

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
Telephone: (802) 865-7188
Fax (802) 863-0466

Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, February 16th, 2021, 5:00 PM PUBLIC HEARING NOTICE

REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/81701436630?pwd=N2x1ai93M2pKcnRHcnhmcXh1RGdadz09>

Webinar ID: 817 0143 6630

Password: 842557

Telephone: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or
+1 346 248 7799 or +1 669 900 6833

- 1. 21-0589CU; 19-21 Monroe Street (RH, Ward 3C) Henry Stark**
Establish short-term rental (bed and breakfast) in apartment.
- 2. 21-0601CU; 327 South Winooski Avenue (RM, Ward 6S) John and Maria O'Brien**
Establish one bedroom short-term rental (bed and breakfast).

Plans may be viewed upon request by contacting the Department of Permitting & Inspections 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 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/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

*William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator*



TO: Development Review Board
FROM: Scott Gustin
DATE: February 16, 2021
RE: 20-0522CA; 75 Cherry Street

=====

Zoning application 20-0522CA, to amend zoning permit 17-0662CA/MA phasing schedule, was deferred from the November 17, 2020 Development Review Board meeting. The applicants have since withdrawn the application.

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TO: Development Review Board
FROM: Scott Gustin
DATE: February 16, 2021
RE: 21-0354AP; 75 Cherry Street

=====

Zone: FD6 Ward: 3C

Owner/Appellant: BTC Mall Associates, LLC & Devonwood Investors, LLC/ Brian Dunkiel, Esq

Request: Appeal of administrative zoning decision regarding relinquishing zoning permit 17-0662CA/MA.

The appellants request additional deferral of this item while amended application 21-0414CA/MA moves through the permitting process. Staff supports this request and suggests a date certain of April 20, 2021. Extension beyond that date will require a request for a 3-month extension by the appellant and action by the DRB to grant it.

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Agenda

- I. **Agenda**
- II. **Communications**
- III. **Minutes**
- IV. **Consent**
 1. **21-0589CU; 19-21 Monroe Street (RH, Ward 3C) Henry Stark**
Establish short-term rental (bed and breakfast) in apartment. (Project Manager: Ryan Morrison)
- V. **Public Hearing**
 1. **21-0601CU; 327 South Winooski Avenue (RM, Ward 6S) John and Maria O'Brien**
Establish one bedroom short-term rental (bed and breakfast). (Project Manager: Ryan Morrison)
 2. **20-0522CU; 75 Cherry Street (FD6, Ward 3C) BTC Mall Associates, LLC**
Amend ZP 17-0662CA/MA phasing schedule. *Application withdrawn.*
 3. **21-0354AP; 75 Cherry Street (FD6, Ward 3C) BTC Mall Associates, LLC**
Appeal of Zoning Administrator Determination regarding relinquishing 17-0662CA/MA. *Applicant requests deferral.*
 4. **21-0593AP; 110 Riverside (NMU-R, Ward 1E) Sister & Brothers Investment Group and G4 Design Studios**
Appeal of Notice of Violation 380795 "Numerous inoperable vehicles being stored about the property without Zoning Approval." (Project Manager: Ted Miles)
- VI. **Adjournment**

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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 Zoning Division at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).
Printed on 100% Recycled Paper



Department of Permitting and Inspections

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

VOICE (802) 863-0442

FAX: (802) 652-4221

TO: Development Review Board

From: Ted Miles,
Department of Permitting and Inspections

Date: February 4, 2021

RE: Report on **Appeal #21-0593AP**; Appeal of an Administrative Officer's Zoning Notice of Violation (ZV #380795) issued on December 3, 2020, Operation of an automobile/vehicle salvage yard without a zoning permit. Occupation without Unified Certificate of Occupancy for the property at 110 Riverside Ave, Burlington, Vermont.

Note: This is the Administrative Officer's report; decisions are made by the Development Review Board, which may overturn or uphold the Zoning Administrator's Decision. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Location: 110 Riverside Ave, Burlington, Vermont

Tax Lot # 046-3-081-000

Appellant: Sisters and Brothers Investment group LLP

Representative: Brian Hehir Esq

Applicable Regulations: CDO Articles 2, 3, 4, 5, 8, 12 and 24 VSA §4451

Appeal # 21-0593AP filed on December 18, 2020.

Violation:

- A. Operation of an Automobile/vehicle salvage yard without a zoning permit.
- B. Occupation without a Unified Certificate of Occupancy.

The following Zoning permits do NOT have a Final Certificate of Occupancy:

Zoning permit 97-274 - Renovations to the existing commercial complex, with an addition to create multiple retail storefronts. Existing = 4466sf + 960sf being removed, + 2947sf thus creating 1987 net new square footage.

Zoning permit 97-460 - Partial demolition of the existing structure and parking area to facilitate improvements included in coa 97-029.

Zoning Permit 99-362 - Change of use from vacant commercial to auto and light truck repairs. No exterior changes proposed to the structure. (Site currently contains a used auto dealer.)

Zoning permit 01-318 - Installation of a new nonilluminated parallel sign (2.5' X 6') Over the entry of the existing used car sales establishment within the existing commercial complex. No change in use.

Zoning Permit 04-314 - Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces. **It appears from the 2006 photos that this permit was enacted.**

Zoning permit 13-0650CA/MA - Proposed 57-unit residential building with associated underground parking. **This permit was not enacted and can be relinquished,**

There is a current zoning permit, zoning permit 21-0471CA, that has recently been approved for partial demolition of the building, this permit is for partial demolition of the building only and does not include any landscaping or site changes. The approved site for landscaping and barriers and such will need to comply with zoning permit 04-314 approved on January 13, 2004.

CDO Article 2. Enforcement Timeline

1. February 6, 2020. Staff was at an adjoining property when it was noticed there were multiple vehicles in differing state of disrepair and some vehicles did not have state registration plates on them.
2. February 6, 2020. Warning letter was sent to owner of property identified as Sisters & Brothers Investment Group LLP at 75 South Winooski Ave, Burlington, Vt.
3. Owner was going through a permitting process at that time so the decision was made to hold off on issuing the Notice of Violation until the permit application was acted on. The Zoning Permit was denied by the Development Review Board and is currently under appeal to the Superior Court Environmental division.
4. December 3, 2020. A notice of Violation was mailed to the owner of the property noting the violation of Operation of an Automobile/vehicle salvage yard without a zoning permit and Occupation without a Unified Certificate of Occupancy.
5. December 18, 2020. Received appeal for Notice of Violation issued on December 3, 2020.

Background Information:

- **ZP13-0650CA.MA.ZP 13-0129; Sketch Plan** review of project. Reviewed by DRB September 18, 2012.
- **Zoning Permit 05-065SN; 4' x 6' parallel sign for M & H Auto.** Approved August 2004. **This permit has received the Final Certificate of Occupancy on November 30, 2004**
- **Zoning Permit 04-314; Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces.** Approved January 2004. ***This is the last permitted use of the property.***
- **Zoning Permit 01-318 / COA 097-029;** Installation of a new nonilluminated parallel sign over the entry of the existing used car sales establishment within the existing commercial complex. No change in use. Approved February 2001.
- **Zoning Permit 99-362;** Change of use from vacant commercial to auto and light truck repairs. No exterior changes proposed to the structure. Site currently contains a used auto dealer. Approved March 1999.
- **Zoning Permit 99-419 / COA 097-029B;** Installation of a nonilluminated freestanding sign for the existing auto and light truck repair facility. Approved April 1999.
- **Zoning Permit 99-570 / COA 097-029C;** Installation of two signs for the existing auto repair facility. Approved June 1999.
- **Zoning Permit 98-311 / COA 097-029;** replacement of existing sign faces at existing auto sales building. Approved January 1998.
- **Zoning Permit 98-310 / COA 097-029B;** Change of use from retail (see COA 97-029) to used car sales. Maximum outdoor storage of 25 cars. Approved January 1998.
- **Zoning Permit 97-460 / COA 097-029A;** Partial demolition of the existing structure and parking area to facilitate improvements included in COA 97-029. Approved May 1997.
- **Zoning Permit 97-274 / 097-029;** Renovation to the existing commercial complex, addition to create multiple retail storefronts. 1987 net new square feet. Approved January 1997.
- **Zoning Permit 88-031;** one internally illuminated aluminum sign. Approved August 1988.
- **Zoning Permit COA 87-199;** Convert building to auto body shop; minor exterior work. Approved January 1988.

CDO Article 3 Part 1: General provisions and Zoning permits

Sec. 3.1.2 (a) 3

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

3. Change of use or expansion of use.

CDO Article 12. Appeals, Conditional Uses, Variances

Appellant filed a complete appeal as outlined under CDO Article 12 Sec. 12.2.2

Article 13 Definitions.

Automobile/Vehicle Salvage Yard: Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of machinery, parts, or vehicles not in running condition. Three (3) or more unregistered vehicles are considered an automobile/vehicle salvage yard. An automobile/vehicle salvage yard does not include automobile/vehicle repair as defined in this article.

Summary:

The representative of the owner is claiming under response number 2 that the property is not used as an “automobile / salvage yard” but has also stated under response number 3 that the property is a pre-existing nonconforming use, and the alleged uses complained of, have, upon information and belief, existed continually for over 15 years. As noted in the response from the representative of the owner, it is unclear how the violation does not exist but is claiming a 15 year status as though it does exist.

Enclosed with the information provided from staff are photos dated February 2006 that clearly show the last permitted use as a vehicle repair and vehicle sales. Those photos were taken when the owner of M&H auto requested to close their zoning permit, zoning permit 05-065SN, for their new sign installation. The Certificate of occupancy has been issued for that permit. Those photos show the use of the property 14 years ago thus denying the 15 year statute of limitations. It is unknown after that date when the business closed their doors.

The 2004 GIS photo shows the condition of the property when it was being used as an auto sales/service. The 2013 GIS shows fewer vehicles with multiple tow trucks in front of the building with a small number of vehicles at the property. The 2019 GIS shows an approximation of 40 vehicles at the site.

The 2020 photos provided show multiple vehicles that have been in accidents, have no license plates and are in different state of disrepair.

Conclusion:

The Code Compliance Officer for Permitting and Inspections Department hereby requests the Development Review Board uphold ZV #380795 as valid. The following stipulations are recommended:

1. Within 60 calendar days from date of DRB decision, owner shall cease operation of the automobile/vehicle salvage yard, remove related debris and vehicles, and restore the property to its most recently permitted condition in accordance with the December 2020 zoning permit that removes a portion of the building and the approved site plan and landscaping from zoning permit 04-314 approved on January 13, 2004. Close all open zoning permits with a Unified Certificate of Occupancy. In the event that the December 2020 zoning permit is not enacted the zoning permit approved on January 13, 2004 shall remain in full effect as approved.

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

Brian@hehirlaw.com
www.hehirlaw.com

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

December 15, 2020

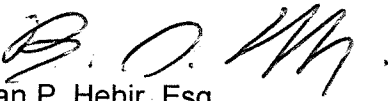
William Ward
Zoning Administrator Officer
Permitting and Inspection
City of Burlington
645 Pine Street, Suite A
P. O. Box 849
Burlington, VT 05402-0849

Re: 110 Riverside Ave., Burlington, NOV 380795.

Dear Mr. Ward:

Please find enclosed for filing with the Development Review Board a Notice of Appeal, a copy of the Notice of Zoning Violation, and the filing fee in the amount of \$250.

Very truly yours,


Brian P. Hehir, Esq.

cc: Chairman, Development Review Board
Joe Handy

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DEC 18 2020
BURLINGTON
PERMITTING & INSPECTION

CITY OF BURLINGTON

DEVELOPMENT REVIEW BOARD

IN RE: 110 RIVERSIDE AVENUE
NOV 380795

NOTICE OF APPEAL

NOW COMES Sisters and Brothers Investment Group, LLP, owners of 110 Riverside Avenue, by and through their attorney, Brian P. Hehir, Esq., and pursuant to Articles 2 and 12 of the Burlington Zoning Ordinance, hereby appeal to the Burlington Development Review Board a Notice of Zoning Violation dated December 3, 2020 (attached hereto).

In support of their appeal, appellant states as follows:

- 1) The regulatory provisions which apply to this appeal are contained in the Burlington Zoning Ordinance; the Notice of Zoning Violation fails to state which specific sections of the Ordinance appellants' property is alleged to violate.
- 2) Appellants request that the Notice of Violation be dismissed because the property is not used as an "automobile / salvage yard" as stated in the NOV.
- 3) The use of the property is a pre-existing nonconforming use, and the alleged uses complained of, have, upon information and belief, existed continuously for over 15 years; enforcement is thus prohibited.
- 4) Appellants request that the Board dismiss the Notice of Violation.

Dated at Burlington, Vermont this 15th day of December, 2020.

By:

B. P. Hehir
Brian P. Hehir, Esq., for Sisters
and Brothers Investment Group, LLP

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DEC 18 2020

BURLINGTON
PERMITTING & INSPECTION



PERMITTING & INSPECTIONS

645 Pine Street, Ste. A | PO Box 849
Burlington, VT 05402-0849

Housing: (802) 863-0442
Trades: (802) 863-9094
Zoning: (802) 865-7188

NOTICE OF ZONING VIOLATION (NOV 380795)

December 3, 2020

Mailed Certified Mail 70190140000108390939
And FIRST CLASS MAIL

SISTERS & BROTHERS INVESTMENT
GROUP, LLP
75 SOUTH WINOOSKI AVENUE
BURLINGTON VT 05401

NOTICE OF VIOLATION AT:
110 RIVERSIDE AVENUE, BURLINGTON, VT
TAX LOT #046-3-081-000

Zoning Violation# 380795

Dear Owners,

It has come to the attention of this office that a zoning violation exists at 110 Riverside Avenue.

Description of Violation: Operation of an automobile/vehicle salvage yard without a zoning permit. Occupation without Unified Certificate of Occupancy

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

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

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

This Notice of Violation (NOV) may be appealed to the Burlington Development Review Board in accordance with the provisions of CDO Sections 2.7.12 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV December 3, 2020, and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application shall be filed with the City's Zoning Office (645 Pine Street) by 4 pm on December 18, 2020; an appeal shall not be perfected until the fee is received.

If you have any questions, please call Ted Miles or William Ward at (802) 863-0442.

Sincerely,

Sincerely,

William Ward
Zoning Administrative Officer

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DEC 18 2020

BURLINGTON
PERMITTING & INSPECTIONS

Theodore Miles
Code Compliance Officer

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 046-3-081-000

VIOLATION DETAILS

LOCATION: 110 RIVERSIDE AVENUE

DECISION DATE: December 3, 2020

VIOLATION DESCRIPTION: Operation of an automobile/vehicle salvage yard without a zoning permit. Occupation without a Unified Certificate of Occupancy

FINDINGS: Numerous vehicles, more than three, being stored at property in various stages of repair. Some of the vehicles do not have registration plates on them and some have been in accidents with severe damage. Last permitted use was for car sales and auto repair for 6 vehicles and a lot for selling of 45 vehicles under zoning permit 04-314. Occupying property without obtaining Unified Certificate of Occupancy. There are multiple, six, open zoning permits, Zoning permits 97-274, 97-460, 99-362, 01-318, 04-314 and ZP13-0650CA/MA that are in a Permit Indeterminate status and need to be closed.

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

1) – Removing the violation noted above, **restoring the Premises to its prior permitted state, remove unregistered and inoperable vehicles and informing the Code Enforcement Office that the violation has been removed so our office may verify compliance; or**

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

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.12 and 12.2.2 of the CDO within fifteen (15) days from the date of this notice. **The deadline for filing an appeal is 4 pm on December 18, 2020.** Submit a complete application with ZV# and appropriate fee to the City's Zoning Office, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

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BURLINGTON
PERMITTING & INSPECTION

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Alison Davis, Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator*



MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: February 16, 2021
RE: 21-0589CU; 19-21 Monroe Street

=====

This application to permit a short term rental (bed and breakfast) use in a one-bedroom apartment is proposed for deferral to a later DRB meeting date. The applicant intends to apply for an after-the-fact fourth unit within the existing building, and also request a parking waiver. The date of the deferred DRB hearing is yet to be determined.

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Charlene Orton, Permitting & Inspections Administrator*



MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: February 16, 2021
RE: 21-0601CU; 327 South Winooski Avenue

=====

The application for a short term rental room (bed and breakfast) in the single family residence is incomplete and the public hearing needs to be deferred to later DRB meeting date – yet to be determined.

110 Riverside Avenue on February 7, 2006



110 Riverside Avenue on February 7, 2006



110 Riverside Avenue on February 8, 2006



110 Riverside Avenue on February 8, 2006



110 Riverside Avenue on February 8, 2006





02/25/2020 09:50



02/25/2020 09:53



02/04/2020 10:48



02/25/2020 09:54



Emergency Services
AAA.com
AAA Batteries
Delivered and Installed

02/04/2020 10:48



02/25/2020 09:55











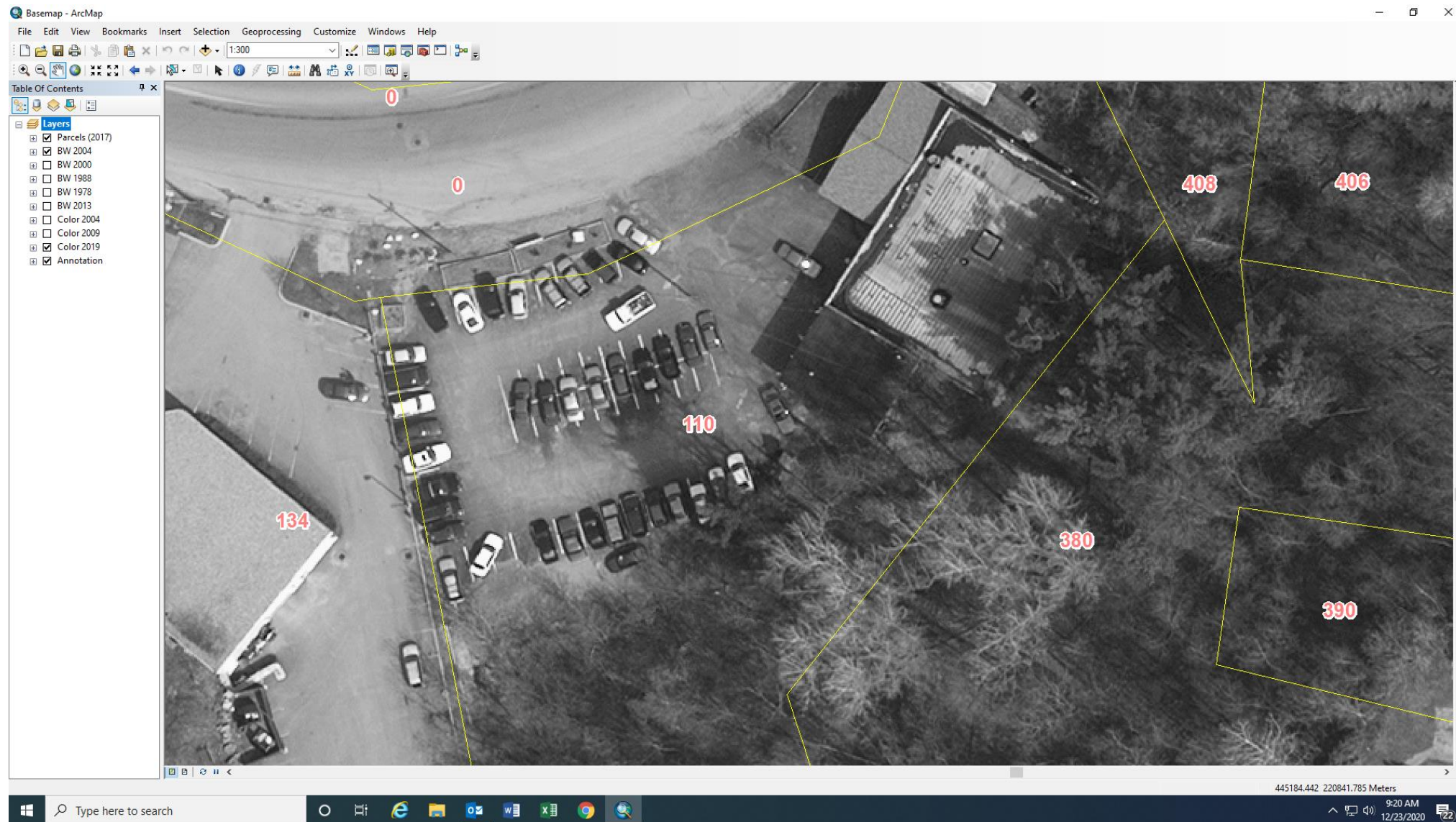




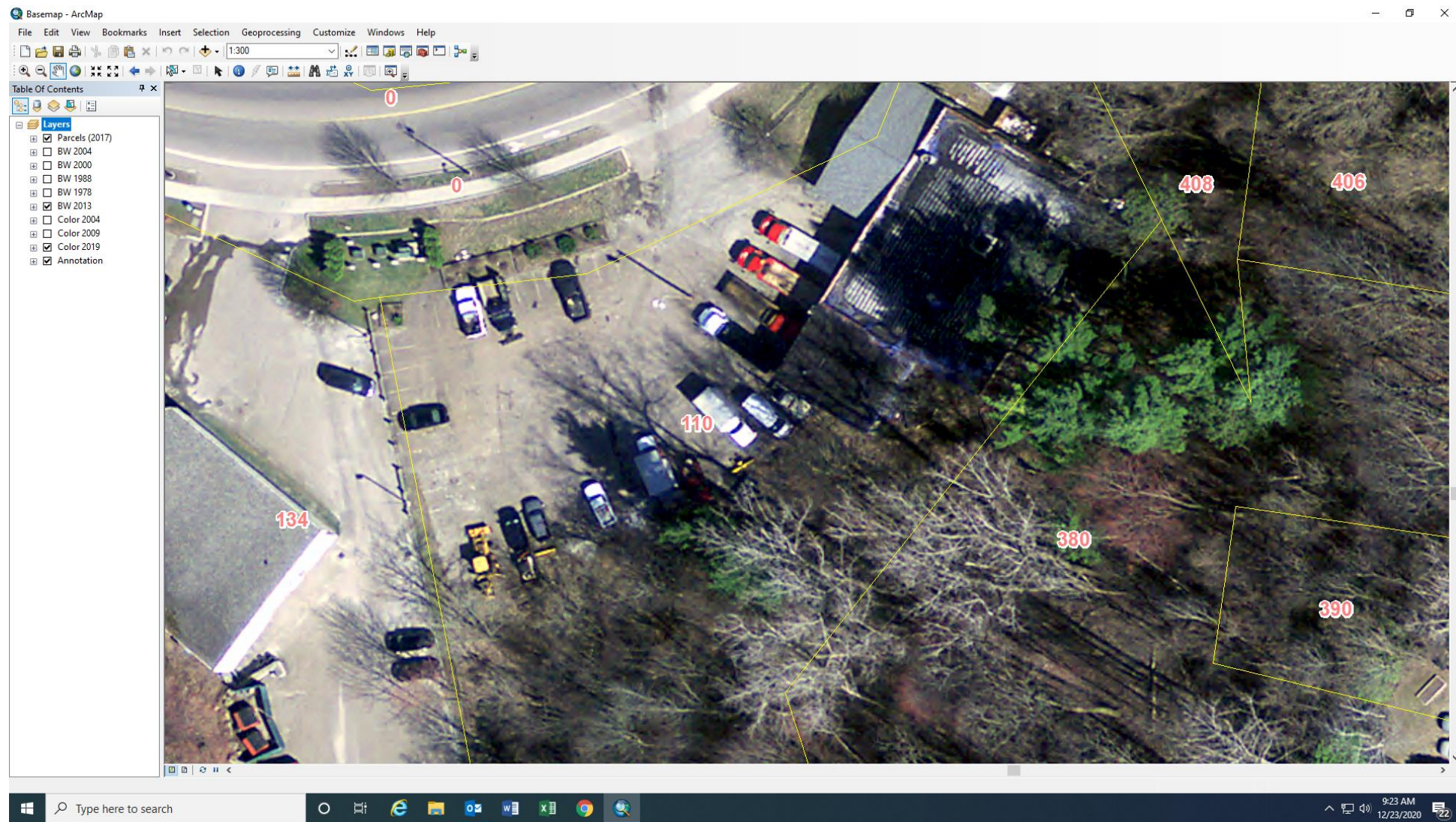




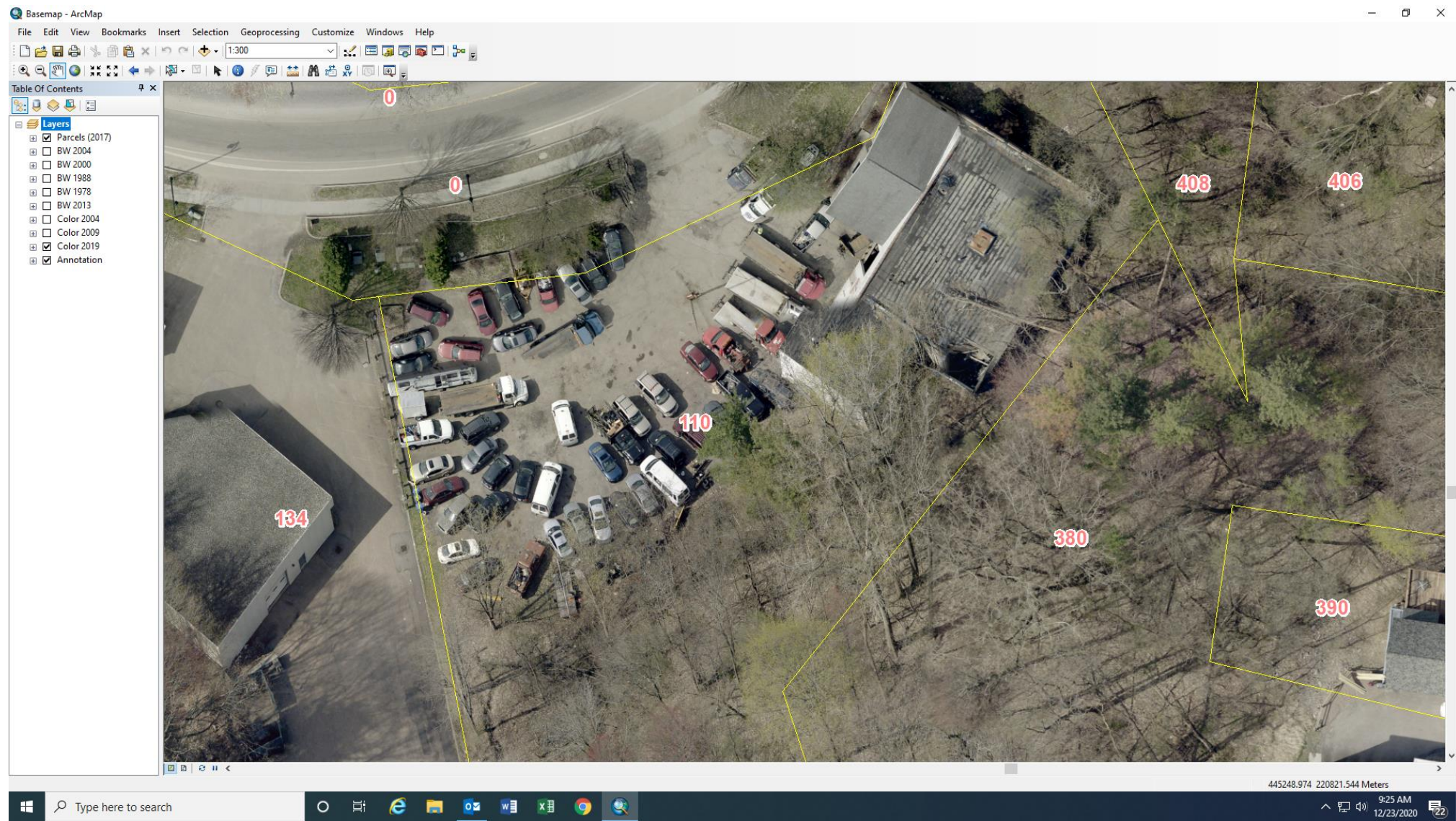
2000 GIS Ortho Photo



2004 GIS ortho Photo



110 Riverside Ave 2013 GIS Photo



110 Riverside Ave 2019 GIS

Zoning Permit - Level I - Conditions of Approval

ZP#: 04-314

SYS#: 2003 042847 00000 Z1

Date Issued: Jan 13 2004

Tax #: 046-3-081-000

Project Location: 110 RIVERSIDE AV

Project Description: Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces.

Project Specific Conditions:

1. The applicant shall follow the originally approved landscaping plan (see site plan dated 11 March 1999). This plan shall be implemented by May 1st, 2004. A bond, letter of credit or other surety, in a form acceptable to the City Attorney, and in an amount equal to the cost of the required site improvements, plus a 20% administrative fee, shall be provided to ensure completion of the landscaping by May 1st, 2004, if a certificate of occupancy is requested prior to that date.
2. Prior to issuance of a certificate of occupancy the applicant shall construct a sturdy industrial grade fence and/or plant a vegetated screen to screen the dumpster and outside storage areas. The details of this fence shall be submitted to staff for review and approval.
3. The applicant shall provide 6 parking spaces for repair and 8 parking spaces for customers and employees.
4. All vehicles shall be parked on the paved portions of the lot.
5. No vehicle parking space shall interfere with the access to or from Riverside Avenue.
6. An "Exit Only" sign shall be placed at the secondary curb cut located on the northeastern most side of the property.
7. The applicant shall also submit a statement agreeing to not back vehicles out onto the Riverside Avenue Right-Of-Way from the secondary curb cut located on the northeastern most side of the property.
8. No vehicle parking shall interfere with the efficient and effective circulation on the site by encroaching on the 16 foot minimum lane width.
9. No more than 45 cars shall be on display at any time.
10. None of the parking areas shall be utilized as an impoundment area for towing services.
11. All non-permitted signs, banners and streamers shall be removed or obtain zoning permits.
12. The flat area by the existing retaining wall outside of the current site boundary is not included in this approval and shall not be used by the applicant or owner of 110 Riverside without the adjoining property owner obtaining approval of a lot line adjustment that incorporates the retaining wall and the flat area created by it into the 110 Riverside Avenue lot or shall obtain deeded use of the area. Any use of this area shall require the applicant to amend the site plan and obtain approval of a zoning permit for the amended site plan

Standard Permit Conditions:

1. **15-Day Posting Period.** Zoning permit is not effective until expiration of 15-day appeal period as required by state statute.
2. **Time Limits.** Zoning permit shall become invalid unless work or action authorized by permit is commenced by Jan 12 2006. The Permittee shall complete the approved construction by Jan 12 2007.
3. **Required Revisions.** Any revisions or additions to plans required as a result of approval must be submitted in triplicate and stamped "approved" prior to issuance of zoning permit.
4. **Changes.** The project shall be completed as shown on the plans, which have been stamped "approved" and dated Jan 13 2004 by the Department of Planning and Zoning. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Zoning.
5. **Property Inspection.** By acceptance of this permit, Permittee authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
6. **Certificate of Occupancy.** A certificate of occupancy must be issued by the Department of Public Works PRIOR to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Zoning must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permittee may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
7. **Completion and Maintenance of Improvements and Landscaping.** Permittee or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permittee 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.
8. **Building Permit; Other Permits.** Permittee is solely responsible for obtaining BUILDING PERMIT and all other applicable local, state and federal permits.
9. **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.
10. **Appeals.** Appeals of a decision of the Zoning Administrator can occur up to fifteen (15) days following such decision. Appeals of Development Review Board decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done SOLELY at the risk of the Permittee.
11. **Errors.** Permittee is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a zoning violation citation and prosecution.
12. **Transfer of Ownership.** 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.

13. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the Burlington Zoning Ordinance may result in a penalty of up to one hundred dollars (\$100) per day.
14. **Incorporation and Reference of All Plans Presented to Development Review Board.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Development Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
15. **For Properties Involved in Boundary Disputes.** When there is a boundary dispute regarding the subject property, and, as no certified survey has been produced to the Planning and Zoning office to help resolve the dispute, this permit is granted upon the information, including site plan, provided by applicant. If another party submits sufficient evidence (ie. a certified survey) to demonstrate that the boundary is not as indicated by applicant, this permit shall be null and void. Further, applicant 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 zoning ordinance and receive an amended permit in light of the actual boundary line.

B1 CIVIL ENGINEERING ASSOC
 DATED JULY, 1996, A COPY
 WHICH WAS PROVIDED TO TH
 BURLINGTON PLANNING & ZO
 FEBRUARY 23, 1996

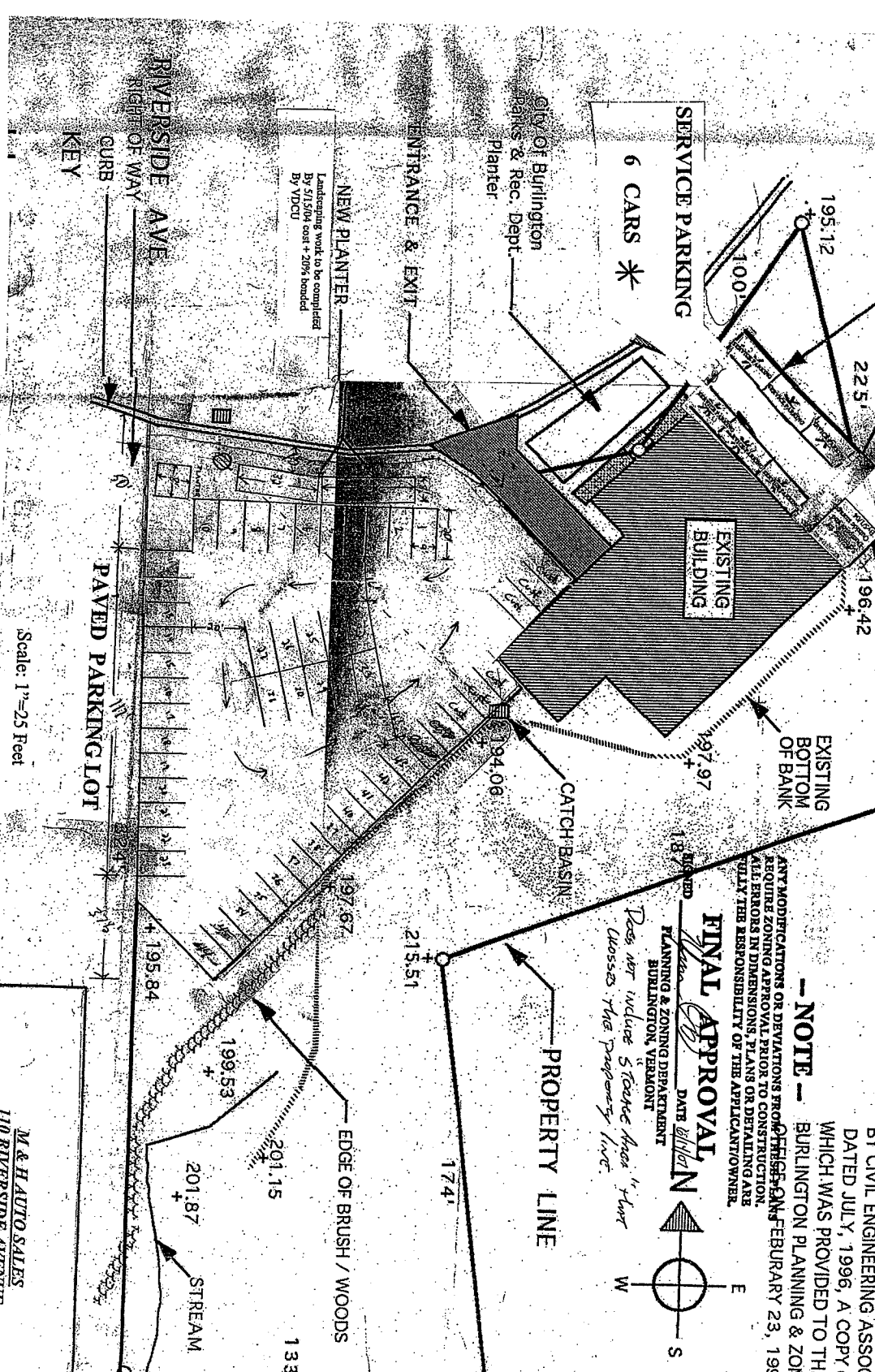
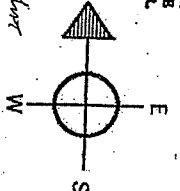
- NOTE -

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

FINAL APPROVAL

PLANNING & ZONING DEPARTMENT
 BURLINGTON, VERMONT

Does not include 5' buffer from "line"
 crossed the property line.



Scale: 1"=25 Feet

DISPLAY 45 VEHICLES

M & H AUTO SALES
 110 RIVERSIDE AVENUE
 BURLINGTON, VT. 05401

Accounts									
File Functions Reports Tabs Help									
Account #	ID	(Last Name)		(First Name)		(Owner Id)		Attachments	
25740500	00	Occupant SISTERS & BROTHERS, LLP				Toggle Names			
☐ Tenant Occupied Property		Owner SISTERS & BROTHERS, LLP						View Address on Map	
Service Address									
Street No/Name/Apt		110 RIVERSIDE AVE				Status Active		Class COMMERCIAL	
City/State/Zip		BURLINGTON VT 05401				Changed		District Zone 2	
Carrier Route						Code None		Book 9999	
Comments									
7/29/08 ADD CHANGE PER POSTAL NOTIFICATION AJM 9/15/08 - no usage ltr.tgb 10/10/08 no usage ltr ajm 11/14/08 per internet search, this space is vacant and up for lease ajm 12/18/08 Per JB, water is off at the curb, requested by Bill Carpenter ajm 1/26/09 REVERTED ADDRESS BACK TO SISTERS AND BROTHERS PER POSTAL NOTIFICATION THAT M AND H AUTO IS GONE AJM 6/29/09 - TRANSACTION DONE ON 6/23/09 POSTED AS BANCKRUPTCY IN ERROR S/B BILLING CHANGE ONLY.TGB 5/13/11 - Bruce H verified that property still looks vacant. tgb 6/9/11 per jb water is off at this property ajm 7/14/11 - note code 15 - will estimate as 0.tgb 9/14/11 - water off at curb per Jim B.tgb 11/9/11 - water off per Jim B.tgb 1/6/12 - meter out per notes from Jim B.tgb 4/11/12 - READ CAME UP AS A CODE 30 - CHANGED TO SAME AGAINST SAME.TGB 5/4/12 per jb water is off ajm 8/9/12 - water off per jb.tgb 12/7/12 - note code came up as 20 - radio box gone - will send letter - and do same against same for now.tgb 12/11/12 - making appt to get in to pull meter - they may be taking building down - appt for 12/12/12 @ 8:00.tgb - JIM B CALLED AT 12:10 TODAY TO SAY THAT HE GOT INTO THE BUILDING - WATER IS OFF / HE PULLED METER AND HAS THE RADIO BOX - WILL CANCEL APPT. TGB									
Actions General Comments Other Address User Defined Fields Meter Messages Services Settings Transaction Alert Codes Billing/Payments MyGovHub.com A/R Archived Bills Deposits Consumption									

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
Telephone: (802) 865-7188
Fax: (802) 863-0466

Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, February 16, 2021, 5:00 PM

REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/81701436630?pwd=N2x1ai93M2pKcnRHcnhmcXh1RGdadz09>

Webinar ID: 817 0143 6630

Password: 842557

Telephone: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or
+1 346 248 7799 or +1 669 900 6833

Video recording link: <https://www.cctv.org/watch-tv/programs/burlington-development-review-board-352>

Draft Minutes

Board Members Present: Brad Rabinowitz, Geoff Hand, Brooks McArthur, Caitlin Halpert, Springer Harris, Kienan Christianson, Sean McKenzie (Alt)

Board Members Not Present: AJ LaRosa, Ravi

Staff Present: Scott Gustin, Mary O'Neil, Ryan Morrison, Theodore Miles, Kim Sturtevant, Alison Davis

I. Agenda

B. Rabinowitz: There are changes to the agenda,

II. Communications

B. Rabinowitz: All item communications are posted [online](#).

III. Minutes

B. Rabinowitz: Minutes from previous meeting are posted [online](#).

IV. Consent

1. 21-0589CU; 19-21 Monroe Street (RH, Ward 3C) Henry Stark

Establish short-term rental (bed and breakfast) in apartment. (Project Manager: Ryan Morrison)

Henry Stark appeared on behalf of item
Provided public comment

B. Rabinowitz: Item deferred to March 16th

C. Halpert: Motion to defer item to the March 16th DRB meeting.

K. Christianson: Seconds motion

7-0-0

V. Public Hearing

1. 21-0601CU; 327 South Winooski Avenue (RM, Ward 6S) John and Maria O'Brien

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 Zoning Division at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

Printed on 100% Recycled Paper

Establish one bedroom short-term rental (bed and breakfast). (Project Manager: Ryan Morrison)

John and Maria O'Brien appeared on behalf of item
Provided public comment

B. Rabinowitz: Item deferred to March 16th

B. McArthur: Motion to defer item to the March 16th DRB meeting.

C. Halpert: Seconds motion

7-0-0

2. 20-0522CU; 75 Cherry Street (FD6, Ward 3C) BTC Mall Associates, LLC

Amend ZP 17-0662CA/MA phasing schedule. *Application withdrawn.*

B. Rabinowitz: Item withdrawn

3. 21-0354AP; 75 Cherry Street (FD6, Ward 3C) BTC Mall Associates, LLC

Appeal of Zoning Administrator Determination regarding relinquishing 17-0662CA/MA.
Applicant requests deferral.

Geoff Hand recused

B. Rabinowitz: Requesting deferral. Asks if it is because of negotiations and more time needed

S. Gustin: Believes that the negotiations are done, looking to simply defer this one past the date where the Board reviews the actual application.

B. Rabinowitz: Asks if there would be any reason not to defer this item regarding deadlines and dates.

S. Gustin: Recommended April 20th which will be the date before they will need time extensions.

B. Rabinowitz: Asks for a motion to defer this item to April 20th, 2021.

K. Christianson: Motion to defer action on this item until April 20th.

B. McArthur: Seconds motion

6-0-0

4. 21-0593AP; 110 Riverside (NMU-R, Ward 1E) Sister & Brothers Investment Group and G4 Design Studios

Appeal of Notice of Violation 380795 "Numerous inoperable vehicles being stored about the property without Zoning Approval." (Project Manager: Ted Miles)

Joe Handy and Brian Hehir appeared on behalf of item

T. Miles: Introduces self. Explains that violation is operation of vehicle/automobile salvage yard without a zoning permit, and occupying without a Certificate of Occupancy. Explains that there are a number of open zoning permits for the property. Explains that the occupancy issue without a Certificate of Occupancy, most of that could be resolved with a new permit that was issued in December 2020, once that is enacted. That will supersede most of those permits that need to be taken care of. That issue will take care of itself once the permit is acted on for demolition/partial demolition of the buildings. The other issue is the operation of an automobile salvage yard without a zoning permit. Reads City Zoning Ordinance definition of an automobile/vehicle salvage yard. From the photo of the last permitted use of the property in 2004 was M&H Autos for sale of automobiles and a smaller

use of repair of automobiles on site. One of the conditions of that permit was that there was not supposed to be any towing/impound of vehicles on the lot. From the photos submitted to the Board in the item's packet, they clearly show that in 2006, that permit was active for the sale and small repair use for cars for M&H Auto. Not sure when business vacated site, but it is shown in GIS photos from 2004, that the automobile sales and repair did happen. GIS photos from 2013, you can see that the small repair and sales is no longer there. Moving forward to the 2019 GIS photos, you can see that there are many more vehicles on the lot in scattered conditions. From the photos that I have provided from 2020, shows many vehicles in inoperable condition. From photos you can see that there are many cars in a variety of conditions. Many of the cars do not have registration plates on them. Some have been in automobile accidents. Estimated count in the 2020 photos, there are about 50 vehicles on the lot at that time. Walks through photos and shows conditions of cars that are on property. Moving on to more recent photos, you can see that there are still a lot of cars on site and many do not have registration plates on them. Many of the cars have clearly been in accidents and are inoperable/totaled. Can see that the number of cars for vehicles allowed on lot, exceeds the three-inoperable/unregistered vehicles, so this would fall into the City's definition of a vehicle salvage yard. In regards to the claim that this has been in existence for more than 15-years, in the photos that were provided, you can clearly see from 2006 that this lot was used for automobile sales and repairs run by M&H Auto. Staff is asking for the DRB to uphold the violation and would like to see this lot cleaned up. Would need to comply with site plan from 2004 that was the last approval for any site work. The building is no longer usable, that is why there is a request for demo/partial demo of building on the site.

B. Rabinowitz: Asks to clarify what permit was submitted and asks about previous permit.

T. Miles: This new permit was only for demo/partial demolition of the building on site. There was no site plan submitted with that permit, so from the 2004 site plan that would be active for the property, still applies.

B. Rabinowitz: Asks to clarify, if they demo the building, they could still have all the cars there.

T. Miles: No, because that is not in the permitted use for the property.

B. Rabinowitz: Asks if Board has any questions for Zoning Enforcement Officer, Ted Miles.

None

B. Rabinowitz: Asks applicants to address item.

B. Hehir: Explains that this property is on appeal from the Vermont Environmental Court for the 57-unit apartment building. Initial request would be that the enforcement be stayed, as long as property owner can maintain status quo on the site until the Environmental Court makes a decision.

B. Rabinowitz: The status quo would be a non-permitted use. Easier solution would be to clean up the site while the other one is under review.

B. Hehir: That was the plan until we were denied by the Board for the apartment building. Things are on hold and need to be sorted out before moving forward.

J. Handy: Gives overview for history of property. On property today, there are not 50 cars on lot. There are about 25. We tow the cars from accidents, and then keep them there until the insurance company comes in and assesses the vehicle/picks them up. Some without insurance end up sitting on the lot. Recently there are more cars that are stored there that have been sitting there for some time. Within the last couple weeks, cars are gone and have been brought to a salvage yard. There are a few cars there today, including the old truck, but truck is registered. We do not disassemble cars, we take no parts from cars there, no auto repair, these cars are only from accidents or breakdowns. We take them there until someone claims them or if they have to wait for a title from the State, and we bring to junkyard.

B. Rabinowitz: Explains that the issue the Board has is that the last permitted use was for auto repair. The current use is not the same as what was being done on the property previously.

J. Handy: Explains that M&H Auto were towing some cars in, they would buy used cars, repair them, would take them apart, would fix and sell. We are not doing anything different, we are towing the cars in and parking them there.

B. Rabinowitz: Explains that it is not auto repair, but is being used to store cars that are either going to be going to the junkyard or taken somewhere else for repair.

B. Hehir: Explains that the enforcement complaint was for operating a salvage yard without a permit. They are not dismantling or taking parts out of cars. In the Ordinance it states that three or more unregistered vehicles are considered a salvage yard. I think our argument is that some of these vehicles are temporarily unregistered, but that is because they are between being abandoned by the owner and getting a new title from the State. Is not a salvage yard operating without a permit.

G. Hand: It sounds like Handy explained that he is storing cars there which is within the definition of auto vehicle salvage yard. Asks if Hehir agrees with that statement.

B. Hehir: No, because the definition states that it is land or building used for collection, wrecking, dismantling, storage, salvaging, and sale of machinery, parts of vehicles not in running condition. That is a conjunctive sentence meaning that all of those activities must be occurring under the definition. There are cars on the site, but they are not part of a salvage operation. The intent of the definition has to do with wrecking and salvaging, which is not happening on this property.

B. Rabinowitz: Walks through definition and explains view for this property. This place is obviously serving a function that you need to have happen somewhere.

B. Hehir: And what is happening on site is not a salvage yard from the definition in the Ordinance.

G. Hand: Asks if there are more recent photos. The evidence that Ted Miles presented is compelling that there are many cars that are not in running condition on site, and at least three that are unregistered.

J. Handy: I think the misunderstanding that most of those cars are registered. There are three cars that are unregistered on the site.

C. Halpert: What Ted Miles is suggesting is that 60-days from the decision that there not be those cars stored on the property, and it sounds like there are alternative plans for the property anyway. Trying to understand what appellee is trying to gain through this appeal if you are planning on changing the use anyway.

J. Handy: Explains the plan for the 57-unit apartment building and how that fell through. Explains historic with Board and frustration with applications.

G. Hand: Asks if applicant is planning on moving forward with the demolition work or if it will be waited on until there is approval.

J. Handy: Does want to demolish part of the building.

G. Hand: The site does look like a health and safety hazard, it is open to the public.

J. Handy: It is, and that is what I want to do. I want to demolish the building because of the condition.

B. Rabinowitz: Asks if there are any other questions from the Board for Ted Miles, Joe Handy, or Brain Hehir.

T. Miles: Regarding the comment that Joe Handy felt like he was being retaliated against because the permit was denied, but this started Feb 2020 when the warning letter was sent out but was never acted on. City actually did not pursue heavily with this violation because

they were in the process of working through the permitting for the demolition and construction of 57-units that were planned. That was the reason we did not rush to do the Notice of Violation because a new permit would have cleared up the violation. Once that permit was denied, we moved forward with the Notice of Violation to get the site cleaned up. The denied apartment building permit that was denied and now appealed to the Environmental Court, which could take up to two years. The use that is on the property now, with the vehicles coming and going in salvage condition, is an unpermitted use. Cars that are in this condition is an environmental concern for this area. It is in close proximity to the Winooski River. It is something to take into consideration.

K. Sturtevant: Explains application and process with the Environmental Court. Concern is that that application was for a proposal that was initially approved in 2013. Would be concerned tying the current violation's time frame with the appealed application's time frame. For the Violation, the approved use was the sales and repair, which is not happening anymore. The property owner explained to us that that use is not happening anymore, and this use is storing vehicles on site without a permit. This appeal is about a property use without a permit.

VI. Adjournment

Meeting adjourned at 5:48 PM



Bradford L. Rabinowitz, *Chair of Development Review Board*

February 22, 2021

Date



Alison Davis, *Zoning Clerk*

02/21/2021

Date

Plans may be viewed upon request by contacting the Department of Permitting & Inspections 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 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/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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