

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

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Vacant, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

WEDNESDAY March 7th, 2018, 5:00 PM

PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on
WEDNESDAY March 7th, 2018 at 5:00pm in Contois Auditorium, City Hall.

- 1. 18-0603CA; 141 North Willard St (RM, Ward 2C) Yellow Dog Management LLC**
Appeal of administrative zoning permit to install kitchen hood vent and rooftop screening.

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).

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BURLINGTON DEVELOPMENT REVIEW BOARD

WEDNESDAY March 7th, 2018, 5:00 PM

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

AGENDA

- I. Agenda
- II. Communications
- III. Minutes
- IV. Consent
- V. Public Hearing

1. 18-0603CA; 141 North Willard St (RM, Ward 2C) Yellow Dog Management LLC

Appeal of administrative zoning permit to install kitchen hood vent and rooftop screening.

(Project Manager: Mary O'Neil)

2. 18-0323DT; 59-61 University Terrace (RL, Ward 8E) Citytrust of Bridgeport Connecticut / Priscilla Toomey

Appeal adverse administrative decision regarding determination of pre-existing, non-conforming use of 5-person occupancy (unrelated tenants) of each of the two duplex units.

(Project Manager: Scott Gustin)

3. 18-0619CA; 149 Church St (FD6/CIVIC, Ward 3C) City of Burlington

Continued from February 20th, 2018: Reconstruction of City Hall Park including sidewalks; installation of new fountain and plazas on east edge; tree removal and replacement; installation of rain gardens and associated retaining walls; retaining walls along Main St edge; replacement pole lighting; architectural lighting on facades of BCA and City Hall buildings; installation of fence to enclose mechanical equipment adjacent to steps.

(Project Manager: Scott Gustin)

VI. Adjournment

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Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
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David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Anita Wade, Zoning Clerk



TO: Development Review Board
FROM: Scott Gustin
DATE: March 7, 2018
RE: 18-0619CA; 149 Church Street

=====

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

Zone: Civic Ward: 3C

Owner/Applicant: City of Burlington / Wagner Hodgson Landscape Architecture

Request: Reconstruction of City Hall Park including sidewalks; installation of new fountain and plazas on east edge; tree removal and replacement; installation of rain gardens and associated retaining walls; retaining walls along Main St edge; replacement pole lighting; architectural lighting on facades of BCA and City Hall buildings; installation of fence to enclose mechanical equipment adjacent to steps.

Applicable Regulations:

Article 5 (Citywide General Regulations), Article 14 (Downtown Code)

Background Information:

The applicant is seeking approval for a comprehensive reconstruction of City Hall Park. This project underwent sketch plan review with the Design Advisory Board on December 13, 2016 and with the Development Review Board on December 20, 2016. The Boards were generally supportive of the redesign. No concerns as to historic preservation were noted. Most comments were directed at events in the park and the potential for a commercial kiosk. As proposed, no commercial kiosk is included. One may be pursued in the future. A new public bathroom (a "Portland Loo") is included.

The park is located within the Civic zone – one of the newly established downtown form zones. As a result, review under Article 14, *PlanBTV: Downtown Code*, is required. Given the park's inclusion on the National Register of Historic Places, Sec. 5.4.8, *Historic Buildings and Sites*, also applies. Development Review Board consideration of this application is limited to Sec. 5.4.8 and Sec. 14.7.1 (f), *Review and Approval of Civic Spaces and Civic Buildings*. All other aspects of this application are reviewed administratively per 3.2.7 (c), *Administrative Decisions*, of the Comprehensive Development Ordinance.

The Design Advisory Board reviewed this application at their January 23, 2018 meeting and recommended approval with the following conditions:

1. Include more seating throughout the park.

2. The mechanical enclosure should incorporate more open vents as opposed to a more closed opaque style.

Revised project plans have been submitted to address the DAB's recommendation. Proposed seating capacity within the park is noted as 314, whereas the current park seating capacity is 158. Screening of mechanical equipment by City Hall's western stairs has been addressed with three alternatives. Of course, only one will be installed. Either option 2 or 3, open fencing or lattice, respectively, would satisfy the DAB's recommendation.

The Development Review Board opened review of this application on February 20, 2018. Significant public testimony was provided as to events in the park (such as the farmers' market) and the proposed cutting of existing trees in the park – specifically, a perceived excess of tree cutting. Events in the park are outside of the scope of zoning permit review. Tree removal, preservation, and plantings are within the scope of this review. The Development Review Board continued the public hearing to March 7, 2018 and requested additional information relative to existing tree conditions and the rationale for cutting those trees slated for removal. The Board also requested information relative to public performances in the park. The applicants have submitted additional information relative to tree retention and removal.

Previous zoning actions for this property are noted below.

- 9/20/16, Approval to enclose ground mounted HVAC units
- 7/20/15, Approval to install replacement ground mounted HVAC units
- 6/13/14, Approval to install security cameras
- 10/1/13, Approval to install a temporary structure in alleyway
- 1/17/13, Approval to install lighting fixtures to illuminate City Hall and the Fire House
- 1/14/12, Denial of light fixtures to illuminate City Hall and the Fire House
- 7/23/12, Approval to install temporary structures in alleyway
- 5/14/12, Approval to install temporary structures in the park and install alleyway lighting
- 10/28/09, Approval to install temporary micro-house in the park
- 4/13/09, Approval to add handrail to western steps of City Hall
- 7/20/10, Approval of 5-year tree maintenance plan for city parks and other public lands
- 6/3/03, Approval of renovations to City Hall Park
- 4/17/03, Approval to install donor recognition sign
- 3/20/01, Approval to replace two louvres with windows
- 9/16/99, Approval to install a millennium sculpture
- 10/16/95, Approval to remove coal shoot cover in alleyway
- 4/12/90, Approval to refurbish street level front doors to become HC accessible
- 8/5/77, Approval for walkway, performance patio, and landscaping improvements

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

I. Findings

Article 5: Citywide General Regulations

Sec. 5.4.8, Historic Buildings and Sites

(a) Applicability:

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

As such, a building or site may be found to be eligible for listing on the state or national register of historic places and subject to the provisions of this section if all of the following conditions are present:

- 1. The building is 50 years old or older;*
- 2. The building or site is deemed to possess significance in illustrating or interpreting the heritage of the City, state or nation in history, architecture, archeology, technology and culture because one or more of the following conditions is present:*
 - A. Association with events that have made a significant contribution to the broad patterns of history; or,*
 - B. Association with the lives of persons significant in the past; or,*
 - C. Embodiment of distinctive characteristics of a type, period, or method of construction, or representation of the work of a master, or possession of high artistic values, or representation of a significant or distinguishable entity whose components may lack individual distinction; or,*
 - D. Maintenance of an exceptionally high degree of integrity, original site orientation and virtually all character defining elements intact; or,*
 - E. Yielding, or may be likely to yield, information important to prehistory; and,*
- 3. The building or site possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association*

City Hall Park is the namesake of the City Hall Park historic district. It is an individually listed contributing resource within this historic district. Alterations to the park are subject to review under Sec. 5.4.8.

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

- 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.*

City Hall Park has been used as a public space dating to the 18th century. While its name and configuration have changed over time, it has remained a significant public open space in the core of Burlington's downtown. The current proposal makes no change to the primary use of this public park space. **(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.*

Although the park has changed over the years, it has retained a number of definitive features. These features include a central water feature with paths radiating away from

it, several monuments, trees, seating, lighting, and a flagpole. It is important to note that individually, none of these elements (except for the monuments pertaining to the Civil War and World War II that will be retained) have historic significance. The significance is within the consistent presence of these features over time.

~~The proposed reconstruction plan retains many of these features. A central water element is included, and most mature trees will be retained. Provision for seating will be made throughout the reconfigured park, and revamped lighting will be installed throughout. The flagpole will be retained. As recommended, the asymmetrical walkway pattern depicted in the sketch plans has been revised to a more traditional radial pattern.~~

The proposed reconstruction plan retains many of these features. A central water element is included along with a flag pole, and provision for seating will be made throughout the park. Revamped lighting will be installed throughout. As recommended, the asymmetrical walkway pattern depicted in the sketch plans has been revised to a more traditional radial pattern.

The park dates to the earliest days of the city, while the oldest individual tree in the park dates to the 1970's. While not historically significant individually, the presence of trees in the park has been constant. As proposed, 24 of the 56 existing trees will be retained, 32 trees will be removed, and 14 new trees will be planted. Proposed tree removal is tied to poor health, species incompatibility, and/or design considerations as articulated in the newly submitted Tree Status plan. New tree plantings will replace nearly half of those to be removed. As has been historically the case, trees will remain a characteristic element of City Hall Park. (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.*

No conjectural elements are included in the proposed design. While basic characteristic features are acknowledged in the redesign, the proposed reconstruction is clearly a product of the present. **(Affirmative finding)**

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

The historic significance of City Hall Park is its role as a public space within the city's downtown, its relationship to surrounding buildings, and its basic design elements. Within this public space, there are a number of defining elements as noted above. These defining elements have changed over time. For example, the shape of the park has changed from circular to rectangular. The paths have been surfaced and resurfaced with differing materials. The central water feature has been replaced. Lighting fixtures have been updated. No individual tree, light, or fountain has any unique historic merit. Only the monuments have historic significance individually. The significance of City Hall Park is found within the functional entirety of the elements that comprise it.

(Affirmative finding)

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

As noted above, park features, such as a central water element and radial walkways, are more important to its historic integrity than the specific materials of individual elements. Materials retention within the park is of less concern than would be for renovation of an historic building. **(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.*

This criterion is aimed at alterations to an historic building and is largely not applicable. As noted above, it is not the materials of the features within City Hall Park that are of particular significance, it is the collection of features and spatial relationships together that make up the park. Retention of those features, in contemporary form, is largely included in the proposed reconstruction. The monuments that have historic merit will be unchanged. **(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.*
(Not applicable)

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

City Hall Park is not located within an archaeologically sensitive area, nor does it contain any archaeologically significant site points. **(Affirmative finding)**

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 overall design and spatial relationships within City Hall Park are most important to its historic significance. None of the trees, lights, fountain, walkways, etc. have individual historic merit. Therefore alteration to them is not of concern under this criterion. As proposed, a number of defining characteristics are retained. An open civic space surrounded by buildings and city streets will remain. Open green spaces and treed areas outlined by the walkways will be retained. Lighting, monuments, and seating areas will be retained. New amenities such as flexible performance space, public art, and restroom will enhance the park's functionality as an important public space in Burlington's downtown. As noted above, the walkway layout has been revised to a more traditional radial pattern thereby preserving the balanced symmetry of the park. **(Affirmative finding)**

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.*

As with several other criteria above, this criterion is aimed at alterations to an historic building. **(Not applicable)**

Article 14: planBTV Downtown Code

Sec. 14.7.1, Applying for a Zoning Permit: Submission Requirements and Review

f) Review and Approval of Civic Spaces and Civic Buildings

i) Conformance with the adopted land use and development plans for the area as identified in the Municipal Development Plan

The reconstruction of City Hall Park is consistent with PlanBTV: Downtown & Waterfront in a number of ways.

- It includes a new bike lane along Main Street and other Complete Street improvements to enhance pedestrian mobility (Complete Street Solution).
- Stormwater management will be substantially improved with a variety of onsite green infrastructure features (The Green Machine).
- The redesign of City Hall Park is specifically called for, and emphasis is placed on pedestrian accessibility and continued functionality as a central gathering place (Main Street). **(Affirmative finding)**

ii) Consistency with:

A) The purpose of this ordinance;

Article 14 is intended to guide development within the city's downtown and waterfront in a manner consistent with the vision articulated in PlanBTV: Downtown and Waterfront. It is intended to focus on the form of development and to preserve and reflect the existing urban pattern and moderate urban scale. This ordinance emphasizes creative design, durable materials, and pedestrian scale. It calls for the reinforcement of Complete Streets to address a variety of mobility needs. This ordinance also calls for the preservation and renewal of our historic resources. The proposed redevelopment of City Hall Park touches on all of these purposes. **(Affirmative finding)**

B) The intent of the Form District where the project is located;

City Hall Park is located within the Civic form district. More specifically, it qualifies as a Square and is intended for unstructured recreation and civic purposes. City Hall Park currently serves such purposes and will continue to do so. **(Affirmative finding)**

C) The purpose of Civic Spaces generally; and,

Civic spaces generally are intended to provide a diverse array of parks and other public spaces as components of a walkable urban environment and vital community centers. Emphasis is placed on affording public or quasi-public activities dedicated to arts, culture, education, recreation, government, places of worship, public assembly, and public transportation. As with above, City Hall Park currently enables and supports such activities and will continue to do so, albeit in refreshed form. **(Affirmative finding)**

D) The intent of the Civic Space Type being proposed.

(Not applicable) No new civic space is proposed.

iii) That the proposed Civic Space or Civic Building as designed provides a positive public benefit and enhancement to the community and the context within which it is proposed.

No new civic space is proposed. The project amounts to a comprehensive reconstruction of a generations-old civic space in the heart of Burlington's downtown. The context of the park remains unchanged. Within the park, key elements will be preserved while improvements are made to enhance its functionality for use by the community well into the future. **(Affirmative finding)**

II. Development Review Board Conditions of Approval

1. Standard Conditions 1-15.
2. Final zoning permit approval is contingent on approval of all applicable administrative checklist items.

MEMORANDUM

TO: Development Review Board
Scott Gustin, Principal Planner

FROM: Wagner Hodgson LA, Project Designers
City Project Team

RE: City Hall Park Tree Planting Plan

DATE: February 26, 2018

Please see enclosed additional information for discussion at the March 7, 2018 DRB meeting regarding the tree planting plan for City Hall Park. These attachments include:

- A matrix indicating each existing tree's health, whether it is proposed to be removed or retained in the plan, the purpose for removal, and notes from two City arborists and the landscape team.
- A matrix indicating each proposed tree's species and anticipated size.
- A map that corresponds with the two matrices above to illustrate the location of trees to be removed and trees to be added.
- A shade study simulating the shading conditions in the park at 12pm and 4pm during the summer solstice.

In response to the DRB's comments and questions at the February 20 meeting, the City Arborist and the landscape team prepared updated notes on the condition of the trees to be removed, recommended two additional existing trees that may be able to be retained, and recommended two additional new trees to be added to the plan.

As such, the revised materials identify 56 existing trees, with 24 proposed to be retained, and an additional 14 proposed for planting, for an anticipated total of 38 trees in the proposed plan.

Design Goals Influencing the Tree Plan

The reconstruction of City Hall Park is intended to promote a healthy, functioning urban park, accessible to residents in all seasons, and an enhanced, historic park that meets the modern needs of our Burlington community. The plans for the park have evolved since 2012 based on public input on the current and future needs of the park. These priorities have been carefully balanced throughout the planning process, particularly in determining the park's ecological needs, the conditions that would best allow trees to flourish, and resulting in the current stormwater and planting plans.

The stormwater and planting plans were informed by former arborist Warren Spinner's annual updates to the Parks, Recreation & Waterfront Department's (DPRW) Tree Inventory. Additional assessment throughout the planning process identified the unique soil compaction and drainage issues that have impacted tree growth in City Hall Park, and informed the plan for how to best support healthy tree growth in the re-designed park.

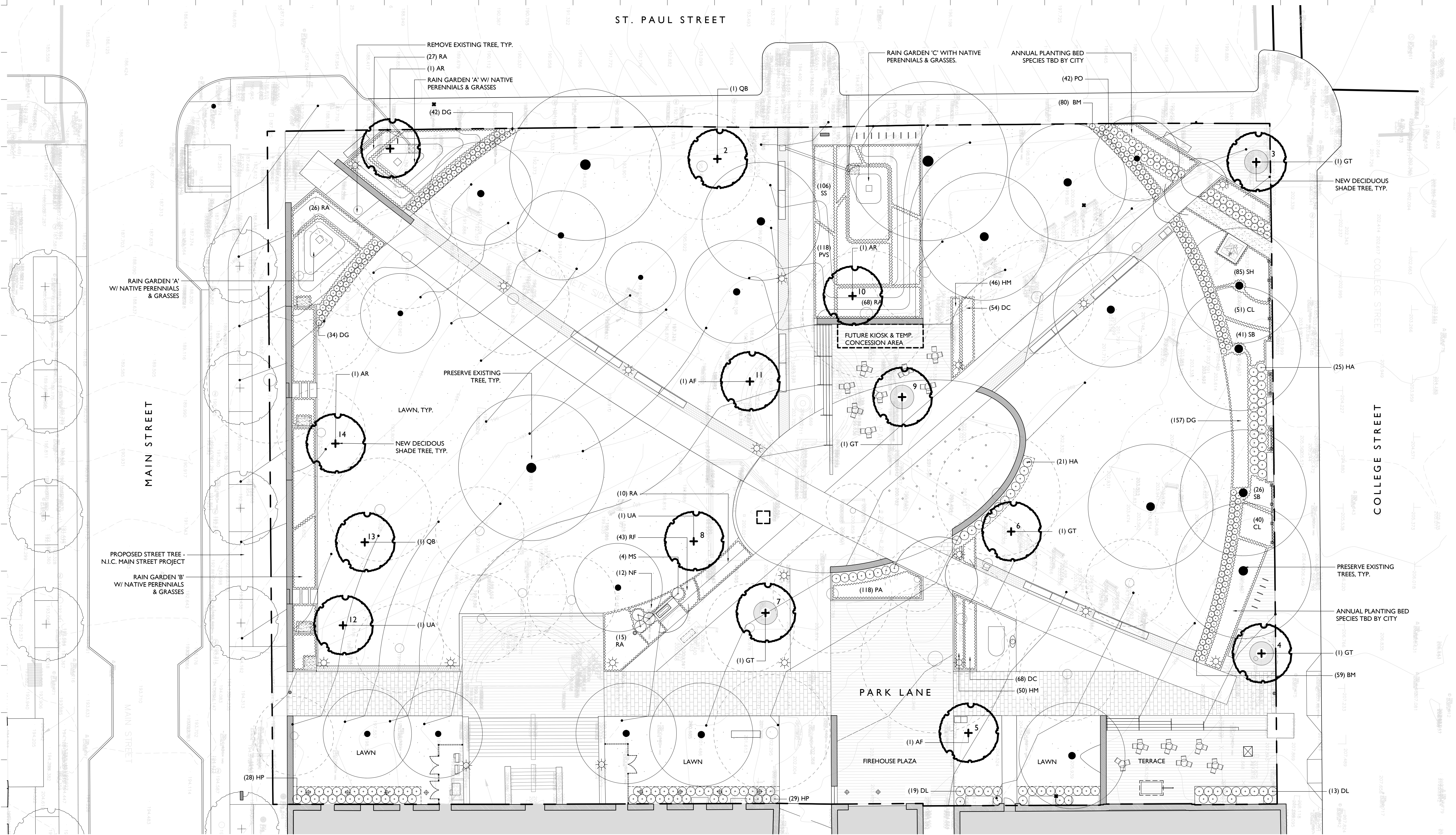
The proposed tree plan strikes a balance among the many design considerations for the Park, including:

- Creating a more favorable and balanced growing condition for all vegetation in the park in the future—including trees, shrubs, flowers, and lawn. Healthier conditions for vegetation will not only provide ecological benefits but add to the seasonal visual interest of the park.
- Removing trees that are in poor or declining health, particularly those that are considered to be a public safety risk, and having an appropriate tree density in the future to ensure more sustainable growing conditions for trees.

- Managing the park's stormwater runoff, as well as some stormwater runoff from St. Paul Street, within the park footprint via two stormwater gardens; gardens are located to take advantage of the park's topography and drainage patterns.
- Slight realignments to path locations and paved areas to 1) improve grades for ADA accessibility and 2) ensure park infrastructure is placed appropriately to accommodate current and future uses to avoid repeated compaction of soil/turf.
- Balancing community input that indicated the desire to have both areas of shade as well as open sunny areas.

The health of the trees in the park vary. Based on ongoing evaluation throughout the planning process, it is evident that some are severely stressed or are in poor or potentially hazardous condition, and that some trees have experienced additional decline during this planning process, despite ongoing maintenance. It is important to note that the conditions are based on above-ground assessments of tree health. Other trees may be more stressed than an above ground assessment will reveal—such as the trees which were lost in the wind storm this past fall. The City Arborist will work closely with the construction contractor to manage and rejuvenate some of the trees in declining health during and following construction.

Thank you for your review of these additional materials. Our team looks forward to discussing these details with you at the March 7 meeting.



PLANT SCHEDULE

KEY	QTY.	SCIENTIFIC NAME	COMMON NAME	SIZE	SPACING
DECIDUOUS TREES					
AF	2	Acer x freemanii 'Celebration'	CELEBRATION MAPLE	3.5-4" CAL.	AS SHOWN
AR	3	Acer rubrum 'Red Sunset'	RED MAPLE	3.5-4" CAL.	AS SHOWN
GT	5	Gleditsia triacanthos f. inermis 'Shademaster'	THORNLESS HONEYLOCUST	4-4.5" CAL.	AS SHOWN
QB	2	Quercus bicolor	SWAMP WHITE OAK	4-4.5" CAL.	AS SHOWN
UA	2	Ulmus americana 'Princeton'	PRINCETON AMERICAN ELM	4.5-5" CAL.	AS SHOWN
SHRUBS					
BM	139	Buxus microphylla 'Green Velvet'	GREEN VELVET BOXWOOD	#3	2' O.C.
CL	91	Clethra alnifolia 'Sugarina'	CLETHERA	#2	2' O.C.
DL	32	Diervilla lonicera	BUSH HONEYSUCKLE	#3	30" O.C.
HA	47	Hydrangea arborescens 'NCHA1' Invincible Spirit	SMOOTH HYDRANGEA	#3	3' O.C.
HP	57	Hydrangea paniculata 'Little Quickfire'	PANICLE HYDRANGEA	#3	3' O.C.
PO	42	Physocarpus opulifolius 'Little Devil'	LITTLE DEVIL NINEBARK	#3	30" O.C.
RA	146	Rhus aromatica 'Gro-Low'	FRAGRANT SUMAC	#3	3' O.C.
SB	67	Spirea betulifolia 'White Frost'	DWARF SPIREA	#2	2' O.C.

ORNAMENTAL GRASSES

DC	122	Deschampsia cespitosa	TUFTED HAIR GRASS	#1	18" O.C.
DG	233	Deschampsia cespitosa 'Goldtau'	GOLD DEW TUFTED HAIR GRASS	#1	18" O.C.
MS	4	Miscanthus sinensis 'Gracilimus'	CHINESE SILVER GRASS	#3	AS SHOWN
PVS	118	Panicum virgatum 'Shenandoah'	SWITCH GRASS	#2	18" O.C.
SH	85	Sporobolus heterolepis 'Tara'	DWARF PRAIRIE DROPSOED	#2	30" O.C.
SS	106	Schizachyrium scoparium 'Standing Ovation'	LITTLE BLUESTEM	#2	18" O.C.

PERENNIALS

HM	96	Hemerocallis 'Mix'	SHORT DAYLILY MIX	#1	18"-24" O.C.
		('Pardon Me', Always Afternoon' & 'Rosy Returns')		#1	
NF	12	Nepetax fassenii 'Walkers Low'	CATMINT	#1	2' O.C.
PA	118	Perovskia atriplicifolia 'Little Spire'	RUSSIAN SAGE	#1	18" O.C.
RF	43	Rudbeckia fulgida 'Goldsturm'	BLACK-EYED SUSAN	#1	18" O.C.

RAIN GARDENS A,B&C

AT	Athyrium filix-femina	LADY FERN	#1	18" O.C.
CV	Carex vulpinoidea	FOX SEDGE	#1	2' O.C.
ED	Eutrochium dubium 'Little Joe'	JOE PYE WEED	#1	2' O.C.
EP	Echinacea purpurea spp.	CONEFLOWER	#1	18" O.C.
IV	Iris versicolor	BLUE FLAG IRIS	#1	12" O.C.
JE	Juncus effusus	COMMON RUSH	#1	18" O.C.
LS	Liatris spicata	GAYFEATHER	#1	12" O.C.
MD	Monarda didyma	BEE BALM	#1	12" O.C.
RF	Rudbeckia fulgida 'Goldsturm'	BLACK-EYED SUSAN	#1	18" O.C.

CLIENTS

Community & Economic Development
Office (CEDO)
149 Church St.
Burlington, VT 05401

Department of Public Works (DPW)
645 Pine St.
Burlington, VT 05401

DESIGN TEAM

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802.864.0010

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SANTA MONICA, CA 90402
info@suisman.com
310.230.9997

CIVIL ENGINEER
DuBois-King, Inc.
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South Burlington, VT 05403
802.728.7225

STORMWATER CONSULTANT

Urban Rain Design
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Portland, OR 97212
kevin@urbanraindesign.com
503.928.5522

LIGHTING CONSULTANT

Domingo Gonzalez Associates
29 Broadway 3rd Floor
New York, NY 10006
212.608.4800

FOUNTAIN CONSULTANT

Delta Fountains
11494 Columbia Park Dr. W., #4
Jacksonville, FL 32258
904.886.9030

NO.	DESCRIPTION	DATE
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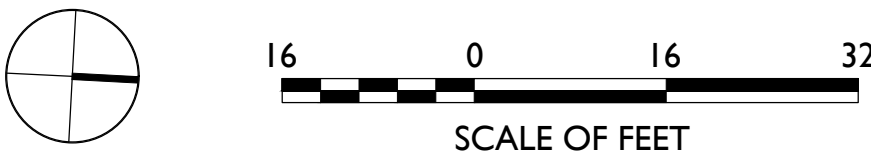
CITY HALL PARK

BURLINGTON, VT

PLANTING PLAN

JOB NO. 648
SCALE: 1/16"=1'-0"
DRAWN BY: AH
DATE: 02.26.18

L200



CLIENTS

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Office (CEDO)
149 Church St.
Burlington, VT 05401

Department of Public Works (DPW)
645 Pine St.
Burlington, VT 05401

DESIGN TEAM

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NO.	DESCRIPTION	DATE
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CITY HALL PARK
BURLINGTON, VT

TREE SHADE STUDY
(June 21, 2018
@ 4 pm

JOB NO. 648
SCALE: 1/16"=1'-0"
DRAWN BY: AH
DATE: 02.23.18

L211

ST. PAUL STREET

MAIN STREET

COLLEGE STREET

PARK LANE

FIREHOUSE PLAZA
FIRE HOUSE

CITY HALL

NOTE:
1. SHADE STUDY DIAGRAM IS BASED ON DATA ACQUIRED FROM THE CITY'S TREE INVENTORY DATABASE AND SEVERAL SITE VISITS. ONE OF WHICH WAS WITH THE CITY ARBORIST ON 2.22.18. SEE TREE ASSESSMENT SUMMARY SPREADSHEETS FOR ADDITIONAL TREE INFORMATION - 'CITY HALL PARK EXISTING TREE MATRIX' & 'NEW TREES TO BE ADDED TO PARK'.
2. ALL NEW TREE CANOPIES ARE REPRESENTED AT THE TIME OF INSTALLATION.



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Delta Fountains
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NO.	DESCRIPTION	DATE
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CITY HALL PARK
BURLINGTON, VT

TREE SHADE STUDY
(June 21, 2018
@ Noon)

JOB NO. 648
SCALE: 1/16"=1'-0"
DRAWN BY: AH
DATE: 02.23.18

L210

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ST. PAUL STREET

MAIN STREET

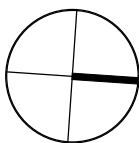
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2. ALL NEW TREE CANOPIES ARE REPRESENTED AT THE TIME OF INSTALLATION.



16 0 16 32
SCALE OF FEET

CITY HALL PARK - NEW TREES TO BE ADDED TO PARK

TREE #	BOTANICAL NAME	COMMON NAME	CALIPER SIZE AT PLANTING	APPROXIMATE CANOPY HEIGHT AT PLANTING	APPROXIMATE CANOPY WIDTH AT PLANTING	MATURE SIZE
1	Acer rubrum 'Red Sunset'	Red Sunset Red Maple	3-1/2" - 4" Cal.	20'	12'	45' H X 35' W
2	Quercus bicolor	Swamp White Oak	4" - 4-1/2" Cal.	22' - 24'	15'	45' H X 45' W
3	Gleditsia triacanthos var. inermis 'Shademaster'	Shademaster Honeylocust	4" - 4-1/2" Cal.	22' - 24'	15'	45' H X 35' W
4	Gleditsia triacanthos var. inermis 'Shademaster'	Shademaster Honeylocust	4" - 4-1/2" Cal.	22' - 24'	15'	45' H X 35' W
5	Acer x freemanii 'Celebration'	Celebration Maple	3-1/2" -4" Cal.	20'	12'	50' H X 20' W
6	Gleditsia triacanthos var. inermis 'Shademaster'	Shademaster Honeylocust	4" - 4-1/2" Cal.	22' - 24'	15'	45' H X 35' W
7	Gleditsia triacanthos var. inermis 'Shademaster'	Shademaster Honeylocust	4" - 4-1/2" Cal.	22' - 24'	15'	45' H X 35' W
8	Ulmus americana 'Princeton'	Princeton Elm	4-1/2" - 5" Cal.	25'	16'	55' H X 35' W
9	Gleditsia triacanthos var. inermis 'Shademaster'	Shademaster Honeylocust	4" - 4-1/2" Cal.	22 '- 24'	15'	45' H X 35' W
10	Acer rubrum 'Red Sunset'	Red Sunset Red Maple	3-1/2" - 4" Cal.	20'	12'	45' H X 35' W
11	Acer x freemanii 'Celebration'	Celebration Maple	4" - 4-1/2" Cal.	22' - 24'	15'	50' H X 20' W
12	Ulmus americana 'Princeton'	Princeton Elm	4-1/2" - 5" Cal.	25'	16'	55' H X 35' W
13	Quercus bicolor	Swamp White Oak	4" - 4-1/2" Cal.	22' - 24'	15'	45' H X 45' W
14	Acer rubrum 'Red Sunset'	Red Sunset Red Maple	3-1/2" - 4" Cal.	20'	12'	45' H X 35' W

CITY HALL PARK EXISTING TREE MATRIX

LEGEND

	Design Goal
	Incompatible Species
	Poor Health
	Planned removal by Parks pending.
	Trees changed from Remove to Keep (since 2.20.18 DRB)

TREE #	SPECIES	KEEP OR REMOVE PER PLAN	DESIGN GOAL	APPROXIMATE CANOPY	WARREN SPINNER'S 2016 ASSESSMENT OF ALL PARK TREES	VJ COMAI'S 2018 TREE ASSESSMENT OF TREES IDENTIFIED TO REMOVE	LANDSCAPE ARCHITECT'S COMMENTS
907	Silver Maple	Keep		56'	Worst of the 3 older silver maple trees, but in good condition.	Good condition. Air spade roots and integrate into rain garden if possible.	
908	Silver Linden	Keep		32'	Struggling	Did not assess	Will benefit from walk moving away from it.
909	Littleleaf Linden	Keep		44'	Good condition	Did not assess	Will benefit from walk moving away from it.
910	Honeylocust	Keep		48'	Struggling, crowded - keep if possible.	Did not assess	Will benefit from walk moving away from it.
911	Silver Linden	Remove	Improving ecology of the Park by constructing a rain garden for infiltration.	36'	In decline, should be removed.	Fair to Poor Condition. Thin crown with evidence of dieback in upper crown.	
912	Red Oak	Remove	Improving ecology of the Park by constructing a rain garden for infiltration.	44'	Good condition. One of the older trees.	Fair Condition. Thin crown with some visible dieback in upper crown. Girdling roots.	*It is not possible to save a tree within a rain garden. The rain garden requires
914	Sliver Linden	Remove	For better pedestrian experience / walkway realignment and widening. New walkway location allows for larger lawn expanse at south side of Park.	40'	Struggling	Poor Condition. Significant crown decline. Structural defects with weak crotches and included bark. Evidence of severe girdling roots and root rot.	excavating to a depth of2' - 3' in order to provide water storage volume.
915	Littleleaf Linden	Remove	For better pedestrian experience / walkway realignment and widening. New walkway location allows for larger lawn expanse at south side of Park.	36'	Good condition	Fair condition. Severe girdling roots on east side of tree.	
916	Littleleaf Linden	Keep		40'	Good condition	Did not assess	
917	Japanese Zelkova	Keep		40'	Good condition	Did not assess	Barriers and planting will help reduce compaction along College street during events.
918	Japanese Zelkova	Keep		44'	Good condition	Did not assess	Barriers and planting will help reduce compaction along College street during events.
922	Japanese Zelkova	Keep		44'	Good condition	Did not assess	Barriers and planting will help reduce compaction along College street during events.
923	Japnaese Zelkova	Keep		48'	Good condition	Did not assess	Barriers and planting will help reduce compaction along College street during events.
924	Crabapple	Remove	Providing a more gracious entry to park with bike parking and seating.	28'	All Crabapples recommended for removal, low branches obscure views into Park, Safety concern	Good condition. These trees appear healthy with average annual growth and no major visible root collar issues.	
925	Horsechestnut	Remove		32'	In decline, should be removed.	Poor Condition. Potential hazard. Severe decline and crown dieback.	
926	Sugar Maple	Remove	For construction of central gathering space, fountain, seatwall and central plaza.	44'	Struggling	Poor Condition. Hazard tree. Severe crown decline, evidence of goirdling roots and root rot. Significant dead wood in crown.	
928	Sugar Maple	Remove		20'	In decline, should be removed.	Poor Condition. Severe crown thinning and dieback. Evidence of old root rot cankers on trunk.	
929	Red Maple	Remove	For plaza expansion and east west walkway to St. Paul Street and ADA compliance grading.	40'	Struggling although keep if possible.	Fair Condition. Crown appears relatively healthy. Severe girdling root issues.	* Park Lane needs to be a minimum of 15' wide for emergency access and Farmer's Market, maintenance.
930	Ginkgo	Remove	For plaza expansion and main diagonal walk widening and ADA compliance grading.	24'	Good condition	Fair to poor Condition. Potential girdling roots. Bark missing at base of tree on east side with evidence of decay. Lack of response wood or callus growth around wound at base of trunk indicates poor	
931	Japanese Zelkova	Remove	For better pedestrian experience / main diagonal walkway widening and ADA compliance grading.	36'	Good Condition.	Poor Condition. Thin crown with evidence of girdling roots. Tree is severely stressed.	
932	Red Maple	Remove	For better pedestrian experience / main diagonal walkway widening and ADA compliance grading.	36'	Good condition	Poor Condition. Thinning crown and weak new growth over past several years. Codominant stem with included bark raises potential for structural failure. Broken hanging 2 inch diameter limb in upper crown with small area of decay.	
933	Norway Maple	Remove	For plaza expansion and Park Lane widening.	48"	In decline, should be removed.	Poor Condition. Thin crown with dsignificant structural concerns with weak crotches and included bark. Evidence of girdling roots, root rot and decav.	
934	Horsechestnut	Remove		32'	In Decline, removal recommended	Poor Condition. Potential hazard. Severe decline and crown dieback.	
936	Common Hackberry	Keep		36'	Good condition	Did not assess	
937	Norway Maple	Remove	Invasive species, in poor health. Allows for more direct path from Church Street.	40'	In Decline, removal recommended	Poor Condition. Stunted twig growth. Thinning and some dieback in upper crown. Severe root girdling issues.	
938	Norway Maple	Keep		36'	In Decline, removal recommended	Did not assess	
939	Norway Maple	Keep		36'	In Decline, removal recommended	Did not assess	
941	Crabapple	Remove	To provide open lawn area for viewing small performances and to visually connect City Hall with Park. Area requires re-grading.	32'	All Crabapples recommended for removal, low branches obscure views into Park, Safety concern	Good condition. These trees appear healthy with average annual growth and no major visible root collar issues.	
942	Crabapple	Remove	To provide open lawn area for viewing small performances and to visually connect City Hall with Park. Area requires re-grading.	32'	All Crabapples recommended for removal, low branches obscure views into Park, Safety concern	Good condition. These trees appear healthy with average annual growth and no major visible root collar issues.	
944	Crabapple	Keep	Is off to side and will not obstruct views to performance area. Out of area of grading.	32'	All Crabapples recommended for removal, low branches obscure views into Park, Safety concern	Good condition. These trees appear healthy with average annual growth and no major visible root collar issues.	
945	Crabapple	Remove	To provide open lawn area for viewing small performances and to visually connect City Hall with Park. Area requires re-grading.	32'	All Crabapples recommended for removal, low branches obscure views into Park, Safety concern	Good condition. These trees appear healthy with average annual growth and no major visible root collar issues.	
949	Green Ash	Remove		36'	In decline, Recommend Removal	Poor Condition. Thin crown with small annual growth increments of twigs. Evidence of possible root rot. Removal would favor the growth of adjacent Silver Maple and Ash on either side. Could be a possible replanting site for a medium sized tree.	
950	Green Ash	Keep		40'	Good Condition	Did not assess	
951	Red Oak	Keep		36'	Good Condition, older tree in Park, planted early 1970's	Did not assess	Will benefit from walk moving away from it.
952	Japanese Zelkova	Keep		24'	Worst tree condition in area, In Decline	Did not assess	Will benefit from walk moving away from it.
953	Japanese Zelkova	Keep		32'	Good Condition	Did not assess	Will benefit from walk moving away from it.
954	Japanese Zelkova	Keep		36'	Good Condition	Did not assess	Will benefit from walk moving away from it.
955	Silver Maple	Keep		52'	Second Best of older trees in Park, planted early 1970's	Did not assess	
956	Honeylocust	Remove	Realignment of diagonal / arc walk for orientation towards lake (Great streets goal), widening of walk and desire to move walks further from trees.	40'	Struggling but keep if possible, root issues	Fair Condition. Some deadwood in upper crown, likely due to shading.	
957	Red Oak	Remove	Realignment of diagonal / arc walk for orientation towards lake (Great streets goal), widening of walk and desire to move walks further from trees.	44'	Good Condition	Good condition. No apparent crown decline or root issues.	
958	Japanze Zelkova	Remove	Realignment of diagonal / arc walk for orientation towards lake (Great streets goal), widening of walk and desire to move walks further from trees.	30'	Good condition	Fair Condition. Appears in relatively good health. Good structure. Potential girdling roots as evidenced by lack of a prominent root flare.	

CITY HALL PARK EXISTING TREE MATRIX

959	Sugar Maple	Keep		20'	In Decline, removal recommended	Did not assess	
960	Sugar Maple	Remove	Improving ecology of the Park by constructing a rain garden for infiltration.	20'	In Decline, removal recommended	Poor condition. Thinning crowns. Twig growth indicates very poor health with minimal annual growth. Root collar issues, evidence of girdling roots and significant crown dieback	
961	Sugar Maple	Remove		32'	In Decline, removal recommended	Poor condition. Thinning crowns. Twig growth indicates very poor health with minimal annual growth. Root collar issues, evidence of girdling roots and significant crown dieback. Remove for safety	
962	Sugar Maple	Remove		36'	Struggling but keep if possible.	Poor condition. Thinning crowns. Twig growth indicates very poor health with minimal annual growth. Root collar issues and evidence of girdling roots. Remove fore safety ASAP	
963	Sugar Maple	Remove	Improving ecology of the Park by constructing a rain garden for infiltration.	32'	Good condition	Poor Condition. Significant crown thinning and decline of crown. Signs of possible root rot. Lack of significant growth increments evident on twigs for the last several years. No response wood or callus forming around recent pruning cuts indicating lack of vigor.	
964	Sugar Maple	Remove		36'	In Decline, removal recommended	Poor Condition. Girdling roots with very thin crown. Noticeable die back in crown. Remove for safety ASAP	
965	Crabapple	Remove	To provide open lawn area for viewing small performances and to visually connect City Hall with Park. Area requires re-grading.	36'	All Crabapples recommended for removal, low branches obscure views into Park, Safety concern	Good condition. These trees appear healthy with average annual growth and no major visible root collar issues.	
970	Princeton Elm	Remove	To facilitate alternative means of transportation by adding a bike lane to Main Street.	44'	Good condition	Good condition. This tree is encroaching on the crowns of younder elms planted along Main street. The tree has been taged for removal to make room for Main street construction.	
973	Silver Maple	Keep		52'	The best of the 3 older trees. Keep. From early 1970's.		
975	Crabapple	Remove	Park lane is being widened in antiaption of the mid-block crossing that is a part of the Great Streets proiect.	32'	All Crabapples recommended for removal, low branches obscure views into Park, Safety concern	Did not assess	
976	Crabapple	Remove	To provide open lawn area for viewing small performances and to visually connect City Hall with Park. Area requires re-grading.	32'	All Crabapples recommended for removal, low branches obscure views into Park, Safety concern	Good condition. These trees appear healthy with average annual growth and no major visible root collar issues.	
977	Norway Maple	Keep		32'	In Decline, removal recommended	Did not assess	
978	Norway Maple	Keep		32'	In Decline, removal recommended	Did not assess	
979	Norway Maple	Remove		28'	In Decline, removal recommended	Poor Condition. Severe thinning and dieback of crown. Exterior fruiting bodies of fungus on trunk and upperleaders indicate decay. Buried root flare with girdling roots. Remove for safety ASAP	
12226	Honeylocust	Keep		44'	Struggling but good form, keep.	Did not assess	

* This tree matrix is a compilation of: tree numbers and species as listed in the Burlington Tree Inventory data base; whether each tree is identified to be retained or removed in the current plan; the design goal that requires it's removal; a field measurement of the tree's canopy; notes from Warren spinner's 2016 site walk with the design team; VJ Comai's 2018 assessment of the condition for all trees identified for removal and the Landscpae Architect's notes.

Department of Planning and Zoning

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Burlington, VT 05401

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Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: **Wednesday**, March 7, 2018
RE: ZP18-0603CA; 141 North Willard Street

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

Project: ZP18-0603CA

Address: 141 North Willard Street ("Momos Market")

Zone: RM **Ward:** 2C

Date application accepted: January 3, 2018

Date of Decision: January 16, 2018

Date of Appeal: January 31, 2018

Applicant/ Owner: Yellow Dog Management LLC (Erin Malone)

Appellants: Autumn and Jeff Spencer

Request: Appeal of administrative approval of kitchen hood vent and rooftop screening at the former Willard Street Market, now Momos.

Background:

- **Zoning Permit 16-1104CA;** install window and exterior door and ramp. April 2016.
- **Non Applicability of Zoning Permit Requirements 16-1206NA;** new membrane on first floor roof above kitchen. Replacement in kind. May 2016.
- **Zoning Permit 16-0172CA;** replace four existing windows, add new entry door. August 2015.
- **Non Applicability of Zoning Permit Requirements 16-0175NA;** replace old stairs and railings with new. August 2015.
- **Zoning Permit 03-139;** Finish roof and walls enclosing staircase on SE corner of building, install 2 windows on south wall, install door at entrance and add 1 window on east wall. September 2002.
- **Zoning Permit 93-281;** installation of a three pane window on the front (North Willard façade) of the existing mini-mart. Signage located where the window will be placed will be eliminated from the building. No new signae proposed. December 1992.
- **Non Applicability of Zoning Permit Requirements;** relocating existing deli operation within existing convenience/grocery store in order to accommodate new walkin cooler.

Removing five coolers, to be replaced with new walk-in. No change in use. No exterior changes proposed. Any change in use and/or exterior changes will require the necessary zoning permit(s). May 1996.

- **Zoning Permit 88-091**; construct staircase on rear to provide secondary means of egress. September 1988.
- **Zoning Permit 76-465**; Erect two 90” wide by 40” high x 8” deep signs flat against the front and side of the Willard Street Market. Install three fluorescent lights. October 1975.
- **Zoning Permit 76-937**; erect a 24’ x 14’ structure (16’ x 12’ x 8’ structure to be moved to 141 North Willard Street and attach at rear.) April 1976.
- **Zoning Permit** to enlarge the floor area of store 8’ x 10’ and to install a new walk in cooler on the south side of existing building. Approved October 1968.

Overview: 141 North Willard Street is a pre-existing Neighborhood Commercial Use, formerly known as the Willard Street Market and now Momo’s. The applicant requested approval of a rooftop fan/vent system; originally proposed to emerge from the rear addition at the south elevation and progressing up to the rooftop for exhaust. Staff questioned compliance with required side yard setbacks, which spurred the applicant to move the unit for direct rooftop penetration more central to the rear addition. As the ordinance requires it, rooftop screening is included. This appeal is from the immediate neighbor to the south, and was filed in a timely manner on the 15th day of the appeal period.

Recommendation: Uphold administrative Certificate of Appropriateness approval per the following findings and conditions:

I. Findings

Article 4: Zoning Maps and Districts

Table 4.4.5-3, Residential District Dimensional Standards

Height is limited to 35’ in the RM zoning district, setbacks are 10% of the lot width.

The proposed rooftop hood/vent is proposed to be located on a one story rear addition, will project approximately 27” from the roof and will therefore not exceed the 35’ height limitation.

The applicant was not certain of her property boundaries so could not confirm compliance with the required side yard setback for the initially proposed installation. As a result, the application was revised to relocate the proposed vent to emerge from the existing rear roof. **Affirmative finding for height and setback standards.**

Section 4.4.5 (d) District Specific Regulations

6. Uses

A. Exception for Existing Neighborhood Commercial Uses

(vii) all building height and setback requirements for the underlying residential district shall apply, and lot coverage shall not exceed 60%.

See setback and height information in Table 4.4.5-3, above. No changes to existing coverage are proposed. **Affirmative finding.**

Article 5: Citywide General Regulations

Section 5.2.3 Lot Coverage Requirements

No change proposed. Not applicable.

Section 5.2.5 Setbacks

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

Section 5.2.6 Building Height Limits

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

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

*All applications for a zoning permit shall be required to demonstrate compliance with the applicable nuisance regulations and performance standards pursuant to the requirements of the **Burlington Code of Ordinances**. All such standards shall be met and maintained for all uses, except for agriculture and forestry, in all districts, as determined or measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.*

Burlington Code of Ordinances

Chapter 21; Offenses and Miscellaneous Provisions

21-13 Noise control ordinance.

(a) Purpose. The purpose of this section is to preserve the public health, safety, and welfare by prohibiting excessive and disturbing noise and to prevent noise which is prolonged or unsuitable for the time and place and which is detrimental to the peace and good order of the community. It is the goal of this section to allow all residents of our city to peacefully coexist in a manner which is mutually respectful of the interests and rights of others.

(b) Prohibited noise offenses:

(1) General prohibition. It shall be unlawful for any person to make or cause to be made any loud or unreasonable noise. Noise shall be deemed to be unreasonable when it disturbs, injures or endangers the peace or health of another or when it endangers the health, safety or welfare of the community. Any such noise shall be considered to be a noise disturbance and a public nuisance.

The proposed kitchen hood is anticipated to have a noise level of 68 dBA measured at 5' distance; equal to that of a vacuum cleaner.¹ Given its proposed installation on an existing

¹ Noise Center of the League; *Noise Levels in our Environment Fact Sheet*, p. 2. Online: <http://chchearing.org/noise/common-environmental-noise-levels/>.

Neighborhood Commercial Use and location at the rear of the building, the projected audible output is not unreasonable.

(2) *Express prohibitions. The following acts, which enumeration shall not be deemed to be exclusive, are declared to be noise disturbances:*

a. *Radios, television sets, musical instruments, phonographs and similar devices.* Not applicable.

b. *Motor vehicle sound equipment.*
Not applicable.

c. *Parties and other social events.*
Not applicable.

d. *Machinery. The operation or permitting or directing the operation of any power equipment or machinery outdoors between the hours of 9:00 p.m. and 7:00 a.m. except in emergency situations.*

The proposed rooftop vent is not construction machinery.

The vent will be in operation during the use of the deli and therefore while food service is in operation. The applicant indicates the hood will be running only when the store is open which is M - F 7am - 12pm and S - S 8am - 3pm. Weekend hours will be reduced in the summer when the spring semester ends through the start of the fall semester.

e. *Construction noise.*
Not applicable.

f. *Loudspeakers.*
Not applicable.

Affirmative finding.

Article 6: Development Review Standards

Part I: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Section 6.2.2 (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 placed underground whenever practicable.

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 5 Performance Standards.

The applicant has located the mechanical equipment on a rear roof and screened from public view. The method of screening the proposed rooftop equipment was provided as part of the submission.

See Article 5, Part 5 above.

Affirmative finding.

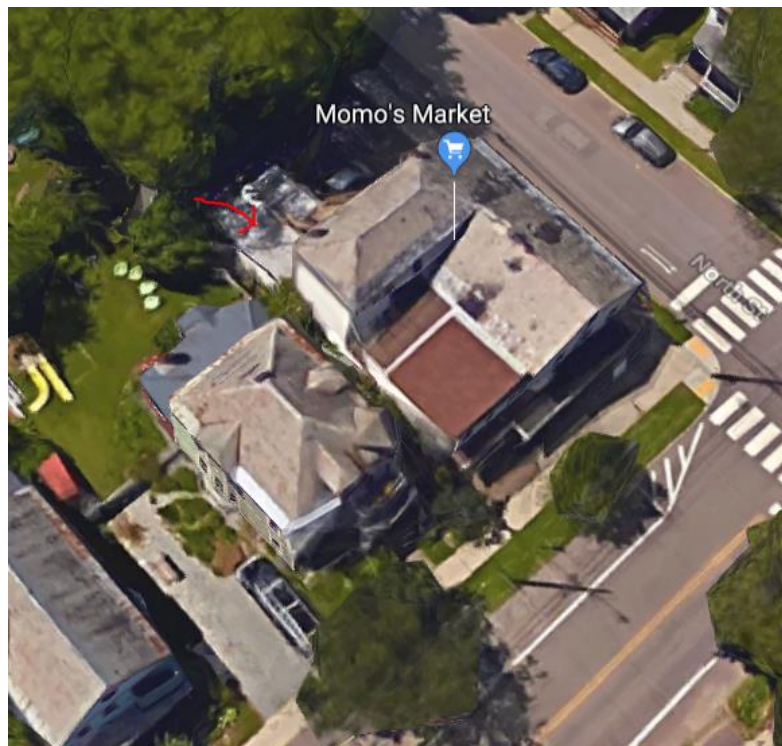
Part 3: Architectural Design Standards

Section 6.3.2

(a) Relate development to its environment

1. Massing, Height and Scale

The proposed roof vent will rise approximately 27" above the single story addition in the rear. The applicant's information indicates that the surrounding screen will not rise vertically as high as the submitted image. The mechanical equipment will be significantly less in height than the existing front building, and installed behind the multi-story structure which fronts North Willard Street. **Affirmative finding.**



2. Roofs and Rooflines

No change is proposed to the existing roofline. **Affirmative finding.**

3. Building Openings

Not applicable.

(b) Protection of Important Architectural Resources

141 North Willard is not listed on the state or National Register of Historic Resources. Not applicable.

(c) Protection of Important Public Views

There are no protected important public views from this parcel. Not applicable.

(d) Provide an active and inviting street edge

The proposed vent will not be visible from North Willard Street. Its location will be screened from North Street.

Affirmative finding.

(e) Quality of materials

The proposed screen is lattice in a wood frame; acceptable for its purpose.

Affirmative finding.

(f) Reduce energy utilization

Not applicable.

(g) Make Advertising features complementary to the site

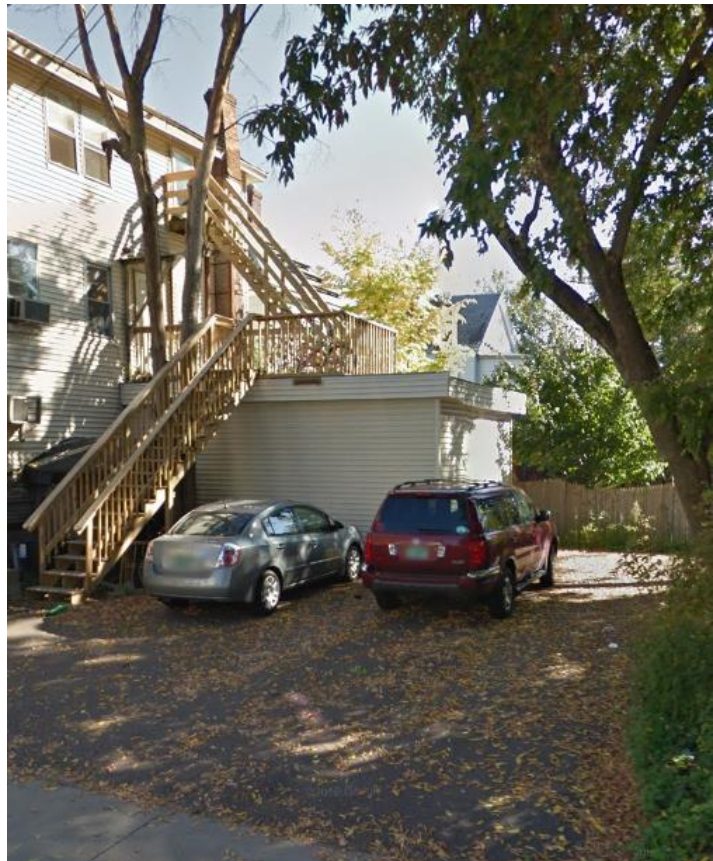
Not applicable.

(h) Integrate infrastructure into the building design

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

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.

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.



Location of proposed vent installation
View from North Street

The applicant relocated the proposed location of the vent/hood to increase the distance from the southerly property line. A screen has been provided to minimize its visibility from the street level. The screen is likely to minimize any perceivable auditory impact on neighboring properties.

(i) Make spaces secure and safe

The equipment must be installed with the appropriate trades permits to assure compliance with building and life safety codes. **Affirmative finding as conditioned.**

II. Conditions of Approval

1. All conditions defined as the administrative decision shall remain in effect unless specifically altered by the DRB.
2. Standard Permit Conditions 1-15.

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



Department of Planning and Zoning

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

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

DEPARTMENT OF
PLANNING & ZONING

JAN 31 2018

Appeal of an Administrative Decision Request

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

SUBJECT LOCATION ADDRESS: 141 North Willard St

Subject Property Owner: Elin Malone

Appellant: Autumn + Jeff Spencer

Agent/Representative: _____

Mailing Address: 139 N. Willard St

City, St, Zip: Burlington VT 05401

Day Phone: 802 355 3116 Email: akespencer@gmail.com

Appellant Signature: AS Date: 1/31/18

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

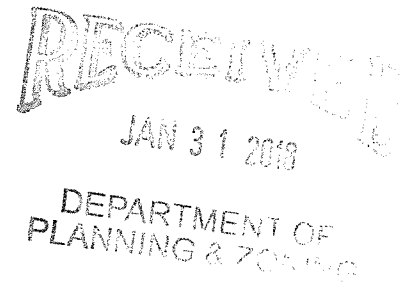
- ☒ The Appeal fee of \$250;
- ☒ Description of the decision under appeal;
- ☒ Description of the property subject to the appeal;
- ☒ Reference to the regulatory provisions applicable to the appeal;
- ☒ Relief requested by the appellant;
- ☒ Alleged grounds why such requested relief is believed proper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

Office Use Only:

Check No. 154 Amount Paid 260 Zoning Permit # 18-0603 CA

Appellants:

Autumn and Jeff Spencer
139 North Willard Street
Burlington, VT 05401



Description of property:

We live at 139 North Willard Street. We're the neighbors immediately to the south of Momo's Market, located at 141 North Willard Street. An 8ft wide alley separates the store building and our home. At the back of our properties, we have yard and garden space. The store's kitchen (a one-storey late addition to the original building) and driveway runs parallel/adjacent to our garden. The plan is for the vent to be placed on the southwest corner of the kitchen roof, close to our home and above our outdoor living space.

Regulatory provisions applicable to our appeal:

Section 6.2.2. (p)

Exterior storage areas, machinery and equipment installations....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.

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 5 Performance Standards.

Section 6.3.2. 2. Roofs and rooflines

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.

Section 6.3.2 (h) 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 4 Performance Standards.

Article 5 Part 5 Performance Standards

Section 5.5.1 Nuisance Regulations

All applications for a zoning permit shall be required to demonstrate compliance with the applicable nuisance regulations and performance standards pursuant to the requirements of the Burlington Code of Ordinances. All such standards shall be met and maintained for all uses, except for agriculture and forestry, in all districts, as determined or measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.

Relief requested by the appellant:

We'd like to better understand the impact of the current plan - to place the vent on the southwest corner of the kitchen roof (next to our building and yard) - on our quality of life and property value. We hope to find another solution that places the vent further away from our house - giving odor, noise, and vapor a considerable volume of additional air into which it can dissipate before interacting with our home and property. There are no immediate neighbors to the north of the store, a parking area and North St buffer the space between the north side of the store and the nearest neighbor to the north.

We're also interested in exploring additional screening or alternatives to the lattice - including the possibility of some sort of additional screening (a plant, vine, or other material) that might help with odor absorption and redirection.

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JAN 31 2013

The alleged grounds why such requested relief is believed proper under the circumstances.

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Having resided at this address for nearly 18 years, we are deeply familiar with the unique issues and experiences associated with living next to a neighborhood market. We fully understand that we live next to a convenient store, and we fully expect that it will have some impact on our home and our lives. We haven't moved because we love living here - next to the store, in this house, in this neighborhood.

In the nearly two decades that we've been here, we've had hundreds of cars block our driveway while the owners shopped. We've picked up enough candy wrappers to fill a dumpster. We've swept up thousands of cigarette butts. We've had strangers make themselves at home on our porch while finishing their cold drinks on a hot day. We've recycled hundreds of empty beer cases after the college kids who bought them used our driveway to transfer the cans to their backpacks. Collectively, we've spent many, many hours asking customers not to pee in our alley, tie their barking dogs to our trees, or lock their bikes to our porch railing. We remember some scarier moments, too - at least 3 store robberies, various acts of vandalism, a man shot out front, and another stabbed. We've witnessed countless drug deals and activity taking place in the cars parked in front of the store - an easily identifiable landmark - including an overdose.

In June of 2017, a compressor located on the south side of the store in the alley between our houses started making a much louder, much less consistent noise than it had been making for several years prior. This had an immediate and significant negative impact on our quality of life. We currently have noisy commercial machinery (running 24hrs/day, turning on and off throughout) that's audible in our office (where we work from home), in our son's bedroom, and has made our two front porches essentially unusable. Because the noise is trapped between our

two buildings, it also clearly carries into our backyard, which previously has been a place of respite from the busy street at the front of the house.

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The point of all this additional detail is not to offer a litany of complaints, or entangle the issue of the vent with other issues, but to provide relevant context. The blocked driveway is a stand-alone issue. The litter is a stand-alone issue. The compressor is a stand-alone issue. The vent is a stand-alone issue. But they also all contribute to a bigger picture of overall impact.

Our appeal is not an attempt to erase the impact of the store. We completely get it - living next to a store is not the same as living next to other houses. What we want to do is mitigate and buffer the negative impact of the store on our quality of life and property value to the greatest degree reasonably possible.

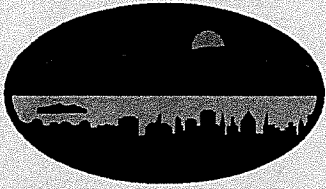
To that end, regarding the vent, we are concerned about noise, odor, vapor and, to a lesser degree, appearance. We'd like to more fully understand the impact of placing the vent (as currently planned) on the southwest corner, close to our home.

- Will the odor from the vent become trapped in our house?
- Will it become trapped between our two buildings and stagnate there?
- How loud is the unit?
- Will it be running at all times?
- Will the vent noise combine with the compressor noise generating a louder noise that further impacts the use-ability of our outdoor spaces, and is more audible inside our home?
- How much vapor is omitted and does it will it leave a greasy film on our house or gardens?
- Can the vent be placed further away from our house?

- If additional ductwork is required for the vent to be placed further away, where will the ductwork be placed? On the roof? Inside the ceiling?
- Can the vent be placed on the northern wall of the kitchen and where would that additional ductwork be located? On the roof, or across the kitchen ceiling?
- Can the cooking surfaces be moved to the northern wall of the kitchen so the vent can be installed directly above it on the northwest roof corner?
- Are there other solutions that have not been considered and what are they?
- Are there screening materials that can be used to redirect and/or absorb odor regardless of where the vent is placed?
- If the vent is installed as planned and Erin (or another owner) decides to offer fried food, will a bigger, louder vent be required? And is it likely that a bigger, louder vent will be allowed to occupy the same (or same but retrofitted) space without a permitting process?

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ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 01/03/2018

Appeal Expiration Date: 01/31/2018

Project Location: 141 NORTH WILLARD STREET

District: RM

Owner: YELLOW DOG MANAGEMENT LLC

Ward: 20

Address: 7 HYDE ST
BURLINGTON VT 05401

Tax ID: 045-1-328-000

Project Type: Commercial - Renovation/Facade

Project Description: Install kitchen hood vent and rooftop screening.

Construction Cost:	\$2,100.00	Lot Size (Sq Ft):	4,615
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:	0

Zoning Permit #: 18-0603CA

Decision By: Administrative

Level of Review: 1

Decision: Approved

See Conditions of Approval

Decision Date: January 16, 2018

Project File: NA

Zoning Administrative Officer

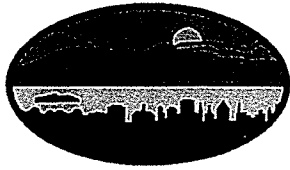
An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on January 31, 2018.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee(s):	\$80.00	Yes	Date Paid: _____
Development Review Fee:	\$0.00	NA	Check # _____
Impact Fee:	Not Applicable		

Building Permit Required: **Yes**

Permit Received by: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Permit - COA Level I – Conditions of Approval

ZP #: 18-0603CA

Tax ID: 045-1-328-000

Issue Date: January 16, 2018

Decision: Approved

Property Address: 141 NORTH WILLARD STREET

Description: Install kitchen hood vent and rooftop screening.

Project Permit Conditions:

1. Vermont Commercial Building Energy Standards apply to this project. Compliance with the standards is the Owner's responsibility. For more information, see http://publicservice.vermont.gov/energy_efficiency.
2. Per **Section 2.7.8, Withhold Permit**, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations.

Standard Permit Conditions:

1. **Other City, State or Federal Permits.** The owner is solely responsible for obtaining all other required City, state and federal approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions.
Note: All projects receiving a Zoning Permit also require a Construction Permit or written confirmation that a Construction Permit is not required from Department of Public Works-Inspection Services Division (DPW-ISD). All construction permits must be closed out by way of approved inspections by DPW-ISD before issuance of a Unified Certificate of Occupancy (UCO) by the Code Enforcement Office as per Condition 3, below.
2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced by **January 16, 2019**. The owner shall complete the approved project and obtain a UCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) by **January 16, 2020**, or be subject to enforcement actions.

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

3. **Unified Certificate of Occupancy (UCO):** It shall be unlawful to use or occupy (or allow the use or occupancy of) any land or structure or part thereof which has been created, changed, converted,

or wholly or partly altered or enlarged in its use or structure without a UCO.

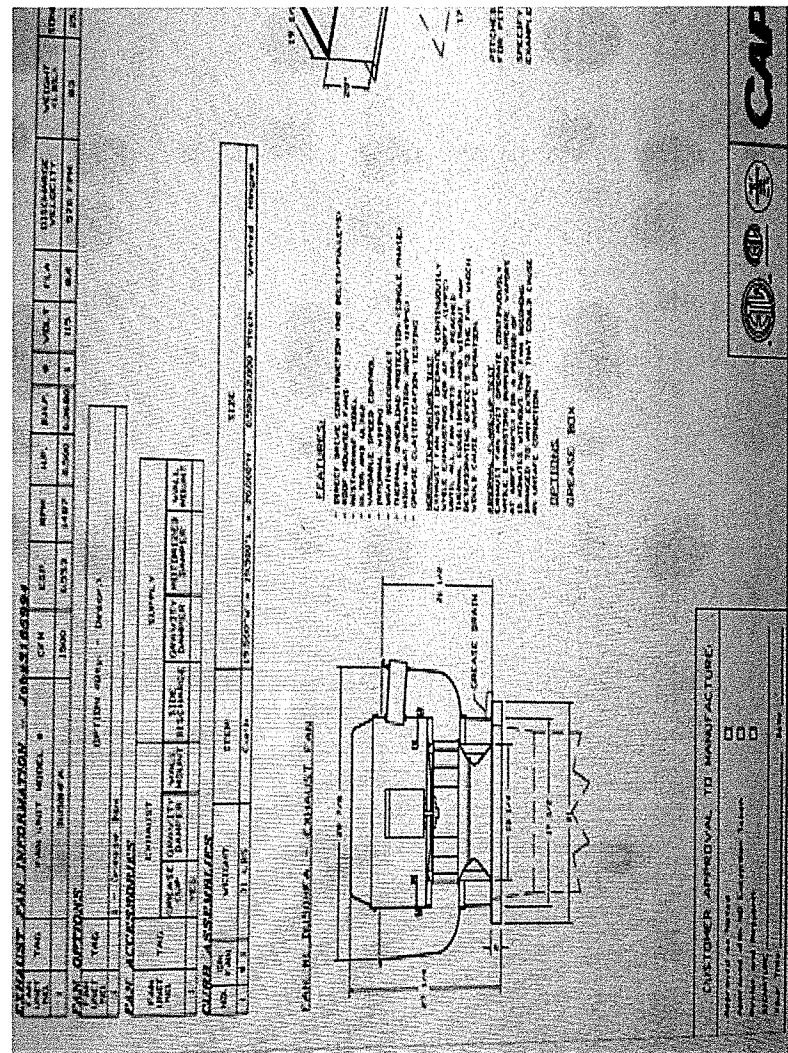
If the project is partially completed, meets “prior to issuance of a UCO” conditions of approval, meets all health and safety standards, and all municipal fees for the project are paid, a Temporary Zoning CO may be requested and issued. **Upon completion of the project**, applicant shall request and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

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

4. **Project Modifications.** The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the administrative officer. The project shall not deviate from the approved plans or conditions of approval without prior written approval from the administrative officer.
5. **Property Inspection.** By acceptance of this permit, the owner authorizes City Officials and/or their authorized representatives, access to the subject property for the purpose of observing work in progress, inspecting and/or measuring the property or improvements until such time the project has been issued a Final UCO.
6. **Completion and Maintenance of Improvements and Landscaping.** Owner or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Owner agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.
10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to two hundred dollars (\$200) per day, municipal tickets, and/or additional permitting fees.
11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined based upon the best evidence available, for instance a survey or other official document. If a permit

is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City. If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.

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



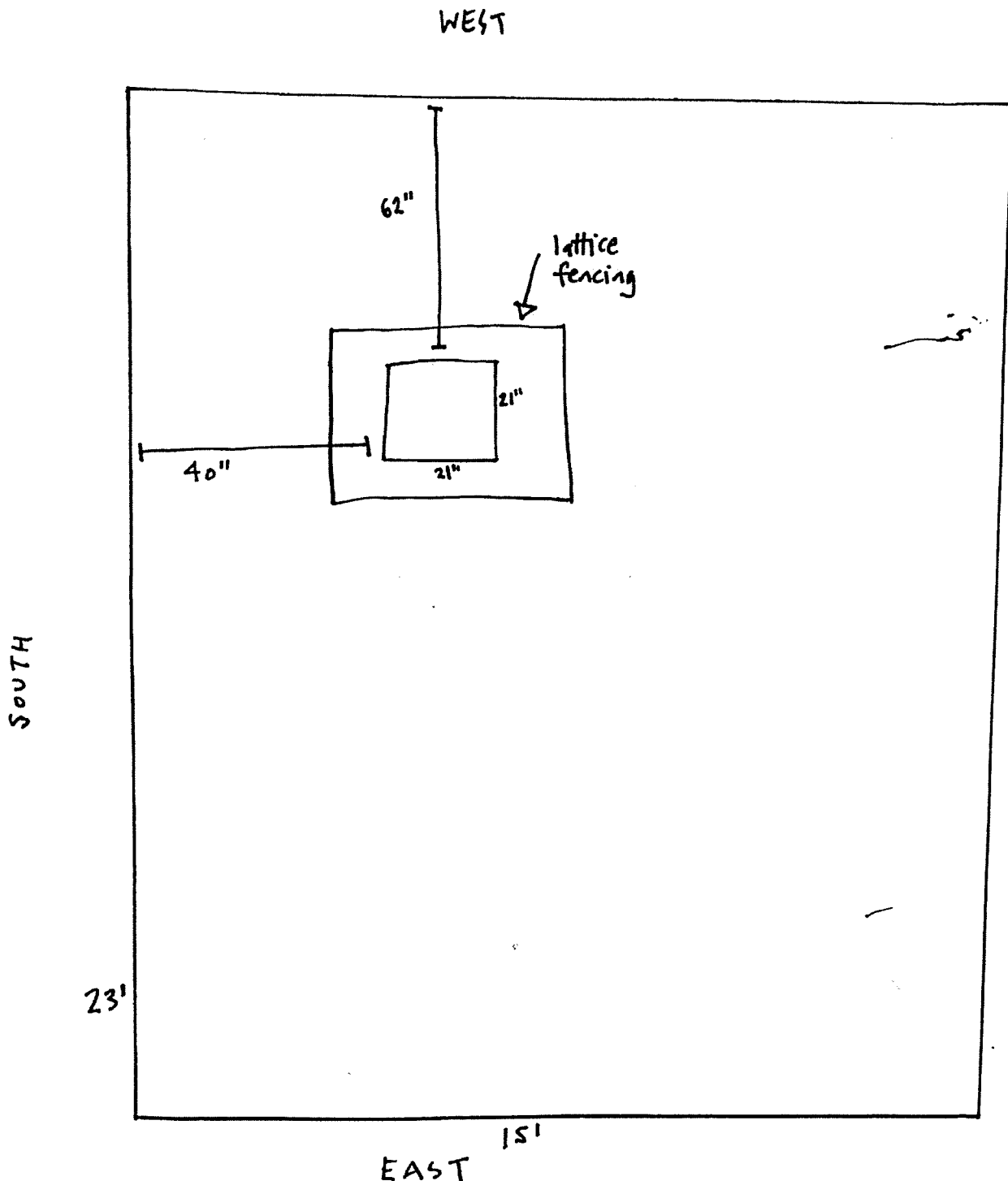
ANY INFORMATION CONCERNING THE SOURCE OF THE POWDER, OR THE PERSONS WHO IN ANY MANNER ARE RESPONSIBLE FOR THE ALLEGED DISTRIBUTION OF THE POWDER, WILL BE HELD IN THE HIGHEST CONFIDENCE AND WILL BE USED ONLY TO THE EXTENT NECESSARY TO BRING THE MATTER TO THE ATTENTION OF THE APPROPRIATE AGENCIES.

SIGNED W. J. [Signature] DATE 1/16/18
TRAINING INSTRUMENT
BUREAU OF LABOR

2P 18-0603CA

City of Burlington
Planning & Zoning
As Built Approval

Date _____ ZP # _____
Address _____
ZA Officer _____



ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS
 REQUIRE ZONING AND PLANNING BOARD APPROVAL TO COUNTY NOTICE.
 ALL ERRORS WHETHER IN THE PLANS OR OTHERWISE ARE
 FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

SIGNED [Signature] DATE 1/16/18
 PLANNING & ZONING DEPARTMENT
 BURLINGTON, VERMONT

141 N WILLARD
 KITCHEN SPACE w/ FLAT RO
 EXTERIOR VENT INSTALATION
 JAN. 10, 2018
 ERIN MALONE

2P 18-0603CA

Mary O'Neil

From: Erin Malone <emalone@gmail.com>
Sent: Wednesday, January 10, 2018 7:59 PM
To: Mary O'Neil
Subject: 141 N Willard | Exterior Vent
Attachments: 141 N Willard Exterior Vent Plan 10jan18.pdf

Hi Mary,

Thanks for jumping on the phone the other day to discuss my project. Attached please find the spec sheet for the vent, an image of the type of lattice fencing I will put up to cover the vent (the fencing will not be this far off the roof) while allowing it to breath and a top view of the flat roof with the location of the new exterior vent.

Please let me know if you need anything else

Thanks,
Erin



Department of Planning and Zoning

149 Church Street, City Hall

Burlington, VT 05401-8415

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

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JAN 03 2018

Zoning Permit Application

Use this form for ALL zoning permit applications. See the relevant checklist for 2018 requirements.

DEPARTMENT OF
PLANNING & ZONING

PROJECT LOCATION ADDRESS: 141 N WILLARD

PROPERTY OWNER*: ERIN MALONE

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

APPLICANT: _____

POSTAL ADDRESS: 141 N WILLARD

POSTAL ADDRESS: _____

CITY, ST, ZIP: BURLINGTON, VT 05401

CITY, ST, ZIP: _____

DAY PHONE: 802.922.3734

DAY PHONE: _____

EMAIL: emalone@gmail.com

EMAIL: _____

SIGNATURE: [Signature]

SIGNATURE: _____

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

Description of Proposed Project: INSTALL 7 FOOT LONG TYPE 2 HOOD VENTILATION SYSTEM

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

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

- Does your project involve new construction, addition, alteration, renovation, or repair to a structure that is heated or cooled? Yes ☒ No ☐

(If yes, the Vermont Residential Building Energy Standards (VRBES) apply. Visit the P&Z Office, Public Service Board or PSB website for details.)

- Will 400 sq ft or more of land be disturbed, exposed and/or developed? Yes ☐ No ☐

(If yes, you will need to submit the 'Erosion Prevention and Sediment Control Plan' questionnaire, with a site plan)

- For Single Family & Duplex, will total impervious area be 2500 sq ft or more? Yes ☐ No ☐

(If yes, you will need to submit the 'Stormwater Management Plan' questionnaire, with a site plan)

- Are you proposing any work within, below, or above the public right of way? Yes ☐ No ☐

(If yes, you will need to receive prior approval from the Department of Public Works)

- Are you proposing any onsite food or beverage production/manufacturing? Yes ☐ No ☐

(If yes, you will need to consult with Water Resources Division at the Department of Public Works: 863-4501)

Estimated Construction Cost (value)*: \$ 2,100

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

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

Office Use Only: Zone: Rm Eligible for Design Review? Y Age of House 1910 Lot Size 4615

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

Check No. 1073 Amount Paid \$0 Zoning Permit # 18-06003C

Layne Darfler

From: Erin Malone <emalone@gmail.com>
Sent: Friday, January 05, 2018 9:41 AM
To: Layne Darfler
Subject: 141 N Willard | Exterior Vent Installation

Hi Layne,

I spoke with my contractor yesterday and he shared the following information. He is using a custom metal v and sheet metal.

The vent is going to be 14" round exiting the building on the south facing side. There will be a 90 degree an around the eave and then the metal work will rise 36" above the flat roof and roughly 60" from the exit of th building.

~~No~~

Please let me know if you need anything else.

Thanks,
Erin

--

Erin Malone
802.922.3734

EXHAUST FAN INFORMATION - Job#3308757

FAN UNIT NO.	FAN UNIT MODEL #	CFM	ESP.	RPM	HP.	BHP.	Ø	VOLT	FLA	DISCHARGE VELOCITY	WEIGHT (LBS.)	SONES
1	DUS0HFA	1500	0.650	1535	0.500	0.4060	1	115	5.6	570 FPM	76	16.6

FAN OPTIONS

FAN UNIT NO.	OPTION (Qty. - Descr.)
1	1 - Grease Box
1	1 - ECM Wiring Package-Exhaust - Manual or 0-10VDC Reference Speed Control (NIDEC Motor)

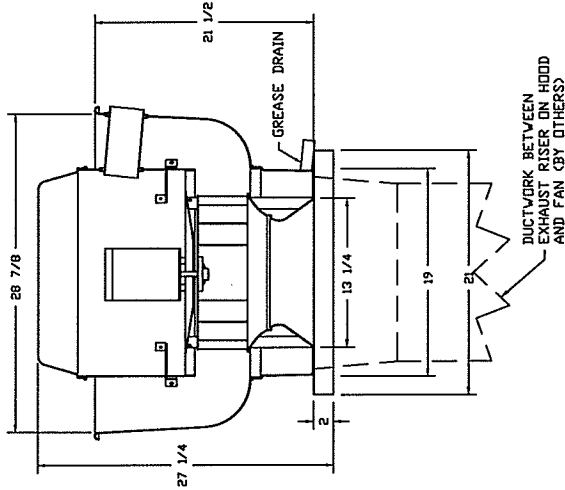
FAN ACCESSORIES

FAN UNIT NO.	EXHAUST	SUPPLY
1	GREASE CLIP GRAVITY DAMPER WALL MOUNT SIDE DISCHARGE MOTORIZED DAMPER GRAVITY DAMPER MOUNT	MOTORIZED DAMPER WALL MOUNT

FAN SOUND INFORMATION

FAN UNIT NO.	MOTOR	RPM	LWA	SONES	DBA	DISTANCE FT.	OCTAVE 1	OCTAVE 2	OCTAVE 3	OCTAVE 4	OCTAVE 5	OCTAVE 6	OCTAVE 7	OCTAVE 8
1	Exhaust	1535	80.1	16.6	68.6	5	76.5	77.9	84.8	76.3	71.7	69.6	65.8	56.8

FAN #1 DUS0HFA - EXHAUST FAN



FEATURES:

- DIRECT DRIVE CONSTRUCTION (NO BELTS/PULLEYS)
- ROOF MOUNTED FANS
- RESTAURANT MODEL
- UL705 AND UL706 CONTROL
- VARIABLE SPEED CONTROL
- INTERNAL WIRING
- WEATHERPROOF DISCONNECT
- THERMAL OVERLOAD PROTECTION (SINGLE PHASE)
- HIGH HEAT OPERATION 300°F (149°C)
- GREASE CLASSIFICATION TESTING

NORMAL TEMPERATURE TEST

EXHAUST FAN MUST OPERATE CONTINUOUSLY WHILE EXHAUSTING AIR AT 300°F (149°C) UNTIL ALL FAN PARTS HAVE REACHED THEIR DESIGN TEMPERATURE. ANY OVERHEATING OF THE FAN WHICH WOULD CAUSE UNSAFE OPERATION.

ABNORMAL FLARE-UP TEST

EXHAUST FAN MUST OPERATE CONTINUOUSLY WHILE EXHAUSTING BURNING GREASE VAPORS AT 600°F (316°C) FOR A PERIOD OF 15 MINUTES WITHOUT THE FAN BECOMING DAMAGED TO ANY EXTENT THAT COULD CAUSE AN UNSAFE CONDITION.

OPTIONS

GREASE BOX
ECM WIRING PACKAGE-EXHAUST - MANUAL OR 0-10VDC REFERENCE SPEED CONTROL (NIDEC MOTOR)

CUSTOMER APPROVAL TO MANUFACTURE:

Noted as Noted

□

JOB MoMo's Market

Department of Planning and Zoning

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

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



TO: Development Review Board
FROM: Scott Gustin
DATE: March 7, 2018
RE: 18-0323DT; 59-61 University Tr.

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

Zone: RL Ward: 8E

Owner/Appellant: Priscilla Rassin Toomey (as Trustee) & Kevin A. Lumpkin, Esq.

Request: Appeal of adverse zoning determination relative to 5-person occupancy (unrelated tenants) of each of the two duplex units.

Overview:

The appellant is seeking a determination relative to occupancy of the dwelling units in the subject duplex. Specifically, the appellant is looking to grandfather the occupancy of each of the two dwelling units by 5 unrelated adults. As the property is located in the Residential – Low Density zone, up to 4 unrelated adults may be allowed. More than 4 may be allowed only by way of Sec. 4.4.5, D, 5, *Residential Occupancy Limits*, and conditional use approval or grandfathering.

The applicant has sought an affirmative grandfathering determination relative to occupancy. Grandfathered status (i.e. pre-existing legal non-conformities) pertains to lots/parcels/structures/uses that are non-compliant with a current zoning regulation, but were compliant prior to a change in the regulations. An adverse determination was issued administratively, and the appellants have appealed to the Development Review Board. The city and appellant worked to settle this matter; however, settlement was not achieved.

The Development Review Board considered a substantially similar appeal involving an apartment building at 2-8 Hickok Place. In that appeal, grandfathered status for 5 – 6 unrelated adult occupancy of several dwelling units was sought. The DRB denied that appeal. It was appealed to Vermont Superior Court Environmental Division where it remains pending. Importantly, the court has affirmed the operative date of December 21, 1970 for proving grandfathered status relative to occupancy.

There is some discrepancy in city records as to the duplex use of the property. Most zoning and assessor records refer to duplex; however, a 1978 zoning permit refers to the then-existing use as a single family dwelling. Sanborn maps from 1962 and 1984 depict a duplex.

The grandfathering request implies occupancy of the duplex units by 5 unrelated adult occupants; however, nothing has been submitted by the appellants that actually demonstrates occupancy by 5 unrelated adult occupants. Information provided only asserts occupancy of all 5 bedrooms in each unit. Occupancy by a family, such as related by kinship, would not require any sort of zoning approval.

Recommendation: **Uphold adverse determination** based on the following findings and conditions:

I. Findings:

The appellant is seeking an affirmative determination that occupancy of the two duplex units by 5 unrelated adults is legitimately grandfathered. Sec. 4.4.5 (d) 5, C, *Residential Occupancy Limits*, of the Comprehensive Development Ordinance (CDO) limits occupancy of all dwelling units within the residential zones to a family as defined in Article 13. The definition of family has several subsections including (c): “No more than four unrelated adults and their children.” This provision of the CDO limits occupancy of dwelling units throughout the city’s residential zones to families with kinship, group homes, “functional families,” or up to 4 unrelated adults. This same provision was originally adopted in November 2000 (in just the RL and RM zones) and was incorporated into the Zoning Ordinance in effect at that time. Prior to adoption of this provision, the city’s zoning regulations prohibited occupancy of dwelling units as “group quarters.” Group quarters includes shared student housing (in re: *Mentes*) similar to the occupancy at 59-61 University Terrace. The prohibition of group quarter occupancy of dwelling units dates back to December 21, 1970.

The duplex units at 59-61 University Terrace are rental apartments. The city’s 2003 rental registration records expressly note 5 unrelated occupants. Seemingly, that occupancy may have continued, and the appellant wishes to have these apartments grandfathered as legitimately pre-existing nonconformities. The determination request was denied and has been appealed to the Development Review Board.

On September 22, 2018, the appellant submitted a zoning determination request seeking grandfathered status for occupancy of the two units at 59-61 University Terrace. Little in the way of evidence was provided – just two affidavits (one from the property manager and one from the trustee). Both affidavits asserted occupancy of all 5 bedrooms in each of the two rental units since 1986 and without interruption of a year or more. Nothing in the affidavits asserted occupancy by unrelated adults. Following review of the determination request, zoning staff contacted the appellant’s attorney and noted that the date for proving grandfathered unrelated adult occupancy of a dwelling unit in the residential – low density zone is December 21, 1970.

On November 22, 2017, appellant’s attorney submitted a letter asserting that reliance on the December 21, 1970 date is incorrect and that the correct date is 2000. No additional documentation in support of the determination request was submitted.

Following a final review of the determination request with the City Attorney’s Office, an adverse determination was issued on November 29, 2017:

This determination is in regard to the above-referenced property, specifically your request that the City of Burlington recognize 5-person occupancy (unrelated tenants) of each of the two duplex units as grandfathered (legally pre-existing non-conformity). The City reviewed the following documents/evidence to form its determination:

- The City's zoning permit records
- The City's property assessment records
- The City's rental registration records
- The Sanborn maps from 1919, 1938, 1962, and 1984
- Affidavits of
 - Priscilla Rassin Toomey
 - Curtis J. Wheeler
- *In re: Appeal of John Mentas*, Docket No. 132-6-00 Vtec (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002)
- Burlington zoning regulations including, but not limited to, the following versions: 2008 Comprehensive Development Ordinance and as amended, ZA #2000-01 Residential Districts Established passed November 22, 2000, and Burlington Zoning Ordinance approved December 21, 1970

Based on the review of these items, it is the determination of the Planning and Zoning Department that insufficient evidence has been provided to grandfather 5-person occupancy (unrelated tenants) of the subject dwelling units. Grandfathered or pre-existing legal non-conformities pertain to lots/parcels/structures/uses that are non-compliant with a current zoning regulation, but were compliant prior to a change in the regulations. While Sec. 4.4.5 (d) 5, C, *Residential Occupancy Limits*, was approved in November 2000, pursuant to *In re: Appeal of John Mentas*, Docket No. 132-6-00 Vtec (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002), the city's zoning ordinance in effect prior to the November 2000 amendment prohibited occupancy of dwelling units as "group quarters". The case found "shared student housing" to be "group quarters." The inclusion of the "group quarters" exclusion can be found in the Burlington Zoning Ordinance starting in 1970 (Burlington Zoning Ordinance approved December 21, 1970). As such, evidence would need to be provided that the occupancy of the requested units was 5 unrelated persons prior to December 21, 1970 and has continued as such. Such evidence was not provided and therefore, the grandfathering determination request must be DENIED.

The appeal of the adverse determination was filed December 14, 2017, within 15 days as required.

The appeal reasserts that the benchmark for grandfathering occupancy dates to the year 2000 (specifically November 22, 2000) when the city adopted its present definition of family and associated occupancy limits in the RL and RM zones rather than to December 21, 1970. In its decision relative to the determination request for grandfathered occupancy at 2-8 Hickok Place, the DRB found that December 21, 1970 is the operative date for grandfathering occupancy of more than 4 unrelated adults in the RL and RM zones. The Vermont Superior Court - Environmental Division has recently reaffirmed that date in its consideration of that appeal.

The central matter here is "grandfathering." As noted in the adverse determination, grandfathered status (i.e. pre-existing legal non-conformities) pertains to lots/parcels/structures/uses that are non-

compliant with a current zoning regulation, but were compliant prior to a change in the regulations. This determination request is not a “Bianchi” or 15-year statute of limitation request; it is a grandfathering request. In order to issue an affirmative grandfathering determination, the appellant in this case would need to demonstrate consistent occupancy of the subject dwellings by 5 unrelated adults to at least December 20, 1970 (a day before the December 21, 1970 amendment).

On December 21, 1970, the city adopted an amended zoning ordinance. In part, the amendments included provision to exclude “group quarters” from the definition of “family.” Then, as now, dwelling units are to be occupied by families. Family was defined as:

One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes.

At that point, the city prohibited occupancy of dwelling units as group quarters. The implied occupancy by unrelated adults of the dwelling units at 59-61 University Terrace amounts to group quarters.

As with the 2-8 Hickok Place appeal, the Mentes case from 2001 and 2002 is fundamentally important to this appeal. The Mentes case, decided by the Vermont Environmental Court, stemmed from an appeal by John Mentes against the Zoning Administrator’s decision not to take enforcement action against the owners of a 7-bedroom home at 36 North Willard Street occupied by seven unrelated students. “Family” and “group quarters” were central to that case. The 1999 zoning regulations in effect at the time contained the same definition of “family” as adopted December 21, 1970. The Court found that “...to fall within the zoning use category of a single detached dwelling, the occupants of the house must satisfy *both* prongs of the definition of family. ...The shared student housing at issue... met the first prong of this test, in that the students were living as a single, nonprofit housekeeping unit, but found that material facts were disputed as to whether or not they also fell outside of the category of ‘group quarters.’” The Court decided that occupancy by unrelated adult students amounted to group quarters and was, therefore, prohibited under the zoning ordinance.

While the Mentes case was pending, the city amended its zoning ordinance November 22, 2000 to address residential occupancy limits (see attached City Council resolution “Appendix A, Zoning #2000-01). The present language, Sec. 4.4.5 {d} 5, C, *Residential Occupancy Limits*, is below.

Residential Occupancy Limits.

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Notwithstanding the following, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied.

Subject to Conditional Use approval by the DRB, a dwelling unit may be occupied by more than four (4) unrelated adults if it contains at least twenty-five hundred (2,500) square feet excluding its attic and basement pursuant to the following:

- (i) If in a RL district, the dwelling unit also contains at least an additional two hundred fifty (250) square feet and one (1) additional parking space per adult occupant in excess of four (4); or,

- (ii) If in a RM district, the dwelling unit also contains at least an additional two hundred (200) square feet and one (1) additional parking space per adult occupant in excess of four (4).
- (iii) If in a RH district, the dwelling unit also contains at least an additional 150 square feet and 1 additional parking space per adult occupant in excess of four (4).

Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes. Occupancy by any of the following shall be deemed to constitute a family:

- (a) Members of a single family, all of whom are related within the second degree of kinship (by blood, adoption, marriage or civil union).
- (b) A “functional family unit” as defined in Article 30, Sec. 30.1.2(1).
- (c) Persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the “Fair Housing Amendments Act of 1988”.
- (d) A state registered or licensed day care facility serving six or fewer children as required by 24 V.S.A. 4409(2), as the same may be amended from time to time.
- (e) No more than four unrelated adults and their minor children.

Provided that a dwelling unit in which the various occupants are treated as separate roomers cannot be deemed to be occupied by a family.

For purposes of this definition of family, a group of adults living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods shall be regarded as a “functional family unit” and shall also qualify as a family hereunder...

While commonly thought of as a restrictive provision, the amendment is actually permissive in light of the *Mentes* case. *Mentes* found that occupancy by unrelated adults constituted group quarters and was, therefore, prohibited. The *residential occupancy limits* amendment added provision for up to 4 unrelated adults within the definition of “family” and established criteria for occupancy exceeding 4 unrelated adults. This amendment enabled occupancy of dwelling units by up to 4 unrelated adults, and under certain criteria, occupancy by more than 4 unrelated adults. The residential occupancy limits amendment originally pertained only to the residential medium density and residential low density zones. It was later expanded to include the residential high density zone. The subject property is within the residential low density zone.

This appeal for an affirmative grandfathering determination cannot be upheld.

- Nothing submitted by the appellant actually demonstrates occupancy by more than 4 unrelated adult occupants, consistently or not.
- Assuming occupancy is by more than 4 unrelated adult occupants, there is no zoning permit to do so.
- Under the case law established by *Mentes*, such occupancy amounts to group quarters.

- Group quarters are specifically excluded from the definition of family.
- Dwelling units must be occupied by a family; occupancy of the duplex units as group quarters is not allowed.
- Occupancy of dwelling units as group quarters became prohibited December 21, 1970.
- Consistent use of the subject dwelling units as group quarters with 5 unrelated adult occupants would need to be demonstrated back to at least December 20, 1970.
- Neither city records nor documentation provided by the appellant demonstrate consistent use of the subject apartments as group quarters with 5 unrelated adult occupants back to at least December 20, 1970.

While it may be possible that these two units have been used as group quarters since at least December 20, 1970, there is simply no documentation to support consistent occupancy as such. As a result, no affirmative grandfathering determination can be issued.

II. Recommended Motion:

Uphold the adverse determination 18-0323DT.

Excerpt from VSCEO
Decision on Motion
regarding Diemer
Apartments, LLC
Denial (2-8 Hickok PL)
dated 12/29/17.

tions in zoning permits. "The Vermont
from finding implied conditions in a
ons." In re Byrne Trusts NOV, No. 150-
n, J.) (citing Farrell & Desautels, 135 Vt.
ts, the Supreme Court has held that
be imposed on the permittee." In re
resentations made by a landowner and
ed as explicit conditions in the zoning
efore, we will refrain from finding an
uilding, plumbing, wiring, and zoning
e based on the mere alleged knowledge

of the building's design in various permits that contain a clear, plain meaning.

Appellants' motion for summary judgement in their favor for Question 3 is therefore **DENIED** and Appellee's motion is **GRANTED**.

→ II. Whether the Use of the Property is Grandfathered or in Compliance with the CDO

Questions 1, 2, 5, and 6 address the Property's compliance with the CDO and its grandfathered status.

Question 1 asks if "Diemer's use of [the Property] which includes 3 five-bedroom apartments and 1 six-bedroom apartment in use since 1986, compl[ies] with [the CDO]." Question 2 asks if the use at issue at the Property is permitted or grandfathered under the CDO. Question 5 asks whether the 1970 Ordinance applies to the current use of the Property. Question 6 asks "[i]f the City . . . had knowledge of the use of [the Property] since 1986, are they barred from denying a request that the use be grandfathered?"

Appellant argues that the Property's use is grandfathered as a nonconforming use under the CDO.

The term "grandfathered" refers to legally pre-existing uses that do not conform with present bylaws, but complied with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws. 24 V.S.A. § 4303(15). Determining if a use is grandfathered is

based on proving that its use was legal when it began. See Purvis Nonconforming Use, No. 45-5-15 Vtec, slip op. at 3 (Vt. Super. Ct. Envtl. Div. Jan. 27, 2016) (Durkin, J.).

Appellant argues that the relevant date for determining if the use is grandfathered is October 2000 when the “family” definition was amended. Appellant asserts the Property’s use legally pre-dated October 2000 because the City issued permits on the Property in 1986. In contrast, the City argues that December 21, 1970 is the relevant date for grandfathering analysis, as the Property did not comply with the City’s definition of “family” or “functional family unit” prior to December 21, 1970. We agree with the City’s assessment of the operative date.

The definition of “family” and “group quarters” as it existed in the December 1970 Ordinance was applicable to the dwelling at issue in an appeal decided in 2002 by this Court. See In re John Mentés, No. 132-6-00 Vtec (Vt. Envtl. Ct. May 10, 2002) (Wright, J.), *available at* <https://www.vermontjudiciary.org/sites/default/files/documents/ecrt132600docmsj.pdf>.⁴ At that time, the term “group quarters” was undefined. City’s Ex. G. The Mentés Court concluded that a dwelling unit occupied by seven unrelated adult students more likely constituted “group quarters” and, that being the case, their occupancy in a dwelling unit was in violation of the CDO. Mentés, No. 136-6-00 Vtec at 3 (May 10, 2002). In reaching this conclusion, the Court compared shared housing to those examples provided as prohibited group quarters such as dormitories, sororities, and fraternities. Id. at 2. The act of living as a group, sharing common spaces and household responsibilities make shared student housing like the statutorily prohibited examples of “group quarters.” Id. Mentés clarified that a group of seven unrelated students sharing household chores and responsibilities was prohibited pursuant to the definition of “group quarters” prior to October 2000.

Based upon the Court’s analysis in Mentés, and our determination that the 1986 Permits do not authorize the occupancy at issue in this appeal, we conclude that Appellant’s Property was not legally occupied prior to 2000. Appellant, therefore, must demonstrate that the current

⁴ Appellant argues that Mentés does not apply to the present action as the type of dwelling at issue is different. However, at issue in both this action and Mentés is the definition of “family” and “group quarters” as it relates to rental units since December 1970. We therefore conclude that Mentés is applicable.

use has been continuous since before the December 1970 Ordinance became effective. In reaching this conclusion, the Court can answer Question 5 as a matter of law affirmatively.

Appellant also raises the argument that the Property's use is a preexisting nonconformity. The analysis of a property's preexisting use is highly factual. In general, landowners have the burden of proving that their use is preexisting and was lawful under the zoning provisions before the applicable amendment. Town of Sandgate v. Colehamer, 156 Vt. 77, 87 (1990) (citation omitted). Appellant has failed to provide the necessary facts to show that the Property qualifies as a preexisting nonconforming use since before December 1970. Therefore, the Court cannot determine if the use is grandfathered and Appellant are not presently entitled to judgment as a matter of law.

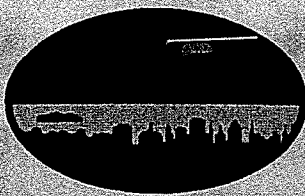
However, the Court must also give Appellant's all reasonable doubts and inferences when considering the City's cross motion on this same Question. Fairpoint Commc'ns, Inc., 2009 VT 59, ¶ 5. The City has also failed to conclusively disprove a lawful preexisting use. Therefore, as the record has not been fully developed on this issue, both the Appellant's and the City's motions for summary judgment on Question 2 must be **DENIED**. We look forward to the parties' respective factual presentations on this legal issue at trial.

As the Court cannot conclude the Property is grandfathered, and the units at issue are currently occupied by more than four unrelated adults, the Court must conclude that the use of the Property is not currently in compliance with the CDO. Therefore, summary judgement with respect to Question 1 in favor of the Appellants is **DENIED** and the City's motion is **GRANTED** on that same Question.

Finally, Appellant does not cite, and the Court is not aware of, any authority supporting their assertion that knowledge by a municipality of the Property's nonconforming use is relevant when determining if a use is a preexisting nonconforming use. As such, the Court can answer Question 6 in the negative as a matter of law.

III. Whether the Court has Jurisdiction to Hear Issues Related to Enforcement

Question 7 asks if the City is "estopped from commencing an enforcement action for use of the 3 five-bedroom apartments and 1 six-bedroom apartment?" Question 8 asks if "24 V.S.A. § 4454 appl[ies] to Diemer's use of the property?"



ZONING PERMIT - CERTIFICATE OF APPROPRIATENESS

City of Burlington, Vermont
Department of Planning and Zoning

(802) 865-7188 <http://www.ci.burlington.vt.us/planning/>

Application Date: 7/30/2007

Appeal Expiration Date: 8/22/2007

Project Location: 59-61 UNIVERSITY TERRACE

Zone: RL

Ward: 1

Owner: CITYTRUST OF BRIDGEPORT CT

Address: 44 MERRIAM PLACE

BRONXVILLE, NY 10708

Telephone:

Parcel ID: 050-3-036-000

Project Description:

Residential / Renovation/Facade

Remove existing garage doors and replace with a 9 ft light steel exterior door on each side. New finished living area at basement level.

Existing Use: RESIDENTIAL - DUPLEX

Proposed Use: RESIDENTIAL - DUPLEX

Construction Cost:	\$4,000	Lot Size (Sq Ft):	7,550
Net New Square Feet:	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 #: 08-092CA

Decision Type: Administrative

Level of Review: 1

Decision: Approved

See Conditions of Approval

Decision Date: August 7, 2007

Project File #: NA


Zoning Administrator

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on August 22, 2007.

Fee Type	Amount	Paid in Full	Balance Due:	\$0.00
Application Fee:	\$77.00	Yes	Date Paid:	
Development Review Fee:	\$0.00	Yes	Check #	
Impact Fee:	Not Applicable			

Permit Received by: 

Date: 9-4-07

ZONING PERMIT

Burlington, Vermont

Permit #

87-1

PROJECT LOCALE 59-61 University Terrace ZONE R-6

Applicant/owner Irwin Rassin/Paul Nestork-Casey Construction

Address 33 North Ave.

Telephone No. 863-4944

Existing use of property duplex

Estimated Cost \$2,000

DESCRIPTION Remove existing rear porch/landing and stairs replace with same of pressure treated lumber to be painted after one year.

TECHNICAL lot size _____ sq. ft bldg. size _____ sq. ft _____ sq. ft % lot coverage _____
parking and drive _____ sq. ft addition _____ sq. ft N/A X

PARKING exist _____ proposed _____ required _____ N/A X

YARDS front _____ side _____ rear _____ N/A X

SIGNS type _____ height _____ area _____ N/A X
linear frontage _____ illuminated _____

DECISION approved 7/14/88 denied _____ referred to ZBA _____
denial reason _____

APPEALS An interested person may appeal the decision of the Zoning Administrator within 15 days of final

APPLICATION DATE _____ APPEAL EXP. DATE 7/29/88

SIGNATURES APPLICANT Paul W. Nestork

not ZONING ADMINISTRATOR K. [signature]

CERTIFICATE OF APPROPRIATENESS

COA # _____

LEVEL OF REVIEW I _____ II _____ III _____

TYPE OF REVIEW siteplan _____ design _____ subdivision _____

COMPLETE APPLICATION 7/14/88 fee _____

DISTRICT historic _____ innercity _____ regional core _____ waterfront _____

DECISION DATE _____ DENIED _____ APPROVED _____

APPROVED WITH CONDITION _____

APPEALS An interested person may appeal a decision of The Planning Commission to the Superior Court of the County in which is located the property at issue in the decision.

SIGNATURE Planning Director _____

CITY OF BURLINGTON

no. P78-2

ZONING PERMIT

To apply for a Zoning Permit, please completely fill out the blanks below:

PROJECT LOCATION: 61 University Terrace

APPLICANT:

Name:

Address:

Phone:

Alf Oukerman / Oukerman Assoc.
PO Box 386 - Burlington
802-9190

OWNER:

Laura Howard
803-4557

EXISTING USE:

S. f. dwelling

PROPOSAL:

Create family room in attic; no additional
Coverage (25' x 21')

ZONE (see wall map):

U.C.

TOTAL ESTIMATED COST

2,500.-

Signature:

Alf Oukerman

For Office Use

TECHNICAL ASPECTS

(site plan may be requested to be submitted) none requested

1. Parcel Size: _____

2. % Lot Coverage: _____

3. Residential Density: _____

4. Existing/Proposed
Required Parking Spaces: 1 1

5. Set Back, Side Yards:

front: _____

side: _____

rear: _____

6. Number of Principle
Buildings on Parcel:☐ 0☐ 1☐ >1

7. Change In Use:

☐ yes☐ no

SHEEHEY FURLONG & BEHM
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SARAH L. J. ACEVES
DAVID T. AUSTIN
R. JEFFREY BEHM
DEBRA L. BOUFFARD
JUSTIN A. BROWN
IAN P. CARLETON
ARLINE P. DUFFY
PETER I. DYSART
MICHAEL G. FURLONG
JEFFREY W. LIVELY
KEVIN A. LUMPKIN
DIANE M. MCCARTHY
WALTER A. MCCARTHY
OWEN J. MCCLAIN
MARK E. MELENDY
RENEE L. MOBBS
DAPHNE MORITZ
CRAIG S. NOLAN
LEIGH K. PHILLIPS
PETER G. RAYMOND
HEATHER E. ROSS
JAMES W. SPINK

PAUL D. SHEEHEY (1919-2004)

RECEIVED
SEP 22 2017

DEPARTMENT OF
PLANNING & ZONING

30 MAIN STREET
POST OFFICE BOX 66
BURLINGTON, VERMONT 05402
TELEPHONE (802) 864-9891
FACSIMILE (802) 864-6815

18 ELM STREET
WOODSTOCK, VERMONT 05091
TELEPHONE (802) 457-9492
FACSIMILE (802) 457-9158

WWW.SHEEHEYVT.COM

VIA HAND-DELIVERY

September 22, 2017

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

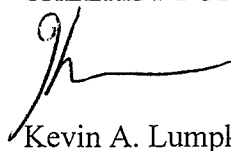
Re: Zoning Permit Application/Request for Determination

To Whom It May Concern:

Please find enclosed a Zoning Permit Application/Request for Determination, together with a check in the amount of \$80.00 for the application fee.

Sincerely,

SHEEHEY FURLONG & BEHM P.C.



Kevin A. Lumpkin

KAL/dms
Enclosures

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SEP 22 2017

REQUEST FOR DETERMINATION

DEPARTMENT OF
PLANNING & ZONING

Applicant Priscilla Rassin Toomey, trustee of the Isabel Rassin Revocable Trust (dated Feb. 3, 1989), requests a determination by Planning & Zoning as to the property located at 59-61 University Terrace (the "Property") as follows.

The Property is a duplex, each side of which has 5 bedrooms. Since at least 1986, the Property has been operated as a rental property, with each of the bedrooms being rented out and occupied by tenants. At no time has the Property's use been discontinued for a period of one year or more since 1986.

On September 11, 2017, Applicant received a notice from Zoning Specialist Jeanne Frances stating that the Property is not in compliance with the "4-Unrelated Ordinance." Upon information and belief, the 4-Unrelated Ordinance came into effect in 2000 as it applies to the Property.

For the foregoing reasons, the applicant requests that Planning & Zoning issue a determination that the Property's use is a pre-existing, non-conforming use.

In support of this request for determination, the applicant attaches the following documentation:

1. The affidavit of Priscilla Toomey, who has served as trustee for the trust that owns the property for over 20 years; and
2. The affidavit of Curt Wheeler, who has served as the manager of the Property since 1986.

If you require or would be assisted by any additional documents or other forms of evidence, please do not hesitate to contact my attorney, Kevin Lumpkin, at 864-9891 to discuss what additional evidence would help you make the requested determination.

RECEIVE

SEP 22 2017

Dated at Westchester, NY this 21st day of September, 2017, DEPARTMENT OF PLANNING & ZONING

Priscilla Rassin Toomey, Trustee
Priscilla Rassin Toomey, Trustee

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SEP 22 2017

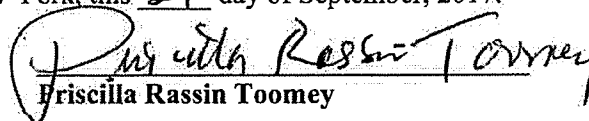
AFFIDAVIT

DEPARTMENT OF
PLANNING & ZONING

I, Priscilla Rassin Toomey, being duly sworn, hereby depose and state:

1. I am personally familiar with all of the facts deposed herein and I make this Affidavit based on my own knowledge.
2. I am the Trustee of the Trust that owns the property located at 59-61 University Terrace in Burlington, Vermont (the "Property").
3. I became Trustee in 1996.
4. In my capacity as Trustee, I have traveled to Burlington many times in connection with the Trust's ownership of the Property.
5. The Property is a duplex, each side of which has five bedrooms.
6. Since at least 1986, the Property has been rented out to tenants that occupy each of the bedrooms.
7. At no time since 1986 has the Property's use as described above been discontinued for a period of one year or more.

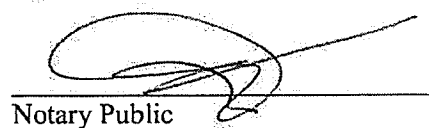
Dated at Westchester, New York, this 21 day of September, 2017.


Priscilla Rassin Toomey

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) SS

Subscribed and sworn this 21 day of ~~January~~ ^{September}, 2017.

Before me:


Notary Public

My Commission expires:

KIRK O. WARNER
Notary Public, State of New York
No. 01WA6092288
Qualified in Bronx County
Commission Expires May 19, 2019

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SEP 22 2017

AFFIDAVIT

DEPARTMENT OF
PLANNING & ZONING

I, Curtis J. Wheeler, being duly sworn, hereby depose and state:

1. I am personally familiar with all of the facts deposed herein and I make this Affidavit based on my own knowledge.
2. I have served as the Property Manager for the property located at 59-61 University Terrace in Burlington, Vermont (the "Property") since March of 1986, first for Isabel and Irwin Rassin and then for Priscilla Rassin Toomey as trustee for the trust that owns the Property beginning in 1996.
3. The Property is a duplex, each side of which has five bedrooms.
4. Since at least 1986, the Property has been rented out to tenants that occupy each of the bedrooms.
5. At no time since 1986 has the Property's use as described above been discontinued for a period of one year or more.

Dated at Burlington, Vermont, this 21st day of September, 2017.


Curtis J. Wheeler

STATE OF VERMONT)
COUNTY OF Chittenden) SS

Subscribed and sworn this 21st day of September, 2017.

Before me: Karen Landry
Notary Public

My Commission expires: 2/10/2019

SHEEHEY FURLONG & BEHM
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

RECEIVED
NOV 22 2017

DEPARTMENT OF
PLANNING & ZONING

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PETER G. RAYMOND
HEATHER E. ROSS
JAMES W. SPINK

PAUL D. SHEEHEY (1919-2004)

November 20, 2017

Scott Gustin
City of Burlington
Planning and Zoning
149 Church Street
Burlington, VT 05401-8489

Re: 59-61 University Terrace

Dear Scott:

I write in connection with the pending request for a determination that my client's property at 59-61 University Terrace is grandfathered as a pre-existing, nonconforming use. Simultaneous with the application, we have submitted evidence that each side of the duplex has been rented continuously to five tenants since prior to the passage of the first 4-unrelated ordinance in 2000.

I understand from my conversations with you that the City's position is that the prohibition on multiple unrelated individuals living together dates back further than the 4-unrelated ordinance to 1970, when the zoning bylaws were amended to define a family as "[o]ne or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities[,] convents, and communes." In taking that position, the City relies on the Environmental Court's decision in *In re Mentos*, No. 132-6-00 Vtec, 2000 WL 34151285 (May 10, 2002) (Wright, J.).

We disagree with the City's interpretation of the phrase "group quarters." Based on my research, the phrase "group quarters" is not an oft-used term, and it is difficult to define. Indeed,

the only major instance of its use that I was able to uncover is by the Census Bureau. The Census Bureau defines group quarters as:

[A] place where people live or stay, in a group living arrangement, that is owned or managed by an entity or organization providing housing and/or services for the residents. This is not a typical household-type living arrangement. These services may include custodial or medical care as well as other types of assistance, and residency is commonly restricted to those receiving these services. People living in group quarters are usually not related to each other. Group quarters include such places as college residence halls, residential treatment centers, skilled nursing facilities, group homes, military barracks, correctional facilities, and workers' dormitories.

See https://www2.census.gov/programs-surveys/acs/tech_docs/group_definitions/2010GQ_Definitions.pdf.

“Group quarters” is not defined in the 1970 Ordinance, but the references to dormitories, sororities, fraternities, convents, and communes strongly suggest that it was meant to apply to the kinds of arrangements described by the Census Bureau above – atypical housing arrangements involving large numbers of people.

Five roommates living together does not fit within the Census Bureau’s definition of “group quarters,” nor does it resemble a dormitory, sorority, fraternity, convent, or commune. To the extent that the *Mentes* decision opined that a group of roommates are living in a “commune” because they “are living as a group and share household chores and responsibilities,” we respectfully suggest that the *Mentes* decision was decided incorrectly.¹

Moreover, the definition of “group quarters” is not enforceable because it is unconstitutionally vague. Regulations are unconstitutionally vague when they “fail to provide sufficient notice for ordinary people to understand what conduct is prohibited, or allow arbitrary and discriminatory enforcement.” *In re Beliveau NOV*, 2013 VT 41, ¶ 15, 194 Vt. 1. The 1970 definition of “group quarters” meets both of those tests. It is impossible for an ordinary person to understand how many unrelated persons – and under what circumstances – would convert the use of a property into “group quarters.” Stretched to its limit, the definition of “group quarters” could be applied to two unrelated people living together. And *because* “group quarters” has no readily discernible definition, holds the potential for arbitrary or discriminatory enforcement.²

For those reasons, we submit that in order to qualify as a pre-existing, nonconforming use, we must show current use only back to the passage of the first 4-unrelated ordinance in 2000. Because we have provided that proof, we request that you grant the permit application as submitted.

¹ It is worth noting that the *Mentes* decision was not appealed to the Vermont Supreme Court, and so it is not mandatory precedent for Vermont courts.

² That is not to say that the City has arbitrarily or discriminatorily enforced the definition – only that the vagueness of the definition allows for such enforcement.

Scott Gustin
November 20, 2017
Page 3

Please do not hesitate to contact me at (802) 864-9891 with any questions.

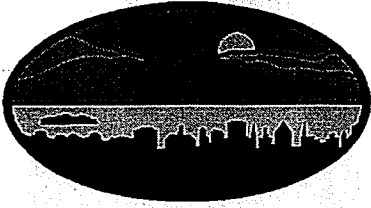
Sincerely,

SHEEHEY FURLONG & BEHM P.C.

A handwritten signature in black ink, appearing to be 'K. Lumpkin', with a stylized flourish extending to the right.

Kevin A. Lumpkin

KAL/dms



ZONING DETERMINATION

ADVERSE

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 09/22/2017

Appeal Expiration Date: 12/14/2017

Project Location: 59-61 UNIVERSITY TERRACE

District:

Owner: Priscilla R. Toomey

Ward: 8E

Address: 44 Merriam Place
Bronxville, NY 10708

Tax ID: 050-3-036-000

Determination Type: Residential - Other

Determination Description:

Determination of pre-existing, non-conforming use of 5-person occupancy (unrelated tenants) of each of the two duplex units.

Zoning Review #18-0323DT

Decision Type: Administrative

Decision: Adverse

See Determination Findings

Decision Date: November 29, 2017

Zoning Administrative Officer

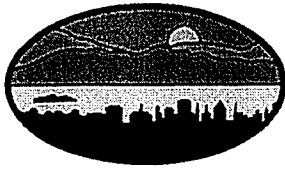
An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on December 14, 2017.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$80.00	Yes	Date Paid: _____ Check # _____

Building Permit Required: No

Permit Received By: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Determination – Findings

ZP #: 18-0323DT

Tax ID: 050-3-036-000

Issue Date: November 29, 2017

Decision: Adverse

Property Address: 59-61 UNIVERSITY TERRACE

Description: Determination of pre-existing, non-conforming use of 5-person occupancy (unrelated tenants) of each of the two duplex units.

This determination is in regard to the above-referenced property, specifically your request that the City of Burlington recognize 5-person occupancy (unrelated tenants) of each of the two duplex units as grandfathered (legally pre-existing non-conformity). The City reviewed the following documents/evidence to form its determination:

- The City's zoning permit records
- The City's property assessment records
- The City's rental registration records
- The Sanborn maps from 1919, 1938, 1962, and 1984
- Affidavits of
 - Priscilla Rassin Toomey
 - Curtis J. Wheeler
- *In re: Appeal of John Mentos*, Docket No. 132-6-00 Vtec (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002)
- Burlington zoning regulations including, but not limited to, the following versions: 2008 Comprehensive Development Ordinance and as amended, ZA #2000-01 Residential Districts Established passed November 22, 2000, and Burlington Zoning Ordinance approved December 21, 1970

Based on the review of these items, it is the determination of the Planning and Zoning Department that insufficient evidence has been provided to grandfather 5-person occupancy (unrelated tenants) of the subject dwelling units. Grandfathered or pre-existing legal non-conformities pertain to lots/parcels/structures/uses that are non-compliant with a current zoning regulation, but were compliant prior to a change in the regulations. While Sec. 4.4.5 (d) 5, C, *Residential Occupancy Limits*, was approved in November 2000, pursuant to *In re: Appeal of John Mentos*, Docket No. 132-6-00 Vtec (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002), the city's zoning ordinance in effect prior to the November 2000 amendment prohibited occupancy of dwelling units as "group quarters". The case found "shared student housing" to be "group quarters." The inclusion of the "group quarters" exclusion can be found in the Burlington Zoning Ordinance starting in 1970 (Burlington Zoning Ordinance approved December 21, 1970). As such, evidence would need to be provided that the occupancy of the requested units was 5 unrelated persons prior to December 21, 1970 and has continued as such. Such evidence was not provided and therefore, the grandfathering determination request must be DENIED.

SHEEHEY FURLONG & BEHM
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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DEC 14 2017

DEPARTMENT OF
PLANNING & ZONING

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LEIGH K. PHILLIPS
PETER G. RAYMOND
HEATHER E. ROSS
JAMES W. SPINK

PAUL D. SHEEHEY (1919-2004)

VIA HAND-DELIVERY

December 14, 2017

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

Re: Appeal of Administrative Decision No. 18-0323DT

To Whom It May Concern:

Please find enclosed an Appeal of an Administrative Decision Request with attached supplement providing pertinent information, for appeal of the above-referenced Administrative Decision, together with our firm check in the amount of \$250.00 for the appeal filing fee. Also enclosed is my Notice of Appearance on behalf of the appellant.

Please contact me if you have any questions.

Sincerely,

SHEEHEY FURLONG & BEHM P.C.



Kevin A. Lumpkin

**CITY OF BURLINGTON
DEVELOPMENT REVIEW BOARD**

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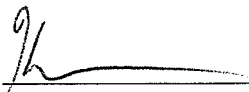
DEPARTMENT OF
PLANNING & ZONING

**IN RE: APPEAL OF PRISCILLA RASSIN
TOOMEY, AS TRUSTEE OF THE ISABEL
RASSIN REVOCABLE TRUST, OF
ADMINISTRATIVE DETERMINATION
NO. 18-0323DT**

NOTICE OF APPEARANCE

NOW COMES Kevin A. Lumpkin, Esq., of the law firm of Sheehey Furlong & Behm P.C., and hereby enters his appearance on behalf of appellant Priscilla Rassin Toomey, as Trustee of the Isabel Rassin Revocable Trust, in the above-captioned matter.

Dated at Burlington, Vermont, this 14th day of December, 2017.



Kevin A. Lumpkin, Esq.
Sheehey Furlong & Behm P.C.
30 Main St., Gateway Sq., 6th Floor
PO Box 66
Burlington, VT 05402-0066
Telephone: (802) 864-9891
Facsimile: (802) 864-6815
E-Mail: klumpkin@sheeheyvt.com

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DEPARTMENT OF
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SUPPLEMENT TO
APPEAL OF ADMINISTRATIVE DECISION REQUEST -
ADMINISTRATIVE DETERMINATION NO. 18-0323DT

Pursuant to Section 12.2.2, Appeals of Administrative Officer Decisions, of the 2008 Comprehensive Development Ordinance, as amended, of the City of Burlington, Applicant Priscilla Rassin Toomey, trustee of the Isabel Rassin Revocable Trust (dated Feb. 3, 1989), appeals Administrative Determination No. 18-0323DT issued on November 29, 2017, regarding the property located at 59-61 University Terrace (the "Property") as follows.

Applicant requested a determination by the Planning & Zoning office that the property at 59-61 University Terrace is grandfathered as a pre-existing, nonconforming use. Simultaneous with the application, the applicant submitted evidence that each side of the duplex has been rented continuously to five tenants since prior to the passage of the first 4-unrelated ordinance in 2000.

In the Administrative Determination, the Planning & Zoning office did not disagree that the applicant submitted sufficient evidence to establish grandfathering back to 2000. Instead, it took the position that the prohibition on multiple unrelated individuals living together dates back further than the 4-unrelated ordinance to 1970, when the zoning bylaws were amended to define a family as "[o]ne or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities[,], convents, and communes." In taking that position, Planning & Zoning relies on the Environmental Court's decision in *In re Mentos*, No. 132-6-00 Vtec, 2000 WL 34151285 (May 10, 2002) (Wright, J.).

Applicant disagrees with the Planning & Zoning's interpretation of the phrase "group quarters." Based on research conducted by undersigned counsel, the phrase "group quarters" is

not an frequently used term, and it is difficult to define. Indeed, the only major instance of its use that undersigned counsel was able to uncover is by the Census Bureau. The Census Bureau defines group quarters as:

[A] place where people live or stay, in a group living arrangement, that is owned or managed by an entity or organization providing housing and/or services for the residents. This is not a typical household-type living arrangement. These services may include custodial or medical care as well as other types of assistance, and residency is commonly restricted to those receiving these services. People living in group quarters are usually not related to each other. Group quarters include such places as college residence halls, residential treatment centers, skilled nursing facilities, group homes, military barracks, correctional facilities, and workers' dormitories.

See https://www2.census.gov/programs-surveys/acs/tech_docs/group_definitions/2010GQ_Definitions.pdf.

“Group quarters” is not defined in the 1970 Ordinance, but the references to dormitories, sororities, fraternities, convents, and communes strongly suggest that it was meant to apply to the kinds of arrangements described by the Census Bureau above – atypical housing arrangements involving large numbers of people.

Five roommates living together does not fit within the Census Bureau’s definition of “group quarters,” nor does it resemble a dormitory, sorority, fraternity, convent, or commune. To the extent that the *Mentes* decision opined that a group of roommates are living in a “commune” because they “are living as a group and share household chores and responsibilities,” applicant respectfully suggests that the *Mentes* decision was decided incorrectly.¹

Moreover, applicant argues the definition of “group quarters” is not enforceable because it is unconstitutionally vague. Regulations are unconstitutionally vague when they “fail to provide sufficient notice for ordinary people to understand what conduct is prohibited, or allow arbitrary and discriminatory enforcement.” *In re Beliveau NOV*, 2013 VT 41, ¶ 15, 194 Vt. 1.

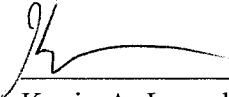
¹ It bears noting that the *Mentes* decision was not appealed to the Vermont Supreme Court, and so it is not mandatory precedent for Vermont courts.

The 1970 definition of “group quarters” meets both of those tests. It is impossible for an ordinary person to understand how many unrelated persons – and under what circumstances – would convert the use of a property into “group quarters.” Stretched to its limit, the definition of “group quarters” could be applied to two unrelated people living together. And *because* “group quarters” has no readily discernible definition, holds the potential for arbitrary or discriminatory enforcement.²

For those reasons, in order to qualify as a pre-existing, nonconforming use, applicant must show current use only back to the passage of the first 4-unrelated ordinance in 2000. Applicant has provided that proof. For that reason, this Board should reverse Planning & Zoning’s decision to require proof dating back to 1970, and direct Planning & Zoning to issue the requested grandfathering determination.

Dated at Burlington, Vermont, this 14th day of December, 2017.

PRISCILLA RASSIN TOOMEY, AS
TRUSTEE OF THE ISABEL RASSIN
REVOCABLE TRUST

By: 
Kevin A. Lumpkin, Esq.
Sheehey Furlong & Behm P.C.
30 Main St., Gateway Sq., 6th Floor
PO Box 66
Burlington, VT 05402-0066
Telephone: (802) 864-9891
Facsimile: (802) 864-6815
E-Mail: klumpkin@sheeheyvt.com

² That is not to say that the City has arbitrarily or discriminatorily enforced the definition – only that the vagueness of the definition allows for such enforcement.

SHEEHEY FURLONG & BEHM
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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March 5, 2018

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MAR 02 2018

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

DEPARTMENT OF
PLANNING & ZONING

Re: Case No. 18-0323DT

To Whom It May Concern:

Enclosed please find a Request to Postpone March 7, 2018 Hearing in the above-referenced matter.

Please do not hesitate to contact me should you have any questions.

Sincerely,

SHEEHEY FURLONG & BEHM P.C.

Kevin A. Lumpkin // dms

Kevin A. Lumpkin

KAL/dms
Enclosure

cc: Assistant City Attorney Kimberlee J. Sturtevant, Esq.

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MAR 02 2018

CITY OF BURLINGTON
DEVELOPMENT REVIEW BOARD

DEPARTMENT OF
PLANNING & ZONING

In re Appeal of)
59-61 University Terrace Determination)

Case No. 18-0323DT

REQUEST TO POSTPONE MARCH 7, 2018 HEARING

Appellant requests that the hearing on Case No. 18-0323DT currently set before the Development Review Board ("DRB") for March 7, 2018 be postponed to the next regular meeting of the DRB. This is an appeal from a determination by the zoning administrator that the property located at 59-61 University Terrace is not subject to grandfathering with respect to the prohibition on 4 or more unrelated persons living together.

Undersigned counsel has been in communication with the City Attorney's office regarding potential settlement of this matter and expected that the Parties would come to some agreement, avoiding the necessity of a hearing before this Board. On Thursday, counsel for the City informed undersigned counsel that the applicant's offer of compromise was "not acceptable," and that the City intended to move forward with this hearing.

Undersigned counsel will be away in California on another matter on Wednesday evening.¹ Because the arguments to be presented are primarily legal ones, not factual ones, it is important that counsel attend the hearing and make the presentation to this Board. For those reasons, appellant respectfully requests that the Board postpone this hearing to the next regular meeting of the DRB.

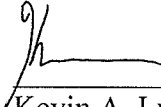
Undersigned counsel inquired of counsel for the City on Thursday as to whether the City would agree to this postpone the hearing, but did not receive a response.

¹ Speaking frankly, undersigned counsel never expected this hearing to go forward in light of settlement discussions with the City. Appellant continues to hold out hope that the parties will reach an agreement that is acceptable to both parties.

Dated at Burlington, Vermont this 5th day of March, 2018.

SHEEHEY FURLONG & BEHM P.C.

By:



Kevin A. Lumpkin, Esq.
30 Main Street, 6th Floor
Burlington, VT 05401
(802) 864-9891
klumpkin@sheeheyvt.com

Attorneys for Appellant

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MAR 02 2018
DEPARTMENT OF
PLANNING & ZONING

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/PZ/DRB

Phone: (802) 865-7188

Fax: (802) 865-7195

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



BURLINGTON DEVELOPMENT REVIEW BOARD

Wednesday March 7th, 2018 at 5:00 p.m.

SUPPLEMENTAL COMMUNICATIONS

1. 18-0619CA; 149 Church St (FD6/CIVIC, Ward 3C) City of Burlington (Project Manager: Scott Gustin)

**Continued from 2/20/18*

- a) Communications from Wayne Senville including historic images
- b) Petition to participate in the Burlington DRB Proceedings on Permit Application submitted by Steven Goodkind
- c) State of Vermont Division for Historic Preservation communication
- d) Email communications from the following interested parties:

Holly Hill
Sara Robedee
Tricia Bessett
Sherry Coburn
Sophie Patenaude
Karla Clithero
Randall Laplante
Julia Whitaker
Jace Jamason
Rhonda Summer
Linda Van Cooper
Sasha Morrissett
Sherry Coburn/Steve Sharon
Jean Markey-Duncan
Joe Speidel
J Smith Kramer
Vicky Smith

Christopher Wagner
Joel Speidel
Don Bateman
Wayne Senville
Jennifer Ely
Kayla Billings
Eli Sendra
Susan Eisenstadt
Diane Piazza
Kate Keough
Edward Burke
Todd Kreitzman
Meg Streeter
Julia Curry
Emma Redden
Kris Lizzari
Michael Wool
Karl Miller

Cinse Bonino
Patricia Kelly
Sarah Waterman
John Vincent
Joy Cohen
Nita
Sarah Elliot
Maggie Homer
Stephen Lemcke
Rory Waterman
Donna Walters
Callie Linehan
Stephen Scuderi
Jesse Warren
Carolyn Bates
Monique Fordham

*The above list may exclude duplications from the 2/20/18 meeting but all email communications received after 2/20/18 4PM are included in the DRB packet

2. 18-0323DT; 59-61 University Terrace (RL, Ward 8E) Citytrust of Bridgeport Connecticut / Priscilla Toomey (Project Manager: Scott Gustin)

Request for Postponement



State of Vermont
Division for Historic Preservation
Deane C. Davis Building, 6th Floor
One National Life Drive, Montpelier, VT 05620-0501
www.accd.vermont.gov/historic-preservation

[phone] 802-828-3540

*Agency of Commerce and
Community Development*

March 7, 2018

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

RE: City Hall Park Rehabilitation

Dear Development Review Board Members:

The Vermont Division for Historic Preservation (VDHP) has been consulting with staff of the city's Planning and Zoning Office regarding the rehabilitation of City Hall Park. VDHP applauds staffs' dedication to ensuring the park's continued use, while preserving the elements and features that make it a cultural landscape.

Like the City of Burlington, City Hall Park had continued to evolve since its creation as open space to meet the needs of city residents and visitors. This park is a cultural landscape with visual aspects and aesthetic values that are character-defining to the immediate neighborhood and city. In reviewing the concepts for the park's rehabilitation, VDHP noted the retention of those distinctive features and spaces that make this a historically significant cultural landscape. This includes the park's spatial organization and land patterns; its visual and physical relationships to City Hall, the grid street pattern, and the framing architecture; and its distinct location downtown. Features such as the topography/grading, vegetation and tree canopy, circulation concept, water features, and structures/site furnishings contribute to the overall identity and character of the park. Yet, these features should be considered in terms of their relationship to the totality of the landscape rather than their individual contributions.

It is important to recognize that spatial relationships and character-defining features of any landscape may change over time due to a variety of factors, including environmental impacts like drought or flooding, plant growth and succession, changes in use, and design influences. This requires an evaluation of stability and vulnerability to period change. At City Hall Park, site furnishings like benches, street lights, and fountains have been particularly vulnerable to change as products fail and tastes change. Although these elements do strengthen the integrity of the historic landscape, their absence or replacement does not affect the significance of City Hall Park, but rather signify the evolution of design and materials of a very actively used park. Similarly, vegetation in general is not stable, changing with seasonal cycles, maturation, pruning, removal, neglect, and other forces. Replacement of plant materials that are diseased, overmatured, non-native, as well as in areas where there is extensive soil erosion, will not diminish the integrity of a cultural landscape like City Hall Park. Again, this illustrates the continuing life of a living park central to the daily activities of city residents. The health of the vegetation and its appropriate replacement is beyond the purview of historic preservation and is an issue for those with the suitable expertise like an arborist.

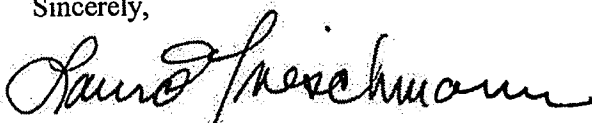


Burlington Development Review Board
City Hall Park Rehabilitation
March 7, 2018

The significance of City Hall Park—what makes it so special to residents and visitors—is derived from its location downtown, relationship to the built environment, its views/vistas, and its visual effect. These features are present today and retained in the proposed design. The park need not exist today exactly as it was original designed or first executed to be significant. In fact, this open space was devoid of site furnishings and trees when first created. Rather, its continued evolution is what enables City Hall Park to recount a significant part of Burlington's history, a story that shall continue and evolve.

Thank you for consulting with VDHP on this project, which is significant to historic downtown Burlington.

Sincerely,



Laura V. Trieschmann
Vermont State Historic Preservation Officer.



4

The undersigned are voters and/or property owners in the City of Burlington, Vermont. We hereby petition to the Development Review Board (DRB) to participate in the DRB proceedings involving the application **18-0619CA; 149 Church St (FD6/CIVIC, Ward 3C) City of Burlington** on the grounds that if any of the relief sought in the application is granted, it will not be in accordance with the policies, or terms of the Plan or bylaws of the City of Burlington. We hereby designate Steven Goodkind to serve as our representative of the petitioners regarding all matters relating to the appeal.

RECEIVED
MAR 22 2019

MAR 02 2018

DEPARTMENT OF

**PETITION TO PARTICIPATE IN THE BURLINGTON DRB
PROCEEDINGS ON PERMIT APPLICATION**

18-0619CA; 149 Church St (FD6/CIVIC, Ward 3C) City of Burlington

The undersigned are voters and/or property owners in the City of Burlington, Vermont. We hereby petition to the Development Review Board (DRB) to participate in the DRB proceedings involving the application **18-0619CA; 149 Church St (FD6/CIVIC, Ward 3C) City of Burlington** on the grounds that if any of the relief sought in the application is granted, it will not be in accordance with the policies, or terms of the Plan or bylaws of the City of Burlington. We hereby designate Steven Goodkind to serve as our representative of the petitioners regarding all matters relating to the appeal.

SIGNATURE	PRINTED NAME	STREET ADDRESS
<i>Lynn Martin</i>	Lynn Martin	130 Mansfield Ave. # 201
<i>Carolyn Bates</i>	Carolyn Bates	20 Caroline St.
<i>Steven Goodkind</i>	STEVEN GOODKIND	260 ETHAN ALLEN PKWY
<i>Dennis Schomady</i>	DENNIS SCHOMADY	260 EDMONDSON DR
<i>Charles J Messing</i>	Charles J Messing	101 College St. #102 Burlington
<i>Charles Simpson</i>	Charles Simpson	83 Summit Ridge, Burlington
<i>Anita Rapone</i>	Anita Rapone	83 Summit Ridge, Burlington
<i>Mira Fakirananda</i>	Mira Fakirananda	130 Mansfield Ave, Apt 208 BTV, VT
<i>Lawrence Kummerer</i>	Lawrence Kummerer	130 Mansfield Ave, Apt 208 BTV, VT
<i>Constance A. Johnson</i>	CONSTANCE A. JOHNSON	130 Mansfield Ave. Apt 208 BTV, VT

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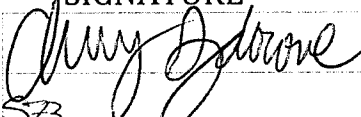
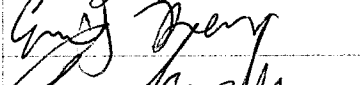
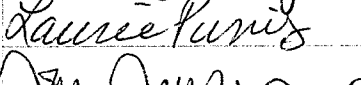
MAR 02 2018

DEPARTMENT OF
PLANNING & ZONING

PETITION TO PARTICIPATE IN THE BURLINGTON DRB
PROCEEDINGS ON PERMIT APPLICATION

18-0619CA; 149 Church St (FD6/CIVIC, Ward 3C) City of Burlington

The undersigned are voters and/or property owners in the City of Burlington, Vermont. We hereby petition to the Development Review Board (DRB) to participate in the DRB proceedings involving the application **18-0619CA; 149 Church St (FD6/CIVIC, Ward 3C) City of Burlington** on the grounds that if any of the relief sought in the application is granted, it will not be in accordance with the policies, or terms of the Plan or bylaws of the City of Burlington. We hereby designate Steven Goodkind to serve as our representative of the petitioners regarding all matters relating to the appeal.

SIGNATURE	PRINTED NAME	STREET ADDRESS
	Amy Zborac	55 buell st, Burlington
	Samuel Zeme By	155 Loomis Street
	Emily Kane	326 Northgate
	Anna Warner	52 Northwindoski
	Sara Glasgow	61 George St -
	Laurie Purvis	87 Church St.
	John Jensen	700 Star St.

RECEIVED

MAR 02 2018

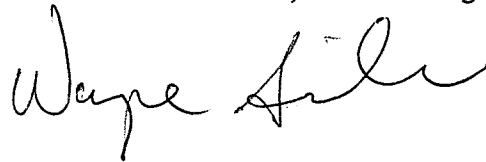
DEPARTMENT OF
PLANNING & ZONING

To: Burlington Development Review Board
From: Wayne Senville
Subject: City Hall Park Reconstruction Application; 149 Church Street
Date: March 6, 2018

Enclosed are a series of 5 photos; 4 are historic photos, 1 is a photo of took on Sunday, March 4, for comparison purposes. Several of the photos are from postcards, so the date the photo was taken is not indicated -- but some evidence of the time frame is provided from the postcard. I've indicated this information on the back of each photo.

I am enclosing these photos for inclusion in the record (and for your consideration during deliberations) given the lack of historic photographic documentation provided by the applicant (at least in the record as made available on the DRB web site). In making any assessment of whether the current proposal is in keeping with the historic character of the Park (within the City Hall Park designated National and State Historic District), I don't see how a sound judgment can be made without seeing how the park has changed (or not changed) over time.

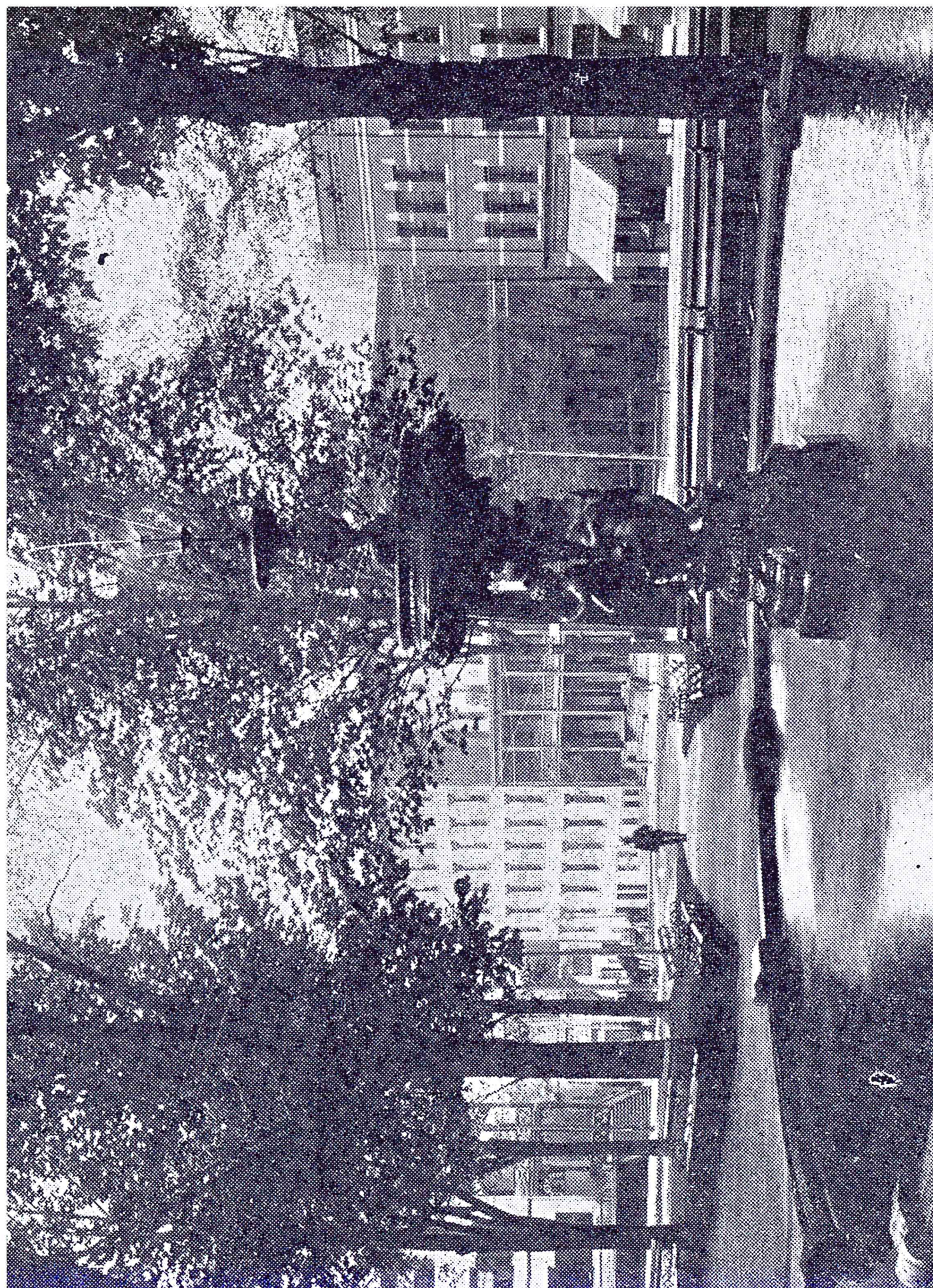
My sense is there are many more photos that could be obtained. Given time constraints, I thought at least providing some photographic context would be more useful for the DRB, than having virtually none in the record.



RECEIVED

MAR 07 2018

DEPARTMENT OF
PLANNING & ZONING



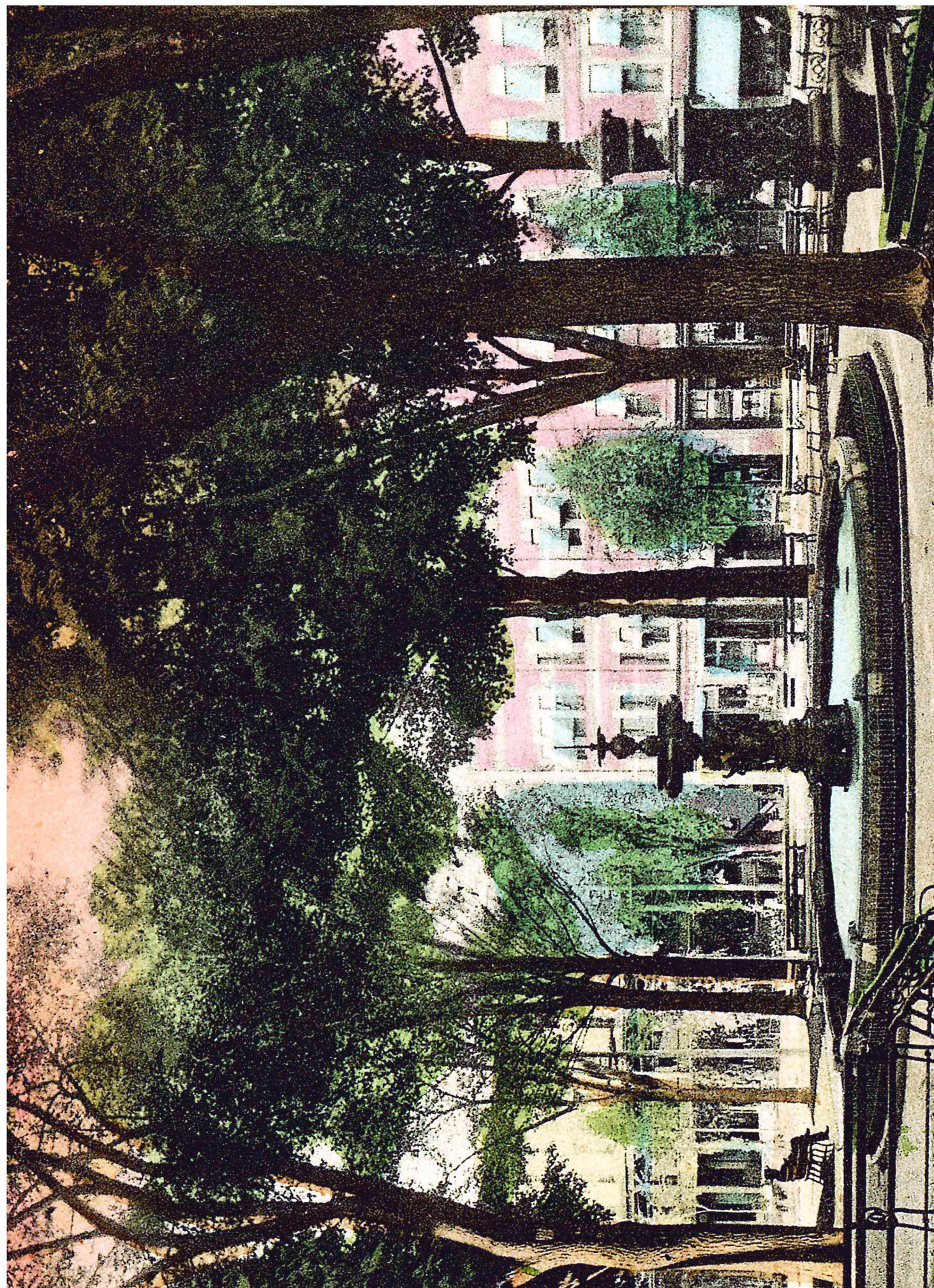
For DRB City Hall Park Reconstruction

Photo of City Hall Park fountain. From postcard
postmarked October 18, 1905.

Photo provided by Wayne Senville

USE
MAR 07 2018

DEPARTMENT OF
PLANNING & ZONING



For DRB City Hall Park Reconstruction

Photo of City Hall Park fountain undated, but probably 1910s or 1920s.

Photo provided by Wayne Senville

MAR 07 2018

DEPARTMENT OF
PLANNING & ZONING

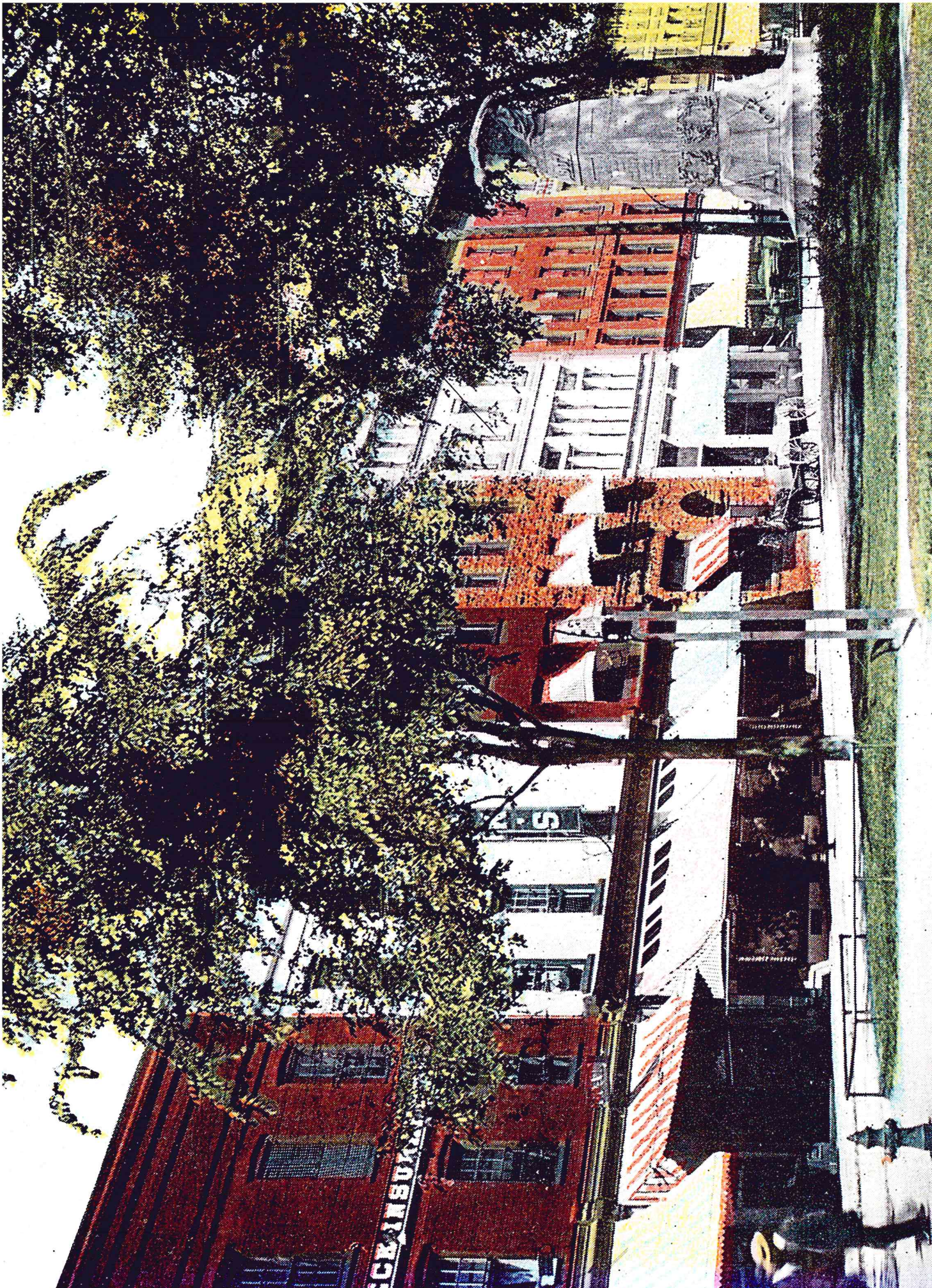


Photo of northwest corner of City Hall Park
showing open interface with College Street.
From postcard postmarked August 9, 1912.
Photo provided by Wayne Senville

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MAR 07 2018

DEPARTMENT OF
PLANNING & ZONING



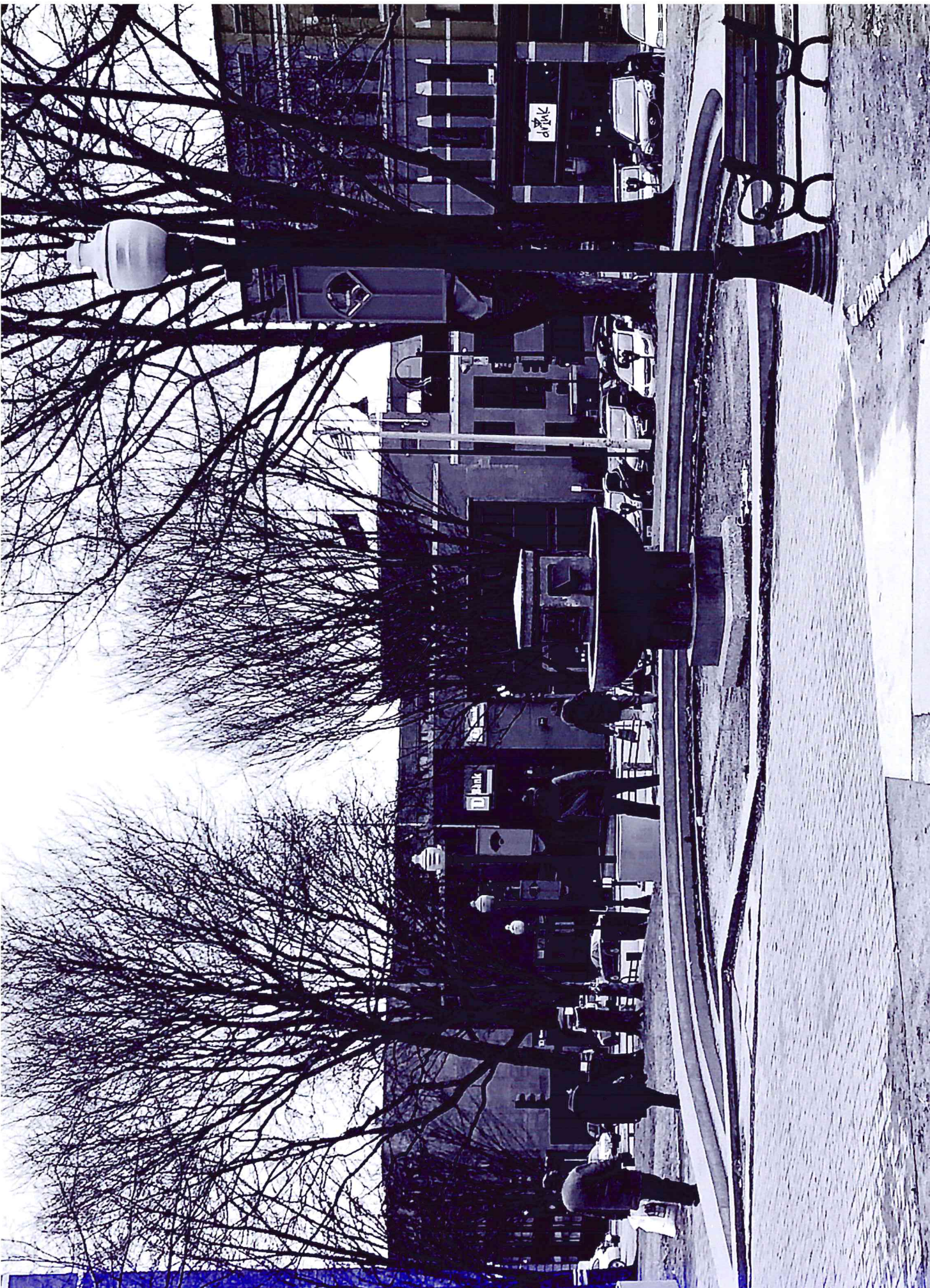
For DKB City Hall Park Reconstruction

Photo of City Hall Park fountain taken on June 4, 1938. Available from Univ. of Vermont Library database.

Photo provided by Wayne Senville

MAR 07 2018

DEPARTMENT OF
PLANNING & ZONING



For DRB City Hall Park Reconstruction

Photo of City Hall Park fountain taken on March
4, 2018 by Wayne Senville

RECEIVED

MAR 07 2018

DEPARTMENT OF
PLANNING & ZONING

From: Stephen Scuderi
Sent: Wednesday, March 07, 2018 2:26 PM
To: Layne Darfler
Subject: Trees not concrete

$$\begin{array}{c} \sim \\ \sim \\ \sim \end{array} \quad \begin{array}{c} 0 \\ - \\ < \\ \overline{\square} / \overline{\square} \end{array}$$

Layne Darfler

From: Scott Gustin
Sent: Wednesday, March 07, 2018 1:02 PM
To: Layne Darfler
Subject: FW: Form submission from: Contact Us [Parks, Recreation & Waterfront]

Fyi.

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

-----Original Message-----

Forwarding this on to you as it was addressed to Design Review Board.
Best,
Joanne

-----Original Message-----

From: webmaster@burlingtonvt.gov [mailto:webmaster@burlingtonvt.gov]
Sent: Wednesday, March 07, 2018 10:11 AM
To: Joanne Putzier
Subject: Form submission from: Contact Us [Parks, Recreation & Waterfront]

You are receiving this message because you are a designated recipient for: Parks, Recreation & Waterfront

Received from: Callie Linehan

Reply to e-mail Address:

Subject: City Hall Park Redesign

Message: To the Design Review Board:

I vehemently oppose the new plans for City Hall Park, and hope that in your vote today you will consider preserving green spaces, and promoting designs that improve the wellness of Burlington's citizens and visitors. It is unthinkable the city would consider paving a significant portion of one of our largest green spaces downtown, and commercializing it with a kiosk that will only compete with existing local coffee shops. This design promotes pavement over natural space and will encourage on-the-go disposable consumption over slowing down/eating-in, supporting local businesses, and having a healthy space to play that is separate from quick calories. Please vote against the new designs, and instead design a space that includes a children's playground, benches for seating, plenty of shade trees for hot summer days and promotes health and wellness in Burlington for generations to come.

Thank you for your consideration.

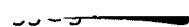
Callie Linehan
MD Candidate, 2019
Larner College of Medicine
University of Vermont

Submitted on Wednesday, March 7, 2018 - 10:11

Questions about this form? e-mail webmaster@burlingtonvt.gov

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

Layne Darfler

From: Rick Bragg ◀ 
Sent: Wednesday, March 07, 2018 11:00 AM
To: Layne Darfler
Subject: City Hall Park Trees. Incomplete study.

Hi,

This letter is in regard cutting down most of the trees in city hall park without a proper study of their health.

The Mayor said quote: "I told the designers to go back to the drawing board and review every tree and make sure that they weren't taking down a single tree that didn't need to go, that wasn't either in bad health or that was not problematic for one reason or another"

The arborist didn't do an assessment on over half of the trees, and most of the trees in the park are slated to be cut because it does not "fit" in the design.

We need the arborist to do assessments of all of the trees. And to make sure that they don't take down trees that are not problematic as directed by the Mayor. There should be a new design that works with all of the healthy trees in the park.

Richard Bragg

Burlington VT 05401

Layne Darfler

From: Donna Walters <
Sent: Wednesday, March 07, 2018 12:24 PM
To: Layne Darfler
Subject: CHP Requests from Keep the Park Green

Dear Development Review Board

I am writing on behalf of Keep the Park Green to provide public comment for the March 7 DRB meeting. Our members have spent many hours in City Hall Park sharing the shade study and map of the proposed trees to be cut, trees to remain, and new saplings to be planted. We have shared these with business owners and residents living around the park, senior citizens living at Decker Towers and 3 Cathedral Square, and visitors passing through the park. It was surprising to learn that most people did not know what the new plan would look like or what it meant regarding the trees and the shade canopy that they provide. We have distilled their reflections and comments into the following requests:

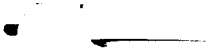
- Request for a complete assessment of ALL of the trees in the park, not just the ones slated to be removed. The health of the remaining trees is of utmost importance, especially since we have already learned that many of the trees have declined in health since Skinner's 2016 assessment.
- Request for healthy trees to not be cut, but to be translocated or moved to another place in the park where their large shade canopy can be utilized to provide more shaded areas along the walkways and on the hardscape where our seniors are telling us that they "want to sit on wooden benches with back support on the walkway in the shade." This is especially important to our aging seniors and those with physical disabilities who are not able to sit on the grass where almost all of the shade is currently located.
- Request to provide a 50/50 balance of sun/shade on the hardscape areas between noon - 4 pm, especially near the splash pad where adults will sit to supervise children and the performance areas in front of the Firehouse and City Hall.
- Request for even more wooden benches with back support than the 92 spaces suggested in the updated "Proposed Seating Capacity." Our tryout of the sample bench in front of BCA suggests that 8 double and 7 single benches will only accommodate 69 people comfortably, not 92.
- Request for wooden bench seating along St Paul St and Park Lane.

- Year-round, heated bathrooms with changing areas (for wet children) and a diaper shelf.

Thank you for your consideration for these requests.

On behalf of Keep the Park Green and our Facebook followers,

Donna Walters



Layne Darfler

From: Sarah Waterman
Sent: Monday, March 05, 2018 4:23 PM
To: Layne Darfler
Subject: CHP trees

Hi,

As a Burlington resident and voter, I urge you to reconsider the plan to cut down so many trees in CHP. We should get rid of only the trees that disease or serious damage has rendered unsavable, and only after ALL trees in the park have been thoroughly assessed.

Thank you,
Sarah Waterman
ONE resident

Layne Darfler

From: John Vincent <
Sent: Wednesday, March 07, 2018 9:06 AM
To: Layne Darfler
Subject: City Hall Park

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

Although I am not a resident of Burlington, I frequent the city often.

I appreciate the beautiful park in the center of the city. It has the look and feel of a vibrant small city park and what upgrades are deemed necessary I hope that those will be done keeping in mind what Burlington the city means to so many people in Vermont.

I recognize the need to make changes for safety and maintenance.

But I hope the town government will do everything it can to improve the health as many of the existing trees as possible.

Thank you,
Much Peace,
John Vincent

--

It is the job of the artist to think outside the boundaries of permissible thought and dare to say things no one else would say.

Howard Zinn

Layne Darfler

From: Joy Cohen <joycohen@cityofqueen.com>
Sent: Wednesday, March 07, 2018 7:53 AM
To: Layne Darfler
Cc: Mayor's Office; Scott Gustin; Mary O'Neil; Cindi Wight; keep.the.park.green@gmail.com
Subject: concerns about City Hall Park

Dear Development Review Board,

I am a homeowner in Ward 2. I spend a lot of time walking around our beautiful Queen City. I am aware of the plans for City Hall Park and I'd like to share some of my thoughts. Although I realize you have specific criteria with which to make your decision, and that my concerns do not all necessarily fit with your criteria, I thank you for considering all of my concerns as they represent the bigger picture of what the park means to me. Here are my thoughts:

1. I often go to City Hall Park, either to walk through, or sit, or meet up with friends and visit there. I welcome the shade, I welcome the greenery, I welcome the relaxed vibe, and I welcome the simplicity. I enjoy the diversity of people who are there.
2. I urge you to request a "second opinion" from an objective arborist (consultant) about the massive tree removal. It appears fairly clear that many of the trees are set to be removed because of the needs of the new park plan. I believe that is short-sighted and backwards decision-making. We should make the trees a priority and renovate the park around the trees, not visa versa. If there is any possibility that they can survive and thrive, a priority should be made to save the mature trees. The beautiful trees (which are beautiful in all seasons) are what makes our park a quiet, shady respite in an otherwise noisy, concrete and bricked, urban setting. For a city that has such a strong environmental ethic, removing trees in our central park makes no sense. It is worth it to take more time (including more research) to reconsider the choice to cut so many trees. Once they are cut, there is no turning back. We don't want to "pave paradise..."
3. I love the fountain. I realize it needs to be repaired. I had asked and never received an answer about seeing a cost-benefit analysis comparing the costs of repairing the current fountain versus removing it, and building the new water feature (including ALL costs, e.g., new underground plumbing, upkeep, etc.). I feel we should do everything in our power to preserve the historic fountain, and bring it up to its original state. That seems to make much more sense than ripping it out just to build a new one. Look at what happened to the fountain at the top of Church Street. Look at what happened to the water feature at ECHO. Why would we put in yet another water feature such as those, when our lovely fountain is already there, many people enjoy it, especially children, and it represents so much of what our beautiful city is all about. We do not need to become another cookie cutter city. (The new fountain design looks exactly like the one in Newburyport, MA.)
4. Engineering 101: You watch what people do, e.g. where they naturally walk and create paths, then you engineer based on the natural needs. The fact that the plan redirects people on College Street from where we naturally enter the park, makes me have strong questions and doubts about why decisions were made.
5. I appreciate all the time that has been put into the plan. I did not get involved until the plan was presented to the City Council back in December. That speaks more to the City's communications and public engagement process than my interest. That public engagement - or lack thereof - is something that certainly needs to be improved as we move forward with continued, inevitable growth and change. Two more perspectives on that

involved when it seems like community input is not really considered anyway. Just look at the two years of intense input into Plan BTV, which concluded in our strong desire for height limits, which then were ignored (or, should I say, community choice was set aside) when Sinex offered a lot of money, and it became more about the bottom line. And when the City Hall Park plan was presented, and many community members spoke up, we were told that our input really didn't matter anyway.

6. I am a 62-year old woman, and I never feel threatened or unsafe when I walk through the park. I believe all people should be encouraged to use the park and it is not fair to discourage some of our community, e.g., homeless, newcomers, youth, from being there. If the city thinks there is a problem with certain populations, let's do some work around supporting these people, around providing equitable opportunities and services, and spend some of that \$3 million dollars set for City Hall Park renewal and use it instead to help the underserved?

7. Growth is inevitable. Change is inevitable, and important. However, growth and change just for change's sake is not a good, sustainable model of how to move forward. I'd like to direct your attention to a very simple example. For some reason, powers-that-be decided the City flag was too old-fashioned and that Burlington needed a new flag that was more along the lines of what many other cities around the country were changing to, a flag that was more graphic and hip. As someone who taught art in Burlington schools for many years, I watched the process. I found the designs, and the one that was chosen, not to reflect the feel or essence of our fair city. Again, it was a cookie cutter and could have represented any city anywhere. There was nothing that represented how unique we are, nothing to evoke the natural beauty, the sense of community, the intellectual and creative resources. And then I watched as the flags were installed along Church Street. As someone who walks up and down Church Street each day in all seasons, I just had to laugh. And, of course, the very day they were installed the winds came up Church Street like the wind tunnel it is - as they always do - and all of the flags immediately became wrapped around their posts. Now we have a series of ragged looking fabric up and down Church Street. I bring this up as another example of short-sighted decision making. If people really knew Burlington, they would have known that was going to happen. Creating and installing new flags just for the sake of newness, does not make sense and does not represent who we are. The same goes for our City Hall Park.

8. I live right downtown and often talk to people who are visiting from out of town. The main reason tourists come to Burlington seems to be that we are unique in our ability to be a vibrant, small city with a gorgeous location and natural beauty. Turning our one central park into a cookie cutter, that will look like any park anywhere, takes away the very essence of what makes Burlington unique.

In sum, I'd rather have an old-fashioned, somewhat beat oasis in the middle of the city, than a modern, hip, cookie-cutter, shadeless, concrete, soulless plot.

I appreciate you considering my concerns. Please feel free to contact me at any time.

Best regards,

Joy

Joy Cohen

Burlington, VT 05401

Layne Darfler

From: Nita
Sent: Wednesday, March 07, 2018 6:48 AM
To: Layne Darfler
Subject: city hall park trees

I frequently go to City Hall Park for the farmer's market, concerts, Festival of Fools, etc. I understand the heavy use of the park. Both as a pedestrian visitor and having been trained in Landscape Design, I know the value of each living tree, particularly trees of the size in the park. It is imperative to preserve the existing amount of shade in that park! Please consider your redesign to keep as many trees as possible. The character, beauty and usability of that park will dramatically change if you take down 32 trees!

Nita

Layne Darfler

From: Sarah Elliott <
Sent: Tuesday, March 06, 2018 4:03 PM
To: Layne Darfler
Subject: City Park Concern

Hi,

I am a concerned citizen of Burlington, VT. I am reaching out to tell the Development Review Board that I do not want change to come to the beautiful, tree-filled City Park. We do not need to replace it with a big lot, which will be too hot to relax in. The trees are incredible and so is the green. I do not agree with cutting down natural trees or ripping out the lawn. This is not okay! We need a new plan that includes keeping the current trees for shade and keeping the natural environment. I spend money and lots of time in Burlington and the park on a regular basis, please listen to this concern. I have friends in town who are also very concerned about this discouraging change.

Sarah Elliott
Burlington, VT

Layne Darfler

From: Kate Keough
Sent: Tuesday, March 06, 2018 6:21 AM
To: Layne Darfler
Subject: Citizen who opposes current design plan City Hall Park

Dear DRB, I oppose the cutting down of the trees in this park. I spoke out against several elements of the ill conceived design in the last 2 public meetings. The design is not taking in the concerns of the public. This design needs to not be approved, it is ugly, not built for people's resting, too much paving, historic abortion not relating to the architecture of city hall, the bathroom pod is inappropriate, the trees should not be cut down. Also, I think the DRB is NOT listening to the public at the last public forum, no body wants the trees cut down. There seems to be no democracy here and I am asking for this project not to get approval but PUT ON HOLD. An independent arborist should be brought in from another city who is NOT involved in this city politics. Please do not cut the trees. Kate Keough

Layne Darfler

From: Maggie Homer
Sent: Monday, March 05, 2018 11:18 PM
To: Layne Darfler
Subject: Keep the trees

Follow Up Flag: Follow up
Flag Status: Flagged

Don't make Vermont lame! Keep it green, keep the trees.

Layne Darfler

From: Stephen Lemcke
Sent: Monday, March 05, 2018 10:19 PM
To: Layne Darfler
Subject: City Hall Park Redesign

To whom it may concern:

I am a South Burlington resident who works in downtown Burlington. I will sometimes go to City Hall Park and eat my lunch during the warmer months. I enjoy the many shade trees that keep it a nice cool refuge from the rest of the hot pavement that seems to exist everywhere else in ever more increasing amounts.

I urge you to find a better alternative and/or design that will not require the cutting down of so many trees. I believe the process to vet this design was not as thorough as it might have been and has been led by a desire to "activate" the park for more commercial uses. Not that I am surprised by this sort of thing from the current administration.

I think the park should be a refuge from the increased busy-ness of the downtown core. Not all areas of town need to be "vibrant." A park one third of which is paved? Kind of antithetical to what a park should be in my opinion. It should be a place of rest and relaxation, not one of business.

Thank you.

Steve Lemcke

Layne Darfler

From: Rory Waterman
Sent: Monday, March 05, 2018 8:28 PM
To: Layne Darfler
Subject: City Hall Park trees

As a Burlington resident and voter, I urge you to reconsider the plan to cut down so many trees in CHP. We should get rid of only the trees that disease or serious damage has rendered unsavable, and only after ALL trees in the park have been thoroughly assessed.

Thank you,
Rory Waterman
ONE resident

Rory Waterman, Ph. D.
Professor of Chemistry
Associate Dean, College of Arts and Sciences

Layne Darfler

From: Donna Walters
Sent: Monday, March 05, 2018 5:18 PM
To: Layne Darfler
Cc: Monique Fordham; Lynn Martin; Charlie Messing 101 College; Carolyn Bates
Subject: CHP Seating Plan: Existing & Increased ; Loo
Attachments: CHP Seating _2-20-18_final.pdf

Dear Development Review Board Members,

RE: This email is intended to give reflections on the seating plan, which apparently has not yet been made available for public comment.

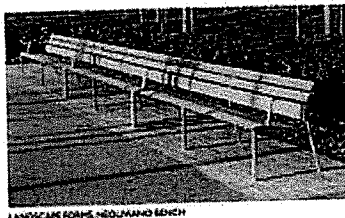
The Design Advisory Board requested increased seating at the Jan 23 mtg. I asked Nina from Parks and Rec to send me the revised, increased seating plan. It should be made available for public feedback on the DRB site. The total number of seats sited in the plan, 314, includes 205 bench spaces consisting of wooden benches (92 spaces) and its not clear if the seat walls (113 spaces) are the metal walls with wooden seat slats, without back support. Or if they are stone walls without back support? It also includes steps and wall spaces. Steps (90 spaces), retaining walls (19 spaces) and removable tables and chairs (TBD).

The increased overall seating plan (from 158-314) still does not appear to have enough benches. I visited Decker Towers and 3 Cathedral Square and elderly seniors living there told me they "want more wooden benches with back support along the walkways in the shade." There are still not enough benches along the stretches from one end of the park to the other.

BENCH SPACES

Benches: (92 spaces)

Single and double wooden benches with back support. Single benches: specs indicate seating for 4... according to a quick demo try out, in reality, seats 3 comfortably, maybe 4 if you are two adults with your own two children, but certainly not 4 strangers. Double bench specs indicate seating for 8... in reality seats 6 comfortably. There are 8 double benches and 7 single benches for a total of 92 bench spaces. My analysis indicates the bench seating is over stated by 23 seats. Please request more benches to line the walkways. It is wonderful that the benches are made of sustainable wood, but they don't seem to make a quality statement. They are more modern looking than one would expect for a New England historic park. Perhaps if the arms and legs were black instead of brushed aluminum they would appear more historic, like wrought iron.



Left: Double bench purports to seat 8 adults.
Right: Single bench purports to seat 4 adults.

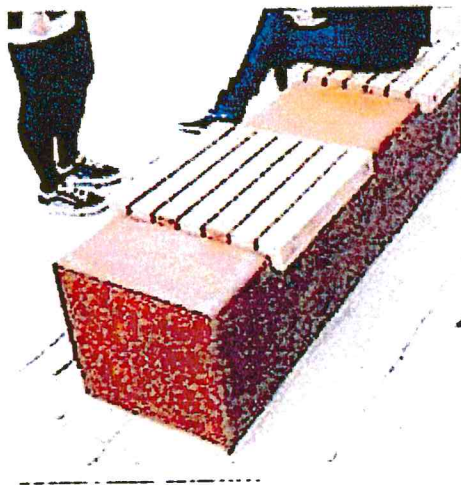


Photo taken on Church St outside of BCA. Group was trying out the new sample double bench above. On the right side of this double bench there are three adults seated comfortably. On the left side there are four adults...seated squished together. Take-away: The double bench seats 6, not 8.

Seat Walls (113 spaces)

Metal wall seating with wooden seat slats, but no back support.

It's unclear exactly where this seating will be as both the seat walls and retaining walls are in the same navy blue color on the "Proposed Seating Capacity" chart (attached below). Appears to be located around the splash pad, rain gardens, Ri Ras patio and in front of the Firehouse alley. Or is this along Main St? I would recommend that at least some of the seat walls include back support, especially around the fountain. There is no comfortable seating with back support for parents and grandparents to sit in as they supervise children at play. There is no shade around the splash pad either. Could you please strive to provide at least half of the comfortable seating in the shade for our elderly population and for those who have sensitive skin and medical conditions which prohibit them from sitting in the sun?



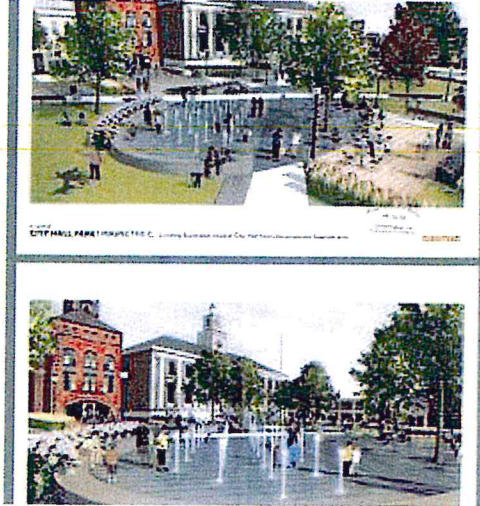
STEPS AND WALL SPACES

Retaining Walls (19 spaces)

Located along Main St.? If so, that appears to not be accessible from inside the park due to the plantings in the garden at the base of the wall. Not sure how that is considered park seating. It's more like street seating, which will be good if farmers market runs along Main St, but doesn't really add to performance seating in the park since one's back would be toward the stage area. Also, there is no seating along the whole stretch of St Paul on Park Lane. Where will people sit at the farmers market on St Paul St? How will elders who are dropped

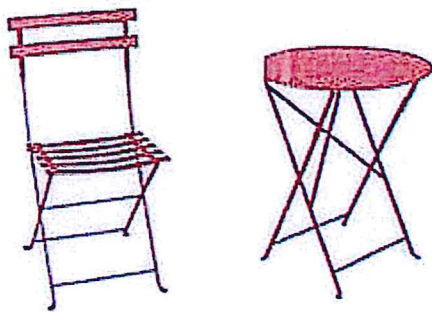
the street corner make it from one end of the park to the other with no resting spots along the way, especially on Park Lane?

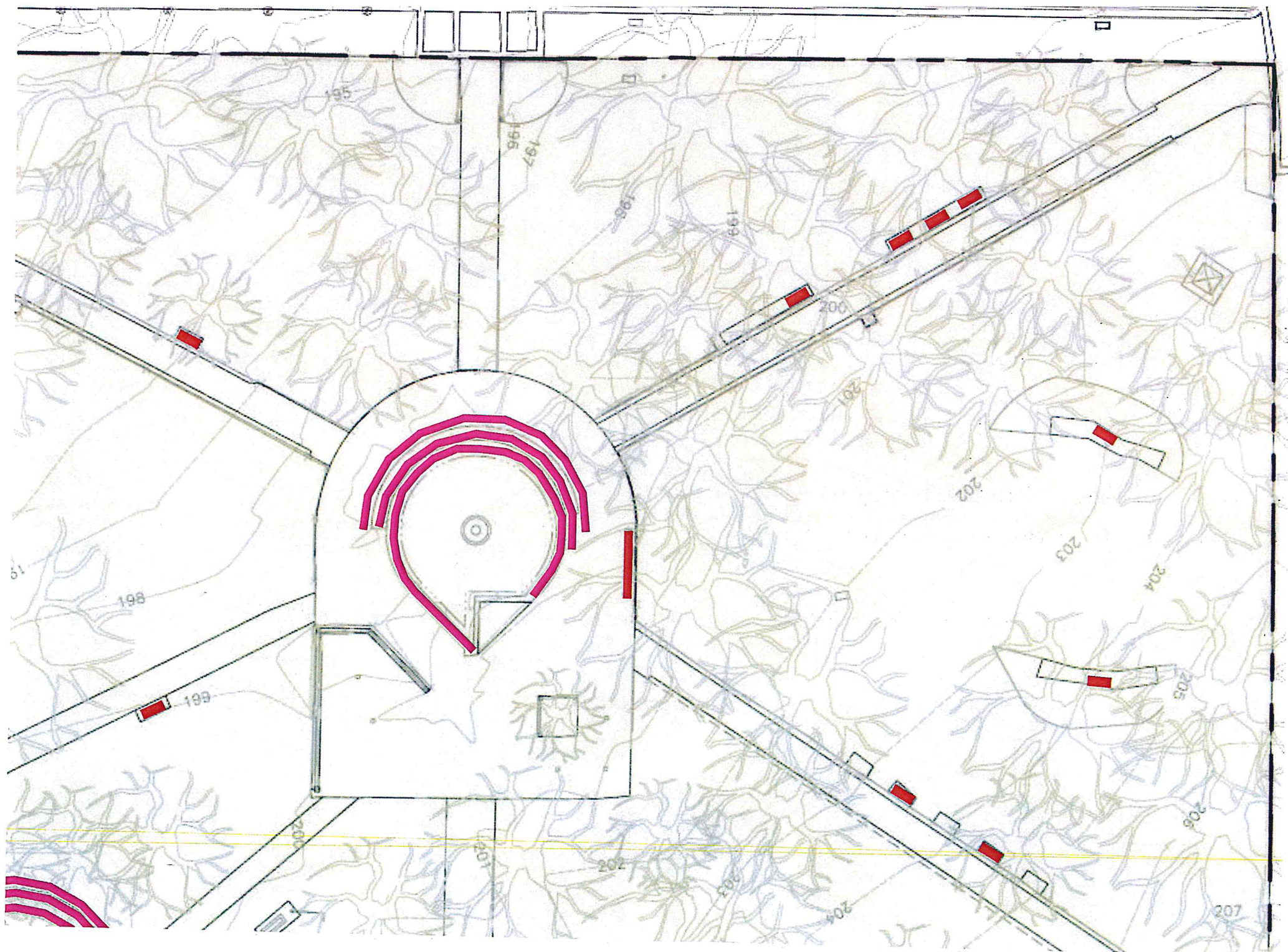
SEATING AROUND THE SPLASH PAD

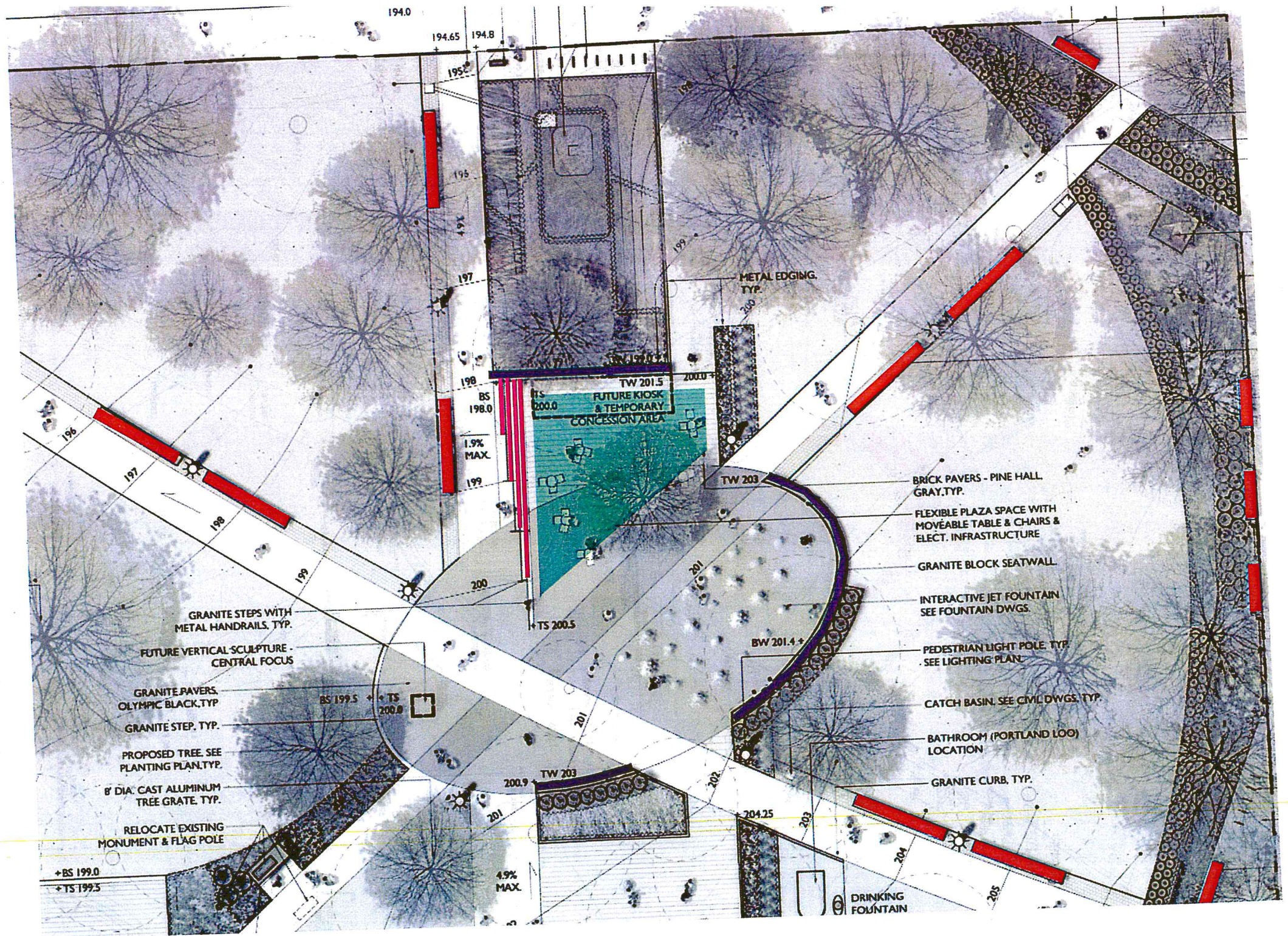


The senior citizen demographic is growing. They are not going to sit on flimsy slatted chairs or wall seats without back support in full sunlight. Parents and grandparents need a comfortable place to sit with sun/shade options with back support while watching children at play.

REMOVEABLE TABLES & CHAIRS







The removable tables and chairs seem rather cheesy/flimsy and don't make a "quality" statement. Of the two above, I'd vote for the black one: it looks more stable and the color is more along the lines of wrought iron. Also, there doesn't seem like there is enough seating near the loo where family members will linger while they wait for someone in their party.

Loo

The portable loo might make sense in the warmer months, but I certainly wouldn't be inclined to use it in the winter. Why not a real heated bathroom? I am not aware of any public bathrooms in the whole market place area. It would be nice to have one someplace. Where are all the kids going to change into dry clothes when they finish running through the splash pad? There is no diapering shelf in it either. I wouldn't want to change a soiled diaper on the sitting wall in front of an audience. I'm sure the audience wouldn't appreciate that. Better than nothing, but not a really good solution to the need for a public bathroom with a changing/diapering area. Sigh.



On behalf of Keep the Park Green,

Donna Walters
Maple St.

Layne Darfler

From: Michael W. Wool <
Sent: Monday, March 05, 2018 2:43 PM
To: Layne Darfler
Subject: FW: City Hall Park

Follow Up Flag: Follow up
Flag Status: Flagged

From: Michael W. Wool
Sent: Monday, March 05, 2018 9:34 AM
To: 'ldafler@burlingtonvt.gov'
Cc: Lisa B. Shelkrot
Subject: City Hall Park

As a Burlington native, employer and taxpayer I have significant concerns about the proposal to clear cut 32 trees in city hall park. Trees are an integral part of our landscape and affect our quality of life in Burlington. It takes 10 minutes to cut down a tree and 25+ years to regrow. They even leave trees in Central Park. Please reconsider.

Michael W. Wool, Esq.

Langrock Sperry & Wool, LLP



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In accordance with IRS Circular 230, we inform you that any tax advice contained in this communication was not written or intended to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code, or promoting, marketing or recommending to another person any transaction or matter addressed in this communication.

Layne Darfler

From: Karl Miller
Sent: Monday, March 05, 2018 2:31 PM
To: Layne Darfler; Susan Eisenstadt
Subject: City plan to remove trees and add hardscape in Burlington City Park

Follow Up Flag: Follow up
Flag Status: Flagged

I have just seen the plan for the changes to Burlington City Park. Many times I have enjoyed sitting on the grass enjoying the shade from the trees during the farmers market, jazz fest or the Crit, etc.. I am hoping this plan be reconsidered!!!

Regards

Karl Miller

Layne Darfler

From: see choose do previews Bonino
Sent: Monday, March 05, 2018 2:01 PM
To: Layne Darfler
Subject: Please keep more trees in the park.

Follow Up Flag: Follow up
Flag Status: Flagged

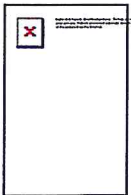
Dear Decision Makers -

Please keep more trees and less hard space in City Hall Park for shading and for nature.

Thank you hearing my request,
Cinse

Cinse Bonino

facilitator, presenter & guide



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Layne Darfler

From: Patricia Kelley <
Sent: Monday, March 05, 2018 1:51 PM
To: Layne Darfler
Subject: City Hall Park trees

Follow Up Flag: Follow up
Flag Status: Flagged

To Whom It May Concern:

I am very concerned about the removal of 35 trees from City Park. Some of the targeted trees are gorgeous and healthy, and will cause yet more harm to our constantly battered earth. The removal of so many trees will make the park extremely uncomfortable for the residents of Burlington and those who visit our beautiful city due to the hugely diminished shade and possibly much less beautiful.

I will save you from having to read my thoughts about the removal of our beautiful fountain.

I also feel strongly that this decision to remove so many healthy trees was put through in a less than transparent manner that kept the City Council, (and the Burlington residents), unaware of the entire plan when they approved it.

I urgently ask that the current plan be reworked and that an independent arborist make a thorough examination of all trees targeted for removal and that only those that are unhealthy be removed.

Thank you for considering my view and thoughts.

Sincerely,
Patricia Kelley
Resident of Burlington, VT

Layne Darfler

From: Kris Lizzari'
Sent: Monday, March 05, 2018 1:39 PM
To: Layne Darfler
Subject: Burlington City Park Tree Removal Plan Needs More Thought Before Being Executed

Good afternoon,

As a frequent visitor to the Burlington City Park I was completely flabbergasted to hear the plan to remove so many mature trees from the park. As a concerned member of this community I am asking that you please hold off on the removal of these trees until a neutral arborist studies all trees in the park.

It would be an absolute shame to remove these mature trees if they are healthy. The new park should incorporate the existing mature trees into the design. It would be a more impressive park with the mature trees included rather than a park full of saplings.

Please reconsider this plan and please seek a **neutral arborist study**.

Thank you for your time,

-Kris Lizzari

Layne Darfler

From: Emma Redden
Sent: Monday, March 05, 2018 10:08 AM
To: Layne Darfler
Subject: don't cut down the trees!

Follow Up Flag: Follow up
Flag Status: Flagged

please don't cut down the trees in city hall park!!!!

Layne Darfler

From: Julia Curry
Sent: Monday, March 05, 2018 10:04 AM
To: Layne Darfler
Subject: Another vote for a greener City Hall park

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,

Please count me as another Burlingtonian calling for a design revision to include many more trees than are now proposed.

I understand the need for some change due to the soil compaction, but the park should be leafy and shady in summer. The current proposal's ratio of hardscape to shade is in my view significantly off.

Many thanks,

Julia Curry

Layne Darfler

From: Meg Streeter
Sent: Friday, March 02, 2018 12:27 PM
To: Layne Darfler
Subject: city hall park

Follow Up Flag: Follow up
Flag Status: Flagged

Hi and thanks for reading this from a Burlington visitor from southern Vermont - I love all the City Hall Park trees and hope that a plan will work for trimming not eliminating them... sincerely, Meg Streeter

--

Meg Streeter, CRS
Meg Streeter Real Estate

84

<http://www.megstreeterrealestate.com>

<http://www.facebook.com/pages/Meg-Streeter-Real-Estate/243157553184>

Vermont Real Estate Commission Mandatory Disclosure: Meg Streeter Real Estate, P.C. operates as a non-designated agency wherein all agents owe a duty of loyalty to agency clients.

Layne Darfler

From: todd kreitzman < >
Sent: Saturday, March 03, 2018 1:29 PM
To: Layne Darfler
Subject: city hall park trees

Follow Up Flag: Follow up
Flag Status: Flagged

Please KEEP THE TREES IN CITY HALL PARK!!!
Without the trees the park will not be a park, just another space.
We need trees in our lives!
I live in Burlington and am a registered voter.
Todd Kreitzman

Layne Darfler

From: Edward Burke
Sent: Saturday, March 03, 2018 2:45 PM
To: Layne Darfler
Subject: Oxygen, Shade, Fruit, and Beauty: I Speak For The Trees!

Follow Up Flag: Follow up
Flag Status: Flagged

To Whom It May Concern on The Development Review Board,

My Name is Edward Burke, an aspiring musician and artist in town, and I've been a Burlington Resident for almost four years now. I recently spoke in front of you at your February meeting, but let me just make another plea in support of Keep The Park Green.

I implore you to, First and Foremost, Take a better assessment of the trees already existing in City Hall Park do not cut any of them down; take care of and nurture them.

Additionally, I suggest to you to plant more trees, instead of creating a large concrete slab in the middle of the park, which will inevitably heat up in the middle of the summer. If I'm not mistaken, you're attempting to improve the Park, not create a large, outdoor egg-frying pan.

Second; I feel that your idea to widen one of the pathways in the Park IS a good idea, but allowing cop cars on the Pathway IS NOT. Cars produce smog, and if I wanted to inhale exhaust I'd walk almost everywhere else in the city.

Let me show my support for at least two of your ideas though: the bathrooms, and the water feature. (Not a fountain, but a feature). I WILL miss the old fountain, but I do like jets of water of any kind.

So I will close here. I, along with many of my fellow Burlingtonians, am speaking for the trees, and I hope you will consider doing so too.

Thank you for your time,

Edward Burke

Layne Darfler

From: Kate Keough
Sent: Saturday, March 03, 2018 8:00 PM
To: Layne Darfler
Subject: My email

Follow Up Flag: Follow up
Flag Status: Flagged

Hello, My email is - oppose the removal of trees in Burlington City hall park, Kate

Layne Darfler

From: Diane Piazza <[REDACTED]>
Sent: Saturday, March 03, 2018 9:19 PM
To: Layne Darfler
Subject: Concerns for city's plans for existing park trees

Follow Up Flag: Follow up
Flag Status: Flagged

To those who meet,

I have a retail shop on College street and I was informed about the plans for removing trees in the park. I have a copy of the plans and I am very upset with the removal of many healthy trees. I understand there are some unhealthy trees that may need to be removed, however other trees would be fine with crown raising and maintenance with integrity. Many have been disregarded. The saplings that will be planted will not produce shade or mature for many years. Most likely some saplings may encounter vandalism. I care for the trees in this park and I need to see a plan that encompasses the trees that are already there and healthy. A new plan needs to be created and the public needs to be informed with transparency.

Diane Piazza

Layne Darfler

From:
Sent: Sunday, March 04, 2018 9:07 AM
To: Layne Darfler
Cc: Monique Fordham; Carolyn Bates
Subject: Please

Follow Up Flag: Follow up
Flag Status: Flagged

Please adjust the design to save the trees. I saw in a recent graphic that 15 of the trees were being removed to meet "design goals". That's thoughtless, heartbreaking, and absurd. Please go back to the drawing board. Please.

rik carlson

Layne Darfler

From: Susan Eisenstadt <
Sent: Sunday, March 04, 2018 1:21 PM
To: Layne Darfler
Subject: City Hall Park

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

My husband and I and one of my sons and his partner are all city residents. Please keep the park green. it is my understanding that there is a plan to cut 32 trees, of which only 7 are really struggling. The current plan is to increase hardscape to 1/3 of the park. This leaves almost no shade at all. We want a plan that incorporates and cares for our existing trees. We are a green state aren't we? Why would the plan call for cutting healthy crab apple trees? Everyone loves to see this beautiful sign of early summer. Many people hang out in the park. Is this a way for them to be uncomfortable and then leave? A better solution might be for community policing if folks are worried about any criminal activity. It is time to reconsider and think about what is best for ALL the people in Burlington, not just the tourists and the elite.

Thank you for your time.

Susan Eisenstadt

Layne Darfler

From: Eli Sendra
Sent: Sunday, March 04, 2018 1:36 PM
To: Layne Darfler
Subject: Regarding City Park Renovations

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon,

As a proud Vermont resident since birth and a Burlington resident for the past 5 years it was greatly disturbing to hear that the city was planning to alter the already limited treescape in the park. I urge the city to reconsider and to focus efforts on rehabilitating existing trees and not resort to simply bringing them down.

Much of the appeal of city hall park is the natural oasis in the middle of the city and increasing the hardscape of the park while also removing the trees would be tragic.

Please reconsider this plan. Please consider rehabilitation of current trees. Please consider increasing adding saplings to replace older trees but do not bring down all of the existing trees.

Thank you.

Eli Sendra

Layne Darfler

From: Kayla Billings
Sent: Sunday, March 04, 2018 4:27 PM
To: Layne Darfler
Subject: city hall trees

Follow Up Flag: Follow up
Flag Status: Flagged

Good Evening,

I am a Burlington native and I have agreed with a lot of the development of my city. However, I cannot agree with cutting down all the trees proposed under the new plan. As a resident I ask that any new plan incorporate the existing trees. Our city needs to do a better job maintaining the existing landscape and keeping it healthy not cut everything down and start anew. Residents, like myself and my family, enjoy the shade provided by trees in the summer and i believe this will be a blatant attack on those of us that "loiter" on the grass and enjoy our city.

Thank you,
Kayla G.

Layne Darfler

From: jennifer
Sent: Sunday, March 04, 2018 7:24 PM
To: Layne Darfler
Subject: Try movable chairs at City Hall Park first.

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Design Review Board Members,

This Free Press article offers a perspective worth DRB's consideration:

<https://www.burlingtonfreepress.com/story/life/2017/10/04/burlingtons-city-hall-park-earns-grade-urban-planning-expert/714039001/>

It describes an idea where "dozens of chairs can be scooted around to suit more idiosyncratic impulses". A test run during warmer weather could enlighten us as to how the park is being used and loved. It may surprise us to learn that more trees should be left untouched, for now. It may offer other surprises. If nothing else I think that visitors to City Hall Park will have fun with this.

In Europe there are public parks with movable chairs and people love them! Where else can you feel comfortable rearranging the furniture, other than your living room or yard?

Perhaps each chair could be labeled "Tony's Chair" to thank the Pomerleau Family? Perhaps involving the Family in this, so soon after Tony's death, could help them allow a redirection of their promised funds, in part or in whole, to other park projects of priority within the City?

I strongly encourage DRB members to explore the movable chair this spring.

Respectfully submitted,

Jennifer Ely

Layne Darfler

From: Wayne Senville
Sent: Sunday, March 04, 2018 10:19 PM
To: Layne Darfler
Subject: Memo to DRB regarding City Hall Park reconstruction plans
Attachments: memo revised to DRB on City Hall Park reconstruction.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Layne:

Please forward the attached memo / comments to the DRB as soon as possible so DRB members will have a chance to review them before the Wednesday meeting.

Please let me know if my comments are forwarded to any other individuals -- and also confirm that you received this email and the attachment. If it's the usual practice, please also feel free to post my comments online on the DRB agenda web page.

Thanks,

Wayne Senville

Comments of Wayne Senville to DRB on City Hall Park Reconstruction
- Mar. 4, 2018

To: Members of Burlington DRB
From: Wayne Senville
Subject: City Hall Park Reconstruction, 149 Church Street
Date: March 4, 2018

I appreciate this opportunity to comment. As may be relevant in assessing my comments, my background is as both an attorney (J.D., University of Minnesota School of Law, 1976; admitted to Vermont Bar, inactive) and planner (Masters of City Planning, University of Pennsylvania, 1982). I worked for 4 years as a planner for the National Park Service, Mid-Atlantic Region; 3 years as Director of Local & Regional Planning Assistance for the State of Vermont; and for 24 years served as publisher and editor of the Planning Commissioners Journal, the largest circulation national publication for members of local and regional planning boards.

Having said that, however, I will note that I do not have a professional background in historic preservation planning or architecture. Nevertheless, both my professional background, and my familiarity with City Hall Park (having lived in Burlington since 1988) inform my comments.

I think we can start by saying we all agree on the following:

- 1. City Hall Park is one of the most important public spaces in the City of Burlington, and likely the most important one in the downtown core.
- 2. City Hall Park is at the heart of a designated historic district listed on the National and State Registers of Historic Places.
- 3. The DRB is required to assess the impact of this project on the historic character of this historic district, under Section 5.4.8 of the Burlington Comprehensive Development Ordinance, which reflect the Secretary of the Interior's Standards for the Treatment of Historic Properties.

I would also add the following from my review of the public record for this application as available on the DRB web site:

- 4. There is an almost total absence of any documentary material from the applicants in the record that would assist the DRB in evaluating the historic significance of City Hall Park in relationship to the proposed reconstruction.
- 5. There are at least several historic photos of City Hall Park, available through the UVM Library Database and other sources, which applicants did not include with their submission materials. In fact, I could not find any historic photos in applicants' materials (as posted on the DRB web site), a significant omission given that integral to the DRB's decision is an evaluation of the consistency of the proposed plans with the historic character of City Hall Park.

Comments of Wayne Senville to DRB on City Hall Park Reconstruction
- Mar. 4, 2018

-- 6. A photograph was shown by applicants during the DRB hearing of February 20th which showed that the Park once had an oval shaped configuration. I did not recall this photo being identified during the applicants' presentation, but I did locate it in a book titled *Images of America: Burlington* (cited below). I'll discuss this photo later (see page 5), as I believe it was referenced by DRB Member LaRosa in a question he posed to me during the public comment period.

The Focal Point of City Hall Park

The focal point of City Hall Park -- apparently since September 1881, some 127 years ago -- has been a large, quite prominent, water fountain. Several different fountains, over time, have served as this focal point for the radiating group of pathways.



Photo from UVM Library Database. Burlington City Hall Park; Louis L. McAllister Photographs
McAllister, L. L. (Louis L.); 1877-1963; City Hall Park (Burlington, Vt.); Burlington City Hall (Burlington, Vt.).
June 4, 1938.
<http://cdi.uvm.edu/image/uvmcdi-3058>



Photo in same direction, taken March 4, by Wayne Senville.

The proposed reconstruction radically transforms this key aspect of the park.

Comments of Wayne Senville to DRB on City Hall Park Reconstruction
- Mar. 4, 2018



Shown in a 1906 postcard, the City Hall Park fountain was donated by John P. Howard and erected in September 1881. A generation later, Mayor James E. Burke kept brook trout in the fountain as summer "pets."

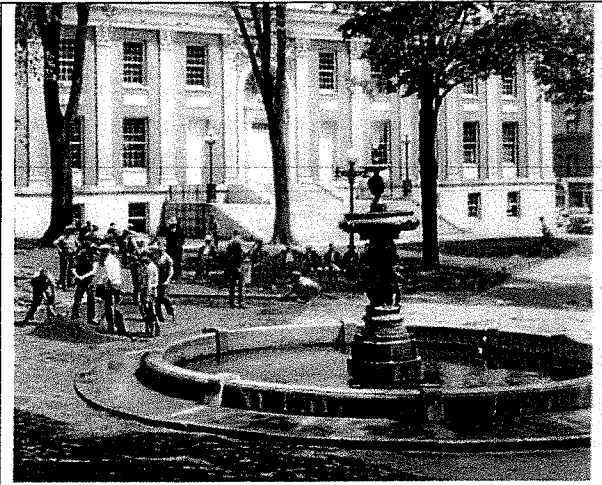


Photo above from UVM Library Database, dated June 1938. See previous page for source.

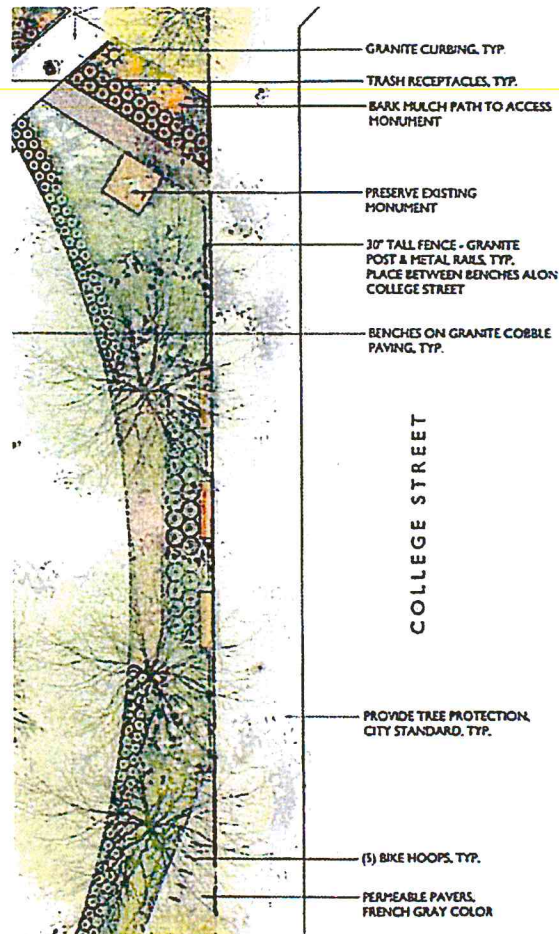
Photo above from Images of America: Burlington, by David Robinson & Mary Ann DiSpirito, 1997. The caption reads: Shown in a 1906 postcard, the City Hall Park fountain was donated by John P. Howard and erected in September 1881. A generation later, Mayor James E. Burke kept brook trout in the fountain as summer "pets."

Most significantly, the proposed plan eliminates this traditional, formal element of the park (i.e., a fountain) which since 1881 has served to anchor the park's radial spokes, and replaces it with a ground level "water feature" -- a feature that has been used in an increasing number of newly built parks across in the U.S. and elsewhere.

Pulsating water jets are a fun, trendy feature to have in urban parks during the Summer months. If we want this kind of informal, water feature, let's build it in a location where it fits. Locating a flat, ground-level, water feature in the heart of City Hall Park in place of a fountain that serves as a strong visual focal point represents a major break with the historic character of City Hall Park.

Staff comments note the importance of having a central water feature in the Park, but argue that the fountain now in place is not of historic significance. To me, this misses the point. What is of historic significance is not the current fountain, but the Park's longstanding utilization of a fountain as a highly visible focal point for the park's pathways, which constitute radial spokes that center on the fountain -- something the proposed ground-level water feature will not accomplish.

The Park's Relationship to College Street



Major changes are proposed to the park's historically open interface with College Street (see portion of applicants' illustrative landscape plan on left). As DRB Member Rabinowitz pointed out during the February 20th hearing, the new design creates a barrier along the street frontage.

This new feature of the Park significantly alters the relationship between College Street and the Park. One important aspect of City Hall Park has been the open relationship the park has with its surrounding blocks. The plans appear to alter this by setting up metal railings and vegetative barriers to free movement between the College Street sidewalk and the park, pushing entry to the park to corner locations.

This is a major alteration to the park's historic spatial relationships (one of the criteria for the DRB to review) and its relationship to the blocks that surround it, which are also included in the City Hall Park Historic District.

photo of City Hall Park and its current relation to College Street, taken by Wayne Senville



Increase in Impermeable Coverage / Loss of Tree Canopy

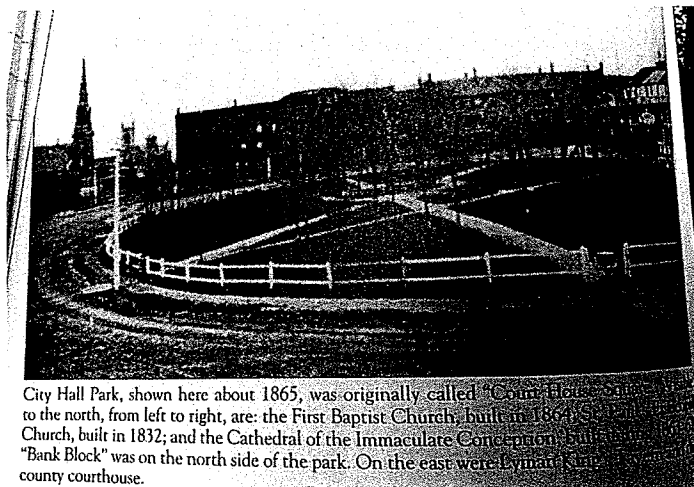
The proposed park reconstruction will result in a striking increase in impermeable coverage. Applicants indicate in their submissions that the current amount of impermeable surface is 19,750 square feet, or 25.2% of the park's surface area. Their plan increases this to 25,467 square feet, or 32.5% of the park area. See Applicants' Existing Coverage Plan, C104, and Proposed Coverage Plan, C105. In other words, the park's impermeable surfaces will increase by about 29%, a quite substantial amount.

Of particular note, the amount of grass surface in the park will decrease from 58,508 SF (in the park today) to 37,436 SF. That represents more than a 36% decrease in the park's grassy area.

Many others have commented on the extensive tree cutting and loss of tree canopy -- which also are at odds with the park's historic character.

Applicants submission materials do not clearly explain the reasons for requiring such a large increase in impermeable surface area, or specify the extent to which this is due to the increased size of the paths; the large paved area required for the water feature; the cutting of trees; or some combination of these or other factors. The significant increase in impermeable surface area is one more factor underlying the striking alteration in the historic character of the park and its overall spatial relationships.

The 1865 Photo of the Oval Shaped "Court House Square"



In applicants' February 20th presentation, they showed a photo of City Hall Park in a circular configuration, looking very little like today's park (see image on the left).

I located the photo in a publication titled *Images of America: Burlington* -- referenced earlier in this Memo. The caption for the photo indicates the image is from 1865, when City Hall Park was called Court House Square.

City Hall Park appears to have had, at most, quite modest changes to its character and spatial form since 1881 (such as the changes made in 1993-94 to better accommodate the Farmers Market by widening the College Street sidewalk and doing things like improving the lighting). This long time span (1881-2018) is the time period that should frame the DRB's consideration of the historic character of City Hall Park.

Summing Up:

There is an almost complete lack of documentary evidence in applicants' submissions on the character of City Hall Park over the decades. Yet there are photos available that seem to indicate that the Park has not undergone any major transformations to its character since the late 19th century, certainly none of the magnitude proposed here.

This is not to say that City Hall Park has remained static and untouched. Clearly, modest changes have been made over the years in keeping with the Park's historic character.

This proposal, however, would constitute a radical remaking of City Hall Park:

- by eliminating the element of a visible fountain that has apparently since 1881 served as a key focal point in the park to help visually define and anchor the system of radial pathways.
- by replacing the open connection between the park and College Street with a vegetative and fenced barrier.
- by sharply increasing the proportion of impermeable surface area; greatly reducing the amount of grassy space; and significantly reducing the tree canopy.

The changes proposed in this reconstruction plan when viewed as a totality are inconsistent with preserving the historic character of City Hall Park. By altering key features, spaces, and spatial relationships that have long characterized the park, the proposed reconstruction plan fails to meet the requirements of Section 5.4.8 of the Burlington CDO.

As a result -- and understanding that much effort by talented people has gone into developing the proposed plans -- I would ask the DRB to reject this application as submitted.

Layne Darfler

From: Trav Fryer
Sent: Sunday, March 04, 2018 11:59 PM
To: Layne Darfler
Subject: city hall park trees

Follow Up Flag: Follow up
Flag Status: Flagged

Hi. I can't make it to the DRB meeting on wednesday so I am making my statement via email. I'm a resident on Hyde st and I want to voice support for the Keep the Park Green position that we should save as many trees as possible. Increasing hardscape and reducing shade is going to make for an awful park.

thanks,
-Trav

Layne Darfler

From: Don Bateman
Sent: Friday, March 02, 2018 8:23 AM
To: Layne Darfler
Subject: City Hall Park Plan

Follow Up Flag: Follow up
Flag Status: Completed

Hello,

I wish to state my concern, which is that I disapprove of the plan to remove trees from our park. If anything, would far prefer adding trees without moving or cutting down a single one. Thank you for your consideration my concern.

All the Best,
Don Bateman Jr. (Burlington Resident)

Layne Darfler

From: Christopher Wagner
Sent: Thursday, March 01, 2018 8:17 AM
To: Layne Darfler
Subject: City Hall Park and the Market

Good morning Layne,

I wanted to write a quick note and tell you the the Burlington Farmers Market 100% endorses the redesign of City Hall Park!

We have been included in all communications over the past 6 years about the park and a possible overhaul. We've met with Parks and Rec, CEDO, Planning and Zoning, BCA, the Mayors Task Force, the Police and the architects. Our thoughts, hopes and dreams for the park to remain an integral part of the farmers market have been acknowledged and I believe realized in this current design.

Everyone that we have met with has had the best of intentions for the Market and our future. While we understand designing the park around a sole user was never anyone's intention we have been beyond pleased to know that we have always been included in the design and the parks future. The City has been clear that they want what is best for the market, an internal dialogue we are having now.

We have made our membership and customers fully aware that the redesign will cause us to be moved for at least two seasons and are fully prepared. We've been looking at private locations as well as continuing the conversation with Parks and Rec about locations they manage.

We are all very excited for groundbreaking to start and offer our assistance in any way the City might need.

Please let me know if I can be of any help!

Chris Wagner
Executive Director
~~Burlington Farmers Market~~

--
Chris Wagner
Executive Director
Burlington Farmers Market

Layne Darfler

From: Vicky Smith
Sent: Thursday, March 01, 2018 9:37 AM
To: Layne Darfler
Cc: Doreen Kraft
Subject: City Park re-design support

Good morning,

I am writing this letter in support of the redesign of Burlington City Hall Park.

King Street Center works to improve our community and is designed to bring together social, recreational and educational services to give underserved young people and families the skills and support necessary for a healthy and productive future. Our programs help young people and their families live and grow in a safe and nurturing community.

We recognize our City's critical role in building community and the provision of a broad scope of services aimed at improving the quality of life for Burlington residents. Efforts to redesign a new City Hall Park are in keeping with our community's vision of amenities which provide a safe and vibrant place for all who live and work in Burlington as well as our many visitors. As our City's "living room", a newly designed City Hall Park will foster community participation and allow for a safe place to be active and positively engaged. This is well matched with our mission at King Street Center.

I am confident a Burlington City Hall Park redesign will be a very worthwhile investment for our community.

I encourage you to contact me personally with any additional questions you may have.

Vicky Smith
Executive Director
King Street Center

Burlington, VT 05402

Layne Darfler

From: Carolyn Bates
Sent: Wednesday, February 28, 2018 4:17 PM
To: Walters Donna
Cc: Layne Darfler; Fordham Monique; Martin Lynn
Subject: Re: URGENT: Questions from Keep the Park Green

On Feb 28, 2018, at 4:03 PM, Donna Walters <[REDACTED]> wrote:

Dear Layne & Development Review Members,

I have a couple questions that I hope you can answer quickly, hopefully before Friday.

I just want to clarify that your request was for a health assessment of all of the trees in the park, correct? What I see posted to the Plan Updates is an assessment of only the trees **THAT WILL BE REMOVED** in the plan. When will the assessment for all of the other trees be available and posted? We want time to review and digest the report before the Wed, Mar 7th meeting.

Since many of the trees in the park are struggling due to soil compaction, it seems reasonable to assess the remediation plan for each struggling tree and the likelihood of them regaining health and vigor if the city were to start caring for them. Also, what would the plan be to protect the remaining trees during construction? I don't believe this was requested, but certainly it would be helpful information to determine the survival rate of the remaining trees, some of which are healthy and others struggling. We wouldn't want to have 10 struggling trees remain that have to be cut down in a year or two because they didn't survive the construction project. That would leave even fewer mature shade trees in the park.

People keep saying that if the Farmers Market doesn't get moved, the problem of soil compaction will happen again after the project is completed. Has the city made a definitive decision that the Farmers Market will stay, but be moved to the perimeter of the park on the streets only? Or is the future location of the Farmers Market undetermined?

Thanks for a prompt answer to these questions.

Regards,

Donna Walters
On behalf of Keep the Park Green

Layne Darfler

From: Donna Walters
Sent: Wednesday, February 28, 2018 4:04 PM
To: Layne Darfler
Cc: Carolyn Bates; Monique Fordham; Lynn Martin
Subject: URGENT: Questions from Keep the Park Green

Dear Layne & Development Review Members,

I have a couple questions that I hope you can answer quickly, hopefully before Friday.

I just want to clarify that your request was for a health assessment of all of the trees in the park, correct? What we see posted to the Plan Updates is an assessment of only the trees in the plan. When will the assessment for all the other trees be available and posted? We want time to review and digest the report before the Wed, Mar 7 meeting.

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People keep saying that if the Farmers Market doesn't get moved, the problem of soil compaction will happen again after the project is completed. Has the city made a definitive decision that the Farmers Market will stay but be moved to the perimeter of the park on the streets only? Or is the future location of the Farmers Market undetermined?

Thanks for a prompt answer to these questions.

Regards,

Donna Walters
On behalf of Keep the Park Green

Layne Darfler

From: Carolyn Bates <
Sent: Friday, February 23, 2018 9:46 AM
To: Layne Darfler
Subject: illustration of center of park CHP reduce hardscape

my previous email also had an illustration
here it is as an attachment.

Thank you Layne for all of your help with emails!!

cb

IS THERE TOO MUCH HARDSCAPE IN THE CENTER OF THE PARK?

TREES REMOVED 13

stairs –
hardscape
for sitting 6

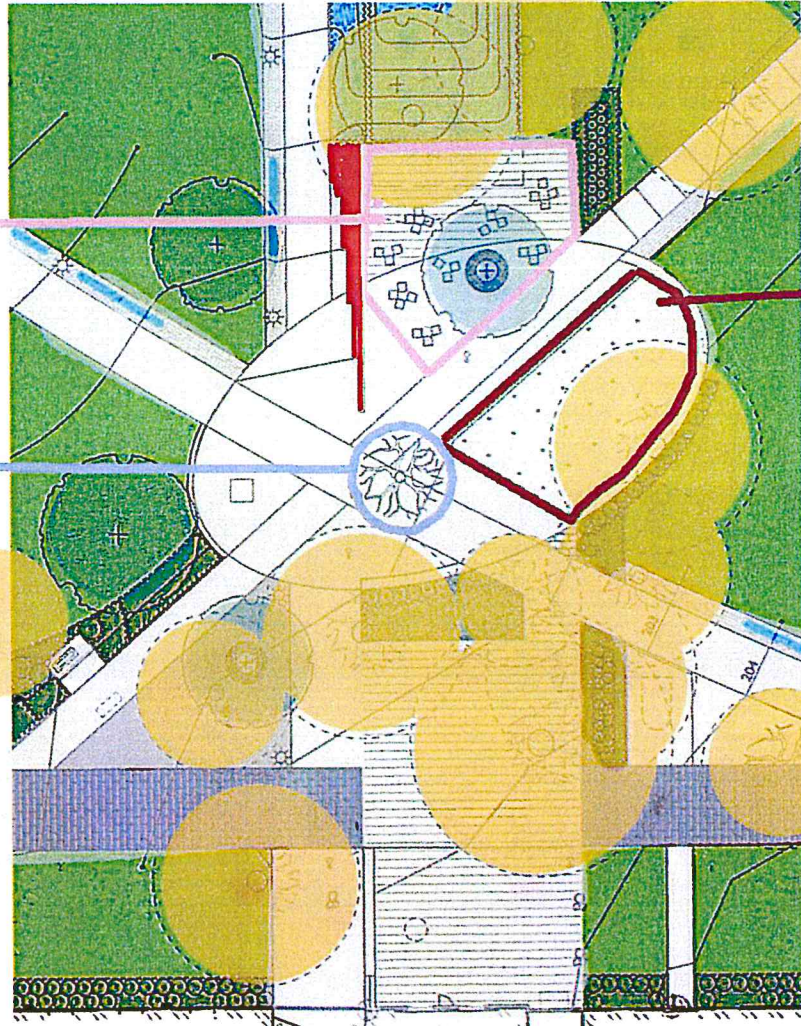
movable seating
hardscape

benches 4

new saplings 4

sculpture, tree ?

hardscape
splash pad
plus
sitting wall



couldn't we take out all the hardscape except paths and splash pad?
and center the splash pad

Facebook: Keep The Park Green

Layne Darfler

From: Carolyn Bates < >
Sent: Thursday, February 22, 2018 10:21 PM
To: Layne Darfler
Subject: new illustration CHP Hardscape

To Layne and all DRB Members

To me there is just TOO MUCH HARDSCAPE, especially in the middle.

My suggestion:

remove all unnecessary hardscape in the center section.

Keep splash pad and new sculpture

Make this a circular shape, like our existing fountain and move it to the historic center of the park.

Wouldn't it be wonderful if you could add the splash pad to the fountain or around the fountain... or just east of the existing fountain, in the existing hardscape.

That way we can save almost half of the trees the existing design wants to eliminate.

And keep the much needed shade, especially over the remaining hardscape, which will really heat up with too much sun on it...

Thank you for your time.

Feb 22, 2018

Carolyn Bates

facebook: Keep the Park Green

IS THERE TOO MUCH HARDSCAPE IN THE CENTER OF THE PARK?

TREES REMOVED 13

stairs -
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for sitting 6

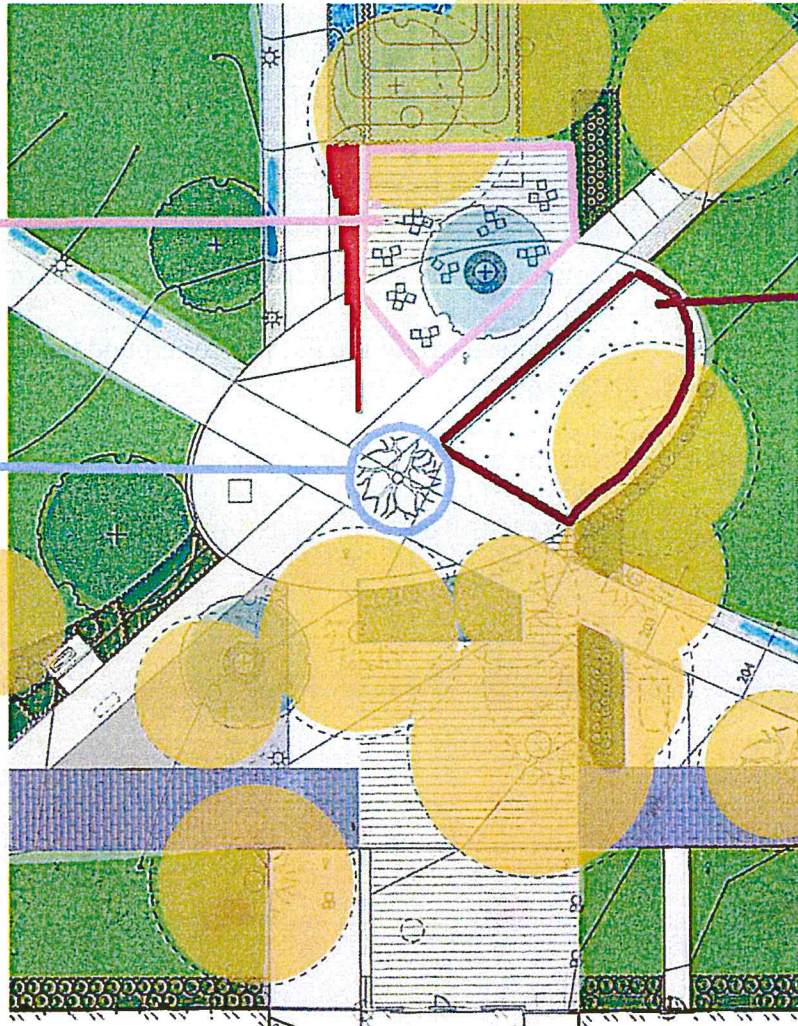
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couldn't we take out all the hardscape except paths and splash pad?
and center the splash pad

Facebook: Keep The Park Green

Layne Darfler

From: Joe Speidel
Sent: Monday, February 26, 2018 4:06 PM
To: Layne Darfler
Subject: feedback on the design for City Hall Park

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Darfler,

I am writing in support of the design for a new City Hall Park. This will be a much-needed transformation of one of the city's most important public spaces and will provide a better, more usable outdoor space for residents and visitors. It's encouraging to see in the online presentation and DRB materials that the improvements will include:

- Public space for events, including nearly twice as much public seating and a public bathroom.
- A design that respects historic uses and includes a balance of open space, trees, sun and shade.
- Replacement of worn-out grass, crumbling pathways, compacted soil, unhealthy trees, and deteriorated or inadequate infrastructure.
- Mitigation of gradation changes and stormwater issues.
- Improved lighting (while managing light pollution).
- A better connection to nearby streets, including seating and places to gather.
- A much improved site for important community events like the Farmers Market.

Burlington is a beautiful small city that deserves a well-designed public park in the heart of downtown, and this design gets all of the elements right.

Thank you and City staff for your work on this,
Joe Speidel (Ward 3)

Layne Darfler

From: Meagan Tuttle
Sent: Wednesday, February 21, 2018 3:34 PM
To: Layne Darfler
Subject: FW: Thanks for update

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

In a follow up, Jean asked to have this sent to the DRB. Can you please add to your list of emails to provide to them?

Meagan

Meagan E Tuttle, AICP
Comprehensive Planner
City of Burlington | Planning & Zoning

From: Jean Markey-Duncan
Sent: Wednesday, February 21, 2018 9:55 AM
To: Meagan Tuttle
Subject: Thanks for update

Hi Megan,

Thanks for the update on the park. I know there has been some controversy. I believe you have found the right balance. Better to have healthy trees with large canopies than trees that are struggling to survive. Having said that I could not blow up the plan on the website to see what tree species were selected. I hope there will be many shade trees rather than smaller trees like crab apples.

The one question I have is about the large open hardscape central area. It looks like it could be uncomfortable to be in that space when it is mid summer. Are there any plans to shade that area? If not, how could that happen? I can imagine some colorful sun shades or something similar made out of perforated metal that might be less maintenance?

I know lots has gone into creating this design and I am Johnny come lately but just a thought. Could you share it with the appropriate folks?

Jean

"Noncooperation with evil is as much a duty as cooperation with good."
Ghandi 1921



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

Layne Darfler

From: Karla Clithero
Sent: Thursday, February 22, 2018 10:20 AM
To: Layne Darfler
Subject: City Hall Park

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Layne,

I am very disturbed to hear that the City of Burlington is looking to cut down 35 of its 57 City Hall park trees. This needs to be made much more public as the outcry will immediately follow. City Hall park could use a spruce up, but this DOES NOT entail chopping down decades of growth. Those trees grew with this city Ms. Layne. We are supposed to pride ourselves on our green spaces, pride ourselves on the number of trees we co inhabit with in this beautiful city. We aren't like every other city, we are ecologically and socially conscious people, and that's what makes us special. Please don't let that spirit be tainted by a need to 'clean' up the park. There are other ways to make the green space more pleasant for all.

Layne Darfler

From: Randall Laplante <
Sent: Tuesday, February 20, 2018 7:51 PM
To: Layne Darfler
Subject: Park redesign

Follow Up Flag: Follow up
Flag Status: Completed

Save the trees! Forest is such an important resource that any redesign should save or increase their number!

Layne Darfler

From: Julia Whitaker
Sent: Tuesday, February 20, 2018 6:48 PM
To: Layne Darfler
Subject: Trees in City Hall Park

Follow Up Flag: Follow up
Flag Status: Completed

Please do not cut down the trees in City Hall Park.

This earth needs all of the trees that it can get!

Thank you!

Julia Whitaker | Field Energy Specialist | Tesla Energy

TESLA

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Please consider the environment before printing this email.

Layne Darfler

From: Elise Eaton
Sent: Tuesday, February 20, 2018 5:19 PM
To: Layne Darfler
Subject: Re: RE: Cutting of Trees in City Hall Park

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you Layne. I work right next door a few hours most weeks at Burlington City Arts. It's fine by me if you want to leave the information at Planning & Zoning and I'll just come by to get it. I don't know how quickly that might happen but I should be at BCA tomorrow afternoon. Feel free to e-mail me that I can pick up. If you prefer to mail, my address is ~~is~~ 

If there is opportunity tonight, I want the DRB to know that this afternoon I spoke with city official who has been very involved in the City Hall project. They sent me to the Planning & Zoning website to review the extensive information available which includes the tree health assessment that was done in October 2016 by longtime and recently retired city arborist Warren Spinner. I knew Warren when I worked at Parks & Recreation years ago. Suffice it to say, I put great stock in his expertise; and that the Front Porch Forum post I reacted was far from thorough.

I am old enough to know there are always at least two sides to every story (or two opinions.) I will do my due diligence next time I have concerns!

Elise B. Eaton

"Until he extends the circle of his compassion to all living things, man will not himself find peace."

-- Albert Schweitzer

On Tuesday, February 20, 2018, 11:30:34 AM EST, Layne Darfler <ldarfler@burlingtonvt.gov> wrote:

Thank you for the communications can you provide us with your mailing address so that copies of the DRB's decision can be forwarded, we cannot send the decisions electronically.

Thank you,

Layne

Layne Darfler

Planning Technician

City of Burlington

149 Church St

Burlington, VT 05401

802-865-7188 (main)

802-865-7192 (direct)

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

From: Elise Eaton [mailto:elise@cityofburlington.com]

Sent: Monday, February 19, 2018 7:45 PM

Subject: Cutting of Trees in City Hall Park

Dear Burlington Design Review Board:

I have just learned that 35 of the 57 mature trees in City Hall park are targeted to be cut to accommodate the park's new redesign. As you know, this action is slated to be voted on at tomorrow night's Design Review Board meeting.

This proposal, this action, is simply unfathomable and unconscionable to me given Burlington's and the State of Vermont's vociferous narratives about the negative impact of climate change on our environment, and the urgent need to reduce our carbon footprint.

How could cutting some of our oldest and best citizens, our trees, possibly be in line with that narrative? So many trees were cut recently to "improve" the bike path out in my end of town. Hundreds more are slated for the privately leased site for field development, also out in my end of town.

Layne Darfler

From: Jace Jamason
Sent: Tuesday, February 20, 2018 4:56 PM
To: Layne Darfler
Subject: Don't remove the trees!

Follow Up Flag: Follow up
Flag Status: Completed

Hello,

It has come to my attention that there is a plan to cut 35 of the 57 trees in City Hall Park. I have not seen any reason for this action, besides that it is part of a plan to re-do the park. Cutting so many trees cannot be the only solution -- and is definitely not the best solution in the long run.

Besides the fact that people tend to prefer tree-populated parks for the shade trees bring, and the beauty of nature, trees benefit the well-being of the community and the world! With the plans to force the city to grow, we will need the help of trees to help cut the damage we as humans make with our gasoline, smoking, etc (all of which will increase with the growth of the city). Planting only a handful of saplings in place of the many fully grown trees that will be cut will not help this pollution problem that the city helps create! Not only that, but how will we look, as the Queen City of Vermont, without one of Vermont's greatest attractions -- the green trees?

I implore you to rethink this plan, and choose the correct path of saving healthy trees and continuing to allow the community to flourish hand-in-hand with nature.

Sincerely,
Jace Jamason
Resident of Burlington

This cutting I believe, will drastically and negatively affect our city's quality of life from an aesthetic, physical and even mental well-being perspective if 35 mature trees disappear from our city's footprint in the most central public park in the city.

Please Design Review Board, vote "NO" to cut these mature trees from our park. They stand in beauty and peace, they are our city's heart.

Sincerely,

Elise B. Eaton

Ward 4 - North District

Layne Darfler

From: Rhonda summer
Sent: Tuesday, February 20, 2018 4:36 PM
To: Layne Darfler
Subject: Save the trees!!!

Follow Up Flag: Follow up
Flag Status: Flagged

Hello!

Please do not cut down any large mature trees in the park!! They provide much needed shade in the summer time. I live a block from Church St & spend a lot of time downtown & in the park.

Thank you!

Rhonda Summer

Sent from my iPhone

3/8 2018

Layne Darfler

From: Linda Van Cooper < >
Sent: Tuesday, February 20, 2018 4:06 PM
To: Layne Darfler
Subject: City Hall Park

Follow Up Flag: Follow up
Flag Status: Flagged

I am writing to urge you, Do Not cut down trees in City Hall Park. This is what makes it beautiful!
The lovely little pocket park on Pine went from being charming, inviting, and verdant to being a sterile and ugly grave
wasteland! (Nevermind the awful sculpture.)

Do not do this to our downtown. A friend was visiting from Boston last fall, and she remarked on our lovely park while
we were at the Farmers' Market. All it needs is some care and attention. It is ridiculous to prioritize commercial
vendors/stalls over trees and grass. The park is surrounded by commerce--please let it just be a natural park!

Linda Van Cooper

Sent from my iPhone

Layne Darfler

From: Sasha Morrisette
Sent: Tuesday, February 20, 2018 3:56 PM
To: Layne Darfler
Subject: Save the Trees!

Follow Up Flag: Follow up
Flag Status: Flagged

DRB,

Please don't cut the trees down in City Hall Park! That would really be terrible with in Green Mountain State in the fine City or Burlington.

My current occupation is a local cab driver for Green Cab.

I care deeply for the trees within this City, especially within the Park!

Please and Thank you!

Sasha Morrisette

Sent from my iPhone

Layne Darfler

From: Sherry Coburn
Sent: Tuesday, February 20, 2018 3:30 PM
To: Layne Darfler
Subject: Please do not remove city parks' trees

Follow Up Flag: Follow up
Flag Status: Flagged

Hello. My husband and I are very concerned about the trees being removed in city hall park. I see the ribbons on the trees and am upset. Please, I urge you, this is not the direction I want to see our park take. I did review the plans for the new park prior but I did not realize it meant removal of so many trees. I am a regular pedestrian downtown, not living far from the park, and I love the birds and shade, especially during the farmers market. It is our one bright spot of peace in an ever expanding downtown. Please please do not remove all these trees. It is a devastating choice.

Thank you,
Sherry Coburn
Steve Sharon

Layne Darfler

From: Sophie
Sent: Tuesday, February 20, 2018 3:41 PM
To: Layne Darfler
Subject: save the trees in city hall park

Follow Up Flag: Follow up
Flag Status: Completed

To whom it may concern,

I am a concerned citizen and student living in the general Burlington area. I really appreciate the trees at the lakefront and understand there are other benefits to more needy-people. Please do not let them go!

Thanks so much.
Sophie

Thank you, Layne Darfler,

While the tree issue is paramount in preserving an inviting, shaded, colorful, and bird-friendly park. there's a second issue of importance; the Portland Loo.

This stainless steel structure, roughly twice the dimensions of a Port-a-Potty and slightly smaller than a shipping container, is inadequate to the needs of residents.

It has no internal sink and running water or baby-safe shelf which those tending a tiny child need to carry out sanitation. It has no drainage for the outside sink other than pouring the effluent into the gutter. Its design is all about lowering maintenance costs and oversight by police, not about architecture or human comfort. Or our particular sense of place. Nor will its "heat-wrapped piping" likely prove adequate to Vermont winters.

Better to have a design competition around set characteristics and costs with emphasis the facility being user-friendly and respectful of the larger design elements in a park--soft leafy edges, flowers, grass. This Portland Loo is at best an Airstream trailer parked next to a greensward. It echos nothing of our history or of the meaning of a park.

While I appreciate that the planners have made this concession to loud and persistent public demands for a bathroom facility open to all--a fact that you don't acknowledge--this particular addition, while costing \$100,000, is more suitable to a busy urban street rather than complementing a park.

Keep at it!

Charles Simpson, Candidate for City Council, Ward 6.

On Mon, Feb 26, 2018 at 3:33 PM, Layne Darfler <ldarfler@burlingtonvt.gov> wrote:

All:

Please note there has been updates regarding 149 Church St ZP 18-0619CA; City Hall Park. These updates can now be found online under Agendas and Supported Documents for March 7th, 2018.

Kind Regards,

Layne

Layne Darfler

From: Jesse Warren <[REDACTED]>
Sent: Wednesday, March 07, 2018 3:39 PM
To: Layne Darfler
Subject: Comments on City Hall Park

Hi Layne — I am sending a statement for the record regarding the plans for City Hall park this evening, as I unfortunately will not be able to attend:

I believe in making progress in our city. I commend the work that has been done to improve the park — there are certainly areas it can improve. I like to see the kind of change that improves quality of life for all people, makes our community more vibrant, and makes our city a more beautiful place for all while remaining true to the unique character of Burlington.

To me, that character is about our rich history, our love of the natural environment, our strong community, and our pride in doing things in a unique and soulful way. I hope we can see these values more wholly reflected in the plans for City Hall park: by working toward a plan that includes a greater sense of Burlington's history to keep us grounded as we move into the future; that works more harmoniously with the existing natural beauty of the park; that fosters a greater sense of community for everyone in our city; and is designed in a way that is truly a reflection of the soul of Burlington.

I would challenge the city not to abandon all plans for the park, but to simply believe that we *can* do a better job at building a beautiful, inclusive, and vibrant park that future generations will cherish. While I again commend the effort by all so far, I believe we are capable of even greater work that our kids will be proud of.

Thank you,

Jesse Warren.

Jesse Warren

Rec. e 3-7-18
DRB mtg.

TO: Burlington Design Review Board
VJ Comai
FROM: Jennifer Ely
DATE: March 7, 2018
RE: Give nature a chance at City Hall Park

I would like to respectfully submit a suggestion that the City should not give up on the existing trees in City Hall Park not yet anyway. I recommend that the City commit to the notion ... for now ... that City Hall Park's highest and best use is a place of respite in a natural setting with trees, many trees.

More specifically I suggest that the City pursue this by moving the Farmers Market off the park and on to abutting streets during a trial period that would commence this summer. Here movable chairs could be placed during market hours, which will encourage most of the people to linger on the streets instead of the Park. At the same time, the Park trees would be given additional TLC (fertilizing, watering, aerating the soils). My guess is that we will find ourselves surprised by the regenerative power of many of the trees over just one growing season, maybe two.

Learning from what we see, what the trees are telling us, we will stand a much better chance of designing a managable, natural place of respite that is sustainable. An oasis with many trees in Burlington's downtown.

If this works, the ~~proposed venue~~ for larger public events will probably not be compatible. But aren't they better situated on the waterfront (with its expanded parking) or Battery Park anyway?

As a biologist (not an arborist) I believe this strategy could allow a surprising number of trees to return to a healthier state. We all know that nature has an amazing capacity to mend itself. With a little help and greater protection the existing trees will have the chance to restore themselves and create a sustainable natural place of respite. Let's give nature this chance.

*Presented at DRB
3/7/18*

PETER LISKA
175 Lyman Avenue
Burlington, Vermont 05401
802-338-1558

August 20, 2017

Meagan Tuttle, Principal Planner
City of Burlington
City Hall
149 Church Street
Burlington, Vermont 05401

Dear Meagan:

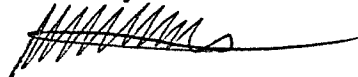
My name is Peter Liska and I was one of the commentators on the City Hall Park Project last Monday at your meeting. Thank you for that opportunity. I am following up with a summary of my comments and with few more observation about the use and present condition of the park, which I made yesterday while the Farmers Market was in progress.

1. While the park is used by many groups for many public purposes, it is obvious that the major user is the Farmers Market for six prime summer months. The large number of vendors and the huge traffic this event draws week after week has desecrated the grass and other vegetation.
2. I grew up on a farm in Europe and as a young child I remember seeing similar conditions of grass which recovered very nicely after the trampling on the grass was stopped and some help of new soil and reseeding. Same could be done here.
3. A common sense look at the existing trees show that the trees are not dead or even dying at this point, but the roots are being compromised and if this is not dealt with, some of threes may die. Given today's rising global temperatures all trees are an essential element of controlling the earth's warming. Everything possible should be done to save trees and not cut them down. Especially the large mature trees.
4. The Park redesign maybe in order to update and if this is the best way to spend three million dollars, then be it, Part of that money should be invested in public restrooms, appropriate in size with ongoing funds budgeted to staff the facility and keep it clean at all times. This park staffing should also include security.

5. The Farmer's Market should be permanently relocated to another City location. If returned to the City Hall Park, it will take one season and the grass and vegetation will be destroyed. Below is a list of other reasons to consider with respect to a permanent location of the outdoor market.
- The vendors need to be on a hard surface, asphalt or gravel
 - The market should have customer parking associated with its location.
 - There should be an area within the market for customers to sit, eat, drink or just rest. Picnic tables would serve this purpose.
 - The market needs public bathrooms when the market is open.
 - Vendors should have access to running water.
 - Vendors should have access to electricity and WI FI
 - There needs to be ample trash cans and a dumpster for after-market clean up. Today there is only one trash station located in the middle of St. Paul Street.
 - If the new Farmers Market is not within walking distance of Church Street, then a shuttle bus should be provided to bring people back and forth.
 - Removing the Farmers Market will not only restore the grass at the City Hall Park, but it will also address the concerns of many restaurants that are being negatively impacted by the many food vendors at the market.
6. I have given some thought to a possible permanent location for the Farmers Market and I believe that a very suitable location would be the Perkins Pier parking lot with the adjoining grass strip. Here is some of my argument for this space:
- Very large gravel parking lot with space for vendors and customers.
 - Lot is mostly unused on weekends.
 - Playground for kids in place.
 - This waterfront parcel is underutilized and the Farmers Market could be an attractive addition to the Burlington water front without compromising other waterfront venues and summer activities.
 - If this location was successful, perhaps plans can be developed for a year round market, similar to the markets in Montreal.

I am not a city planner, arborist or a farmer. My suggestions stem from my lifelong experience as Health Care Administrator (now retired) and as a businessman. Again, I appreciate the opportunity to provide this feed back to your group. Thank you.

Sincerely



Peter Liska

Burlington Development Review Board

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

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



BURLINGTON DEVELOPMENT REVIEW BOARD WEDNESDAY March 7th, 2018, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT Minutes

Board Members Present: A. Hart, B.Rabinowitz, I. Smith, A. LaRosa, G. Hand, A Zipparo, J. Drummond (Alt.)

Board Members Absent: S.Tilton

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

I. Agenda

A.Hart: There are no changes to the agenda; however the appellant regarding 59-61 University Terrace has requested continuance.

II. Communications

A.Hart: Communications provided in the meeting packet has been accepted into the public record, we will take them into consideration but remind the audience tonight that they are new to us so we have not had a chance to review them.

III. Minutes

A.Hart: Minutes from the February 20th meeting will be reviewed at the next deliberative

IV. Consent

V. Public Hearing

1. 18-0603CA; 141 North Willard St (RM, Ward 2C) Yellow Dog Management LLC

Appeal of administrative zoning permit to install kitchen hood vent and rooftop screening.

(Project Manager: Mary O'Neil)

A.Hart: This is an appeal of an administratively approved zoning permit

M.O'Neil: The owner of Momo's Market at 141 North Willard St submitted an application to install a kitchen vent hood in the rear addition; the original application had the duct work emerging from the South elevation going vertically up the roof and exhausting there. Staff questioned if it would meet setback. Owner was not quite certain in response she revised and had vent coming through roof and provided

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screening on the roof for it. The permit was approved on January 16th, the neighbor appealed in a timely fashion.

A.Hart: This request is for a nuisance analysis; noise ordinance does not have a specific decibel number

M.O'Neil: It is discretionary regarding the parameters of hours of operation but not for nuisance

J.Drummond: It is not clear whether the vent hood is coming out of the first story in the back

M.O'Neil: Correct it is a corner property, so it is visible on North St but it is on the addition that fronts North Willard; first story

G.Hand: Oppositions notes indicate lattice work, is that the screening that is being provided?

M.O'Neil: illustration shows it, however it does not need to be that high

G.Hand: Lattice screening won't necessarily provide noise screening

M.O'Neil: Reference to the ordinance is about visual screening

G.Hand: Staff reports states that screening is likely to minimize any audible impacts, I'm not sure I agree with that with the lattice screening.

J.Drummond: It is unclear where the vent hood is coming out

A.Hart: There is more information in the packets; 68 decibels at 5 feet

M.O'Neil: The specification sheet did give a range for the noise when in operation and did give an estimate of 5 feet

A.Hart: Will the appellants speak first

A.Spencer: In my appeal I did not include photos but can provide those to you now.

Didn't think in staff report that noise and visual concerns were answered. It would be 68 inches from property line; the store has changed a lot in the last 18 years, the point of a business is to be busy and they need to meet code, my concern is more about minimizing the impact to a reasonable degree to living next to a store. The vent gives concerns regarding noise and visual, purpose is to disperse grease laden vapors. Buildings are really close, there could be a possibility of stagnation, doesn't want house to smell like sandwiches. Noise ordinance is about equal to vacuum cleaner which isn't unreasonable, but it would make it hard to be in our backyard. A lot of our questions are about relocating the vent, possibility of more screening, not lattice. What other kinds of screening can better handle the noise and or absorb the grease. Open 7AM until noon, point made in favor of allowing the vent, is that a condition of the permit? What if they decided they want to cook at different times or if a new owner comes in. the pt of a biz is to be busy could that vent get bigger? Once this is out of the gates a bigger vent or more hours is possible. Minimizing to a reasonable degree the impact of the noise and odor of living next to a store

A.Hart: Does the Board have any questions for the appellant? None. We will ask the applicant/owner to come speak

E.Malone: In December of 2015 we purchased the building from a family that had owned the market for 24 years, it was in disrepair. We started Momo's to create a place for families to buy groceries and provide service to the community. Here today to talk about installing a hood which is important because it allows her to grow the business. Self-employed full time and has 9 part time employees that all live in the community. The part of the building we are talking about is the addition, the main building was built in the 1980's; the back addition is a single story area that has a flat roof. Kountry Kart Deli started out of this location. Hood and vent is to grow business needs. Share commitment in the neighborhood. Approach is to be communicative, transparent and positive. We were in communication about this project multiple times throughout January with the neighbors; attempted to answer questions and talk about concerns and the thinking. This hood is the only viable option for the small commercial space, this fan will allow us to get rid of smell, moisture and hot air from market space. Contractor worked with Tim Hennessey city electrical inspector to come up with

moisture and heat and not grease. No grease trap or frylator; breakfast sandwiches and prepared food, grab and go stuff. Should I answer the questions that she listed?

A.Hart: The appeal was specified on the noise impact and the visual element

G.Hand: And odor

E.Malone: Do not believe odor will become trapped in neighbor's house; hot air rises so most of it will go straight up and anticipate into the air. The vent is equal to the noise of a vacuum cleaner but it is challenging to run a kitchen so for the unforeseeable future the hours will remain 7am until noon.

A.Zipparo: Are those the store hours or the hours you would be operating the kitchen from?

E.Malone: Store hours are 7AM to 11 PM

A.Zipparo: So would you be running the vent around those hours for prep work?

E.Malone: Maybe 30 mins more or less around the kitchen hours.

A.Hart: some of these questions are impossible for you to answer, for the vent and the screening what are your options to minimize noise and odor impact?

E.Malone: The solution that we found is the only viable solution; some ask if it can be moved but based on how the interior piping and plumbing is the vent can't be moved to the other side. Fire escape for 3rd floor apt lands right near where the vent comes out now.

A.LaRosa: The lattice screening, have you thought about any other options?

E.Malone: We considered a livable wall but the maintenance would be too difficult.

A.LaRosa: But you're not against a screening that wouldn't be open like a lattice?

A.Hart: Lattice is probably an effective visual impact but maybe there is something that you could put in for screening that could dampen the sound. Vent is going to be 40" to the South which is close to the neighbors property line.

E.Malone: Thought is that if we are putting in an expensive fan to release the air then it needs airflow to allow it to flow effectively.

G.Hand: Alternate design going up the South side of the building, what happened to that plan, it was in a setback?

E.Malone: initially it was going to go out the side so I wouldn't have to cut a hole in the roof.

G.Hand: so there is no other way to push it up, they moved it to the top of the building so now you can't smell it. Did you think about moving it back and higher up?

E.Malone: It is too cost prohibitive to do that

J.Drummond: What about running duct along the roof to push it farther away?

E.Malone: The fire escape is in the way; would have to talk to contractor but might have to get a bigger louder fan; again not the type of food. Type 2 hood under health code does not allow the use of frylator.

A.Hart: Does the Board have any other questions?

None

E.Malone: The impact of installing this fan will be manageable for the neighborhood, understand change is hard but this will not be that negative and our plan is to own the business for the foreseeable future. Building is zoned neighborhood commercial. This is critical to the growth of my business.

A.Hart: the appellant asked about the growth of the business. If there is an expansion of the hood they would be required to submit another permit application for administrative approval.

M.O'Neil: correct a new permit would be needed but not necessarily come before the Board.

K.Keough: listened to two of the most wonderful women speaking of a home and a business, that place was a dump before she bought it. The business has been there forever anyone moving next to it should know it is a restaurant biz.

engagement ; owners have tirelessly invested own physical energy and every penny she has into this business, selling 20 sandwiches a day keeps her in the black, think about what a service this business is and a community place. The hood were talking about is like a residential hood. Think about the broader picture

A.Zipparo: Is form based code on this project?

E.Lee: No but it's the bases of the idea of corner markets in neighborhoods

A.Spencer: We agree we like the market, wondering if the duct work can be inside along the ceiling so the vent can come out elsewhere. Or exterior ductwork to go out and around away in a different direction. A vent less hood, they must exist. Maybe another contractor would be more familiar, I get its cost prohibitive and I want the business to be a success our quality of life is not inadmissible. A vent is a viable option just needs to mitigate the noise, odor, and visibility.

A.Hart: can you just comment on the vent-less fan is that an option and /or bringing the venting inside?

E.Malone: not aware of vent-less hood option, contractor works for big and small companies and the solution they came up with makes sense for maintaining the environment in the store and the needs of the store growth. In terms of venting- I lean on contractors heavily and what they say I tend to go with , doing a 6' horizontal vent does not make sense and is not viable. The difference to me is the cost of the project and again that is my business.

A.Hart: Closed public hearing

2. 18-0323DT; 59-61 University Terrace (RL, Ward 8E) Citytrust of Bridgeport Connecticut / Priscilla Toomey

Appeal adverse administrative decision regarding determination of pre-existing, non-conforming use of 5-person occupancy (unrelated tenants) of each of the two duplex units.

(Project Manager: Scott Gustin)

A.Hart: Is the appellant here? They have requested postponement

J.Brown: Representative for the appellant; requesting postponement due to being out of the area. Filed the appeal in December and in January, February and into March there has been ongoing settlement communications; based off of those discussions he was under the impression that he would not come before the Board. Filed for continuance on March 5th, our position is that it would be unduly prejudicial to not allow the continuance.

A.Hart: What is staff's position?

S.Gustin: We would like the board to consider tonight we received the appeal in December, was scheduled for February, and asked for refer for a month due to working out settlement, settlement has not been received so we want to move forwards with it

J.Brown: Settlement discussions continue today, so it would be unfair to deny postponement

A.Hart: this is a non-compliance issue, we are less patient about allowing opportunities for settlement when there is a quality of life compliance issue. This has been scheduled for a while, appellants and applicants cannot count on the fact that it is going to be continued, Owner is represented by a fine firm with many fine lawyers, however this is not compelling grounds for a continuance

J.Brown: It has been going on for so long but so have the settlement communications, if there is an expectation that the hearing is going forward in March that should have been relayed.

A.Hart: It was notice for a hearing, I am sure you and your clients received a

G.Hand: If we agree to delay when is the next available date?

S.Gustin: April 17th

A.LaRosa: This is asking for a month continuance; we understand the Planning and Zoning wants to hear this but it is not a health and safety violation it's unrelated adults. We are not throwing people out on the streets, it can wait.

A.LaRosa: Motion to continue to April 17th 2018

G.Hand: Seconds the motion; many of us will not entertain a further extension
5-0-0

3. 18-0619CA; 149 Church St (FD6/CIVIC, Ward 3C) City of Burlington

Continued from February 20th, 2018: Reconstruction of City Hall Park including sidewalks; installation of new fountain and plazas on east edge; tree removal and replacement; installation of rain gardens and associated retaining walls; retaining walls along Main St edge; replacement pole lighting; architectural lighting on facades of BCA and City Hall buildings; installation of fence to enclose mechanical equipment adjacent to steps.

(Project Manager: Scott Gustin)

G.Hand: Recused

A.Hart: Public hearing was on the 20th with extensive testimony from the applicant and concerned citizens; focusing on the two issues being seen which are the historic character and serving as a civic space. We asked that the parties come back for very specific purposes, one because the City did not have an opportunity to respond and bring forth more information on backup for the tree plans in terms of clarifications. Second was a request for more information on shading. We received some exhibits and will allow the City to present that information. Then we will open it up to the public, again we are not reopening the entire public hearing, we are asking for responses regarding the new information being presented tonight. Again, last meeting we heard extensively about the trees. We are not reopening it to comment on how trees are a good thing in a public park. If people come up tonight we will hold the right to interrupt.

A.Zipparo: Did ask the City to also bring more information about the performance space use and programming.

A.Hart: Yes and that will be something that folks can respond to; in the interest of efficiency and getting through in a manageable way if a limited number of people can speak to cut down on time it would be very helpful, if the point has been made already getting up and repeating it is not going to be helpful. We are the Development Review Board we do not design parks, we have two limited issues 1: does it meet the Zoning Ordinance – is it consistent with historic character; 2 does it meet civic space- does it provided public benefit. We are not going to be engaged in the process of community redesign.

C.White: This has been an exciting and unique process, with highly public engagement and multi office work; historic character of park and use of the project as far of trees and event. We want to see how the park is currently being used how is it a flexible space that can handle old and new events; arborist went down to the park and found 2 trees to save and two space where we can add more trees. We will have trees. Programming of the space- not part of the design process we were to make it a flexible space to hold formal and informal space; the formal uses are done so by city departments, with bigger usable park we will be getting more requests.

J.Hodgson: This has been a balancing act as we incorporate stakeholders and

wants in a small urban park. The plan as presented on February 20th, ultimately the goal is to improve the health and ecology of the park as a whole. Info on health of existing trees in the park, the city has city wide database that numbers all of the trees in a public realm throughout the city, we had Warren Spinner's 2016 assessment. VJ Comai went out and reassessed them. From VJ Comai's assessment we created a plan that categorized the trees. Dark green trees remain, 24, trees to be removed 7 are safety issues bright red, 3 trees are orange are in poor health. 7 trees classified as incompatible species in regards to goals of the trees, they occupy space instead of creating space- crab apples. 15 trees to be removed to balance the design goals for the park. 14 new trees to be added bright green. Reviewing with VJ we found 2 trees that could be save- large silver maple, we assumed no way to keep it because of the rain garden building but silver maples are hardy enough to be reintegrated into the new use. 2nd tree to north of performance area, crab apple- not in way of design and away from regarding. Found room for 2 more good sized trees to be added to the plan. outlined 9 trees that are planned on being removed that VJ noted as in good condition 7 are crab apples, 2 of them conflict with grading and excavation. There is an elm on Main Street – the Great Streets team project coordination in which they are widening Main Street for a dedicated bike lane would require the tree to be removed. Last tree is red oak, conflicts with design to realign main directional path. Showed 3 different sizes of trees they will be replanting with. Proposing a mix of various native trees, also asked for shading studies which we have done for existing park and the new design, showed summer solstice to show worst case scenario, also looked at 4 pm on the same day. As somebody who lived downtown half block from this park I can tell you the hottest part of the day in the park is at 3 or 4 in the afternoon. Have slides to address health issue reasons. 1904 picture shows elm trees, 1983 image a lot of the elms were gone and the park changed significantly. Wanted to show some of the conditions that have led to the decline of the tree health, impervious surface is not just the paving there is annual soil compaction- denies trees their oxygen and water. If you look at the combined impervious surface it brings the effectual impervious surface up to about 43% proposed plan is 11% less. Currently no edge treatment to the park that protects or guides people to the actual park entrances. Showcased images with compaction. Some of the areas of the park are too shaded to the point grass can't grow, city spends \$4,000- \$5,000 a summer to restore the turf. Showed VJ images showcasing health conditions. Girdling roots. Lack of callus formation around old injury showcases serious decline and inability to repair- immune system shutdown. 2016 major drought VT was hit hard. Although park has irrigation the compaction keeps infiltration minimal. Critical root zone of trees is the drip line of the tree, so it is critical to stay out of this area as much as possible if you're going to save the tree. Need thick granular base for pavements which means we need to dig down to provide water infiltration capacity. SHIPO discussion- two different options for mechanical screening, SHIPO preferred wider slat spacing so more of City Hall windows could be seen. In order to prevent people from climbing it we turned it vertical- light grey to blend in.

A.Hart: Ali was your question answered?

A.Zipparo: Wondering if the park would be closed to public from time to time?

C.White: We are encouraging formal uses but those which would be open to the public. Events have not been ironed out yet

J.Hodgson: Large events would not be possible for such a small space

A.Zipparo: Soil compaction is clearly on either side of the pathways, market has a huge impact on that. Wondering how much compaction is from traversing across the pathways versus that of the market?

J.Hodgson: Happens mainly in the summer, some of it is just people going around other people around edges of the park. Currently there is nothing to keep people from going onto the grass.

A.Hart: Any other Board questions?

None

Open to public comment

M.Fordham: Would like to ask the Parks and Recreation why 22 trees in the park were not included in the assessment. Keep the Park Green has made several requests for the assessment of the 22 trees that were excluded. The purpose of this Board and the hearing is to have the public comment meaningfully and that is why the information is place on the website. We asked at least 3 times.

A.Zipparo: How many trees do you say are in the park?

M.Fordham: 56

A.Zipparo: We have a list of 56 trees in front of us now, what assessment are you referring to?

M.Fordham: Mr. Comai put up a color coded sheet, this accompanies that matrix, this is the City tree status plan; 56 trees – 24 to remain; we're not quite sure why when we asked 4 times as to why we cannot get a direct answer. The spreadsheet does not show the 22 trees.

A.Hart: Is that because those trees are remaining?

Confirmed

M.Fordham: When Mr. Comai did his report he worked off of Warren Spinners report, he had to look at that and examine it. Why Mr. Comai did his report he omitted 22 of those trees. We were not given direct answers regarding that question.

A.Hart: For the 22 trees, there is no comments because they are remaining.

M.Fordham: They were not evaluated at all. Of the 22 trees that were not analyzed by Mr. Comai, but were by Mr. Spinner. There are at least 7 trees that Mr. Spinner listed as 'Should be Removed'. If you factor every tree that Mr. Comai and Mr. Spinner did, not a single tree went from bad to good. So it is safe to say that 7 of those 22 left off were slated for removal, 7 of these healthy green graphic have already been designated as being struggling and inclined to be removed. So the information provided to the public is not correct. From 56 trees in the park only 17 will remain that is incredibly graphic. Would like to see other renderings to show what the park will look like more accurately. It says 24 trees to remain, but it is realistically 17 trees. This information is incorrect and therefore the shade studies are incorrect because they also show all of those trees that were not included. This board should not go forward with this project until accurate information is provided.

D.Walters: Two shade studies were conducted, one at noon and one at 4. The one at 4pm shows longer shadows and therefor more shade. Essentially what the shade study shows is that there is almost no shade at all, shade on the grass if you want to sit on the grass but not on the hardscape. Went to elderly community centers, showed the shade study to them and they were upset because they want to sit on a wooden bench with back support on the walkway and in the shade. The designers did say they were trying to balance sun and shade but this is not balance. On behalf of the seniors that I met with they would like to see more shade. Everything in yellow is slated to be cut, red shows poor health and need to be health. In yellow these are slated to be cut but some of them are in good health, crab apples in good health, Princeton elm tree, etc. having a hard time understanding why they are cutting so many healthy trees. Could those trees be translocated or moved to another place in the park so they can provide shade in

did a "what I imagine for the future of City Hall Park" survey and people responded with wanting more shade. It would be great if we could save more of those mature trees.

J.Deavitt: I can see trees out front door, during the discussion with the designers did we ever arrive at a figure of a net loss of trees. Any relation as to what is being done in regard to climate change, will this make that more of a problem? If you take down the canopy and increase pavement that serves as a heat sink. On a hot summer day the park will be unusable. Discussed urban parks and green spaces 2 years ago. Would like to say that if there is compaction and overuse of the park then maybe that is the problem that we don't have enough park space in the core of the city. Maybe we should be looking at the potential of that.

C.Messing: I cannot understand the curved path.

A.Hart: Again please stick to the issues regarding the trees

C.Messing: The Park is what makes Burlington look like a new England town- the new plan looks too modern, we have an archaic fountain but it gives the park character. Friend in new north end with old maple in her yard, 15 years ago was told it had to go. Loved the tree so ignored advices and took care of the tree and today it still stands. Trees are vibrancy of the park cannot cut the mature trees. Revitalization can be accomplished without destroying nature of the park.

N.Kaplan: Chair of Burlington Parks and Recreation Waterfront Commission; the process of this park planning has been going on longer than 6 yrs. Will say that we had a back and forth about the historic of the fountain and the layout of the park itself. The parks commission unanimously approved this plan understanding the historic characteristic needs, the fountain itself is not historic, the nature of public spaces is that they change. The second issue is about the nature of a park like this, good news is that in Burlington the goal is to have a park within walking distance and we do that and most of them are very tree friendly; in past 6 years we have planted probably 200-400 trees every year including streets and parks. Rapidly approaching Burlington a 50% tree canopy city. We are at 49%. Warren spent last 45 years of his career striving to get there. As a whole the amount of process and planning that has gone on is entirely appropriate. Heartening that the department has taken everybody's input into account. Testament to the fact that people are always heard even if they do not get the result they want.

J.Ely: Turned in document; think it's great Parks and Recreation Department are no longer proposing the larger venue for big events. The idea of movable chairs would help with concern of sitting on hardspace.

S.Reilly: I object to the removal of the trees and it's sad we are even talking about trees. Feels like there is a lot of collusion behind the scenes-the Rubinstein school offered to do a study on the trees and obviously were ignored. Done a great job of narrowing the topic to trees and not programming, but it's a concern that programming has a damaging effect on the trees. Spoke to landscape architect who agrees food festival is damaging. How can a park be zoned for a commercial activity.

E.Scott: Spoke August 14th of last year. would like to leave copy of letter as part of record, think everyone needs to take more of a common sense approach the trees that may be injured or damaged or whatever probably can recover- the trees need to be nurtured and the trampling has to be removed and that is the farmers market- rec 2018 season is taken away from the park. Move it to Perkins Pier plenty of room there. Solution is to get everyone off the trees and give the park a

even accurate or believable. Put a moratorium of tree removal for one year, remove market and restore the park to grass and dirt, fix water fountain, and open up city hall bathrooms for public.

M. Tracy- hopes to get clarity on numbers, did not vote for this plan as he felt it did not balance city needs regarding tree removal, not opposed to removing a tree but removing 15 trees feels out of balance. Asking board to reconsider to keep existing healthy trees. Context-shading study several trees being lost all at once creates a barren looking downtown.

W.Senville: Lack of documentary evidence. Apparently there is a filing from the Vermont Historic Preservation. Obviously that is going to be an important document. Understand no one has seen it. Nancy Kaplan from parks commission made a comment that there is a vast history of this park changing. Where in the record is that information coming from. I tried to come up with photos for you to show how the park has changed over time. It is going to make it very difficult to assess how the park has changed over time.

J.Lesse: Two tree problems; girdling root and lack of root flare. These problems can be repaired, tree can be made healthy again, makes it difficult for the public to consider the issues and to comment when we don't have the information in front of us. You can google these problems and see videos of arborists fixing these issues. How can the public properly participate in the discussion without the full information before them? We didn't see any evidence of investigation at the problems and to see if it can be fixed.

C.Bates: Provided a packet. For 2 years we have been following every single meeting you have had expect city council because no one told us about it. We always asked how many trees it wasn't until Jan this year until a pdf of how many trees were going to be cut was provided to city hall. Nothing in the park that helps climate change fewer trees less shade and greater hardscape; hardscape has always been very small. Ground being pummeled is not an excuse to increase the hardscape. Seating was always on historic benches and now it's down to 8 smaller benches. Other park seating is hardscape- sitting on hard retaining wall is not appealing. Put back historic seating and remove the hardscape seating. The hidden life of trees should be studied. Blames the park for ruining the park because they put in all of these big events. City should not pay for this is should come from Grant. We don't have all the right information- request we put plan of pause, stop the events and go take care of the park. Those remaining trees are Norway maples which are dying.

C.Bradley: It is not clear what the intention is of having the market there- not being addressed needs to be more clarity about that, if the market can rotate locations each year. Have the market off site to allow the park to recover. Crab apple trees are good because it is a fruit treat which is soil friendly and invited animals into the park, humans like to touch tree limbs. Some people even like crab apples for food. The design wasn't made with all of this information we have been learning it was a top down design without considering the other factors thinking of the future of the city and community. Don't want the board to approve the plan allow chances to get change.

K.Keough: Two documents posted for public to read, one was from Scott Gustin, and other which is multiple page document written on march 7th but it was posted online several days ago. The other document is from the City Project team of

the public wants and not thoughtful and have not contemplated what the public is saying. They are just robotically responding. No specificity. There are a lot of people in and out of this room who have done a tremendous amount of research. Has the board made a decision?

A.Hart: No, we have not discussed this, the report is a staff review and provides a recommendation, we make a decision after we have closed the Public Hearing which we have not done.

K.Keough: If he is recommending, as a paid employee for the city, most people don't know if he is working for the city or if the board is a city employee. What is the difference in Form Based Codes?

A.Hart: under form based code we do less of design review

K.Keough: a lot of work still needs to be done it is an incomplete situation and beg to not approve zoning for this project, there is a tremendous public outcry from the historic characteristics and down to the benches. The tree issue is huge and there is apparently a lot of technical data that is incorrect. They need to go back to the drawing board. Take a break walk away from the project and take away the market or move it. Is there anything in this application that does not comply with the zoning ordinance? Are we wasting our time?

A.Hart: our deliberations are open to the public

K.Keough: when will we know when that will take place?

A.Hart: tonight

S.Goodkind: Petition submitted, if we are dissatisfied we are allowed to appeal. Suggested tonight to go back to the drawing board

A.Hart: That is not for us to decide; they have submitted the application and we decide what is in front of us

S.Goodkind: I recommend that Board deny or Parks withdraw and re look at the design. If that doesn't happen we will appeal it. The City should pull back and come up with a better design.

A.Hart: Someone from design team, question about plan showing the trees and the counts.

J. Hodgson: Some of the confusion may be that the original submission had the numbers wrong, but what is online and in packet is accurate.

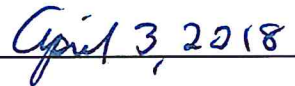
V. Comai: following the meeting held on the 20th I went to the park the next day, that assessment was done for the trees in question under the plan- it was clear from the meeting that the focus was on the trees slated for removal, looked at trees in park not on list and did not have copy of Spinner' assessment when I did the assessment; cannot read the minimal text that Spinner left with his assessment; assessment was done outside of Spinner's assessment. 68 years of experience between myself and Spinner. Came to meet with public and give insight on what he found in park, some of the questions raised tonight – can the trees be transplanted...anything is possible. It is a huge process, not practical. You would be adversely affecting the trees nearby leaving to remain. Girdling root issue if the problem is detected at an early age you can mitigate it-if they have not already begun to compress the vascular of the tree, these trees show visible signs of obvious decline, by the time u see that outward decline it is too late they can't bounce back. They have been growing a 1/8" increments. Did not do formal assessment documenting remaining trees in park because they were not in question. Spinner's assessment was done in 2016, I would not expect to see any improvement of health added in 2016 we were in severe drought. It's a long time in the life of a declining tree. Until I saw the matrix that u saw tonight I had no basis for comparison of how those assessments panned out in the end. Spent 30 years in this business and won't compromise that for anybody, did assessment

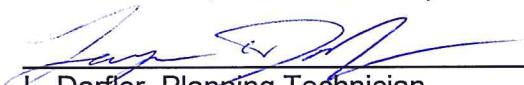
C.White: The Project Team and the Rubinstein School have been in communications; VJ Comai and Nina Safavi are meeting with them. The bench locations are in the shade but they also took into consideration the uses over time, some users may want a bench in the sun depending on the time of year. Programming market has been brought up and we did bring up that the market will be ringing the park and not within it as currently used.
J.Hodgson: Increasing bench spaces from 30 to 92.
A.Hart: Closes the Public Hearing; Deliberation will follow on Monday March 12th at 5pm in Planning and Zoning Conference Room

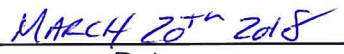
VI. Adjournment 7:50

The meeting was adjourned at 7:50 PM.


Austin D. Hart, Chair of Development Review Board


Date


L. Darfler, Planning Technician


Date

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

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