance 5.3.2 distinct time line in ordinance.

Code found complaint was unfounded and found no violation on 1/29/15.

B Rabinowitz questioned parking lot;

Code Enforcement: parking lot in question is on the south side;

A Hart said it was unusual that an owner appeals a finding of no violation;

Code finding was no violation;

Jonathan Stevens questioned the 60 year versus 1 year use explanation;

Attorney explanation was that a 60 day nonuse cancelled the 15 year use.

Appellant has understanding of non-violation,

Mr Purvis lost his ability to park vehicles; factual basis for not being able to park;

B Rabinowitz, questions on south side parking;

Mr Purvis didn't know what he had to remove in regard to parking;

A Hart asks Board to conclude with a binding decision on what is the distinction between the easement and the parking strip where no parking is allowed;

Mr P shows Board on photo the boundary lines; parking on strip and easement.

Procedural Jan 29th letter is unsubstantiated.

Mr Purvis is questioned by attorney on the following:

As many as 3 parking vehicles in parking area is neighbors' complaint.

Mr LeClaire use of area over 47 years, rented property and supported 4 cars.

Mr Purvis researched property and spoke to owner about buying property in 2013.

Issue with neighbor on use of property where neighbor asks 164 No W to reduce easement size.

Mr Purvis said the Lease provides 8 parking spaces with City and does not intend to use that many spaces. Has reduced use of parking area.

B Rabinowitz, said there is not adequate information to make a decision.

A Hart said that Mr Purvis is establishing the 15yr use.

Mr Purvis claims dispute is over the easement and having access to the easement.

Questions regarding the procedural matter.

A Hart asking Board to resolve it now.

B Rabinowitz, questions on 3 car garage.

K Lerner said this is a pre-existing use.

Continuing with questions by Mr Purvis' attorney asking about consistent use of area within 30 days. The question is if photos taken in the evening would show parked cars.

Additional evidence shown by 4 photos there was parking during time when Code came and indicated there was no parking.

Mr Purvis offered video made within two weeks of closing that parking was available. Jonathan Stevens and A Hart asked Mr Purvis if only two cars were associated with residence made by his statement.

Jonathan Stevens question about if parking was happening on gravel area and if plowing maintained both areas.

K Lerner stated that Mr Cleary's affidavit was not included in packet.

Mr and Mrs. Cleary, dispute this.

A Hart questioned if easement and strip had been used within past 19 months. The concern is about runoff into yard and into basement for 158 North Winooski, setback of parking, no delineation of parking, and no zoning permits.

A Hart questioned the site plan for parking;

K Lerner said there was no site plan;

Mr Cleary mentioned on March 7, 2008 the dumping of gravel as shown in picture; Photo 5751, April 26, 2014 shown to Board. On July, 2012 to April 26, 2014 there were no cars. Mr LeClaire used northern parking area. Mr Cleary mentioned ample parking for 4 cars in northern area and 3 parking spaces in garage. Photos dated 2013 were presented to Board by Mr Cleary. There were no photos showing parking south of driveway during time where Mr Purvis claims cars are parked.

M Long asked if parking area was ever abandoned.

Mrs. Cleary said Mr LeClaire, former owner, parked in driveway and had no tenants for years. At that time parking changed from northern area to southern area and over time two vehicles angled in spaces; Questioned about legitimate parking area and that City condones

M Long asked about any permits;

K Lerner responded there were no permits

Code response, Jean Francis, decision is on a two foot strip;

Mr Cleary owns easement according to City records and that he could park there;

Code found no parking upon inspection.

Public Hearing Closed at 7:13pm.

5. 15-0830AP; 18-20 Weston St (RL, Ward 1) Charles Burns

Appeal of Notice of zoning violation regarding expanded parking, trash, and outside storage (Project Managers, Ken Lerner & Jeanne Francis)

M..Long recused.

Request for continuance by Attorney for Charles Burns. He mentioned some issues are resolved, and wants to work with staff on others.

A Hart said he understands the merits although are people wanting to comment.

Attorney wants to vacate.

Bill Ward and Jean Francis present evidence before the Board. JF said 2005 complaint came in on parking for south side of property. JF found the Owner could not prove parking 15 years on property. Jeanne Francis previously worked with owner, Burns, on plantings. Jeanne Francis moved forward with plan. In 2014, there was a complaint on property. Code met with him about complaint and discussion on progress with the 2005 plan. November, 2014 met with Burns asked about storage in units;

A Hart asked for clarification on units as garage bays

Code affirms 6 garage bays; confirmed that nonresidents were parking at bays which is a violation;

A Hart asked for clarification of parking and use of garage bays;

Jeanne Francis said parking has increased. Presently parking is being used and on grass; garage bays are not being used by residents; Black and White undated photos submitted were complaints by citizens on parking, trash receptacles changed locations, use of green space, use of garage bays not being used as storage for tenants and there is no approved site plan from DRB or P & Z;

Code said there would be less confusion with enforcement if there was a site plan; cannot give lot coverage without approved site plan.

B Rabinowitz questioned if there was an attempt to enforce a plan;

K Lerner mentioned black and white photographs given to Board taken today at 3:00pm to give a reference point to 2005 plan.

A Hart indicated need for opportunity to reply from residents

Swearing in of residents.

Attorney mentioned the established duplex had been compliant since 2005 with no parking problem;

A Hart asked if parameters were set as to what should exist in the 2005 plan;

Attorney said 2005 was only a discussion tool. Owner was willing to testify that for 20 years no change in parking.

A Hart said the 2005 plan was not binding to current situation if parking expanded

C Burns gave history of property since 2002 from the owner he sold it too; garage a former horse barn was used for storage.

Attorney said part time property manager uses garage bays

M. Aloisi asked how many parking spaces allowed

Attorney replied, four spaces.

A Hart noted that equipment spills out into area questioning maintenance of area.

C Burns affirmed this observation.

Attorney said the garage is not viable parking structure

A Hart said the storage for this property is not storage for other properties

Attorney affirms this may be case mentioning Burns daughter uses space.

A Hart asked to hear from neighbors

Jonathan Stevens question filing with Planning and Zoning

Caryn Long spoke about the duplex with tenants and how for 15 years cars always parked in garage; no cars parked in 1988; no permits on file, and that the zoning for the RL district requires 65% green space; since the purchase of adjacent property by C Burns, parking in back and front of Weston St is shown in 4 photos to Board and a total nine people living in duplex with possible evidence of commercial use;

Judy Rosenstreich, adjacent neighbor, marked change in use and seven residents parking on green area. As a purchaser of own home in 1998 has since observed more cars; A Hart asked when did she notice a difference; Judy R. observed since sale of property between Riley and Burns with change in use at garage bays.

A Hart asked if this has that been happening for 15 years.

JR tenants began to park in area in 2014;

Candace Page spoke how she lived in area since 1984 and was aware notice of violation about nonresidents parking at 1820 and an increase in parking after property was sold to Mr Burns;

A Hart questioned about the parking increased at 18-20;

CP seen multiple cars parking.

A Hart questioned Board about a continuance.

Sharon Bushor, council person from ward 1; once lived at 12 Weston asked to request to deny appeal based on use of property and due to violations. She indicated the statute of limitations doesn't apply to use and it was factual basis that a business happening at site was not allowed.

A Hart said this may have been happening for 15 years and therefore this allows a continuance.

Sharon, Bushor said there was a history of former residents where there was more grass before than now as referenced by Code Enforcement,

Attorney mentioned that witnesses could not be at the meeting to respond;

A Hart requested a continuance for the hearing on May 5th,

A Hart made the motion to move hearing to May 5th. Jonathan Stevens seconded this motion

A Hart said he wants to know what are the measures are in place now for parking.

Resident questioned about participation at this meeting.

Resident mentioned the Coop's request for a stay.
A Hart said Board was not in position to make that decision on a stay.
Meeting Adjourned.

V. Other Business

VI. Adjourned.

Deliberation scheduled for Monday, April 13, 2015 at 5:00 pm at P & Z .

A. Hart - Chair, Development Review Board

Date

Anita Wade, Zoning Clerk

Date