

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
Telephone: (802) 865-7188
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Brad Rabinowitz
Leo Sprinzen
Chase Taylor
Sean McKenzie, (Alternate)
Emily O'Hara (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, February 7, 2023, 5:00 PM

PUBLIC HEARING NOTICE

In Person (at 645 Pine Street) Meeting

1. ZAP-22-9; 94 Glen Road (RL, Ward 6S) Joel FitzGerald / Barbara & Stephen George

Appeal of zoning approval (ZP-22-508) to install new shed, expand driveway, and establish an in-home office.

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/dr/ 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.

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BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, February 7, 2023, 5:00 PM

AGENDA

In Person (at 645 Pine Street) Meeting

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

- 1. ZPS-22-52; 328 North Avenue (RL, Ward 7N) Nova Enterprises, LC / Joe Realty, LC / David Simendinger**
Replacement of existing nonconforming freestanding sign with new nonconforming freestanding sign. (Project Manager, Scott Gustin)
- 2. ZP-22-625; 72 Temple Street (RL, Ward 7N) David Driscoll / Habitat for Humanity / David Mullin**
Tree clearing to inform siting of new duplex. (Project Manager, Mary O'Neil)

V. Public Hearing

- 1. ZAP-22-9; 94 Glen Road (RL, Ward 6S) Joel FitzGerald / Barbara & Stephen George**
Appeal of zoning approval (ZP-22-508) to install new shed, expand driveway, and establish an in-home office. (Project Manager, Scott Gustin)

VI. Certificate of Appropriateness

- 1. ZP-23-2; 3119 North Avenue (RL-W, Ward 7N) Marci McGowan / Joseph Rowell**
Proposed construction of seawall along western side of yard. (Project Manager, Scott Gustin)
- 2. ZP-22-632; 11 Hungerford Terrace (RH, Ward 8E) 18138 Parking, LLC / Bruce Baker**
Add additional unit with two parking spaces. (Project Manager, Mary O'Neil)

VII. 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 & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Garret King, Associate Planner
Joseph Cava, Permit Technician
Ted Miles, Code Compliance Officer
vacant, Permitting & Inspections Administrator



TO: Development Review Board
FROM: Scott Gustin
DATE: February 7, 2023
RE: ZAP-22-9; 94 Glen Road

=====

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

Zone: RL Ward: 6S

Owner/Appellant: Joel Fitzgerald / Barbara & Stephen George

Request: Appeal of zoning permit ZP-22-508 for a new shed, relocation of existing shed, driveway widening, and home occupation office.

Overview:

The appellant is appealing a zoning permit issued to the property owner for shed placement and relocation, driveway work, and a home occupation (in-home office). The appeal centers on the home occupation aspect of the zoning permit.

This matter started out as a zoning complaint by the appellant in May 2022. Enforcement staff issued a warning letter to the property owner later that month as to the home occupation and yard parking. No formal notice of zoning violation has been issued, as the property owner sought and received zoning approval for the home occupation and property changes. This appeal does not pertain to enforcement action. It pertains to the zoning permit issued for the home occupation and property changes.

The subject property is located within the Residential – Low Density zone at the southeastern corner of the city, close to the South Burlington city line. It is among a suburban style residential neighborhood wherein detached single family homes predominate.

Recommendation: **Uphold administrative zoning permit** based on the following findings:

I. Findings:

The property owner filed the subject zoning application September 4, 2022. It was not made complete until October 27, 2022. Revisions to the driveway proposal and clarification of the home occupation were made in order to bring the application into compliance with the applicable standards. The home occupation amounts to office work associated with a pool installation and maintenance business run by the property owner. Given the nature of the home occupation work, it qualified for administrative (rather than conditional use) review. The zoning permit was approved November 25, 2022.

The approved zoning permit contained the standard permit conditions 1-15 and the following project permit conditions:

1. Per Section 2.7.8, Withhold Permit, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. In this case, zoning permit ZP-11-834 for basement finishing, window well, deck, and stairs has expired without its required certificate of occupancy. To close out this expired zoning permit, go to: DPI Zoning Administration - DPI Zoning Administration - ViewPoint Cloud.
2. This zoning permit in no way grants or implies approval of the short term rental / second dwelling unit that may be present on the property

It bears noting that enforcement staff found no evidence of a short term rental operating within the residence since issuance of the zoning permit.

The zoning permit was appealed December 8, 2022 within the 15-day appeal period.

The appeal focuses on the home occupation aspect of the zoning permit. It asserts that the truck and trailer associated with the business are not allowed. The appeal also asserts that pool equipment and chemicals are improperly stored on the property.

As noted above, the property owner runs a pool installation and maintenance business. Office work related to the business is conducted at the property. No clients come to the property, nor is there a sign for the business at the property. A truck and trailer associated with the business park within the driveway or on-street. Neither contains commercial identification related to the business. The application notes that the only materials related to the home occupation stored onsite include contracts and pictures. It does not mention pool equipment or materials but does note occasional UPS or Fed-Ex deliveries. The applicable home occupation standard as to onsite storage allows for storage of materials related to the home occupation within an enclosed structure. No outside storage of materials related to the home occupation is evident.

The requested home occupation is approvable under the standards of Sec. 5.4.6, *Home Occupations*, (a) *Administrative Approval*. If the home occupation is altered such that it is not compliant with these standards, it will be subject to enforcement action. As permitted, the home occupation complies with the applicable standards.

II. Recommended Motion:

Uphold administrative zoning permit ZP-22-508.

ZONING APPEAL

FOR Zoning Permit ZP-22-508

Description of the decision under appeal

Joel Fitzgerald 94 Glen Road applied for an zoning permit for an in-home occupation, Facilities Management, along with a shed and extended driveway. He was granted a conditional permit (ZP# 22-508) to complete this work.

Description of the property subject to the appeal

94 Glen Road is a single family 3 bedroom house on a corner lot in a RL zoned neighborhood.

Background for appeal

John S. and Barbara W. George are appealing the issuance of this zoning permit because Joel Fitzgerald has continued to run his pool business, "Image Pools", with trucks, storage trailer, flatbed dual wheel trailer, excavators, and extremely toxic pool chemicals in a RL neighborhood with no permit, and believe that this zoning permit was issued in violation of the Comprehensive Development Ordinance. Before the issuance of this conditional permit, he has been running this business out of his home for 2 years.

We have issued an initial complaint to the city in December 2021 using the See it Click it Fix it system. We then filed an official a Housing/Zoning Complaint CPLT-22-96 on May 13th of 2022. William Ward, from Permitting & Inspections, sent 94 Glen Road (Joel Fitzgerald) a letter letting them know the city had initiated an investigation regarding the complaint. The complaint was for operating an in-home Occupation, Pool Business, without a zoning permit.

- "Description of Violation - *Mr Joel Fitzgerald Continually parks commercial dump truck, sometimes flatbed trailer with excavator. Mr Fitzgerald Runs <https://www.imagepoolsvt.com/> out of his driveway the constant loading and unloading, of pool equipment and chemicals in and out of vehicles. This started April 2nd 2022 after complaint in December 2021. I am not willing to have my neighborhood destroyed. This violation needs a cease and desist order. Last night he was loading chemicals stored under a tree at the corner of Glen RD And Chestnut Terrace.*" (This was very close to the city's electric and Power). Please look at his facebook business page--many of the pictures are taken right out front of his house.
<https://www.facebook.com/pages/category/Swimming-Pool---Hot-Tub-Service/Image-Pools-Sp>

Reference to the regularoty provisions applicable to the appeal

Joel Fitzgerald and Image Pools is in violation of several items listed in the Comprehensive Development Ordinance Section 5.4.6 (Home Occupations).

5.4.6 (a) C. *There shall be no vehicles associated with the home occupation except:*

(i) A personal vehicle with no commercial identification can be used; and,

(ii) An occasional delivery vehicle such as a Postal Service, UPS, or FedEx truck, but excluding semi trailers or 18 wheel vehicles;

(iii) deliveries or pick-ups shall occur no more than an average of one (1) time per day between the hours of 8 am and 6 pm;

There continues to be a dump truck and storage trailer stored on the property, though the excavator has been removed.

5.4.6 (a) D. *No goods are located on site except for samples or designs produced on site and no such samples or other materials associated with the home occupation may be stored outside of an enclosed structure;*

Pool Chemicals are stored on-site.

5.4.6 (b) 7. *No home occupation shall create sounds, noise, dust, vibration, smell, smoke, heat, humidity, glare, radiation, electrical interference, fire hazard or any other hazard, nuisance or unsightliness which is discernible from any adjacent dwelling unit;*

Fire-hazard: Pool chemicals such as oxidizers are extremely hazardous and are required by OSHA regulations to be stored in a fire-safe compartment. Wooden dwellings and auxillary buildings do not meet this storage requirement. For example, see OSHA 1926.152 - Flammable liquids. In addition, large quantities of chemicals may be required by certain EPA regulations to be stored in secondary containment.

Please see the American Chemistry Council's "Guidelines in the Safe Transportation, Handling, and Storage of Dry Chlorinated Pool Chemicals (2001)" for more information on the safe storage of pool chemicals.

Nuisance/unsightliness: Commercial construction vehicles on-site are visible from adjacent dwellings.

5.4.6 (b) 8. *The home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.*

The commercial vehicles and toxic chemicals stored on site detract from the residential character of the neighborhood.

Relief request by the appellant and grounds it is believed proper

John S. and Barbara W. George are requesting a cease and desist of all operations pertaining to Image Pools VT and removal of all equipment, vehicles, and chemicals related to the business from this residential neighborhood. This is believed proper as a residential neighborhood is not zoned for the operation of a pool business.





















City of
Burlington, Vermont
645 Pine Street

Zoning Permit – Conditions of Approval

ZP #: 22-508

Tax ID: 058-2-019-000

Issue Date: November 25, 2022

Decision: Approve

Property Address: 94 Glen Road

Description: Install new shed, move old shed to rear yard, Expand driveway to 18 feet wide and establish in-home office.

Project Permit Conditions:

1. Per **Section 2.7.8, Withhold Permit**, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. In this case, zoning permit ZP-11-834 for basement finishing, window well, deck, and stairs has expired without its required certificate of occupancy. To close out this expired zoning permit, go to: [DPI Zoning Administration - DPI Zoning Administration - ViewPoint Cloud](#)
2. This zoning permit in no way grants or implies approval of the short term rental / second dwelling unit that may be present on the property.

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. **Note:** All projects involving earth disturbance of 400 square feet or more require review by the Burlington Stormwater Program under Chapter 26: Wastewater, Stormwater, & Pollution Control. This review is closed out by way of approved inspections by Stormwater Program staff, Code Enforcement staff, or licensed project engineer before issuance of a UCO as noted above.
2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced within 1 year. The owner shall complete the approved project and obtain a UCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) within 3 years 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.

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board within 15 days after the decision date per Sec. 12.2.2, *Appeals of Administrative Officer Decisions*. Appeals may be filed online at [burlingtonvt.viewpointcloud.com/categories/1098](https://www.burlingtonvt.viewpointcloud.com/categories/1098) or in-person at 645 Pine Street, Burlington, Vermont. <https://www.burlingtonvt.gov/DPI/Appealing-a-Zoning-Decision>

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

SIGNED.

DATE _____

11/25/2022

ZONING PERMIT # ZP-22-508

REVIEWED BY SG

**DEPARTMENT OF PERMITTING & INSPECTIONS
BURLINGTON VERMONT**

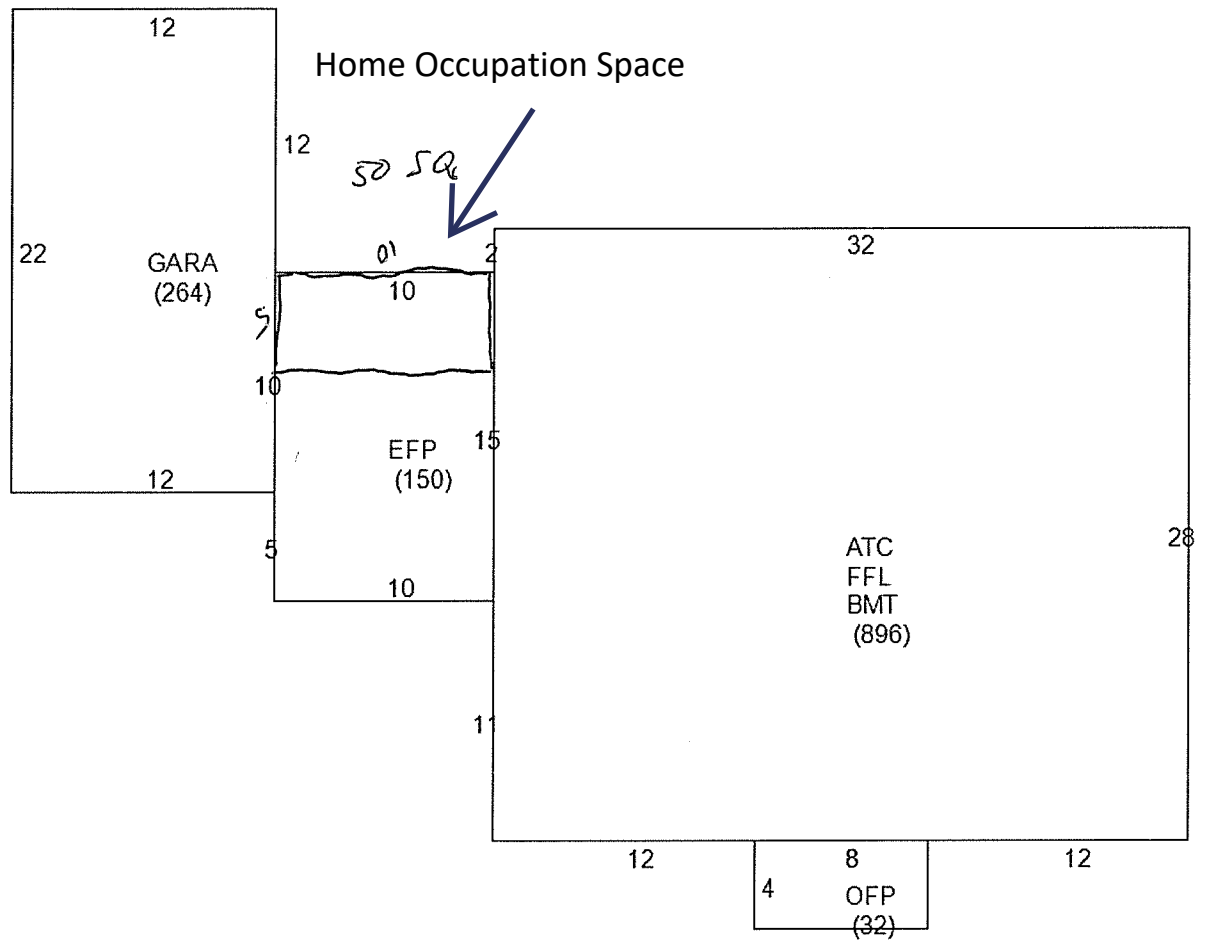
A diagram showing a square labeled $10' \times 10'$. A line segment of length $41'$ is drawn from the bottom-left corner to the top-right corner. Another line segment of length $21'$ is drawn from the top-right corner to the top edge of the square. A right-angle symbol is shown at the intersection of these two segments.

A hand-drawn site plan of a property, likely a residential lot, with various dimensions and annotations. The plan shows a large rectangular area with a smaller rectangular section on the right. Dimensions are marked in feet ('). A large blue arrow points towards the top right corner. A blue line outlines a specific area on the left side, labeled '9' X 18''. Other dimensions include 22', 12', 10', 8', 8', 13', and 9'. A blue line is labeled '24'' and another blue line is labeled '26''. The word 'walkways' is written in the bottom center. The plan is drawn on a grid background.

Glen Rd

$$1'' = 10'$$

172.5



94 Glen RD Floor Plan



Department of Permitting and Inspections

645 Pine Street
Burlington, VT 05401-8415

Phone: (802) 865-7188

www.burlingtonvt.gov/dpi

Home Occupation Application Questionnaire

Use this checklist for all applications for a home occupation - See Sec. 5.4.6 of the Zoning Ordinance. This questionnaire is provided to summarize details and is required to accompany a zoning permit application form and required fee (for either administrative approval or conditional use review).

Please note:

1. The specific requirements for home occupations can be found in Section 5.4.6 of the Comprehensive Development Ordinance which is available in its entirety on our website at www.burlingtonvt.gov/PZ
2. A 'Business Personal Property Registration Form' may be required to be submitted to the Assessors Office. This form is available at www.burlingtonvt.gov/assessor/businesses

Name of Business Proposed: Home Office

Type of Business Proposed: Real Estate & Facilities Management

Provide a detailed description of the proposed Home Occupation such as: activities involved; materials and equipment used; quantities of materials and equipment stored on-site; methods of operation; hours of operation. This may be done on a separate piece of paper and attached.

Please respond to the following:

1. How many persons will be involved or employed in the conduct of the proposed Home Occupation:
Residents of premises: 3 Others Total Number 4
2. What type of product will be produced, serviced, or repaired in the conduct of your Home Occupation? (For example: repair of clocks or watches, making jewelry, etc.). Explain:
Paperwork
3. Describe any alterations to the home or premises that might be required to facilitate your Home Occupation:
move phone and small desk
4. Describe what rooms will be used in the conduct of the Home Occupation and how these rooms will be used. (For example: garage will be used to store supplies; or den will contain desk and file cabinets, etc.). Indicate the gross floor area(s) that will be used in the conduct of the Home Occupation. Indicate the total gross floor areas of your house and include any accessory structure(s) to be used for the Home Occupation, (Ex. Garage).
Corner of porch
5. Describe the mechanical and/or electrical equipment that will be necessary to conduct your business activity:
phone, laptop
6. Describe how, where and in what amounts the material, supplies and/or equipment related to your Home Occupation will be displayed or stored:
Contracts and pictures

PLEASE TURN OVER

7. Will people come to your home to obtain any product or utilize any service connected with the proposed Home Occupation activity? Yes _____ No X
If yes, please explain in detail:

8. Are any signs necessary or proposed relative to the Home Occupation?
Yes _____ No X
If yes, you are required to file for a Sign Permit. An application form can be obtained at the Planning and Zoning Department or on our website.
9. If trucks or other equipment will be used in your Home Occupation, where will they be parked or stored?
Driveway
10. Will the Home Occupation involve the use of commercial vehicles for delivery of materials to or from the premises? Yes X No _____
If yes, please explain:
UPS Fed-Ex
11. How many parking spaces will be provided for the home occupation? 1 driveway
Where will they be located? Indicate parking spaces on a site plan of this property as part of your application submission.
12. Is your proposed Home Occupation in conformance with the conditions, covenants and restrictions pertaining to your property? Yes X No _____
We suggest checking your deed for conditions, covenants and restrictions.

I have read and understand 'Sec 5.4.6 Home Occupations' under the City of Burlington Comprehensive Development Ordinance and believe that to the best of my knowledge my proposed Home Occupation would not violate any portion of said Ordinance:

Applicant's Signature: Joel H. Gerald

Date: 10-27-2022

Property Owner's Signature: Joel H. Gerald

Date: 10-27-2022

Department of Permitting & Inspections

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vacant, Permitting & Inspections Administrator



MEMORANDUM

TO: Development Review Board
FROM: Scott Gustin
DATE: February 7, 2023
RE: ZPS-22-52; 328 North Avenue

=====

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Zone: RL Ward: 7N

Owner/Applicant: Nova Enterprises LC, Joe Realty LC / David Simendinger

Request: Replace existing nonconforming freestanding sign with new nonconforming freestanding sign.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 7 (Signs)

Overview:

328 North Avenue is within the RL (Low Density) zoning district. The freestanding sign on the property proposed for replacement is noncompliant with regard to sign type in a residential zoning district (RL), setbacks (front and side yard), size, and its location in a clear sight triangle. The applicant proposes to replace the existing sign with a smaller sign that occupies the same location. The new sign will also be internally illuminated and will have a changeable electronic message display. The smaller replacement sign will lessen the degree of the existing nonconformity. Replacement of a nonconforming sign is subject to Section 7.1.6 CDO, requiring DRB review.

This application was scheduled for DRB review December 6, 2022. The applicant did not appear, and the review was deferred.

Background:

Previous zoning permits:

- **Zoning Permit;** construct a gas filling station. Approved October 1956.
- **Zoning Permit;** exterior building alterations, install stockade and rail fencing, sign enhancements, repave the lot, and install underground gas storage tanks. Approved January 1975.
- **Zoning Permit 84-389;** install three underground gasoline storage tanks, replacing three existing tanks. Approved August 1984.
- **Zoning Permit 87-624;** construct a 1' / 10' pitch roof over existing flat roof. Approved December 1987.

- **Zoning Permit 99-154**; replace four-pump island with a two-pump island in same location. Approved September 1998.
- **Zoning Permit 99-333**; install new face on freestanding sign. Approved February 1999.
- **Zoning Permit 99-502**; façade improvements to the gas station, add canopy over existing pump island. Denied May 1999.
- **Zoning Permit 00-160**; reface existing gas station with brick. Approved September 1999.
- **Zoning Permit 00-236**; replace existing noncomplying freestanding sign. Denied October 1999.
- **Zoning Permit 01-031**; reface the freestanding sign. Approved August 2000.
- **Zoning Permit 02-096**; replacement freestanding sign. Approved September 2001.
- **Zoning Permit 06-088CA/CU**; demolish service/gasoline station and replace with new convenience store/gasoline station. Approved May 2006.
- **Zoning Permit 07-813CA**; addition of fourth dormer, converts outdoor lighting to LED fixtures, install clapboard on dormers, and install a hood vent. Approved July 2007.
- **Zoning Permit 08-086SN**; install parallel sign. Approved August 2007.
- **Zoning Permit 08-358CA**; raise gasoline pump canopy. Approved February 2008.

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

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. The following zoning permits remain open: 99-154, 06-088CA/CU, and 08-358CA. **Affirmative finding as conditioned.**

Article 7: Signs

Sec. 7.1.6 Non-Conforming Signs

Any legally pre-existing Sign or other advertising device which does not conform to the current provisions of this Article shall be deemed a non-conforming Sign. Non-conforming Signs may remain in use at the same location, and ordinary maintenance and repair of such Signs shall be permitted.

A non-conforming Sign shall not be relocated, enlarged, replaced, redesigned, or altered in any way (except for repainting, refacing, repair or a change of lettering, logo, or colors using the same materials within the existing Sign frame) except to bring the Sign into complete or substantially greater compliance with this Article. In such cases, the DRB may allow a new Sign to be in substantially greater compliance than the existing nonconforming Sign subject to the applicable requirements of this Article. Nonconforming signs that are destroyed or damaged by 50% or more of their value shall not be rebuilt or repaired after one (1) year except in full conformance with this Article.

The existing freestanding sign is noncompliant with regard to setbacks, area, location within a clear sight triangle, and sign type. The applicant proposes to replace this sign with one that will be closer to, but not complete, compliance. The replacement sign will maintain the same location and height by using the existing sign poles. What differs between the new and the old sign is the reduced size and addition of a changeable electronic message display. Under Sec. 7.2.6 CDO

below, *Freestanding signs associated with a Fuel Service Station may include an electronic changeable message only for the display of numerals.*

Table 7.2.1-B – Sign Types Permitted by Form/Zoning District

This table lists *Freestanding Sign* as ‘not permitted’ in the RL zoning district. Evidence of a freestanding sign in this location dates back to the zoning permit issued in 1975 (see list above). The most recent iteration of this sign was approved under ZP 02-096 to ‘*Replace existing freestanding sign with new freestanding sign*’. This sign totals 14 ft in height, with an area of 45 sf, and sits within a foot of the front and side yard property lines. Additionally, the sign has both internal and external illumination. The current proposal replaces the existing sign with one that is smaller, has internal illumination, and a changeable electronic message display. The height and location will remain the same. **Affirmative finding.**

Sec. 7.2.6 Freestanding Sign

While this type of sign is not permitted in the RL zoning district, the following applies to freestanding signs:

Specifications

<i>Quantity (max)</i>	<i>1 per primary street frontage</i>
<i>Width (max)</i>	<i>8-ft (not including supports)</i>
<i>Height</i>	<i>10-ft (not including supports)</i>
<i>Depth (face-to-face) (max)</i>	<i>1-ft</i>
<i>Sign Area (max)</i>	<i>60 sf. (not including supports) or 0.5 sf per linear foot of street facing building frontage whichever is less.</i>
<i>Setback (min)</i>	<i>The lesser of 3-ft from the front property line or in-line with the building façade, and 5-ft from any side property line</i>
<i>Height, Overall (max)</i>	<i>14-ft above the finished grade (including supports).</i>

Miscellaneous

No part of a Freestanding Sign may encroach or overhang upon a public right-of-way, clear sight triangle, driveway, parking area, or walkway.

Freestanding Signs associated with a Fuel Service Station may include an electronic changeable message only for the display of numerals.

Freestanding Signs may only be internally or externally illuminated or backlit.

Street facing building frontage totals 30, which results in a maximum sign area allowance of 15 sf. The current sign has an area of 45 sf. The proposed replacement sign will be reduced in size to 35.86 sf. As noted above, the nonconforming front and side yard setback will remain as is. Its location is also within a clear sight triangle, but the reduced sign area should improve sight lines with the slight increase of height at the bottom of the sign.

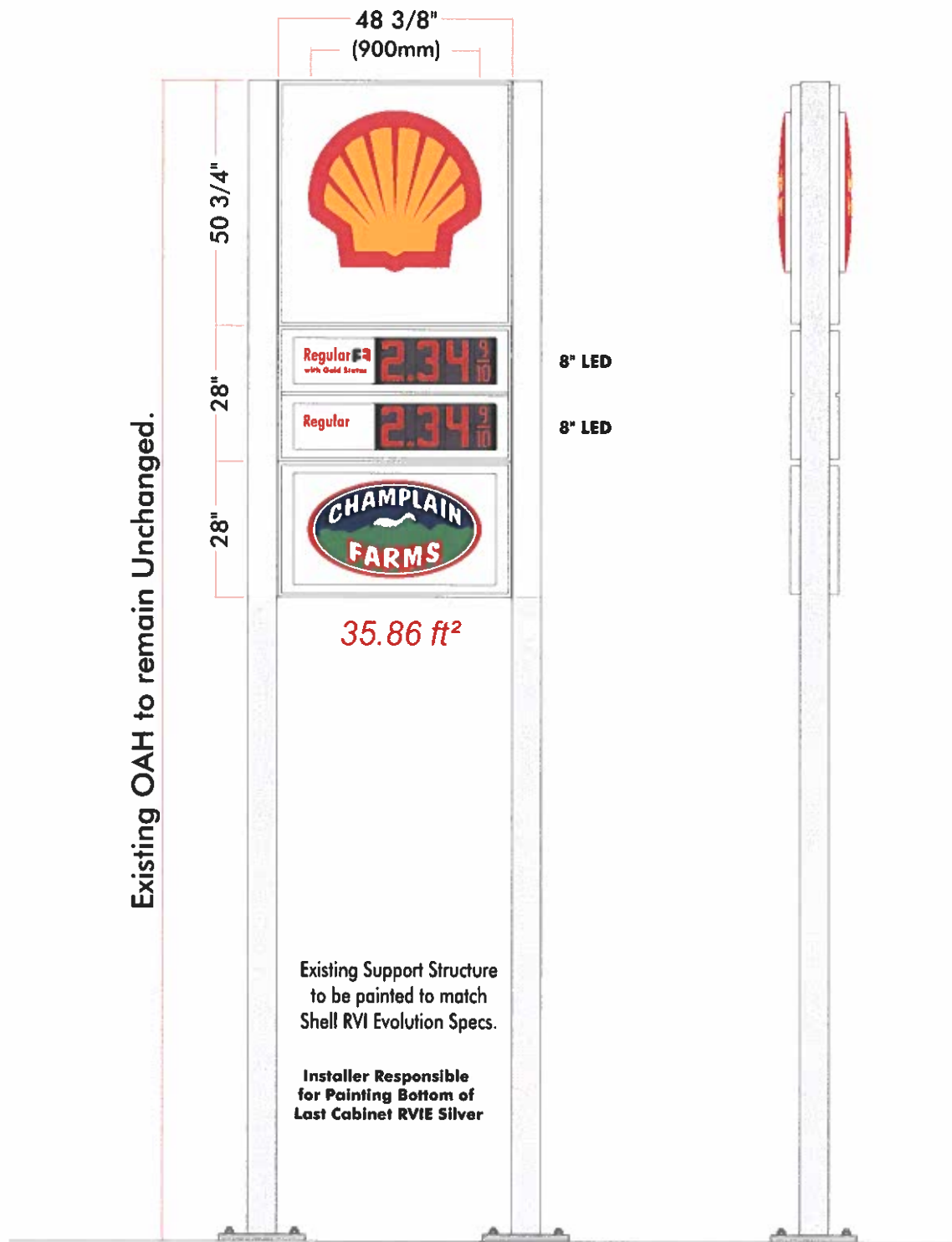
The proposed replacement sign does not “bring the Sign into complete... compliance”. That leaves an analysis of *substantially greater compliance*.

There is one aspect of the replacement freestanding sign which is clearly more conforming than existing – the size, and others that maintain the same level of nonconformity (type & location). The reduction in size is substantially more compliant than the existing size. **Affirmative finding.**

II. Conditions of Approval

1. Per **Section 2.7.8, Withhold Permit**, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. The following zoning permits remain open: 99-154, 06-088CA/CU, and 08-358CA and require certificates of occupancy.
2. Standard Permit Conditions 1-15.

NEW RVI Evolution
4' Mod Cabinets between
Existing Poles.



Proposed Elevation
Scale: 3/8" = 1'

Side View



VISUAL COMMUNICATIONS
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Building Quality Signage

Revisions:

1 R1: Change 2x price to 2 1x price

2
3
4
5
6

Account Rep: Dan Hu

Project Manager: A. You

Drawn By: M. San

Project / Location:

She
RVI Evolution
GLOBAL



ALL ELECTRICAL SIGNS ARE TO COMPLY WITH ARTICLE 400 OF THE N.E.C. STANDARD FOR THE PROPER GROUNDING AND BONDING

Client Approval/Date:

Landlord Approval/Date:

This original drawing is provided for the planned project and is not to be reproduced without the written approval of Federal Heath Sign Company, authorized agent. © 2008
 Colors Depicted In This Rendering Are Actual Material Finishes. Refer To Product Literature For Exact Color Match.

Job Number: 214851

Date: 07.29.2

File Name: SG2148

Sheet Number: 1 of

Design Number:

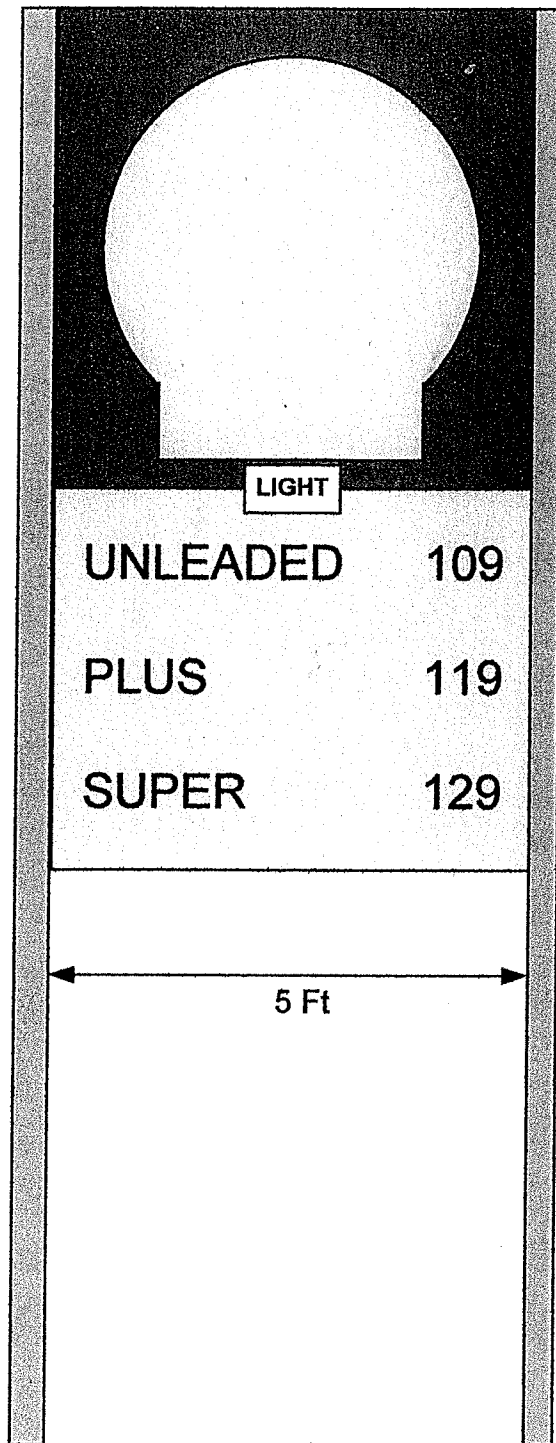
— NOTE —

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

FINAL APPROVAL

SIGNED *[Signature]* DATE *9-4-01*
 PLANNING & ZONING DEPARTMENT
 BURLINGTON, VERMONT

5 FT
 4 Ft



14 ft
~~15 ft~~

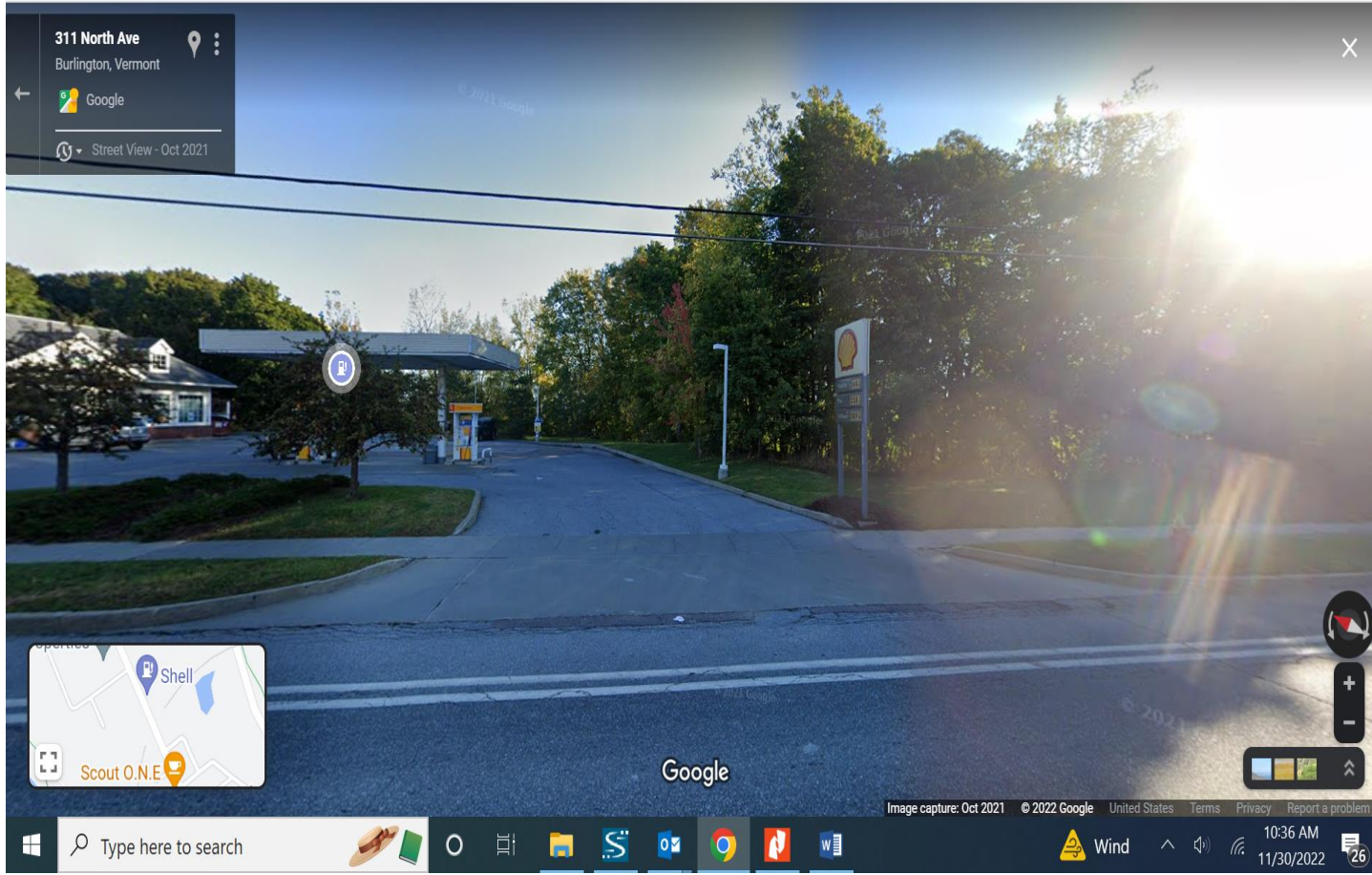
8/20/01
 Shell Sign
 Proposal for Burlington, VT
 328 No. Ave.
 219 Main St.

ID sign is internally illuminated
 Price sign is externally illuminated

311 North Ave
Burlington, Vermont

Google

Street View - Oct 2021



Scout O.N.E.

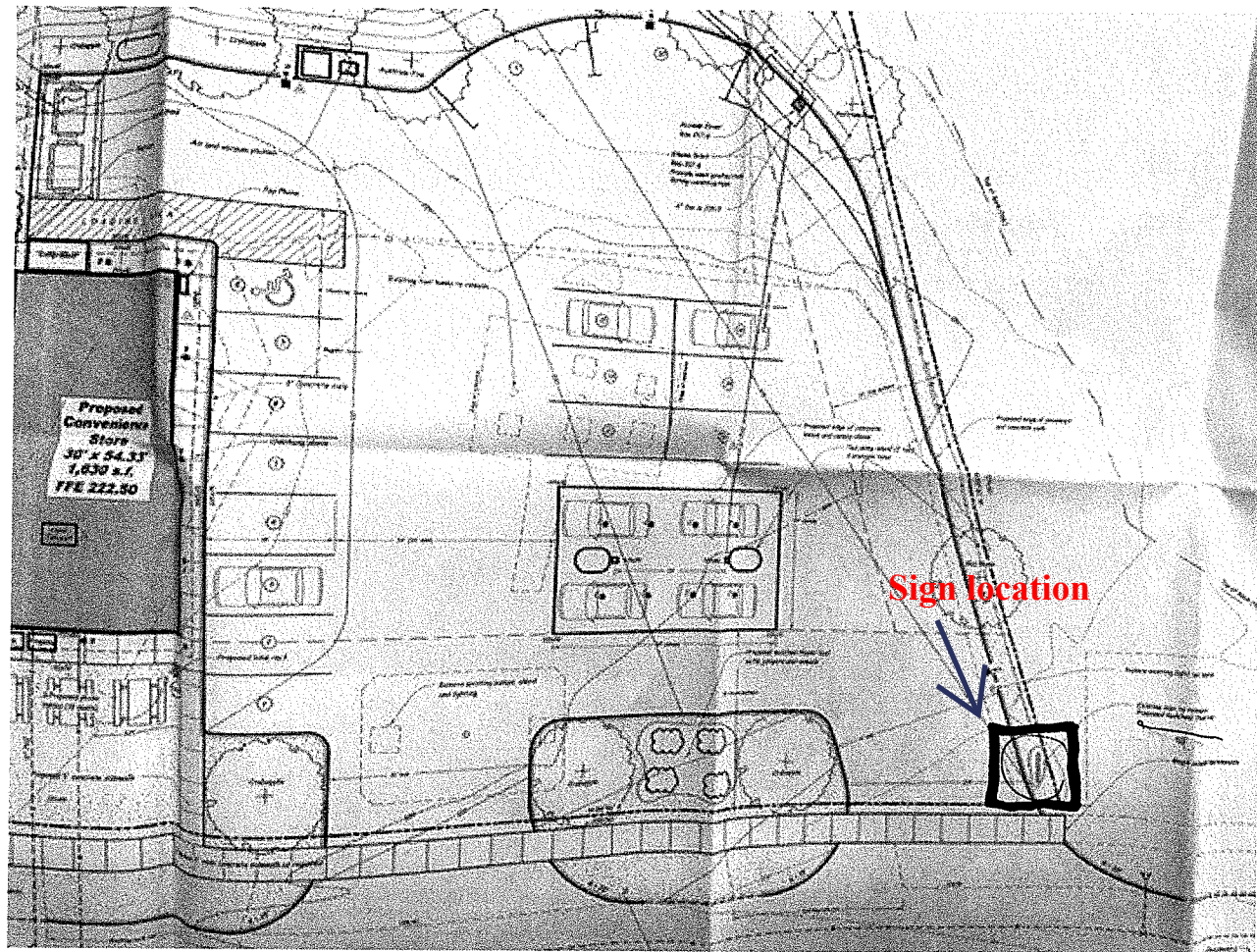
Shell

Google

Image capture: Oct 2021 © 2022 Google United States Terms Privacy Report a problem

Type here to search

Wind 10:36 AM 11/30/2022



ZP-22-508 Appeal

Violations of Comprehensive Development Ordinance Sec. 5.4.6, Home Occupations, (a) Administrative Approval.

Response to recommended action

The findings of the report center on the zoning permit application, recommending approval under Comprehensive Development Ordinance Sec. 5.4.6, Home Occupations, (a) Administrative Approval.

However, the reality of the situation does not match the zoning permit application.

5.4.6 (a) C. Vehicles on site

- The findings report that a truck and trailer associated with the business park in the driveway or on street, with only occasional FedEx and UPS deliveries. However, several other vehicles associated with the business are regularly present on the property or parked on adjacent streets and Pool supplies are delivered by semi-truck to the property
 - Photos show excavator, loader, dump truck, and storage trailer parked on the property or adjacent streets.
 - Photos show semi-truck delivery of pool supplies.

Excavator on flatbed trailer
parked on Chestnut terrace
(adjacent to 94 Glen Road)
on October 10, 2022.



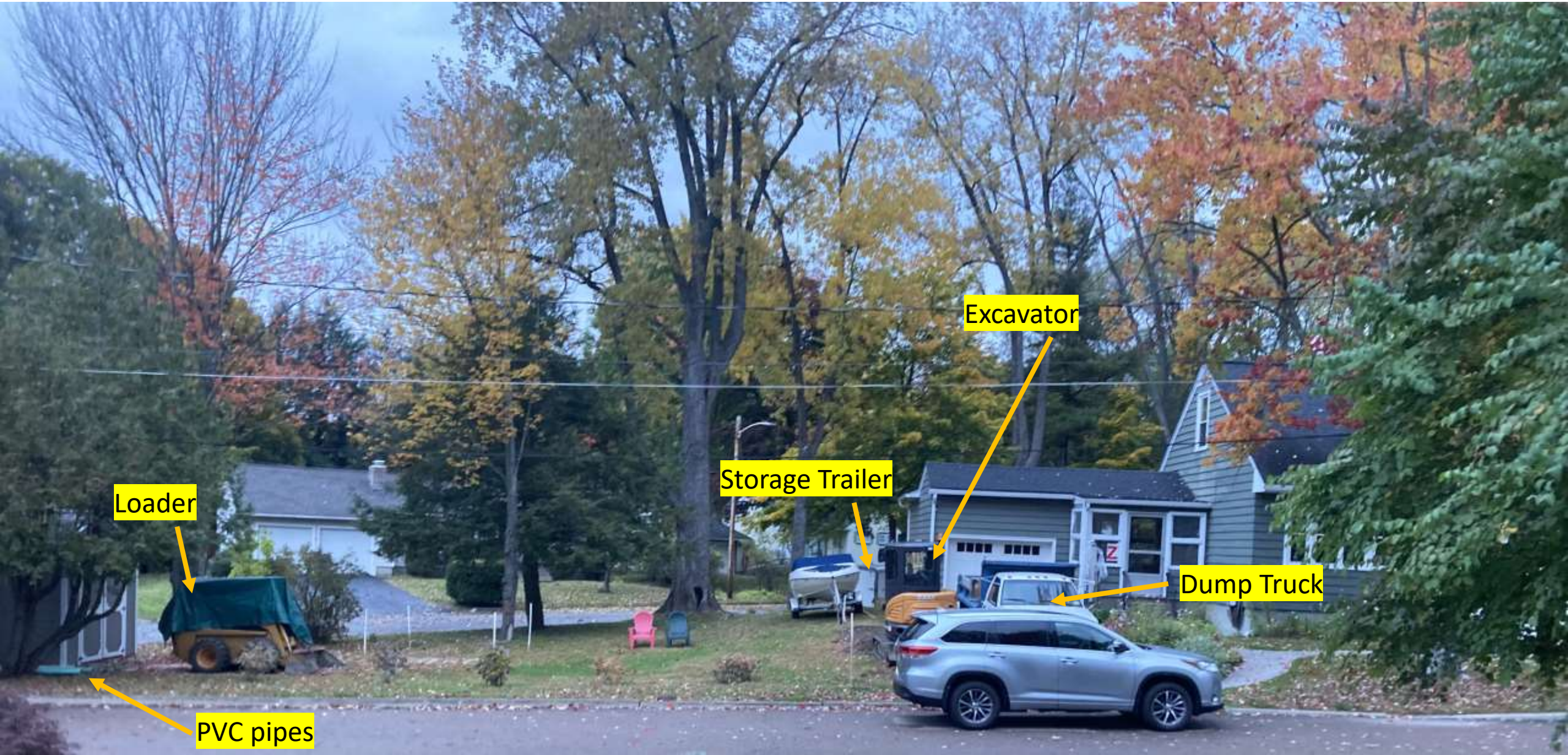
Excavator parked adjacent to driveway, storage trailer parked in driveway, and loader parked under a tarp on the lawn on October 11, 2022.



Excavator parked adjacent to driveway, storage trailer parked in driveway, and dump truck filled with building materials parked on Glen Road on October 12, 2022.



Excavator parked adjacent to driveway, loader parked under a tarp on the lawn, storage trailer parked on chestnut terrace, and dump truck parked in driveway on October 13, 2022. Additionally, PVC pipes are stored external to an enclosed structure.



Bay State Pool Supplies delivering pallets of pool supplies by semi-trailer on Glen Road on September 2, 2022. These items are loaded and unloaded using a fork-lift.



5.4.6 (a) D. Goods on site *and*

5.4.6 (b.) 7. Hazards

- The findings report that the application makes no mention of pool equipment and that only contracts and photos are stored on site, however goods related to the pool business are regularly stored or handled on-site.
 - The Image Pools Facebook page has a video posted on Jan. 5, 2021 titled “Loading up for a spring install” showing pallets of materials for a pool installation being loaded in front of 94 Glen Road.
 - Recent photos show pool chemicals stored on site and large quantities of empty pool chemical containers being disposed of in residential recycling.

From Image Pools Facebook Page, uploaded Jan. 5, 2021.

All Photos are taken from 94 Glen Road with 85 Glen Road or 95 Glen road visible in the background.



Image Pools & Spas

3

63 Views · about 2 years ago · Loading up for spring installation!

Watch

Discover popular videos on Facebook

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Up Next



Check out our video recap of 2021! We want to Thank our...
Image Pools & Spas
99 views
0:28



Backyard Transformation Part 1!
Image Pools & Spas
54 views
0:30



Unwinding at the end of the day!
Image Pools & Spas
39 views
0:27



Out with old in with the new!
Image Pools & Spas
43 views
0:08

From Image Pools
Facebook page, uploaded
Jan. 5, 2021.

Photos 3, 4, 5 are taken
from 94 Glen Road with 85
Glen Road appearing in the
background of the image.



A pallet with pool liner stored in driveway on 94 Glen Road property on July 22, 2022.



A pallet of Pool Chemicals stored under a tarp behind the shed, and PVC pipes stored next to the shed on the corner of the 94 Glen Road property on April 28, 2022.



Large quantities of empty bottles and boxes of pool chemicals being disposed of in residential recycling on September 26, 2022.



Summary

While the findings of the Department of Permitting and Inspections found that the zoning permit application for a home office meets the criteria for Administrative approval under section 5.4.6 (a), the nature of the business use of 94 Glen road does NOT meet these criteria due to violations of sections 5.4.6 (a) C. Vehicles on Site and 5.4.6 (a) D. Goods on site. Additionally, the storage of pool chemicals on site likely violates section 5.4.6 (b) 7. Hazards.

Department of Permitting and Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
<http://www.burlingtonvt.gov/PZ/>
Telephone: (802) 865-7188
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William Ward, Director
Theodore Miles, Code Compliance Officer
Charlene Orton, Permitting and Inspections Administrator
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Joseph Cava, Planning Technician
Celeste Crowley, Permit Administrator



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: February 7, 2023
RE: ZP-22-625

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

File: 22-625

Location: 72 Temple Street

Zone: RL **Ward:** 7N

Parking District: Neighborhood

Date application accepted: December 5, 2022

Applicant/ Owner: David Mullen / Habitat for Humanity

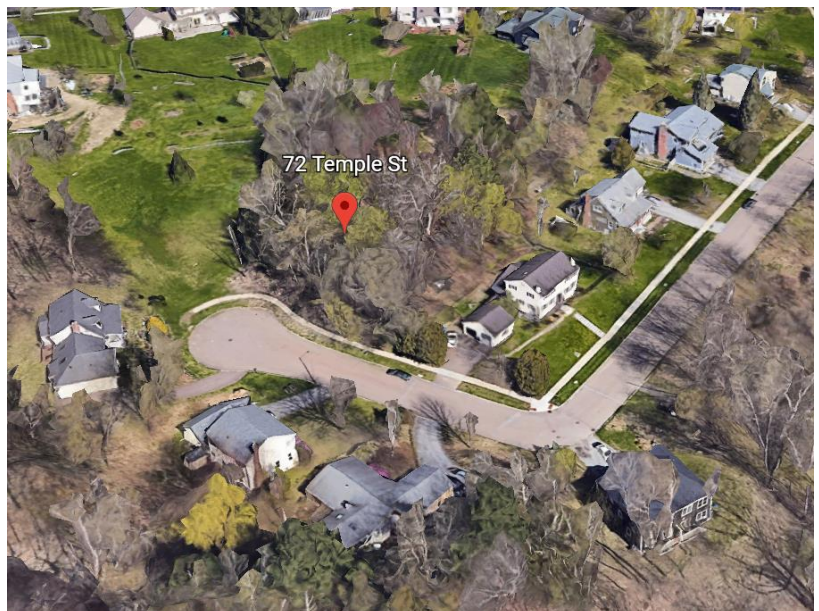
Request: Tree removal.

Background:

- **Zoning Permit 99-265;** lot line adjustment between this lot and 3 and 14 Rockland Streets. This vacant parcel increased in size to .68 acres as per the filed plat dated 8.3.1978 (slide #109.) November 1998.
- **Zoning Permit 85-318;** construct a contemporary single family, two level home with attached two car garage. Approved July 1985.

Overview:

Green Mountain Habitat for Humanity has purchased the 72 Temple Street property with the intention to build a duplex home on the vacant site. The site has some shallow ledge running in parts of it. To determine where exactly the ledge is and where the home should be sited, Habitat needs to dig some test holes. The site currently contains mostly trees of a diameter of 2" to 5" along with some poplars and pine trees of a larger size. There is a



significant amount of fallen trees and branches. In order to bring in equipment to dig the holes the applicant needs to cut some of the trees out of the way. Trees identified as a visual buffer between the existing homes and the future home site will be retained. The majority of the trees on the property by far will be untouched by us. The applicant is looking to remove approximately **15 trees of a diameter from 2” to 4”, 10 trees from 5” to 6 “, and 5 from 6” to 8”**.

Once the site information is gathered, the applicant will be able to design and orient the home, and at that time we will return for the other required permits.

Recommended motion: Certificate of Appropriateness Consent Approval, per the following Findings and Conditions:

I. Findings

Article 5: Citywide General Regulations

Sec. 5.5.4, Tree Removal

(a) Review criteria for zoning permit requests for tree removal

(1) Grounds for approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

A. Removal of dead, diseased, or infested trees;

The applicant has indicated that there are downed trees and branches that will be removed.

B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices;

The tree removal is intended for site reconnaissance to inform siting of a new duplex, not for the health of the remaining trees. Not applicable.

C. Removal of trees that are a danger to life or property; or,

Not applicable.

D. As part of a development with an approved zoning permit.

Habitat intends to make an application for a new duplex residence on the parcel, once the site testing informs the best location for the building envelope. As there is ledge present, the applicant needs to accomplish this preliminary work on the heavily wooded lot to best create a plan for the new development. The zoning permit application, although anticipated, has not as yet been reviewed. **Affirmative finding** if DRB concurs that the work is essential to the application planning for new development.

(2) Grounds for denial

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be denied if existing healthy trees are known to be:

A. Providing a significant privacy or aesthetic buffer or barrier between properties;
The applicant intends to retain tree buffers between individual parcels. **Affirmative finding.**

B. Providing stabilization on slopes vulnerable to erosion;
The applicant narrative includes: *Because we are not removing any of the perimeter trees or any significant portion of the total trees on the property there would be no reason for additional erosion occurring on the site.* Staff has consulted with the Stormwater Engineer, who provided that they will conduct their review when the home construction permit is under review. **Affirmative finding.**

C. Located within a riparian or littoral buffer;
72 Temple Street is not within the Natural Resource Composite Overlay zone; nor in the Riparian Littoral Overlay. **Affirmative finding.**

D. Provide unique wildlife habitat;
The parcel does not fall within any of the Recreation, Conservation and Open Space Districts; or the Natural Resource Protection Overlay District. **Affirmative finding.**

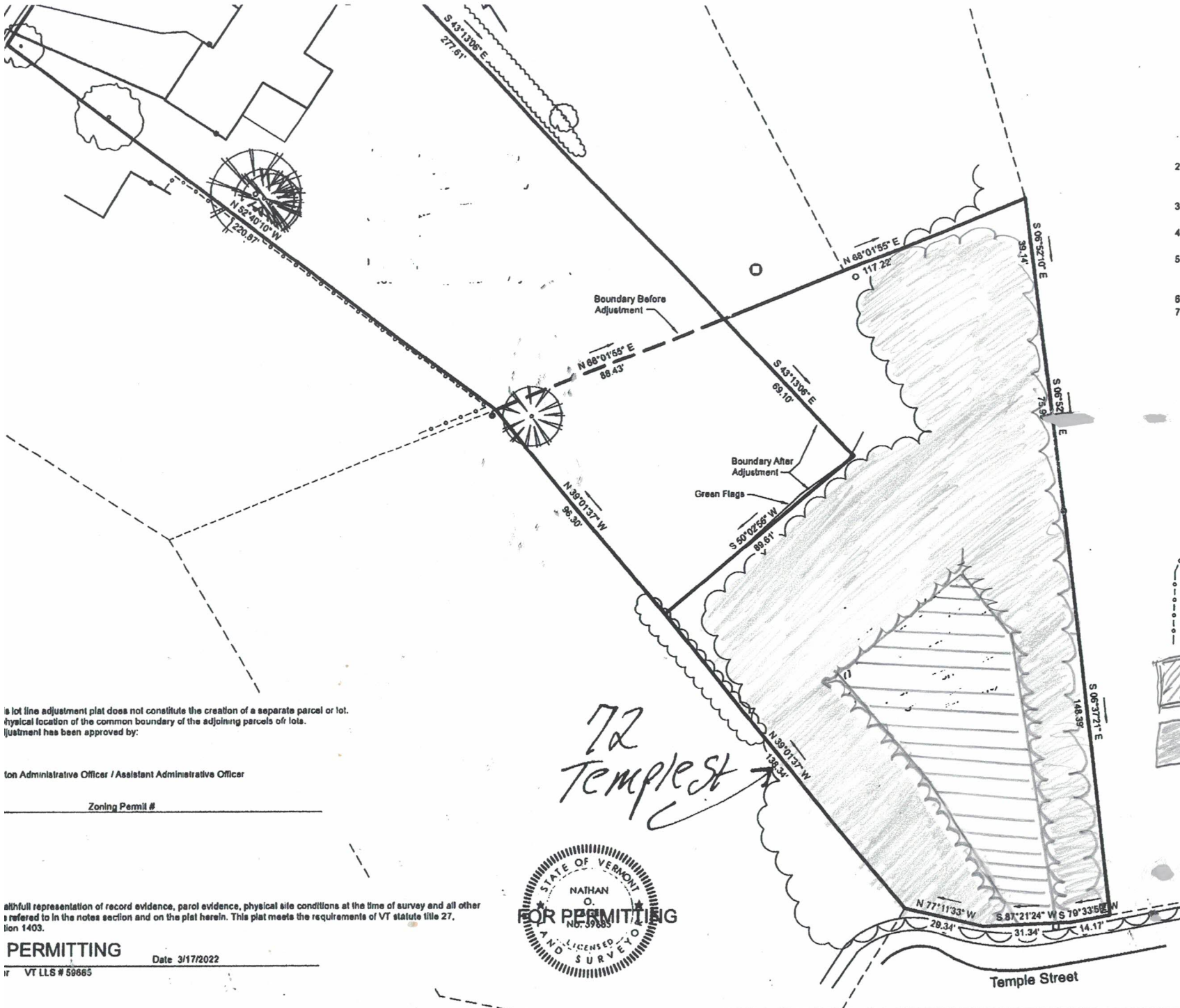
E. A rare northern Vermont tree species as listed by the Vermont Natural Heritage Program;
The application narrative defines poplar and pine trees; neither of which are considered rare. **Affirmative finding.**
or,

F. A significant element or, or significantly enhances, an historic site.
Not applicable.

II. Conditions of Approval

1. The applicant shall submit a redevelopment plan as soon as reasonably possible after the tree removal.
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.



1. This plat is based on records of a traverse using a total station control for an urban survey.
2. Distances are shown to the hundredths of a foot for mathematical closure purposes.
3. Bearings shown are in reference to the grade GPS observations on site.
4. An attempt has been made to identify encroachments, etc. observed in the field that are not shown on this plat.
5. Map References- Burlington land use map.
6. Monuments set are 5/8in rebar visible in reference to existing grade as noted.

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

 Town Administrative Officer / Assistant Administrative Officer

 Zoning Permit #

This is a full representation of record evidence, parcel evidence, physical site conditions at the time of survey and all other information referred to in the notes section and on the plat herein. This plat meets the requirements of VT statute title 27, section 1403.

PERMITTING

Date 3/17/2022

VT LLS # 59865



Green Mountain Habitat

Legend:

- [Hatched Box] = Area to be removed
- [Solid Box] = Area to be added
- [Dotted Box] = Wooded Area
- [Dotted Box] = White Pine
- [Dotted Box] = Maple
- [Dotted Box] = Poplar

LATITUDE
 129B S
 latitude



Department of Permitting and Inspections

Zoning Division

645 Pine Street

Burlington, VT 05401

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

Telephone: (802) 865-7188

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Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Garret King, Associate Planner
Joseph Cava, Planning Technician
Celeste Crowley, Permit Administrator



MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Principal Planner

Date: February 7, 2023

RE: Z-22-632; 273 Pearl, 11, 15 and 21 Hungerford Terrace (PUD Amendment)

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

File: ZP-22-632

Location: 273 Pearl Street / 11, 15 and 21
Hungerford Terrace / Hungerford Commons

Zone: RH **Ward:** 8E

Parking District: Neighborhood

Date application accepted: December 7, 2022

Applicant/ Owner: Bruce Baker

Request: Amendment to PUD: Add additional three-bedroom apartment unit to 11 Hungerford Terrace (multi unit building). Total unit count 23 residential and one dental office: Site plan adjustment to show total parking spaces 24.



Background:

- **Zoning Permit 21-816;** Amendment to previously approved ZP-20-0717CA/MA Planned Unit Development (*demolition of a single family home at 15 Hungerford Terrace and a garage at 11 Hungerford Terrace; demolish south porch and move garage at 21 Hungerford Terrace; construct 12 unit residential building. Net new units = 11. Site changes, including retaining walls, stormwater infrastructure. Parking changes with 17 space parking waiver request (42% of required residential parking.)* **Amendment to increase unit count by three units** at 15 Hungerford, (net new 14 units); **elevation, window and site changes**, including construction of window wells to accommodate below grade units.
- **Zoning Permit 20-0717CA/MA;** 4 Parcel PUD: Demolition of a single family home at 15 Hungerford Terrace and a garage at 11 Hungerford Terrace; demolish south porch and move garage at 21 Hungerford Terrace; construct 12 unit residential building. Net new units = 11. Site changes, including retaining walls, stormwater infrastructure. Parking changes with 17 space parking waiver request (42% of required residential parking.) Approved September, 2020.

273 Pearl Street (constructed 1952)

- **ZP20-0717CA/MA, 4 parcel PUD.** Approved September 17, 2020. One year extension issued August 18, 2021.
- **Zoning Permit 16-0273CA;** replace 3 windows. September 2015.
- **Zoning Permit 15-0427CA; regrade portion of lot and install retaining wall.** Also see 15 and 21 Hungerford Terrace. September 2014.
- **Non-applicability of Zoning Permit Requirements 15-1015NA;** roof replacement. April 2015.
- **Zoning Permit 12-0231FC;** install chain link security fence on top of existing concrete block wall. September 2011.
- **Zoning Permit 00-466;** reside existing medical (dental) office in vinyl siding with new front elevation changes that include new windows, door and unenclosed entry roof canopy. No increase in coverage. Front yard setback encroachment allowed as per 5.3.6 (g). April 2000.
- **Zoning Permit 81-305;** change existing office to dental office. January 1981.
- **Zoning Permit n.n.;** Enlarge existing non-conforming use by addition of 21' x 16'. Approved May 1965.
- **Zoning Permit n.n;** three unilluminated signs. Approved July 1960.
- **Notice to Gates Professional Pharmacy,** sign exceeding size permitted in Zone One. August 1952.
- **Petition to building a one story building approximately 24' x 40' to be used as prescription laboratory, doctor's office or professional use.** Approved December 1951.

11 Hungerford Terrace (constructed 1912)

- **Zoning Permit 20-0718CA, 4 parcel PUD.** Approved September 17, 2020. One year extension issued August 18, 2021.
- **Zoning Permit 18-10990CA;** handicap ramp, stoop, addition, parking changes. Convert a portion of the garage's front wall into a retractable wall to accommodate interior parking. July 2018.
- **Zoning Permit 18-0812CA;** replacement windows. April 2018.
- **Non-applicability of Zoning Permit Requirements 12-0252NA;** replace retaining wall in kind at same location & same height. August 2011.



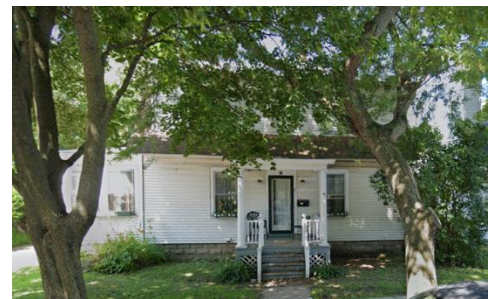
15 Hungerford Terrace (constructed 1994, demolished a part of ZP-20—717CA/MA)

- **Zoning Permit 20-0719CA**; 4 parcel PUD. Approved September 17, 2020. One year extension issued August 18, 2021.
- **Zoning Permit 18-1091CA**; change of use from single family to duplex. Parking changes. July 2018.
- **Zoning Permit 15-0428CA**; regrade portion of lot and install retaining wall. See also 21 Hungerford Terrace and 273 Pearl Street. Issued September 2014; permit relinquished.
- **Zoning Permit 02-377**; Construct 60' retaining wall. Issued March 2002, permit relinquished.
- **Zoning Permit 96-407**; installation of skylight in single family home. April 1996.
- **Zoning Permit 094-059 and 94-059A**; construction of a single-family home on existing vacant lot. February 1994.



21 Hungerford Terrace (constructed 1922)

- **Zoning Permit 20-0720CA**; 4 parcel PUD. Approved September 17, 2020. One year extension issued August 18, 2021.
- **Zoning Permit 18-1092CA**; Change of use from single family to duplex; add habitable space to basement. Shared parking and driveway with 11 and 15 Hungerford. See related permits AP18-1090CA and ZP18-1091CA. July 2018.
- **Zoning Permit 15-0429CA**; regrade portion of lot and install retaining wall. See also 15 Hungerford Terrace and 273 Pearl Street. Permit issued September 2014; permit relinquished.
- **Zoning Permit n.n.**; Use two front rooms for doctor's office. ZBA approved April 1966.



Overview: The four parcel original PUD was approved in September 2020 and amended in 2022 to include a total of 22 residential units and 25 parking spaces. The applicant now requests one new (3 bedroom) residential unit (the identified address of the residential collective *Hungerford Commons* is now 11 Hungerford.) The application includes site changes to diminish parking from the approved 25 parking spaces to 24. A 17 space parking waiver was issued under

the original 2021 PUD approval; however an amendment to the parking regulations (ZA-20-07) has now removed minimum parking standards.

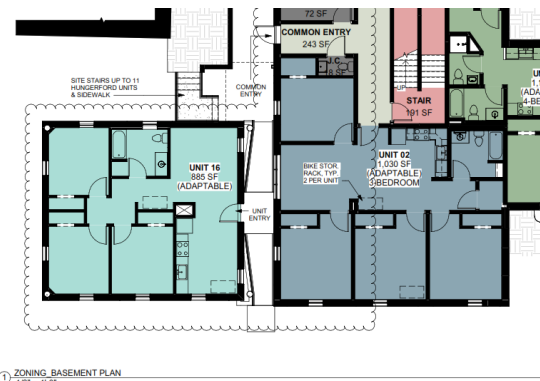
Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permit and Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), Article 9 (Inclusionary and Replacement Housing), and Article 11 (Planned Unit Development).

Recommended motion: Certificate of Appropriateness Consent Approval, per the following Findings and Conditions:

I. Findings

Article 2: Administrative Mechanisms



Basement floor plan as approved 2022 (left) and proposed (right).

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. There is at least one open permit for 11 Hungerford Terrace that requires a Certificate of Occupancy. The other parcels may have outstanding zoning permits as well. It is the applicant's obligation to assure all open zoning permits receive a Certificate of Occupancy.

ZP-18-170

32772 – PROJECT...

Zoning Permit

Mar. 22, 2018

ACTIVE

Affirmative finding as conditioned.

Article 3: Applications, Permits and Project Reviews

Section 3.2.1 Pre-Application Conferences

The original project was reviewed at NPA meetings for Wards 1 and 8 January 8, 2020. The increase of one new unit does not trigger a new NPA review. **Not applicable.**

Article 3: Applications, Permits and Project Reviews

Part 3: Impact Fees

Sec. 3.3.2 Applicability

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

As the proposal creates a new dwelling unit, and it is not entirely within an existing building, Impact Fees are required. The mechanical/electrical and common entry are proposed for revision, but are within the existing approved building footprint. Only the new unit creates additional gross area of 885 sf.

Based on that gross floor area, the following Impacts Fees will be due:

SF of Project 885

Department	<u>Residential</u>	
	Rate	Fee
Traffic	0.224	198.24
Fire	0.253	223.91
Police	0.051	45.14
Parks	0.848	750.48
Library	0.525	464.63
Schools	1.095	969.08
Total	\$ 2,651.48	

Impact Fees may be waived in whole or in part by the Housing Trust Fund Manager, based upon the number of inclusionary units. See Article 9, below. **Affirmative finding as conditioned.**

Section 3.3.7 Time and Place of Payment

(b) Existing Buildings – Impact Fees must be paid prior to issuance of a zoning permit; or, if a building permit is required, within 30 days of issuance of a building permit.

Affirmative finding as conditioned.

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 Review Criteria

Within the Residential High Density Zoning District, Major Impact Review is required for the addition of 10 or more residential units. As this proposal adds only 1 unit, Major Impact Review is not triggered. The original conditions of approval relative to MA/CU under 20-0717CA/MA, 20-0718CA, 20-0719CA and 20-0720CA not herein altered remain in effect. **Affirmative finding as conditioned.**

Article 4: Zoning Maps and Districts

Sec. 4.4.5 Residential Districts

a) Purpose:

The Residential Districts are intended to control development in residential districts in order to create a safe, livable, and pedestrian friendly environment. They are also intended to create an inviting streetscape for residents and visitors. Development that places emphasis on architectural details and form is encouraged, where primary buildings and entrances are oriented to the sidewalk, and historic development patterns are reinforced. Parking shall be placed either behind, within, or to the side of structures, as is consistent with the district and/or the neighborhood. Building facades designed for parking shall be secondary to the residential aspect of a structure.

5. The Residential High Density (RH) district is intended primarily for high density attached multi-family residential development. Development is intended to be intense with high lot coverage, large buildings, and buildings placed close together. Parking is intended to be hidden either behind or underneath structures.

The replacement residential building at 15 Hungerford Terrace (site of this request) presents a large building with higher lot coverage than currently exists, consistent with this standard. Parking is placed behind the buildings.

Affirmative finding.

(a) Dimensional Standards and Density

Table 4.4.5-2: Base Residential Density

High Density: RH - 40 units/acre

The total area of all four lots is 27,226.97 sf, or .625 acres¹. At 40 units/acre, the site might accommodate 25 dwelling units. With 1 existing at 273 Pearl, 5 units at 11 Hungerford, and 16 proposed at 15 Hungerford and 1 at 21 Hungerford, a total of **23 units** are proposed; within the base residential density allowance for the zoning district. **Affirmative finding.**

Table 4.4.5-3: Residential District Dimensional Standards

In the RH zoning district, coverage is limited to 80% of the lot (before bonuses.) Revised Plan A2 defines proposed coverage at **82%**. The maximum lot coverage with the Inclusionary Bonus is 92%. Inclusionary Zoning requirements were triggered with the addition of the original 14 net new units under ZP20-0717CA/MA review.

There are no changes to front, side or rear yard setbacks.

Building height will not exceed 35' as measured from the sidewalk on Hungerford Terrace.

Affirmative finding.

(c) Permitted and Conditional Uses:

¹ This lot area is taken from Plan A2 of the submission, and differs slightly from an earlier reported lot area.

Attached dwellings, Multi family 3 or more is a permitted use in the RH zoning District.
Affirmative finding.

(b) District Specific Regulations

1. Setbacks

A. Encroachment for Residential Driveways

Not applicable.

B. Encroachment into the Waterfront Setback.

Not applicable.

2. Lot Coverage

A. Exceptions for Accessory Residential Features.

This does not apply to the RH zoning district. Not applicable.

3. Accessory Residential Structures and Uses

Not applicabe.

4. Residential Density

A. Additional Unit to Multi-Family.

Not applicable in RH zoning district.

B. Additions to Existing Residential Structures.

No request for an addition to an existing residential structure shall be considered or imply approval of an additional unit, unless requested specifically on the zoning permit application form.

The application specifically requests the addition of a new residential lunit. **Affirmative finding.**

C. Residential Occupancy Limits.

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

Not more than four unrelated adults may occupy any single residential unit. **Affirmative finding as conditioned.**

5. Uses

A. Exception for Existing Neighborhood Commercial Uses.

Not applicable.

7. Residential Development Bonuses.

No residential development bonuses are sought. Not applicable.

Article 5: Citywide General Regulations

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above. **Affirmative finding with IZ bonus approved under ZP20-0717CA/MA.**

Section 5.2.4 Buildable Area Calculation

Not applicable in RH.

Section 5.2.5 Setbacks

No changes proposed to front, side or rear yard setbacks. **Affirmative finding.**

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above.

Section 5.2.7. Density and Intensity of Development Calculations

See Table 4.4.5-2, above. This meets the limitation for intensity of use including IZ. **Affirmative finding.**

Part 3: Non-Conformities**Section 5.3.5 Nonconforming Structures**

Not applicable for this application.

Sec. 5.4.8 Historic Buildings and Sites

See standards and conditions issued under ZP20-0717CA/MA.

Section 5.5.1 Nuisance Regulations

With adequate tenant oversight, nothing in the proposal appears to constitute an identified nuisance under this criterion. Lighting, must meet the standards of Section 5.5.2, below.

Affirmative finding as conditioned.

Section 5.5.2 Outdoor Lighting

Lighting is proposed at exterior entrances. Lighting as approved under the original submission and the revised photometric submitted March 24, 2021 remains in effect. **Affirmative finding as conditioned.**

Section 5.5.3 Stormwater and Erosion Control

A written approval of the Erosion Prevention and Sediment Control Plan and Stormwater Plan was provided September 24, 2020. Compliance post construction of those approved plans remains a condition prior to issuance of any Certificate of Occupancy. **Affirmative finding as conditioned.**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No land division or boundary line adjustments are proposed. As a Planned Unit Development (PUD), the development area was under Article 11 in the original PUD review.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features

Plan A2 confirms the planting schedule, adjusted for the site revisions. **Affirmative finding.**

(b) Topographical alterations

See original approval.

(c) Protection of important public views

There are no protected important public views from or through the property. **Affirmative finding.**

(d) Protection of important cultural resources

See original approval.

(e) Supporting the use of alternative energy

See original approval.

(f) Brownfield sites

The properties are not listed on the Vermont DEC Hazardous Waste Site. Not applicable.

(g) Provide for nature's events

See original approval.

(h) Building location and orientation

The building location and orientation are not proposed to be altered. The new unit will be constructed under originally permitted building mass, and unlikely to be viewed from the public way. **Affirmative finding.**

(i) Vehicular access

See original approval.

(j) Pedestrian access

No change.

(k) Accessibility for the handicapped

The proposed new unit is identified as *adaptable* for accessibility standards. One ADA parking space is identified on the south of the collective development area. **Affirmative finding as conditioned.**

(l) Parking and circulation

Plan A2 provides 24 parking spaces on the collective parcels, one less than previously approved. 273 Pearl Street will retain its 6 existing permitted parking spaces (dental office/1 residential unit), 11, 15 and 21 Hungerford (now known as *Hungerford Commons*, with 22 units) no longer have minimum parking standards per Zoning Amendment 22-07, and may share the remaining 18 parking spaces.

The original PUD approved 25 parking spaces, and a 17 space parking waiver.

Address	Use	Parking requirement	Parking provided
273 Pearl Street	Dental office	0 (MMMU)	6 spaces
273 Pearl	1 residential unit	0 (MMMU)	
11 Hungerford	5 residential units	0	18 spaces
15 Hungerford	15 + 1 = 16	0	
21 Hungerford	1 residential unit	0	
Total	23 units	0	24 spaces.

A Parking management Plan had previously been adopted, weighing largely on tenants without cars, advantageous location near the downtown, and shared parking by critical use periods. The plan further hinges on specific tenant selection practices and required tenant education. Both of these tools rely on the methods and practices of current owners; their continued success largely reliant under practices of ownership. The management plan still has value for this application, and should remain as previously adopted.

Finally, the applicant/owners include up-front monthly charges for parking on-site to discourage vehicular ownership. Parking is permitted on-site by permit and assigned space only, with towing enforced.

Owners will continue to provide information to tenants about ridesharing programs and maintain a group membership with Car Share Vermont, offering to tenants free of charge. GMT bus passes are provided to tenants on a first-come basis. Bicycle parking will now be located in individual units, rather than the bike storage space in the basement. The DRB previously accepted the Bike Nook inclusion for tenants. Also, grocery trollies will be made available to tenants.

Article 8 defines the requirement to meet the parking demand of new development effectively. The recent zoning amendment 22-07 removes parking minimums for all uses. The addition of one new unit does not spur a Transportation Demand Management plan. See Article 8, below.

The applicant will be required to provide one new bicycle parking space for the new residential unit. See Article 8, below. **Affirmative finding as conditioned.**

(m) Landscaping, fences and retaining walls

With the revision of the parking plan, a slight modification to the site plan was included. Landscaping shall be installed as previously permitted.

Affirmative finding as conditioned.

(n) Public plazas and open space

There are no changes relative to open space; see earlier site plan approval. **Affirmative finding.**

(o) Outdoor lighting

Conditions of the original PUD included a condition that a revised photometric be provided. This condition was met March 24, 2021, and remains in effect. If any other lighting is proposed that might impact that photometric, plans shall be submitted for staff review and approval.

Affirmative finding as conditioned.

(p) Integrate infrastructure into the design

See original approval.

Part 3, Architectural Design Standards

Section 6.3.2 Review Standards

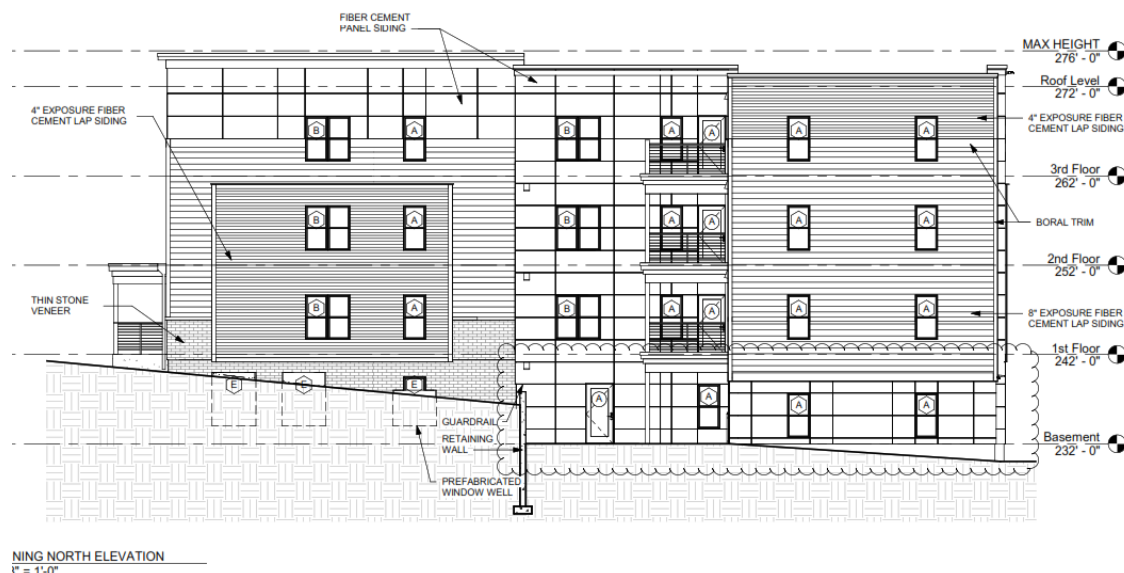
(a) Relate development to its environment:

1. Massing, Height and Scale:

The new unit is tucked under the building mass on the north end of the building. There is no change to the massing, height or scale of the multi-unit building. **Affirmative finding.**

2. Roofs and Rooflines.

Not applicable.



3. Building Openings

New windows and doors are introduced on the north and west elevations, continuing a pattern established by upper floors. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

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

This was addressed in the earlier PUD review.

(c) Protection of Important Public Views:

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

(d) Provide an active and inviting street edge:

The new unit is in the back (north, west elevations) and not viewable from the public way. Not applicable.

(e) Quality of materials:

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

There are no substantive changes to material from the original approval.

(f) Reduce energy utilization:

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

(g) Make advertising features complementary to the site:

No signage is proposed. Any signs will require a separate sign permit, consistent with the regulations of Article 7 and compliant to the residential zoning district standards. **Affirmative finding as conditioned.**

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p.)

(i) Make spaces secure and safe:

All applicable building and life safety code as defined by the building inspector and fire marshal will be required. Building entrances need to be adequately illuminated (but not to exceed 5 fc.) Adequate lighting at building entrances will support resident safety. See lighting standards of Section 5.5.2 and 6.2.2. (o), above. **Affirmative finding as conditioned.**

Article 8: Parking

Section 8.1.8 Minimum Off-Street Parking Requirements

Zoning Amendment 22-07 removed minimum parking standards across the city. The addition of one new unit does not spur the requirement for a Transportation Demand Management (TDM) plan. The overall PUD will now offer 24 parking spaces, one of them marked for handicap accessibility. **Affirmative finding.**

Section 8.1.15 Waivers from Parking Requirements / Parking Management Plans

A Parking management Plan has been approved, anticipating in great part tenants without cars, the proximity of downtown and local institutions, and shared parking by critical use periods. The plan further hinges on specific tenant selection practices and required tenant education.

The applicant/owners include up-front monthly charges for parking on-site to discourage vehicular ownership. Parking is permitted on-site by permit and assigned space only, with towing enforced. As proposed, there are 24 parking spaces to be shared by 23 residential units and a dental office.

This project continues under the earlier approval: Owners will provide information to tenants about ridesharing programs and maintain a group membership with Car Share Vermont, offering to tenants free of charge. GMT bus passes will be provided to tenants on a first-come basis. The applicant has assured that long term bicycle parking will be provided within the residential units. Continuing with the earlier approval, grocery trollies will be made available to tenants.

Affirmative finding as conditioned.

Section 8.1.16

(b) 1. The addition of one new residential unit does not cross the threshold for requiring a TDM. Not applicable.

Section 8.2.5 Bicycle Parking Requirements

Table 8.2.5-1 defines the bicycle parking requirement as 1 per 2 bedrooms for long term storage, and 1 per 10 units for short term. In consideration of the new 1 unit 1 additional Long Term bicycle parking space is required. Bike parking has been proposed within individual units, and along the Hungerford Terrace street entrance. The applicant has previously provided a model product for interior bike storage (Bike Nook) that will require installation sufficient to accommodate the required Long Term bike parking spaces.

Affirmative finding as conditioned.

Article 11: Planned Unit Development

Section 11.1.3 General Requirements and Applicability *Any development involving multiple lots, tracts or parcels of land to be developed as a single entity, or seeking to place multiple structures and/or uses on a single lot where not otherwise permitted, may be permitted as a PUD subject to the provisions of this Article.*

A Planned Unit Development may be permitted subject to minimum project size as follows in the following districts:

Residential High Density – no minimum project size.

This application affects one building within the four-parcel PUD. Density and Lot Coverage remain compliant. **Affirmative finding.**

II. Conditions of Approval

1. Where not altered herein, the original conditions of approval relative to MA/CU under 20-0717CA/MA, 20-0718CA, 20-0719CA, 20-0720CA and ZP21-816 remain in effect.
2. Impact Fees shall be paid based on the gross new area, and must be paid prior to issuance of a zoning permit; or, if a building permit is required, within 30 days of issuance of a building permit.
As calculated based upon submitted gross new area, impact fees for the additional unit are estimated to be:

SF of Project 885

Department	<u>Residential</u>	
	Rate	Fee
Traffic	0.224	198.24
Fire	0.253	223.91
Police	0.051	45.14
Parks	0.848	750.48
Library	0.525	464.63
Schools	1.095	969.08
Total	2.996	\$ 2,651.48

Said fees **may be waived in whole or in part** based on the number of inclusionary housing units. Any waiver shall be substantiated by the Housing Trust Fund Manager and formalized with a letter of compliance from that office.

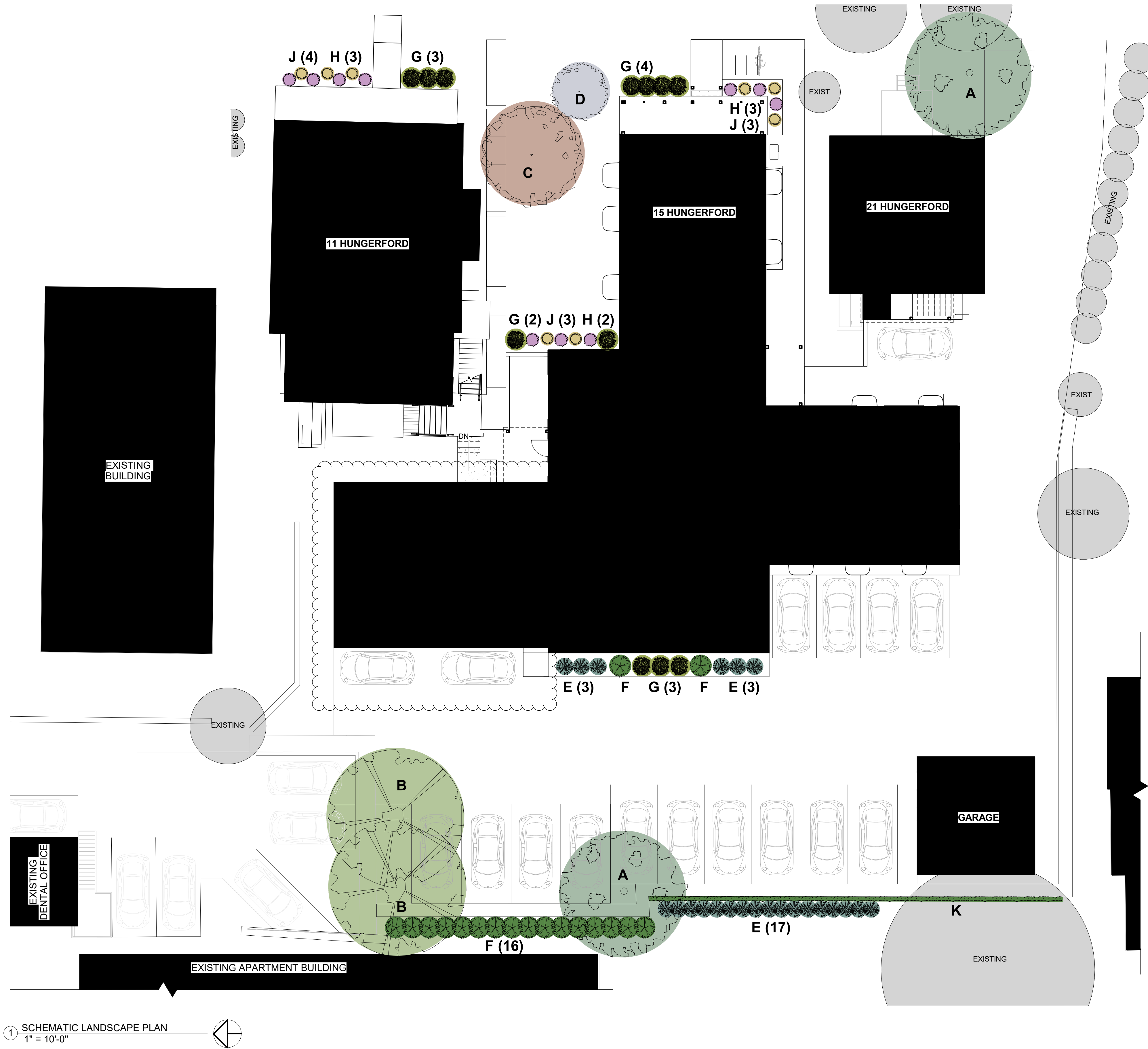
3. Per Section 2.7.8, all expired zoning permits issued after July 1989 for any of the involved parcels (273 Pearl St., 11, 15 or 21 Hungerford Terrace) shall be closed

out and Certificates of Occupancy issued **prior to issuance of any FCO** for this permit.²

4. **Prior to release of the zoning permit**, a *revised* letter of water/sewer capacity shall be provided, reflecting the increase in the number of residential units.(I new unit)
5. Residential occupancy limits apply. Occupancy of each residential unit is limited to a Family as defined in Article 13. Not more than four unrelated adults may occupy any unit.
6. Hours of construction are limited to M-F 7:00 am to 5:30 pm, with Saturday hours restricted to interior work. No work shall occur on Sundays.
7. For the 1new unit (3 bedrooms), **1 long term bike parking space** is required. The product (Bike Nook, or similar) is hereby accepted toward meeting the Long Term bicycle parking requirement.
8. If any other lighting is proposed that might alter the previously approved photometric, plans shall be submitted for staff review and approval.
9. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
10. Any signs will require a separate sign permit.
11. 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.

² ZA 17-03, Section 2.7.8: *The administrative officer is also authorized to deny all zoning permits for any property with an expired zoning permit without a final certificate of occupancy. Instead of withholding or denying a zoning permit, the administrative officer may grant such permit subject to the condition that the uncorrected zoning violation is corrected or the expired zoning permit is closed out with a final certificate of occupancy. Such action(s) shall take place before the issuance of a final certificate of occupancy on the new permit.*

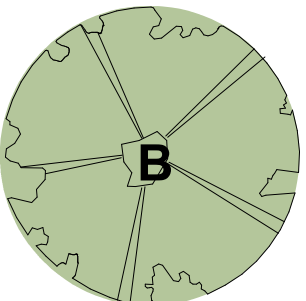
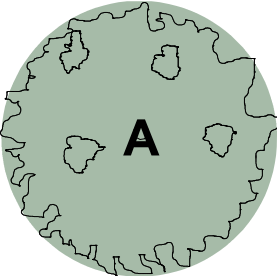


PROPOSED TREES AND PLANTINGS					HARDINESS ZONE 5a
MINIMUM SHADE TREES REQ'D = 1 TREE PER 5 PARKING SPACES: 25 SPACES/5 = 5 TREES REQUIRED					
8 SHADE TREES PROVIDED: 4 EXISTING, 4 PROPOSED					
	PROPOSED QUANTITY	MIN. SIZE (CALIPER)	MATURE HEIGHT	MATURE CANOPY Ø	PLANTING AREA REQ'D*
SHADE TREES					
A 'FRONTIER' ELM (ULMUS X FRONTIER)	2	MIN. 2.5"	35 FT	25 FT	SMALL
B 'IMPERIAL' HONEY LOCUST (GLEDTISIA TRIACANTHOS VAR INERMIS)	2	MIN. 2.5"	30 FT	35 FT	MEDIUM
ORNAMENTAL TREES / SHRUBS					
C APPLE SERVICEBERRY 'AUTUMN BRILLIANCE' (AMELANCHIER A GRANDIFLORA)	1	N/A	25 FT	25 FT	SMALL
D SHADBLOW SERVICEBERRY 'SPRING GLORY' (AMELANCHIER CANADENSIS SPRIZAM)	1	N/A	12 FT	10 FT	SMALL
E LITTLE BLUESTEM (SCHIZACHYRIUM SCOPARIUM)	23	N/A	24" - 48"	24" - 36"	N/A
F 'EMERALD' WHITE CEDAR (THUJA OCCIDENTALIS SMARAGD)	18	N/A	15 FT	4 FT	SMALL
G BUSH-HONEYSUCKLE (DIERVILLA LONICERA)	11	N/A	24" - 36"	24" - 48"	N/A
H BLUE-STEM GOLDENROD (SOLIDAGO CAESIA)	7	N/A	24"	24"	N/A
J EASTERN PURPLE CONEFLOWER (ECHINACEA PURPUREA)	10	N/A	36"	24"	N/A
K BOSTON IVY (PARTHENOCISSUS TRICUSPIDATA)	WALL COVER	N/A	N/A	N/A	N/A

*REQUIRED PLANTING AREA
SMALL = MIN. 4'x4'
MEDIUM = WIDER THAN 6'

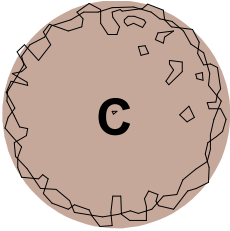
Native species were chosen wherever possible. Deviations were due to size restrictions, or other desirable characteristics. Trees were selected using the *Vermont Tree Selection Guide* published by the Vermont Department of Forests, Parks & Recreation. Shrubs and perennials were selected from a list of native species published by Audubon Vermont, as well as an article published by UVM Extension Department of Plant and Soil Science, *Low Native Shrubs and Groundcovers*.

SHADE TREES



'FRONTIER' ELM 'IMPERIAL' HONEY LOCUST

ORNAMENTAL TREES / SHRUBS



APPLE SERVICEBERRY 'AUTUMN BRILLIANCE' SHADBLOW SERVICEBERRY 'SPRING GLORY' LITTLE BLUESTEM 'EMERALD' WHITE CEDAR



BUSH-HONEYSUCKLE 'BLUE-STEM' GOLDENROD PURPLE CONEFLOWER BOSTON IVY

HUNGERFORD COMMONS

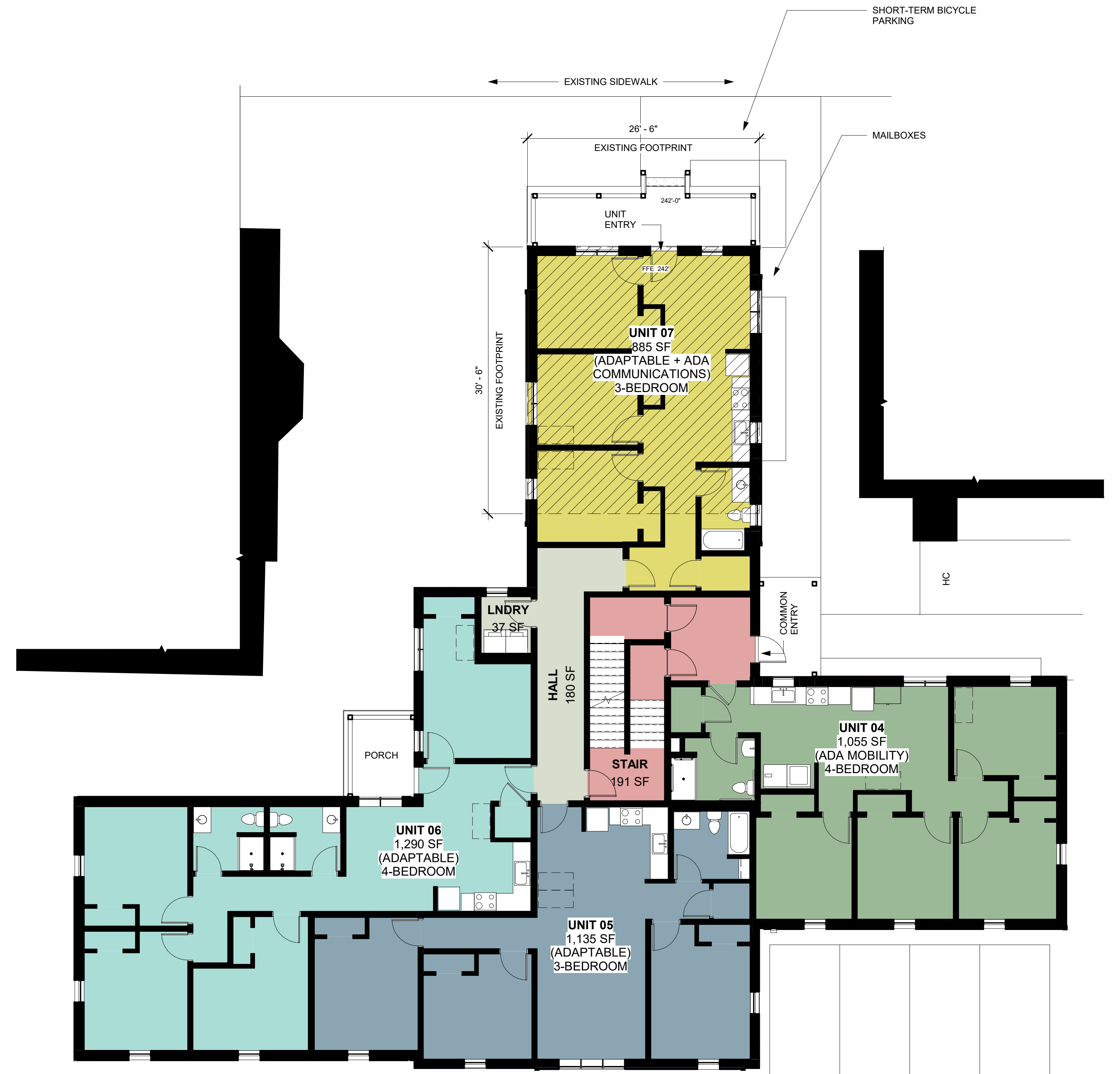
A3

SCHEMATIC LANDSCAPE PLAN

12/05/22



① ZONING BASEMENT PLAN
1/8" = 1'-0"



② ZONING FIRST FLOOR PLAN
1/8" = 1'-0"

HUNGERFORD COMMONS

A5

NEW BUILDING PLANS

12/05/22



① ZONING SECOND FLOOR PLAN
1/8" = 1'-0"



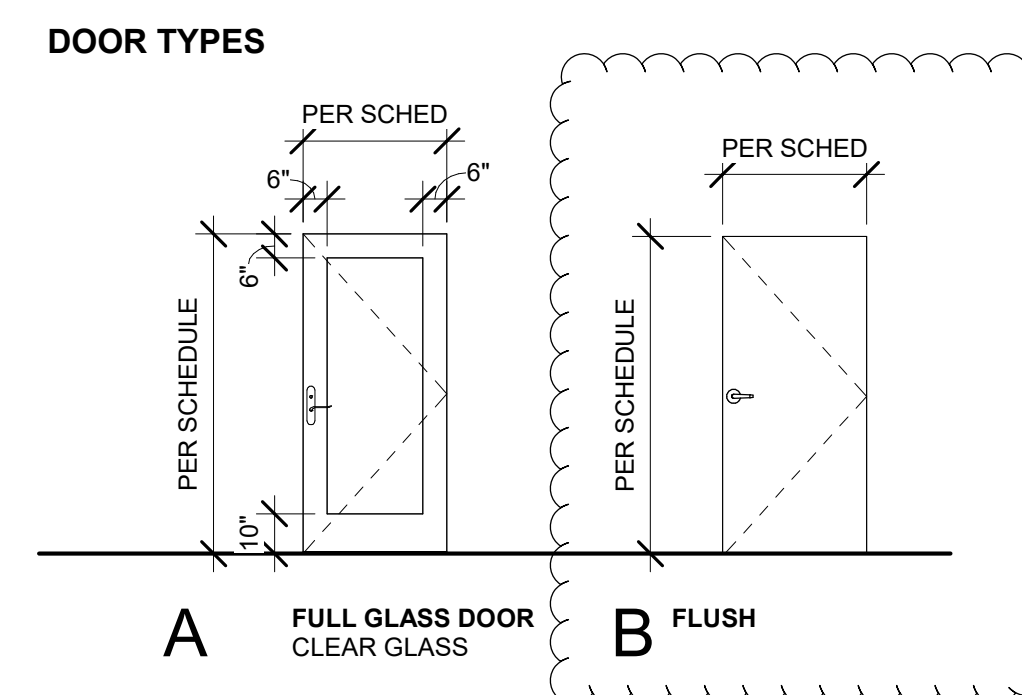
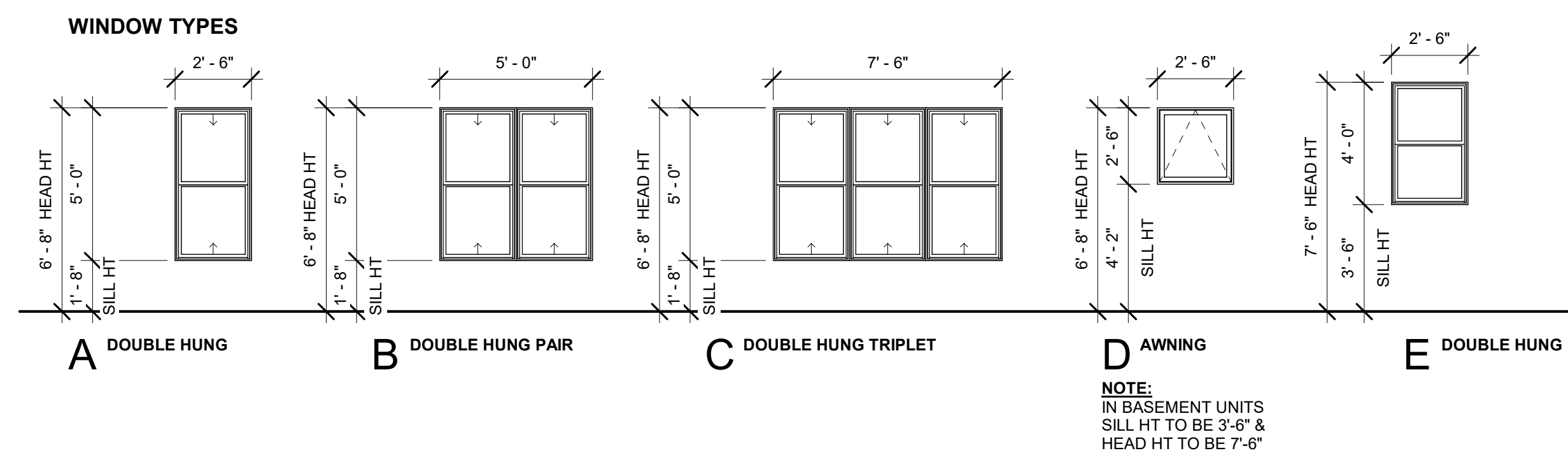
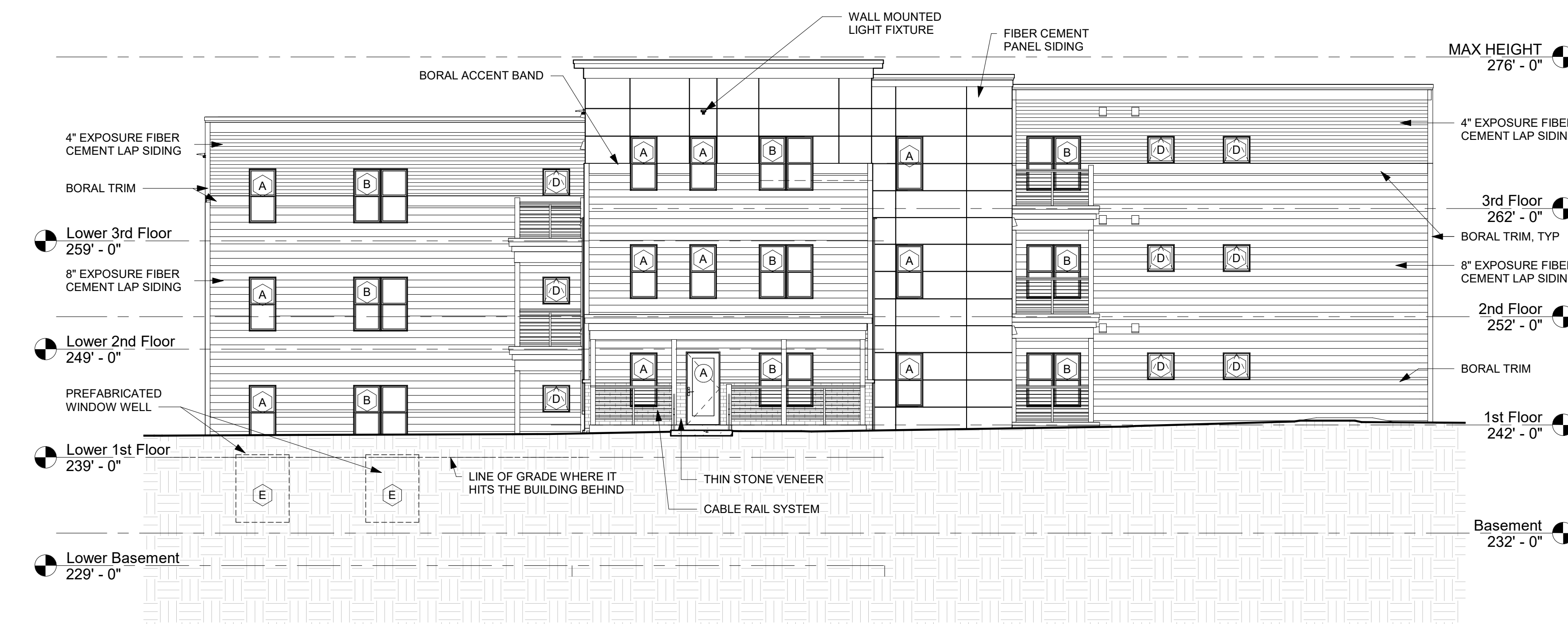
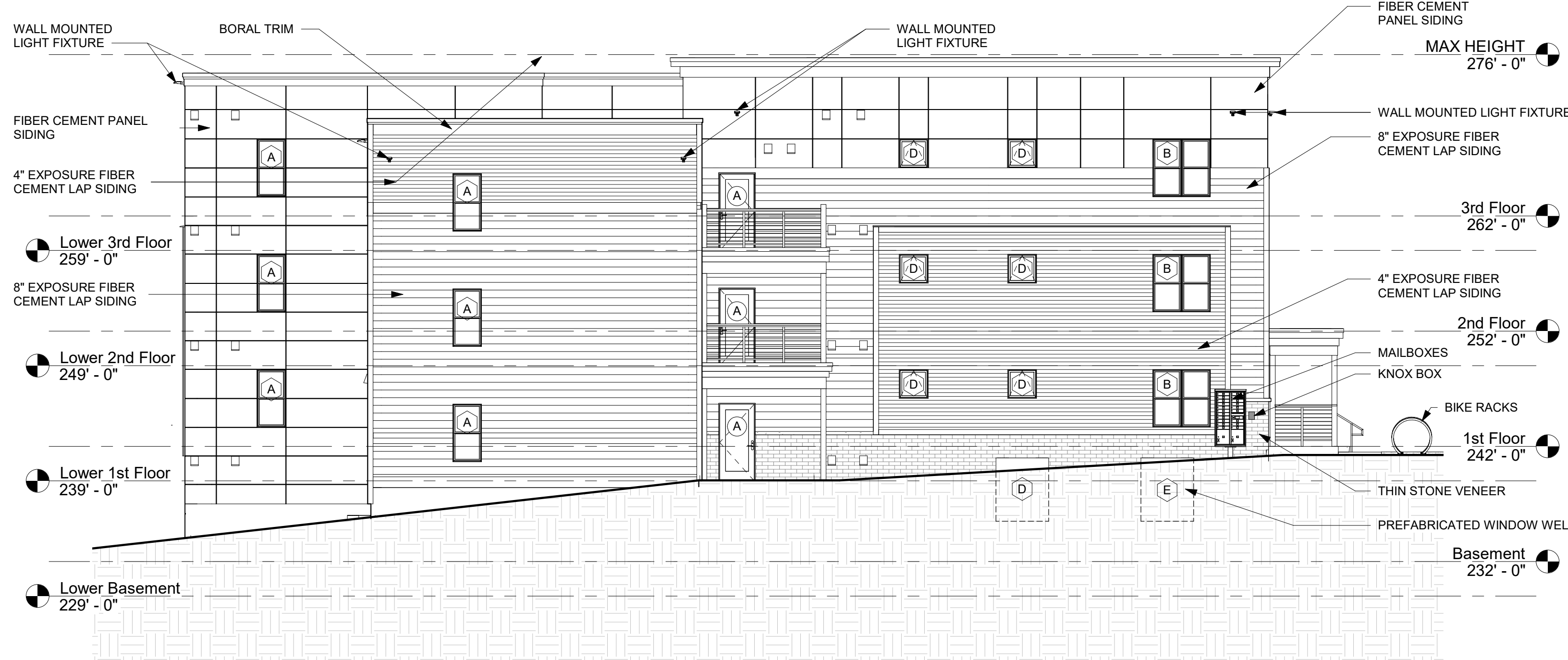
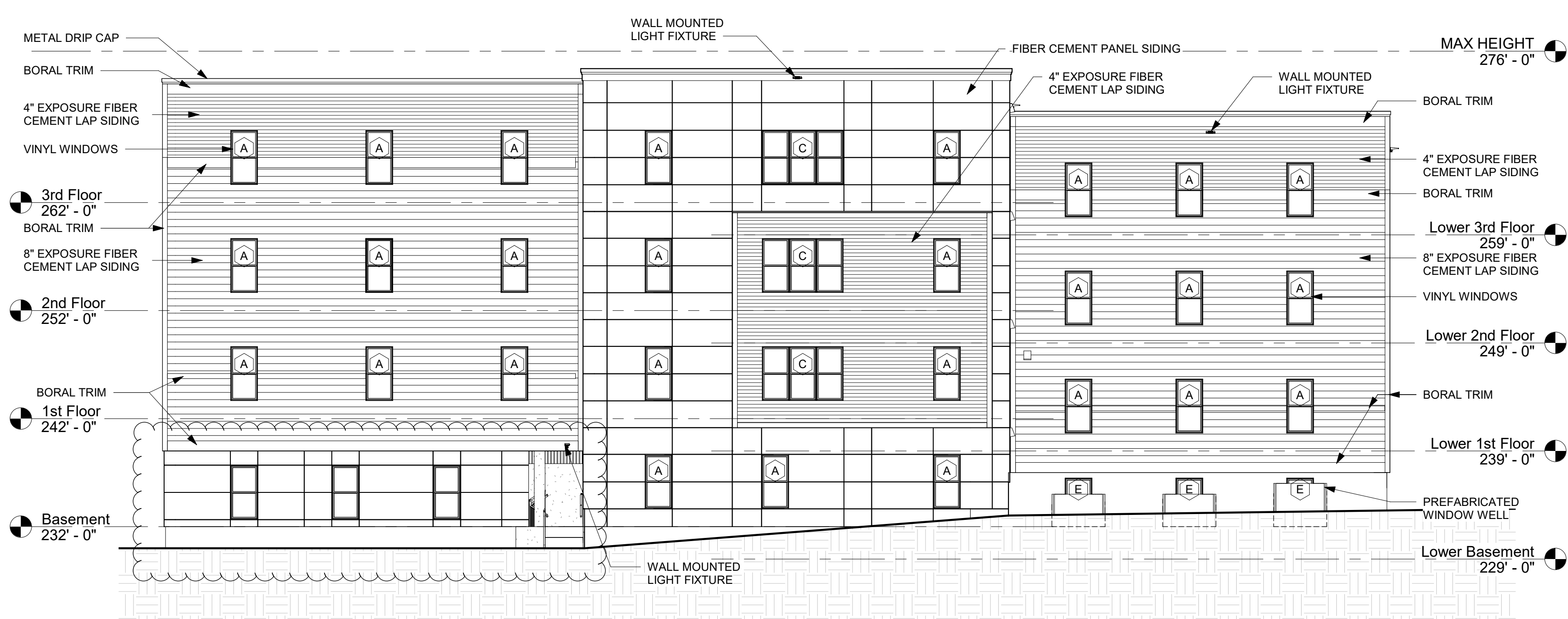
② ZONING THIRD FLOOR PLAN
1/8" = 1'-0"

HUNGERFORD COMMONS

A6

NEW BUILDING PLANS

12/05/22



HUNGERFORD COMMONS

A7

EXTERIOR ELEVATIONS

12/05/22



① EAST ELEVATION RENDERED
3/16" = 1'-0"



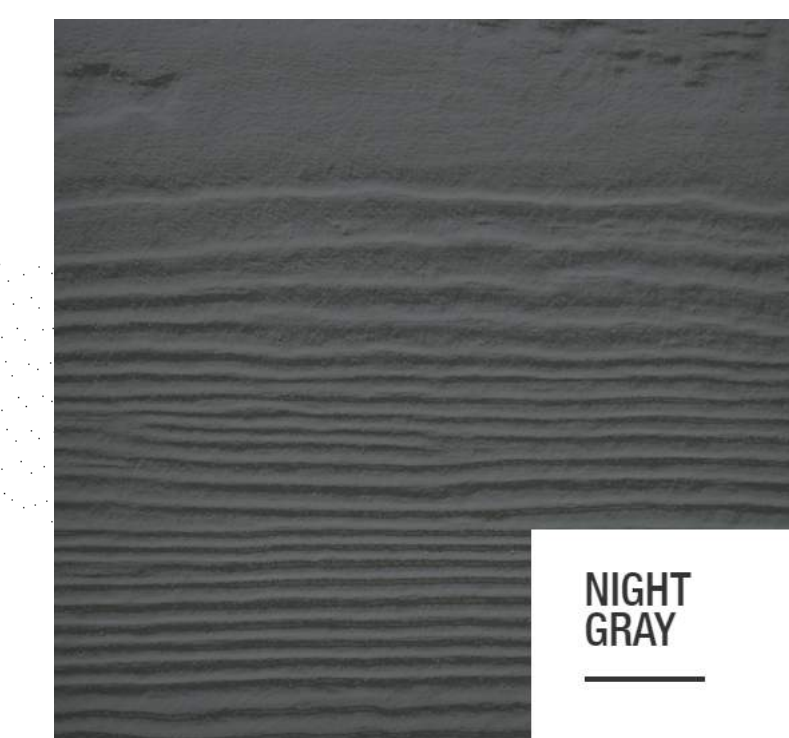
④ SOUTH ELEVATION RENDERED
3/16" = 1'-0"



PEARL
GRAY



COUNTRYLANE
RED



NIGHT
GRAY

HUNGERFORD COMMONS

A8

RENDERED ELEVATIONS

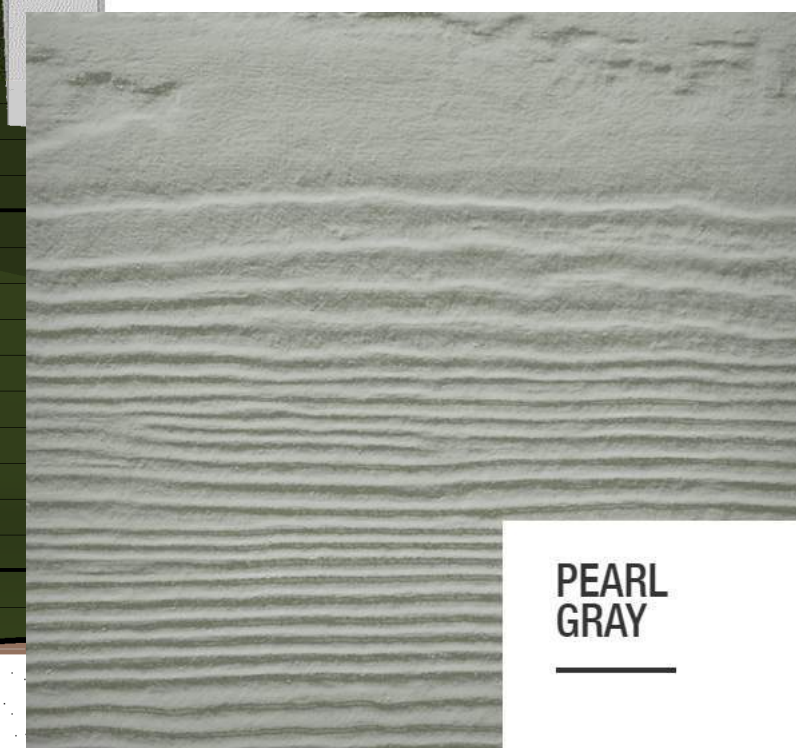
01/24/22



① WEST ELEVATION RENDERED
3/16" = 1'-0"



② NORTH ELEVATION RENDERED
3/16" = 1'-0"



PEARL
GRAY



COUNTRYLANE
RED



NIGHT
GRAY

HUNGERFORD COMMONS

A9

RENDERED ELEVATIONS

01/24/22

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
Garret King, Associate Planner
Joseph Cava, Permit Technician
Ted Miles, Code Compliance Officer
vacant, DPI Administrator*



TO: Development Review Board
FROM: Scott Gustin
DATE: February 7, 2023
RE: ZP-23-2; 3119 North Avenue

=====

This application has been withdrawn by the applicant. Reapplication in the spring is anticipated.

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

AJ LaRosa
Caitlin Halpert
Geoff Hand
Brooks McArthur
Brad Rabinowitz
Leo Sprinzen
Chase Taylor
Sean McKenzie, (Alternate)
Emily O'Hara (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, February 7, 2023, 5:00 PM

AGENDA

In Person (at 645 Pine Street) Meeting

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

1. **ZPS-22-52; 328 North Avenue (RL, Ward 7N) Nova Enterprises, LC / Joe Realty, LC / David Simendinger**

Replacement of existing nonconforming freestanding sign with new nonconforming freestanding sign. (Project Manager, Scott Gustin)

Approve

2. **ZP-22-625; 72 Temple Street (RL, Ward 7N) David Driscoll / Habitat for Humanity / David Mullin**

Tree clearing to inform siting of new duplex. (Project Manager, Mary O'Neil)

Approve

V. Public Hearing

1. **ZAP-22-9; 94 Glen Road (RL, Ward 6S) Joel FitzGerald / Barbara & Stephen George**
Appeal of zoning approval (ZP-22-508) to install new shed, expand driveway, and establish an in-home office. (Project Manager, Scott Gustin)

Deny

VI. Certificate of Appropriateness

1. **ZP-23-2; 3119 North Avenue (RL-W, Ward 7N) Marci McGowan / Joseph Rowell**
Proposed construction of seawall along western side of yard. (Project Manager, Scott Gustin)

Application Withdrawn

2. **ZP-22-632; 11 Hungerford Terrace (RH, Ward 8E) 18138 Parking, LLC / Bruce Baker**
Add additional unit with two parking spaces. (Project Manager, Mary O'Neil)

Approve

VII. Adjournment

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).

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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.

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

AJ LaRosa
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Sean McKenzie, (Alternate)
Emily O'Hara (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, February 7, 2023, 5:00 PM

MINUTES

In Person (at 645 Pine Street) Meeting

Board Members Present: All members were in person. AJ LaRosa, Caitlin Halpert, Geoff Hand, Brooks McArthur, Leo Sprinzen, and Chase Taylor

Board Members Absent: Sean McKenzie, Emily O'Hara, and Brad Rabinowitz

Staff Members Present: Scott Gustin, Mary O'Neil, Garret King, and Joseph Cava

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

1. ZPS-22-52; 328 North Avenue (RL, Ward 7N) Nova Enterprises, LC / Joe Realty, LC / David Simendinger

Replacement of existing nonconforming freestanding sign with new nonconforming freestanding sign. (Project Manager, Scott Gustin)

David Simendinger, Kurt Simendinger: Sworn in.

Caitlin Halpert: This item is recommended for consent approval. Have you had time to review the staff report?

David Simendinger: Yes, but I am confused about open permits spanning back to 1998.

Scott Gustin: It is not uncommon to have unresolved permit records.

Caitlin Halpert: Are there any questions or comments from the public? Hearing none, would someone like to make a motion?

Brooks McArthur: Motioned to approve and adopt staff recommendations, Caitlin Halpert 2nd. Vote 5-0. Motion carries.

2. ZP-22-625; 72 Temple Street (RL, Ward 7N) David Driscoll / Habitat for Humanity / David Mullin

Tree clearing to inform siting of new duplex. (Project Manager, Mary O'Neil)

David Mullin, John Summa, Barry Deliduka: Sworn in.

Caitlin Halpert: This item is recommended for consent approval. Have you had time to review the staff report?

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David Mullin: Yes.

AJ LaRosa: Are there any comments or questions from the public?

John Summa: We live in the duplex on the corner of Temple Street and Rockland Street which sits below this project at the base of the downward slope. Looking at the diagram presented in the application materials, we have concerns about the project and its impacts on erosion and runoff. Is this just an initial clearing to explore the area to know what's possible?

AJ LaRosa: To clarify, are you concerned about the erosion and runoff from future development or just the tree clearing?

John Summa: The erosion and runoff caused by the tree clearing.

Leo Sprinzen: Any clearing proposed now is for siting only. No new development is proposed under this application.

David Mullin: The clearing is to determine where the ledge sits which will determine where development can occur.

AJ LaRosa: Are there additional comments or questions concerning the tree clearing?

John Summa: When will the tree clearing begin? The stability of the steep grade is the concern for erosion and runoff.

AJ LaRosa: This is something that we will take into consideration during deliberations. Would the applicant like to respond?

David Mullin: We spoke with neighbors to be respectful and take concerns into consideration.

Mary O'Neil: The Stormwater Program Coordinator, James Sherrard, reviewed the proposal, and did not require the submission of an Erosion Protection and Sediment Control (EPSC) plan until the application for development is submitted.

AJ LaRosa: Would anyone else like to speak on this application?

Barry Deliduka: I've lived here for over 40 years, and I don't disagree with what has been presented this evening. I recommend cutting all the trees, especially the Aspen or Poplar, to restore my views of Mount Mansfield.

AJ LaRosa: Hearing no additional comment, I move we close the hearing on this item.

Brooks McArthur: Motioned to approve and adopt staff recommendations, Caitlin Halpert 2nd. Vote 6-0. Motion carries.

V. Public Hearing

1. ZAP-22-9; 94 Glen Road (RL, Ward 6S) Joel FitzGerald / Barbara & Stephen George

Appeal of zoning approval (ZP-22-508) to install new shed, expand driveway, and establish an in-home office. (Project Manager, Scott Gustin)

Joel Fitzgerald, Barbara George, Liz George: Sworn in.

Geoff Hand: I am recused on this item.

AJ LaRosa: We have the staff report and appeal documents, but can the appellant please expand on why you're appealing?

Barbara George: The business nature of this home occupation is a violation of the local ordinance including large trucks on a residential road and hazardous chemicals in conflict with Section 5.4.6 Home Occupations of the zoning ordinance.

AJ LaRosa: You've mention stuff being handled and stored on site, can you expand?

Liz George: The pictorial evidence shows large construction vehicles including a dump truck, excavator, and super shock pool chemicals.

Caitlin Halpert: Were any of these pictures taken after the filing of the appeal on December 8, 2022?

Liz George: Yes.

Barbara George: There has been excessive vehicle storage on the property including the dump truck and excavator.

Brooks McArthur: When was the last occurrence of something being stored on the property?

Barbara George: Just today.

AJ LaRosa: Were these vehicles empty or full since the last witnessed occurrence?

Barbara George: I can't speak to this, but Mr. Fitzgerald can.

AJ LaRosa: Do you recall any employees on the property?

Barbara George: Only the deliveries which occur on Chestnut Terrace.

Leo Sprinzen: How often do you see these deliveries?

Barbara George: I work part time, but there were at least two deliveries this summer.

AJ LaRosa: Are there any additional comments or questions from the appellants?

Barbara George: I would only like to note the disregard for the super shock pool chemical boxes that are discarded on the side of the road.

Liz George: This is a safety and environmental hazard.

AJ LaRosa: Having heard the testimony from the appellants, I would like to hear from the applicant.

Joel Fitzgerald: I applied for the permit in collaboration with City staff and a City Counselor to ensure compliance with the existing regulations. I cannot be held responsible for delivery drivers, when neighbors have larger pieces of furniture delivered under the same methods. The City does allow me park my trailer and other vehicles on the street. My equipment is not stored on site with the exception of momentary periods between deliveries and trips to offsite storage. I have done everything I've been asked to by the City.

Leo Sprinzen: You said you have storage offsite?

Joel Fitzgerald: Yes, my equipment is registered, insured, and have been respectful to the surrounding neighbors who also utilize my dump truck.

Leo Sprinzen: Do you have business related chemicals stored on site?

Joel Fitzgerald: No, the chemicals have always been delivered to the offsite storage in a different municipality.

Leo Sprinzen: The pictures show evidence of chemicals on site.

Joel Fitzgerald: I have worked with Mr. Miles to ensure compliance. Mr. Miles recommended specifying a home office for the relief of my neighbors.

AJ LaRosa: Where do you store the trailer, when not in use?

Joel Fitzgerald: The trailer is attached to the truck which is in compliance with the City.

Leo Sprinzen: Do I understand it correctly that the equipment pictured is for the driveway project?

Joel Fitzgerald: Yes.

Leo Sprinzen: Would the equipment be present less often after the driveway project?

Joel Fitzgerald: The equipment is there for an ongoing project with a three year deadline. I will attempt to resurface the driveway in the spring.

Leo Sprinzen: There is PVC present in the pictures, is this for the driveway project too?

Joel Fitzgerald: I am a contractor, and these are materials that I keep and reuse between projects.

Leo Sprinzen: I am seeing pictures under supplemental information, can you describe what we're seeing?

Joel Fitzgerald: The chemical boxes you're seeing I use for the water up at my camp.

AJ Larosa: Does the City have anything to add?

Scott Gustin: This started as a complaint in May 2022 with yard parking, equipment onsite, and no home occupation permit. The owner applied for a permit to bring the property into compliance, and changes were made to address the problems with the prior conditions. We have not seen any evidence to suggest that the violations have reoccurred.

AJ LaRosa: Hearing no additional feedback, we'll close the hearing on this item.

AJ LaRosa: Motioned to deny the appeal and uphold administrative approval, Caitlin Halpert 2nd. Vote 5-0. Motion carries.

VI. Certificate of Appropriateness

- 1. ZP-23-2; 3119 North Avenue (RL-W, Ward 7N) Marci McGowan / Joseph Rowell**
Proposed construction of seawall along western side of yard. (Project Manager, Scott Gustin)

Application Withdrawn.

- 2. ZP-22-632; 11 Hungerford Terrace (RH, Ward 8E) 18138 Parking, LLC / Bruce Baker**
Add additional unit with two parking spaces. (Project Manager, Mary O'Neil)

Bruce Baker: Sworn in.

AJ LaRosa: This was marked as a certificate of appropriateness with consent approval. Can you expand on this?

Bruce Baker: The planner reviewing this application recommended making the information clearer.

Mary O'Neil: After alterations occurred to make the information clearer, I do recommend for consent.

AJ LaRosa: Is there anyone who objects to this being a consent item? Hearing none, does the applicant wish to add anything else?

Bruce Baker: One three bedroom unit is being added for a total of 16 units which impacts three of the building's primary façades. We lost one parking space, but gained two parking spaces.

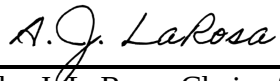
AJ LaRosa: Hearing no additional feedback, I move we close the public hearing on this item.

AJ LaRosa: Motioned to approve and adopt staff recommendations, Brooks McArthur 2nd. Vote 6-0. Motion carries.

Scott Gustin: We have a meeting space conflict with the 7/5/23 DRB meeting. We can conduct a remote meeting or schedule another location to meet. Board members chose to hold a remote meeting on July 5.

VII. Adjournment

Hearing closed at 5:55 PM.



Alexander J. LaRosa, Chair of Development Review Board

3/10/23

Date



Joseph H. Cava, Permitting & Inspections Permit Technician

2-14-23

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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