

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/pz/DRB
Telephone: (802) 865-7188
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Austin Hart
Brad Rabinowitz
Jonathan Stevens
Alexandra Zipparo
Israel Smith
AJ LaRosa
Geoff Hand
Wayne Senville, (Alternate)
Jim Drummond, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday January 19, 2016, 5:00 PM Contois Auditorium, City Hall, 149 Church Street, Burlington, VT Minutes

Board Members Present: Austin Hart, Brad Rabinowitz, Israel Smith, Ali Zipparo, Geoff Hand, A.J.LaRosa

Board Members Absent: Wayne Senville, Jim Drummond, Jonathan Stevens

Staff Members Present: Scott Gustin, Mary O'Neil, Anita Wade

I. **Agenda**

II. **Communications**

III. **Minutes**

IV. **Public Hearing**

1. **16-0517CA; 122 Summit Street (RL, Ward 6S) Robert E. Linder**

Appeal to replace one window on third floor. (Project Manager, Mary O'Neil)

A.Hart – The City will begin with an explanation of their actions.

The applicant and interested parties are sworn in.

M.ONeil - property owner and architectural firm applied for a COA for a large renovation. The DAB approved the project renovations, except for the replacement of a third floor window. The permit was approved administratively minus the third floor window. The applicant specifically made a permit for the 3rd floor replacement window, which was denied administratively and then sent to the DRB.

R.Ward and P.King architects for the applicant proceeded to present their intentions before the Board. Applicant and architect believe there is a combination of many styles, mostly Tudor revival and Colonial revival. The third floor is more of a Colonial revival though not a pure style. DAB did allow for the removal of a loop-hole window to be replaced with a three mullied window. Applicants had taken upon themselves to obtain signatures of neighbors who approve the window project. Architect presented drawings to the Board during the meeting, mentioning the three pieces; existing drawings, approved DAB drawings, and the proposed renderings by the architect. In addition, the Board accepted the architects' notes and signatures list, which was given to M,ONeil with the neighbor signature list.

A.Hart – asks for an explanation as to why this design was consistent with architect's rendering.

R.Ward – responded that it mimics details from the original building on the 2nd floor for which the bay window was never built.

A.Hart – are the original drawings available?

M.ONeil – I cannot find a copy of the original drawings.

R.Ward - we do not have the original drawing blueprint.

B.Rabinowitz – with the building in-tact, is the issue is more about how the house was built originally?

M.ONeil – the original application had a number of alterations that the DAB resolved. The DAB specifically address the change in plane pertaining to the 3rd floor window and how it can be extended. The clarity of design makes it eligible for historic.

A.J.LaRosa – the top element on the window, what was the material?

R.Ward – copper.

A.Hart – the public hearing is closed at 5:17pm.

2. 16-0151DT; 2-8 Hickok Place (RM, Ward 2C) Diemer Apartments LLC

Appeal of an adverse determination relative to five and six bedroom usage grandfathered within four living units. *Continued review.* (Project Manager, Scott Gustin)

A.Hart - swears in property owner and interested parties. Board has materials that were submitted months before about what the standard was. This project is not so much about the facts and the evidence, but about the initial issue on what is the appropriate standard to apply and what is the burden of proof for the use.

D.ORourke – you received the memo we prepared. The City's memo sets it out best on the first page the question is whether this is a pre-existing or non-conforming status for five or six unrelated individuals as opposed to the limit of four unrelated individuals according to the CDO. In 2000 residential standards were set and established in the ordinance for 4 unrelated persons. The Menten case pertained to single family detached home, which is the Court even mentioned a different analysis than a boarding house. The Diemers' went back to the 1986 interpretation on the use of property. At that point City was issuing permits for this use. The property has been used consistently as that use. In another memo they said to go back to 1946. We feel we have demonstrated that we should be looking at the 2000 standard for unrelated persons when City adopted the ordinance and worst case 1986. In no terms is it 1946. When Diemers' purchased property in 2003 went through all necessary steps.

A.Hart – asks if applicant wishes to provide supplemental information.

D.ORourke – the only supplementation was the code enforcement letter in 2003, when the applicants bought the property.

J.Diemers – I wanted make sure one of the code inspectors inspected the property prior to purchase. Jeanne said they were not physically in the property, but Mr. Robar from code enforcement was at the property several times.

A.Hart – asked to hear from City staff.

K.Sturtevant – my memo of legal analysis speaks to the trigger date for grandfathering for this use was the 1970 date.

A.Hart – why are we looking at 1970 and not 1986?

K.Sturtevant – I think 1986 is being focused on due to permits. Some of these permits are building permits and not occupancy permits so they do not control under the zoning ordinance. Building is looking at different standards than zoning standards. Because of the Menten case the analysis and the language takes us back to 1970, when the specific language shows up with the definition of family being one or more persons occupying a dwelling unit and living in a single not for profit housekeeping unit that does not include group quarters, sororities, fraternities, convents, and communes.

A.Hart – which was added in 1970?

K.Sturtevant – yes and interpreted by the Menten decision.

A.J.LaRosa – this is not just establishing it was legal but also about the quantity and amount of units?

K.Sturtevant – yes, and continuation of use throughout changes in ordinance. I believe we have a supplemental on the factual issue which are excerpts from directories in Burlington on units and occupants in the City of Burlington for 1970, 1971, and 1972, the present list shows unit and name of occupant. Resources are from the special collections at the UVM library.

A.Hart – please make sure the applicant receives them too.

K.Sturtevant – I did already give one to the applicant.

M.ONeil - from last hearing, staff was trying to determine what resources were available on what number of units and occupancy levels. We discussed the directories available on the number of units and occupancy from Burlington directory resources at the UVM public library. Only looked back to as far as 1970. The directory is a combination of phone book, business, commercial, and yellow pages directory. Defines how information is collected.

Pages were copied pertinent according to Hickok Place from 1970 and then in 1992 it changed to a phone book.

A.Hart - in your opinion what does this tell us that is relevant to the appeal?

M.ONeil - it is not my opinion, this is factual showing fewer units and fewer occupants until occupancy swells in 1980.

B.Rabinowitz - these are apartment numbers that are hard to tell if they are occupied or vacant. What if it was vacant at some point in time, what would this show if it is still the same number of units?

M.ONeil - we are trying to determine two things; how many units there are and how many occupants per unit.

A.Zipparo - questions how on the lists and how to do a determination of the occupancy and units.

K.Sturtevant - this is an application for grandfathering and applicant needs to go back to 1970 to determine if it meets the definition at that time it was legal.

M.ONeil - the character of occupancy changed in the 1980's.

Board members had questions specific to the directories in regard to Hickok Place.

K.Sturtevant - Bill wanted to clarify his testimony.

B.Ward - the way the ordinance was written, code enforcement office was required in 2001 to start collecting information from landlords. Prior owners to the Deimers', reported occupants 6,5,5,5. When the Deimers' purchased the property, record showed they reported the same number of occupants as previous years. Looking at records from 2001 to 2015 data, the records were consistent with what the Deimers' reported. We would not have had data from 1986 to 2000, since data was not collected in the same way prior to 2000.

A.Hart - to clarify, prior to 2001, your records would not show the number of occupants in each unit?

B.Ward - that is correct.

G.Hand - question for Kim: if this unit has been vacant for a year or more would this be considered a discontinuance?

K.Sturtevant - yes. I believe there may be a provision in the ordinance for someone who is actively seeking to rent or sell. Not aware of this situation with the applicant. Generally, yes, if discontinued for a year or more would have to go back to legal occupancy according to the standard. When Ms. Demier requested a physical inspection, this would have been a minimal inspection done by Mr. Robar, as the minimal housing inspector, who inspects for health and safety. Jeanne Francis is the zoning inspector for code compliance.

B.Ward - confirmed this information, saying that Don Robar is a housing inspector and Jeanne Francis is zoning specialist.

D.ORourke - mentioned the 1970 directory and that maybe pertaining to people's phone bill and maybe subscription only had to pay to be in it. Please give this appropriate weight and determination. The question was about an affidavit of the prior owner. My recollection was that he didn't have reason to believe his testimony was not accurate. Not trying to imply he said going back to 1986. We went back to 1970 to count people. Keep in mind the memo said to go back to 1946. At some point we need to exercise common sense. Previously, staff applied permits to the existence of bedrooms and not to the occupancy, but let's use our common sense. Do people get permits for bedrooms to leave them open and unrented? It is probably unlikely. You have the affidavit of the prior owner in your packet and the Board has all the information needed to make a determination. As of 2000, this was grandfathered. In 1986, this was grandfathered. Ask that you make the appropriate determination.

J.Deimer - my recollection about what Mr. Ward had said was that the Board asked Mr. Ward if he would be comfortable saying we were satisfied back to 1986 in providing the information. Last thing I want to add is that I do appreciate the Board's time. This is very important to my husband and myself. We purchased the building with intent to use it as it was used in the past in 1986. We purchased for certain amount of money based on number of units and feel we should be grandfathered to do this. We would be selling based on that use, otherwise we will be at a loss with the purchase and the sale. We are trying to figure out what we need to do. We feel the logical decision is to grandfather this property.

I.Smith - question about the permits issued in 1986.

S.Gustin - it was in the original permit.

D. ORourke - often Boards are concerned about setting precedents, I don't think that is the concern in this situation where it will distinguish itself from anything else.

A.Hart - closed public hearing at 5:49pm.

V. Certificate of Appropriateness

1. 16-0622CA; 351 North Ave (RM-W, Ward 4N) Burlington College

Request change of materials for existing slate roof to standing seam copper on the Orphanage building. (Project Manager, Mary O'Neil)

A.Hart - swears in applicant and interested parties.

E.Farrell - I'm here to ask the Board permission to replace existing slate roof with copper seamed roof. Originally, the intention was to replace the slate roof and salvage slates but since then determined the roof cannot be repaired. Couple of slating company reports said the roof cannot be repaired and that there are a small number of slates salvageable. Section of ordinance speaks to Department of Interior standards applied reasonable and economic feasibility. Mentioned costs to restore the Orphanage building costs. Every effort is being made to restore to the original. It's a challenge with existing brick buildings and historic restorations. Also want to make building energy efficient. It evolves into choices whether to spend the money. With new slate roof expensive to maintain slate, especially since this is high off the ground and pretty risky. We opted for copper because it is recognized as historically appropriate and original by the Department of Interior. Think copper is more attractive. Slide presentation shows examples of other standing seamed copper roofs, Edmunds School, H.O. Wheeler School, corner of College and Hungerford brick building my brother got an award in 1999. We would like to preserve the opportunity for solar panels on the west side and cannot do this with a slate roof. The costs of copper vs slate roof is about half and copper will be just as impressive feature of building. Mentioned roofing costs of copper and slate.

A.Hart - looking at east elevation, the concern was with the skylights, though with new information about the slate understand. Though with the view from North Ave, it is so high that the skylights would not be seen as much.

E.Farrell - no other aspect has changed. Will do copper flashing around the skylights windows.

A.Hart - you gave us costs of new copper versus a slate roof, can you speak to the life of each.

E.Farrell - with slate have annual maintenance and copper is no annual cost. The maintenance was not the driver, it's the initial costs. The DAB recommended it 4 to 1 with one condition, asking we place snow guards on copper roof. There is several decades of use for both materials.

B.Rabinowitz - I basically agree with what Eric is saying, but would it be consistent with the ordinance if someone in the old North end residence put on copper instead of slate?

M.ONeil - practice since 1995 was submission of a slater's report about the quantitative and qualitative features of the roof, the degree of failure and if the roof has reached the end of its serviceable life. The replacement maybe considered and may be the choice of the property owner who may apply for a standing seam or asphalt shingle if demonstrated at the end of its life. No requirement to do this material, but may be based on the reports.

B.Rabinowitz - the same standard?

M.ONeil - the application is for this particular development does not suggest the roof is at the end of its serviceable life. It's for the purposes of this particular development. Testimony at last hearing that there would be a replacement roof.

B.Duncan - at our original application, I was of the impression we said this roof has failed and that it is at the end of its useful life due to long term lack of maintenance after an examination of the 145 year old roof. Not patched or maintained properly. It is clear it has exceeded its useful life. Our intention all along to replace this roof with a copper seamed roof. We had submitted letters pertaining to this.

G.Hand - is this supported by letters?

B.Duncan - cannot find a square footage in the attic that hasn't had water problems.

E.Farrell - we did say that the roof has failed.

A.Zipparo – can you speak to the reflectivity of its useful life? Does it reflect sunlight and color changes?

B.Duncan - it will look like the historic schools with copper seamed roofs. It is a short lived phenomena. Reflectivity shouldn't be an issue. It will look like new penny for a short period of time and will become dark green in 75 years. It takes a long time.

A.Hart - closes public hearing at 6:06pm

VI. Sketch Plan

1. 16-0587SP; 194 and 202 South Champlain Street (RH, Ward 5S) Erik J. Hoekstra

Demolish addition and garage at 194 So Champlain Street, replace with new duplex and garage structure. In association, demolish single family home at 202 So Champlain Street, replace with new single family home. (Project Manager, Mary O'Neil)

Board Members Recused: AJ.LaRosa, G.Hand

A.Hart – mentions a preliminary matter and disclaimer that he is a partner in a partnership as that owns a parking lot at South Champlain St and Maple St in vicinity of proposal. If anyone feels this is inappropriate, please let him know.

E.Hoekstra – not representing Redstone properties; described properties; 202 South Champlain St, a historic, nonconforming lot, shallow parcel has almost no backyard. 194 deep parcel at So Champlain St was once school house number 8 built for City of Burlington in 1850, which had been converted into residential in 1874.

There is a back wood connected structure was constructed in late 1800's and then a garage structure in the rear yard. This block not seen a lot of investment over the years. It is not pragmatic to invest in the 202 house and proposing demolition since there is nothing historically significant. The house is in tough shape with significant cracks in the foundation and a 3" thick concrete buttress which is failing. There are significant code issues. The maximum ceiling height is 6'6", which slopes to 4'3". It is difficult to move around on the 2nd floor due to the low ceilings.

Head height on the stairs is 5'. In addition, the roof is falling apart. I want to replace this house with a new modern single family home adding to the area's historic character.

194 So Champlain is completely rebuilt and historically correct. We mothballed the rear wood structure and the garage, which was a former location of feral cats. The garage is a nonconforming structure and is almost on the rear property line.

194 So Champlain would have a new rear 3 story structure with a connector and side entry porch and a three car garage and above level apartments.

202 So Champlain would become a new single family with a smaller footprint. Requesting a 3 story and setback off street consistent with other buildings on the street. Lot coverage will go from 67% to 62 %. May have to do a boundary line adjustment due to the encroachment of 202 on 194 or else change location of the new structure at 202.

The DAB feedback was supportive of 194 and not entirely supportive at 202. The DAB would like a stronger case for demolishing 202. The ceiling heights did not present as much of a problem for them.

A.Hart - open to this zoning ordinance for demolish historic home unless it serves the public good and public need to lose a historic building. This could be a potential issue.

When you come back to the Board, provide us with additional evidence and options for preserving the garage and same for the single family home. The new home seems modern in form. Indicate how it pays homage to historic district. Staff comments question how it will be treated as a PUD. We will look at this carefully.

B.Rabinowitz – this is a reasonable direction with the addition, but how does it relate to the existing house and where one enters the apartments. The main stairway is across the parking lot and seems unfortunate and you need to walk into parking lot to get the apartment. Suggested applicant address this in going forward.

M.ONeil – factually, 189 and 191 was ordered demolished by the building inspector. The owner had a plan for redevelopment but then withdrew. 194 does not have an approved site plan. With no previous site plan, it is not certain how long the coverage became this way.

This area of RH density is a remnant of urban renewal, which has had some criminal activity and not a lot of investment or redevelopment.

A.Hart – what is the parking per unit?

M.O'Neil - confirms 2 per unit.

B.Rabinowitz - how many units will there be, 4 on 194 and 1 at 202?

E.Hoekstra – wanted to make sure we are going down right road and no major concerns before investment.

T.Liamos - owned his property behind this project site for 20 years with an 8 unit apt house. Feels he will be impacted the most, since the 194 So Champlain garage backs up onto his building and parking lot.

A.Zipparo - do you live there?

T.Liamos - lived there 10 years, but not now. Would like the reason for tearing down garage, which will have an impact on his property. He encourages Eric to rethink tearing down the garage and provide shelter parking and retain brick wall.

A.Hart – is this mostly about aesthetics?

T.Liamos - partly aesthetics. Every year my fence is taken out with Champlain Housing's plow. Mentioned those residences who have lived there some over 40yrs. It is not a rough neighborhood and people do invest. Likes what Eric did to brick building. Would like to work with Eric and keep the wall between the properties.

M.O'Neil - didn't want to imply that there was no investment on street.

A.Hart - sorry only 4 board members present to hear the sketch plan.

Closed public hearing at 6:41pm.

2. 16-0612SP; 453 and 501 Pine Street (ELM, Ward 5S) Derrick D. Davis

Sketch plan of proposed 4-5 story, 100,000 sf commercial building and associated site improvements. (Project Manager, Scott Gustin)

Board Members Recused: AJ.LaRosa, G.Hand, I.Smith

E.Hoekstra and J.Dextradeau spoke on the technical aspects of the two separate parcels with a slide show.

E.Hoekstra - Spoke of the Pine St Superfund Site and EPA designation. 453 Pine St is considered a Brownfield, but deemed not as significantly contaminated as former coal gasification plant at 503 Pine St which held coal tar during its long commercial history. Showed an 1887 depiction of location with stacks of lumber and where barge canal was used for transport of materials.

This property is part of State of Vermont BERA, the Brownfield Economic Revitalization Alliance Project TEAM. Described as the enterprising zone where State, City and property owner are working on a revitalization plan for this property. Property is intended for high density development. The City encouraged property owner and design team to come up with project moving building closer to street scape with building oriented toward Howard St. and Pine St intersection. Parking will be mostly in the rear of property. Ancillary parking will be screened. Contamination of Brownfield may mean more parking at 501 and patio on south side of 453 to provide plenty of parking as requested by residents in the area. Parking will be more plaza atmosphere possibly available for Art hop and other events. Preliminary conceptual drawings shows a building within a building. Th resembles four story mill brick architecture and a five story element that is more modern with a roof deck and siding. having higher threshold issues with height. With a smaller footprint, asking for higher height at 65 feet. Have threshold issues regarding building height and seeking guidance from the DRB.

B.Rabinowitz – asked if this was a Maltex comparison.

E.Hoekstra - Maltex is maybe shorter. We may need to build on more solid ground.

A.Hart – it would be useful to have comparable drawings and include the Maltex building.

E.Hoekstra – the density of building comparisons does not show the same floor ratio. This would be is lower than buildings nearby. There are limitations with the boundaries, pockets of coal tar on the east, but nothing done west of line. This is in a 100 year flood zone and has a wetland buffer of 50' for state standards, and 100' by city standards. This has been discussed with multiple departments feeling that a slight encroachment is allowable.

A.Hart - some encroachment is okay.

S.Gustin - yes.

A.Hart - the DRB Board encourages going before the Conservation Board.

E.Hoekstra - we are looking at a lot of different commercial uses. The minimum parking is 2 per 1000 and maximum is 250. We will have 83 spaces beyond the maximum to be supportive and beyond the maximum.

B.Rabinowitz - is all the parking for this project?

E.Hoekstra - mostly for this project, but we won't know what real parking requirement is at this point.

S.Gustin - parking is based on conditional use due to the size of project.

E.Hoekstra - there are different permits for each parcel. 501 Pine St is just for parking presented to Board and NPA. The NPA concerns are about Brownfields and whether or not it adversely impacts the Superfund Site. The EPA and multiple state boards and Conservation Board are concerned about traffic. We will do traffic and parking analysis. There is more than enough parking reducing the impact. Looking conservation and stormwater solutions by using pervious pavers or asphalt and level spreaders flowing toward barge canal and evenly spreading out water.

A.Zipparo - can we have someone come from ANAR next time?

E.Hoekstra - yes, I intend to ask Trish to come. The DAB recognizes the existing shortage and little parking and transportation.

A.Zipparo - why not a parking garage?

E.Hoekstra - this is not financially feasible, especially with Brownfield issues.

J.Dextradeau - the staff says the overlay district restricts this. There are specific procedures about any impact and the littoral lakeshore conservation zone follows open waters of the barge canal. The offsite of area and the Pine St barge canal wetland natural area does overlap 501 and 453. This creates separate presentations and with the FEMA flood hazard zone.

E.Hoekstra - there needs to be on going monitoring by former owners needing access points to access superfund; city has a vision to address the Superfund Site and more natural area in future.

A.Hart - it seems an appropriate site for redevelopment but it has tons of challenges. Thrilled that someone has come up with a project that may work here.

Open to additional height, due to site detriments. Additional parking is right up against the street and know parking is not highest and best use, which the Board will take into account.

The traffic and lefts on Pine St will be studies the Board is interested in looking at. The height looks like building to the rear is a solid block looming over nice Mill building.

B.Rabinowitz - the offset between the two buildings is small. Pine St is developing innovative projects, though it looks a little suburban with massing.

A.Zipparo - there are concerns with soil and would like more testimony. Wish there was waterfront access. Great to see something happen with this site. Asked for building comps.

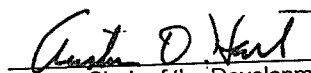
A.Hart - look forward to seeing what you come back with.

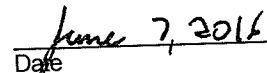
A.Hart - closed public hearing and meeting adjourned at 7:21pm.

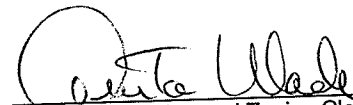
VII. Other Business

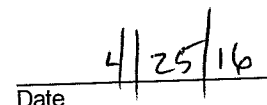
VIII. Adjournment

Deliberative Session: Monday January 25, 2016 at 5:00pm


A.Hart, Chair of the Development Review Board


Date


A.Wade, Planning and Zoning Clerk


Date

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Tuesday January 19, 2016

PUBLIC HEARING NOTICE

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- 1. 16-0517CA; 122 Summit Street (RL, Ward 6S) Robert E. Linder**
Appeal of an administrative denial for a third floor window replacement.

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Appeal of an adverse determination relative to five and six bedroom usage grandfathered within four living units. *Continued review.* (Project Manager, Scott Gustin)
- V. **Certificate of Appropriateness**
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Request change of materials for existing slate roof to standing seam copper on the Orphanage building. (Project Manager, Mary O'Neil)
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Sketch plan of proposed 4-5 story, 100,000 sf commercial building and associated site improvements. (Project Manager, Scott Gustin)
- VII. **Other Business**
- VIII. **Adjournment**

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Department of Planning and Zoning

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David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Principal Planner
Mary O'Neil, AICP, Principal Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin
DATE: January 19, 2016
RE: 16-0612SP; 453 & 501 Pine Street

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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: ELM Ward: 5S

Owner/Applicant: 453 Pine Street, LLC

Request: Sketch plan review of proposed 4-5 story, 100,000 sf commercial building and associated site improvements.

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking)

Background Information:

The applicant is requesting sketch plan review of a new commercial building and associated parking and site improvements on the vacant property at 453 Pine Street. A new surface parking lot is also proposed on the adjacent property at 501 Pine Street. Prior development proposals have been made for these properties and have not been constructed, due in large part to the adjacent superfund site in the barge canal. The present proposal reflects extensive work through BERA (Brownfield Economic Revitalization Alliance) and BRELLA (Brownfields Reuse and Environmental Liability Limitation Act) administered through the VT Agency of Natural Resources. This effort has involved collaboration between city, state, federal, and private entities and is the basis for this newest proposal.

Note that two properties are involved: 453 Pine Street and 501 Pine Street. At the time of permit application, two applications will be required – one for each property.

The Conservation Board reviewed this sketch plan December 7, 2015 and commented relative to wetland buffer impacts, coal tar, and surface parking. The Board generally was concerned with the amount of surface parking. As for the subsurface coal tar and wetland buffer impacts, these are items to be carefully addressed as the development plan is put together.

The Design Advisory Board reviewed this sketch plan December 8, 2015 and commented relative to surface parking and building design. The Board generally was concerned with the amount of surface parking but generally supported the building design.

The Technical Review Committee reviewed this project December 10, 2015.

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards (as adopted by City Council 8.10.2015.)

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;*

Nothing in the sketch plans directly address this criterion. The proposed building would be served by the municipal water and wastewater systems. Adequate reserve capacity is available; however, written confirmation from the Department of Public Works is required before a state wastewater permit can be issued.

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

The project site is located in the Enterprise – Light Manufacturing (ELM) zone, across from Dealer.Com. Decades ago, the site contained a coal gasification plant but is presently vacant. Coal tar from the gasification plant has contaminated the ground resulting in Superfund status (453 Pine Street is not actually part of the Superfund, but 501 Pine Street is). The ELM zone is primarily intended for industrial uses such as manufacturing, processing, and distribution. Other commercial uses, such as office, are allowed to support a wide range of services and employment opportunities. The sketch plans do not specify a commercial use for the proposed building, but it would most likely serve as an office building consistent with the intent of the ELM zone.

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

No specific use is articulated in the sketch plans. As noted above, the most likely use is that of office space. Such use is not expected to generate exceptional noise, odor, dust, heat, or vibrations.

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies;*

No traffic information is included in the sketch plans. A traffic analysis will be required with the permit application. The analysis must address average daily trip ends, AM and PM peak hours, and nearby intersection impacts.

and,

5. *The utilization of renewable energy resources;*

Nothing in the sketch plans addresses this criterion. Given the ample southern exposure of the proposed development, rooftop solar panels should be considered. Likewise, solar panels could be installed within the parking lot (above the vehicles) at 501 Pine Street.

and,

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

No identified conflicts. Required building and/or life safety codes will be under the review of the building inspector.

(b) Major Impact Review Standards

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

The sketch plans contain little in the way of detail relative to this criterion. Some basic stormwater management measures are depicted. Soils are not conducive to infiltration. Generally stormwater will sheetflow into detention swales at the western edge of both parking lots for treatment prior to discharge into the nearby wetlands. As an office building, air and noise pollution are expected to be unexceptional.

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

See Sec. 3.5.6 (a) 1.

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

See Sec. 3.5.6 (a) 1.

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

The sketch plans do not contain anything relative to construction site erosion control. The permit application must include a comprehensive erosion prevention and sediment control plan, subject to the standards of Chapter 26.

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

See Sec. 3.5.6 (a) 4 for traffic impacts. The project is not expected to cause unreasonable congestion or unsafe conditions on nearby sidewalks. It appears that a new multi-use path will run parallel to the building adjacent to Pine Street.

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

This commercial project contains no residential component and will have no adverse impact on the city's ability to provide educational services.

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

Technical review by Public Works, Parks & Recreation, BED, DPW, and others took place 12/10/15. A new building of this scale will place new demands on city services; however, no

representatives at TRC asserted unreasonably burdensome impacts. Impact fees will be paid to help offset what impacts there are on municipal services.

8. Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;
See Sec. 6.2.2 (a) & 6.3.2 (b).

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

The proposed development will take place on a long-vacant site within the city's Enterprise zone. The project is consistent with the city's intended growth patterns.

10. Be in substantial conformance with the city's municipal development plan;

Although the sketch plans lack the details of an actual permit application, conceptually the proposed development can be found to be in substantial conformance with the MDP, as per the following:

The proposed development bring new commercial activity in the Enterprise zone to a long-vacant site along Pine Street (pg. I-2, I-3, & I-22, Land Use Policies).

Plan BTV: Downtown & Waterfront specifically calls for public access to the Barge Canal (pg. 118, Embrace the Barge Canal). The sketch plans contain provision for such access across the site.

Redevelopment of this vacant commercial site is consistent with the city's Economic Development Plan (pg. VI-2, City Policies).

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

This project contains no residential component and will have no adverse impact on the present or projected housing needs of the city.

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

This proposed commercial development in not expected to have an undue adverse impact on the park and recreation needs of the city. As noted above, the sketch plans contain provision for public access to the adjacent Barge Canal. Parks impact fees will be paid to help offsite what parks impacts there may be.

Article 4: Maps & Districts

Sec. 4.4.3, Enterprise Districts:

(a) Purpose

(1) Light Manufacturing (E-LM)

As noted previously, the ELM zone is primarily intended for industrial uses such as manufacturing, processing, and distribution. Other commercial uses, such as office, are allowed to support a wide range of services and employment opportunities. The sketch plans do not specify a commercial use for the proposed building, but it would most likely serve as an office building consistent with the intent of the ELM zone.

(b) Dimensional Standards & Density

At 100,000 sf, the proposed building would result in a FAR of about 0.5 on this 4.8 acre site. Maximum permissible FAR is 2.0. Setbacks appear to be compliant but will require verification on true-to-scale plans. No lot coverage information is provided and must be with the permit application. Building height is expected to exceed the 45' height limit. The applicant will seek a height waiver under Sec. 5.4.9, *Brownfield Remediation*.

(c) Permitted & Conditional Uses

General office is a permitted use in the ELM zone. Its large size triggers major impact, and by association, conditional use review.

(d) District Specific Regulations

Not applicable.

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.3 (b).

Sec. 5.2.4, Buildable Area Calculation

See Sec. 4.4.3 (b).

Sec. 5.2.5, Setbacks

See Sec. 4.4.3 (b).

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.3 (b).

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.3 (b).

Sec. 5.4.9, Brownfield Remediation

This section allows waiver of dimensional requirements to enable the development of brownfield sites that are substantially restricted by contamination. The waiver of dimensional requirements is aimed at allowing reasonable development to take place while minimizing impacts to onsite contaminants. While details are lacking in the sketch plans, the subject site appears to be just what this section is aimed at. Extensive onsite contamination and poor soils substantially limit development potential. Conditions require that development, and in particular the building, be concentrated into a relatively small footprint. Doing so forces a taller building (with smaller footprint) than otherwise may be allowed. The permit application must fully address the provisions of this section.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to constitute a nuisance under this criterion.

Sec. 5.5.2, Outdoor Lighting

No outdoor lighting information is included in the sketch plans. The permit application must include a photometric plan of the site delineating separate lighting environments (parking & circulation, walkways, and building entries) and fixture cutsheets.

Sec. 5.5.3, Stormwater and Erosion Control

Some basic stormwater information has been provided in the sketch plans. Areas of permeable pavers are proposed along with linear stormwater attenuation structures alongside the surface parking areas. Performance details must be included in the permit application. The applicants are advised to work with the Burlington Stormwater Program to work out proposed stormwater improvements prior to permit application.

Article 6: Development Review Standards

Part 1, Land Division Design Standards

Not applicable.

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

The two properties do not contain any important natural features as identified in the Open Space Protection Plan or as outlined in Sec. 4.5.4, *Natural Resource Protection Overlay Districts*. The properties are, however, affected by the buffer zones for several such natural resource overlays. Specifically, wetland and natural area buffer zones originating on properties further west extend onto the subject properties. The site plan depicts a 50' wetland buffer (i.e. the state buffer width); however, the city's wetland buffer is 100' wide and must be depicted for an accurate evaluation of buffer impacts. The site plan does not depict the 100' natural area buffer zone at all and must.

The Special Flood Hazard Area also extends into both properties. It is depicted on the sketch plans. As proposed, no construction extends into the flood zone.

(b) Topographical alterations

The existing properties are fairly flat and will essentially remain so. Fill and grading work will be required for construction, and the sketch plans depict some topographic information. The permit application must include a detailed topographic plan. Contaminated, spongy soils onsite will require very careful earthwork.

(c) Protection of important public views

There are no significant public views from or through the subject properties. The proposed construction will not adversely impact any identified public view corridor.

(d) Protection of important cultural resources

The properties have no known archaeological significance. They contain no archaeological site points, nor are they located within an archaeologically sensitive area.

(e) Supporting the use of alternative energy

See Sec. 6.3.2 (f).

(f) Brownfield sites

The Vermont DEC Hazardous Site List specifically lists 453 Pine Street as a contaminated site. Presumably, 501 Pine Street is included in this listing but not specified separately. Both properties contain coal tar contamination associated with the superfund site. The site plan depicts the known limits of the subsurface NAPL (coal tar). As noted previously, this project is the result of extensive work through BERA and BRELLA. The proposed construction avoids encroachment into the NAPL. While details are not contained within the sketch plans, significant geotechnical analysis has been employed to avoid disturbance of the coal tar contamination.

(g) Provide for nature's events

See Sec. 5.5.3.

(h) Building location and orientation

The proposed building will be set close to Pine Street, consistent with the street edge established by existing buildings. A central front entry will face the street and will be embellished with a front courtyard of sorts.

(i) Vehicular access

Two access points are proposed for 453 Pine Street, one on either side of the proposed building. The northerly driveway looks as though it could be the existing driveway serving the Maltex building and would provide access to both properties. This driveway lines up with Howard Street on the opposite side of Pine Street. Details are not articulated in the sketch plans, but it appears that both access points could provide entrance and exit from the site. A singular driveway is proposed for access to the surface parking lot at 501 Pine Street. As contemplated by this criterion, a traffic analysis will be required as part of the permit application.

(j) Pedestrian access

A new multiuse path runs across the length of 453 Pine Street. The sketch plans are unclear as to whether it would extend across 501 Pine Street as well. Such continuation is recommended for ease of pedestrian access. In any event, work within the Pine Street right-of-way will require the approval of the City Council in consultation with the Department of Public Works.

The space between the building and the sidewalk will be hardscaped with pavers to form an entry courtyard with sitting benches and artwork. This hardscaping will provide a strong connection between the building's front entry and the public sidewalk. Sidewalks must continue across the driveways. The sketch plans appear to depict as much, but details are lacking. Perimeter walkways hug most of the building foundation, and a new central walkway is proposed through the center of the surface parking area on 453 Pine Street. Additional walkways interior to the surface parking areas are recommended for improved pedestrian circulation and safety.

(k) Accessibility for the handicapped

Little in the way of ADA details are noted in the sketch plans. It is the applicant's responsibility to comply with all applicable ADA requirements.

(l) Parking and circulation

The proposed building is set close to Pine Street with parking placed to the side and rear of it. Site conditions related to peat soils and coal tar contamination effectively prevent placing all of the parking behind the building. Surface parking areas are broken into several sections, and the parking next to the proposed building will receive a surface paver treatment aimed at enabling

alternative uses during weekends. The sketch plans depict landscaping between the parking and the sidewalk. Details as to the proposed landscaping and its effectiveness for screening will be required with the permit application. Little detail is provided for the surface parking at 501 Pine Street. It is placed up close to the street with no screening depicted in the sketch plans. If this parking area is to be constructed, it should be heavily screened.

This criterion recommends connectivity between parking areas. There is no link between the parking at 453 and 501 Pine Street. Surface grades may preclude doing so, but the applicants should be prepared to address whether connectivity can be achieved.

In light of the reduced-size sketch plans, the dimensional adequacy of the proposed parking spaces and associated circulation cannot be assessed. The permit application will require full size true-to-scale drawings to enable such assessment.

All of the proposed surface parking will require the installation of new shade trees. No parking lot shading analysis is included in the sketch plans. This criterion establishes a target of 30% shading of the parking areas with new shade trees. At least 1 shade tree for every 5 parking spaces is required. Minimum caliper size at the time of planting is 2.5" – 3.5" and a mature canopy diameter of 35' is expected. Such details will be required with the permit application.

No bike parking details are included in the sketch plans and must be provided as part of the permit application.

(m) Landscaping and fences

Some general landscaping information has been provided in the sketch plans. It appears that new trees will line much of the new surface parking at 453 Pine Street. New trees are also proposed within the front yard. It appears that new gardens will accent the building foundation as well. No landscaping is depicted for 501 Pine Street. Landscaping consistent with that at 453 Pine Street should accompany construction at 501 Pine Street. A detailed landscaping plan will be required as part of the permit application.

(n) Public plazas and open space

No public plazas or open space are included in this proposal. The side parking area at 453 Pine Street notes potential use as "event space" on weekends. Details as to this potential use, and whether it will be publically accessible, should be included in the permit application.

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

No new outdoor mechanical equipment is apparent in the sketch plans, nor is any outdoor trash/recycling enclosure. Such details will be required as part of the permit application. Any new utility lines must be buried.

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The existing built environment along this stretch of Pine Street includes a variety of building shapes and sizes. Most are relatively large, such as the neighboring BED and Maltex buildings. The Dealer.Com building is one of the largest structures along Pine Street and sits across the street from the proposed commercial building. The proposed building is large at ~ 100,000 sf and up to 5 stories but fits within the context of the existing built environment.

The massing of the proposed office building is split into two distinct components. The smaller of the two building sections sits up close to the street, whereas the larger section sits behind it. This bifurcation and siting effectively reduces the perceived building mass.

Exact building height is not specified, but at 5 stories, the proposed building presumably exceeds the 45' height limit in the ELM zone and will be one of the taller structures in the South End. Though not articulated in the sketch plans, the applicant is expected to seek the increased height under Sec. 5.4.9, *Brownfield Remediation*. This provision allows waiver of standard dimensional requirements (including height) on brownfield properties. The idea is to allow for flexibility in building design to enable development on sites constrained by contamination. The permit application must specifically address the requirements of Sec. 5.4.9.

2. Roofs and Rooflines

The proposed building will include flat roofs on both building segments. Flat roofs are common in the neighborhood and acceptable as part of the proposed building design.

3. Building Openings

A sheltered front entry will face Pine Street and is readily identifiable. Fenestration between the two building segments differs but is consistent within each segment. Window patterns are reminiscent of that typically found in old mill buildings and fits well within the context of this neighborhood. The fenestration along the street level of the front building section differs from the rest and brings a pedestrian scale to this street front.

(b) Protection of important architectural resources

There are no structures onsite. The adjacent Maltex building is historically significant. The proposed building is offset from this building and will have no direct impact on its historic significance.

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

The front building section provides the primary interface with the street. As noted above, it has a well-defined front entry linked to the public sidewalk. The street level is differentiated from upper levels with distinct fenestration. The front entry is sheltered by a projecting canopy, and storefront fenestration on either side is likewise accented by overhanging canopies. Ground level windows provide visual access into the building interior. Window mirroring or frosting is not noted and would not be permitted. The building/street interface is further strengthened by the front swath of hardscaping, sitting benches, and artwork.

(e) Quality of materials

The sketch plans note no building materials. The permit application must specify all exterior building materials.

(f) Reduce energy utilization

Energy information is not included in the sketch plans. The new building must comply with the current energy efficiency requirements of the city and state.

(g) Make advertising features complimentary to the site

A large “453” is depicted within the 4th story of the front façade. While its size might be acceptable (but no dimensions are noted), its height is clearly not. The height limit for parallel building signs in the ELM zone is 14’ or the ceiling height of the first floor, whichever is less.

(h) Integrate infrastructure into the building design

While not specifically noted, the sketch plans appear to depict a rooftop mechanical enclosure and elevator penthouse. The permit application must specify these features and their materials and dimensions.

(i) Make spaces safe and secure

The proposed building appears to be accessible by emergency service vehicles. The project underwent technical review by Police, Fire, Building, etc. on December 10, 2015. Building entries will presumably be illuminated.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The subject property is located in the Shared Use parking district. The 332 parking spaces proposed (258 at 453 Pine St + 74 at 501 Pine St) is far above the minimum parking requirement of 200 spaces (2 spaces per 1,000 sf for 100,000 sf office building). This many parking spaces exceeds the maximum parking limitation of 8.1.9, *Maximum Parking Spaces* and will, therefore, require a waiver under criterion 5 of that section. Reduction in the number of parking spaces is strongly encouraged and may be required depending on the maximum parking waiver provisions.

Sec. 8.1.9, Maximum Parking Spaces

The number of parking spaces proposed requires a waiver of the maximum parking limitation under this section. No information in support of this waiver has been provided with the sketch plans. If this parking is to be constructed, shared use for area events and/or businesses should be part of the equation.

Sec. 8.2.5, Bicycle Parking Requirements

Both short term and long term bicycle parking will be required. The 100,000 sf office building would require 20 (1 per 5,000 sf) long term bike parking spaces and 10 (1 per 10,000 sf) short term spaces. Bike parking details are required as part of the permit application.

II. Conditions of Approval

None for sketch plan review.

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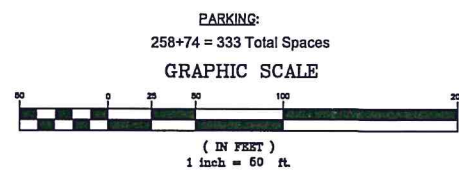
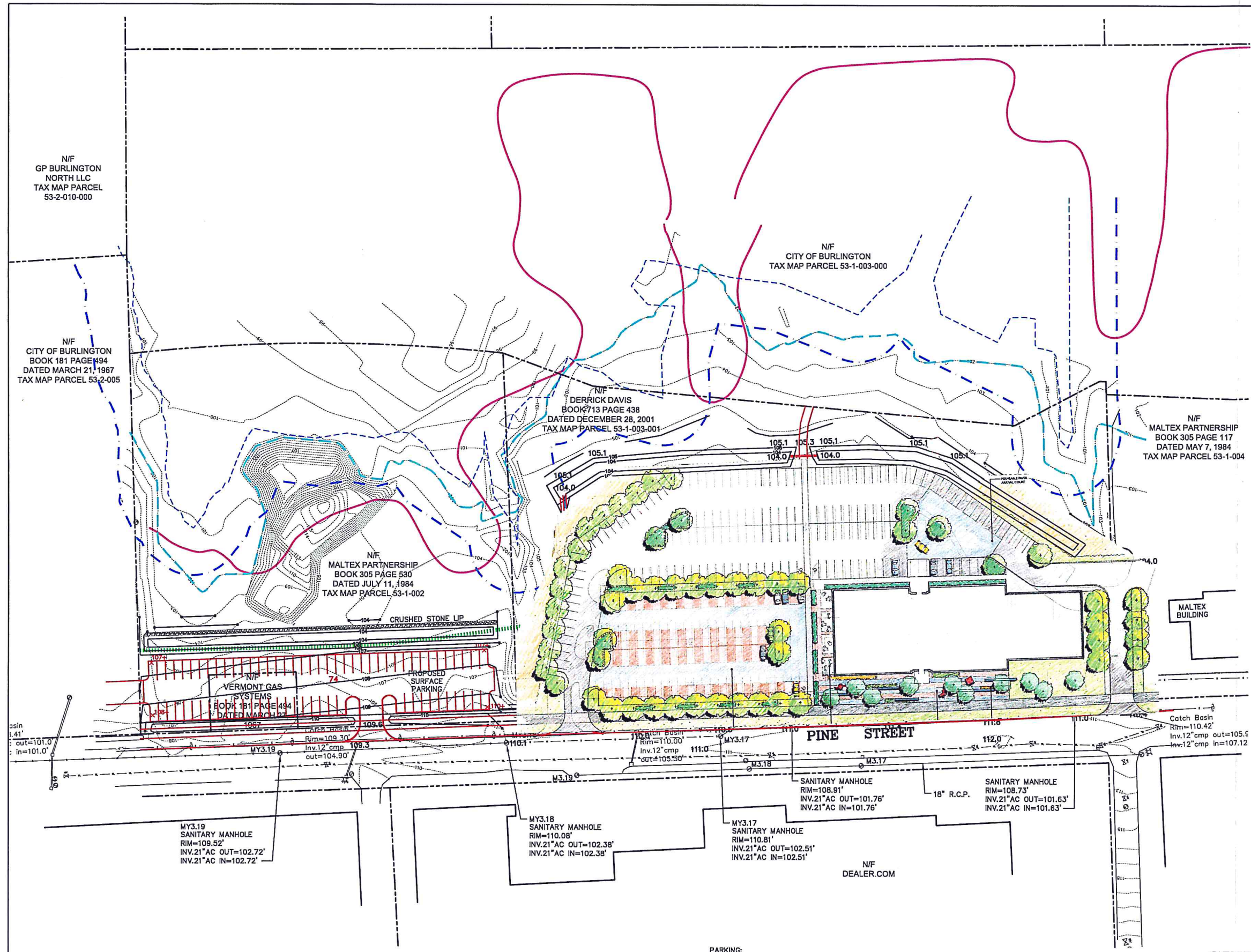


CONCEPTUAL STORM DESIGN

ZONING INFORMATION

LEGEND

- WETLAND (SOURCE: ARROWWOOD ENVIRONMENTAL, NOVEMBER 2005 & JULY 2014)
- 50' WETLAND BUFFER
- EXTENT OF VISUAL EVIDENCE OF SUBSURFACE NAPL (Non-Aqueous Phase Liquid)
- APPROX. LINE OF PEAT AT 3 FOOT THICKNESS (SOURCE: WESTON & SAMPSON JULY 2014)
- PROPERTY LINE (SOURCE: O'LEARY & BURKE 1/28/04)
- 100 YEAR FLOOD ZONE (SOURCE: FEMA ZONE AE - FLOOD ELEVATION DETERMINED TO BE 102.0')
- EXISTING GROUND TOPOGRAPHY (1 FT. INTERVAL) (SOURCE: O'LEARY & BURKE 1/28/04)
- PROPOSED FINISH GRADE CONTOUR
- EXISTING OVERHEAD ELECTRIC/CABLE FROM DPW RECORDS
- EXISTING WATER LINE FROM DPW RECORDS
- EXISTING SEWER FROM DPW RECORDS



SITE PLAN - CONCEPTUAL

PINE STREET
DEVELOPMENT, LLC

DRAFT

SMM
ENVIRONMENTAL ENGINEERING
SCOTT MICHAEL MAPES
POST OFFICE BOX 5517
BURLINGTON, VERMONT
802-864-8100

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FILENAME: 453 PINE ST.DWG

N/F
DERRICK DAVIS
BOOK 713 PAGE 438
DATED DECEMBER 28, 2001
TAX MAP PARCEL 53-1-003-001

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PROPOSED PLAN

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FUTURE CONNECTION

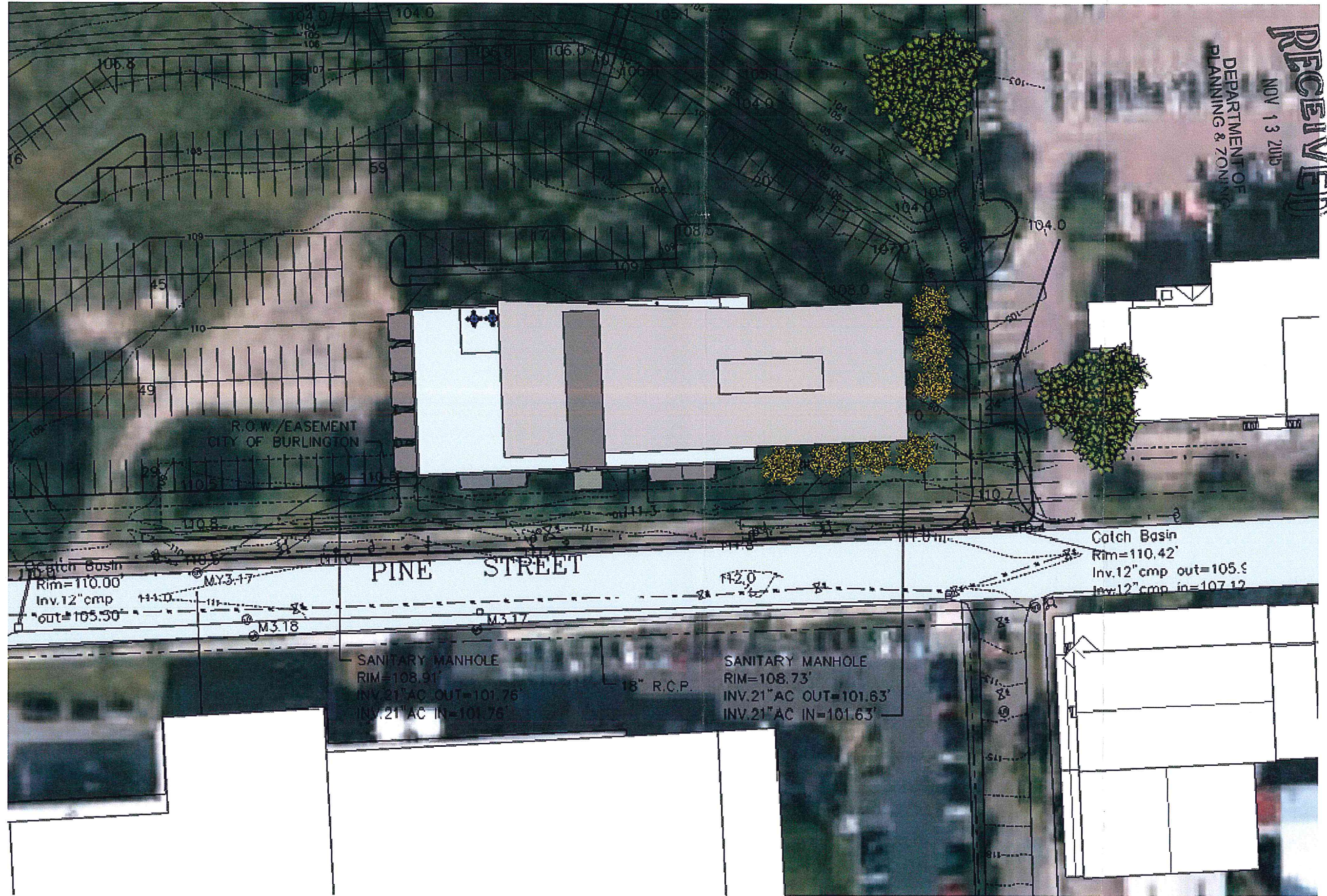
PERMEABLE PAVER
ARRIVAL COURT

PERMEABLE PAVERS,
PARKING SPACES DELINEATED BY
PAVER COLOR. COULD BE USED AS
EVENT SPACE ON WEEKENDS.

SOUTH-FACING OUTDOOR SPACE

SCULPTURE COURT,
PAVERS & STONE DUST
WITH TIMBER BENCH WALLS

ORNAMENTAL GRASS BANDS



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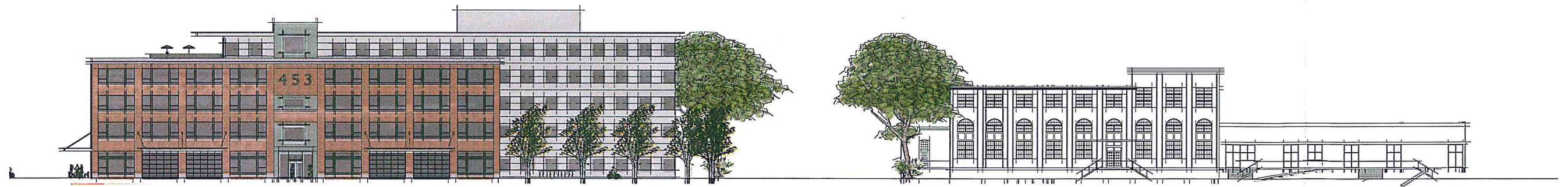
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210 COLLEGE ST. SUITE 201
BURLINGTON VT 05401

PROJECT
OFFICE BUILDING
453 PINE STREET
BURLINGTON VT 05401
PROJECT NO.

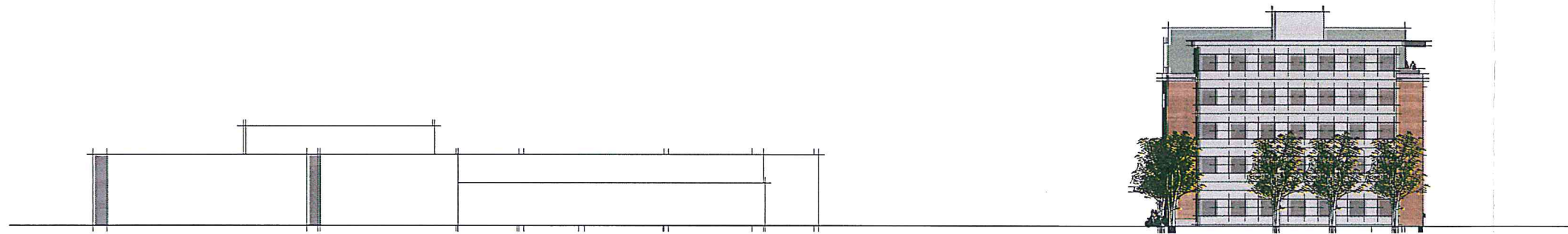
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SITE PLAN

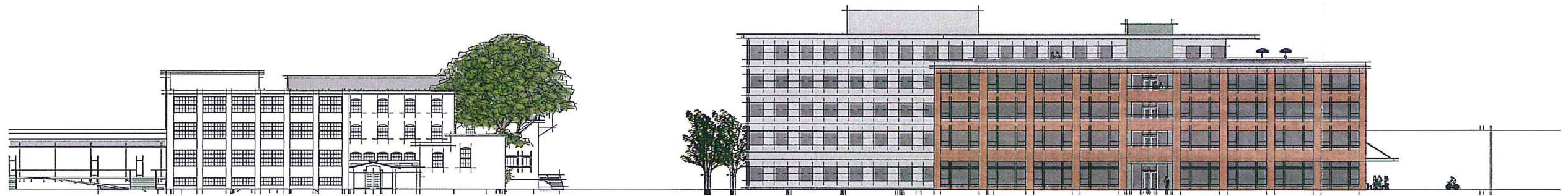
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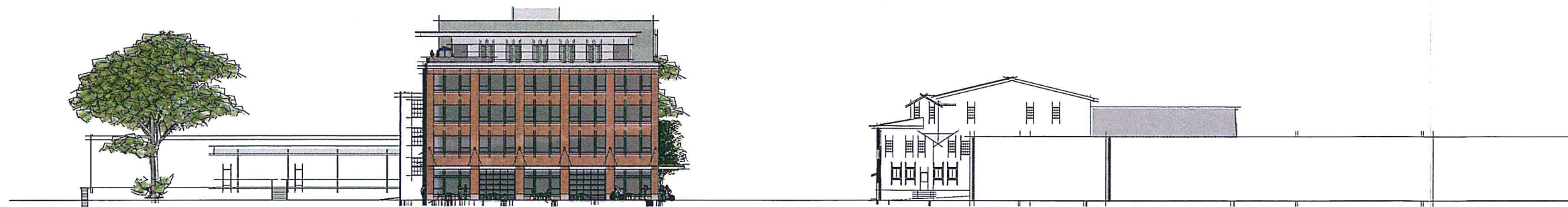
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Scale: 1" : 50'



2 NORTH ELEVATION
Scale: 1" : 50'



3 WEST ELEVATION
Scale: 1" : 50'



4 SOUTH ELEVATION
Scale: 1" : 50'

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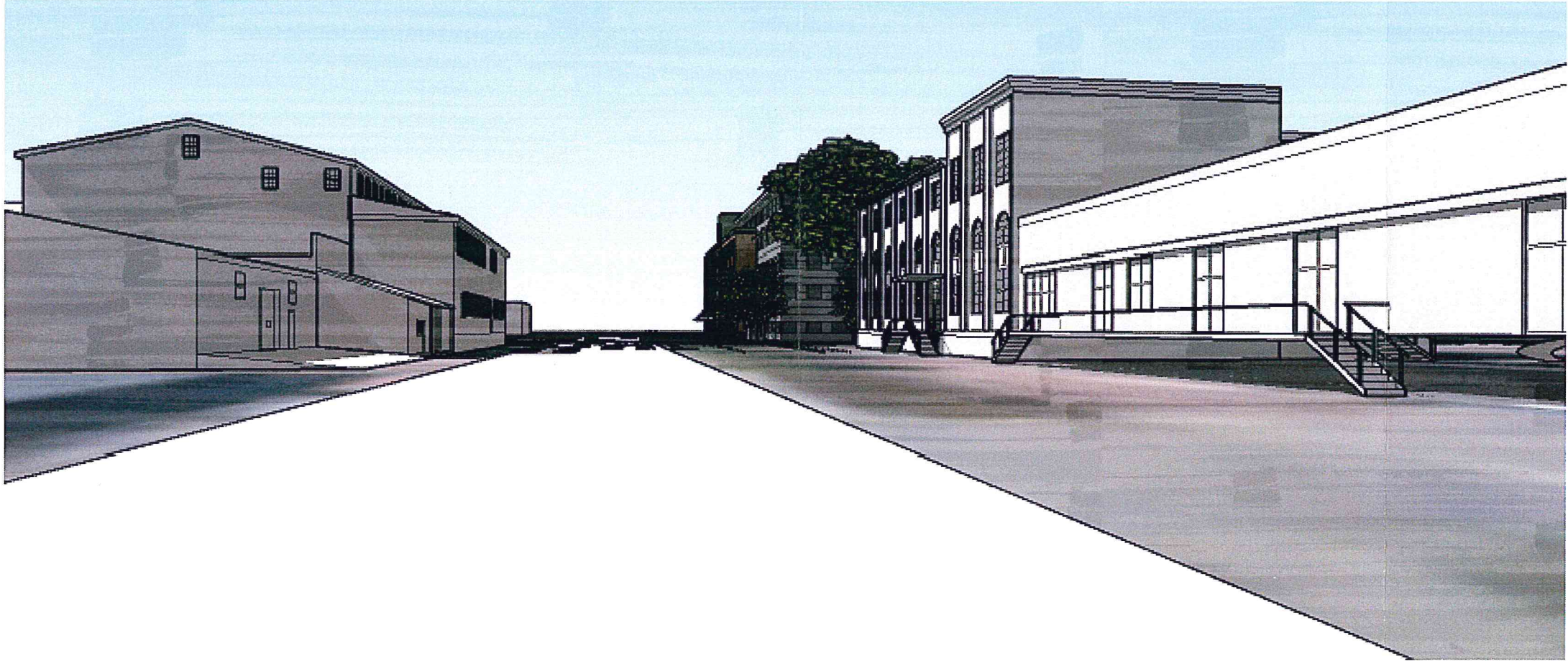
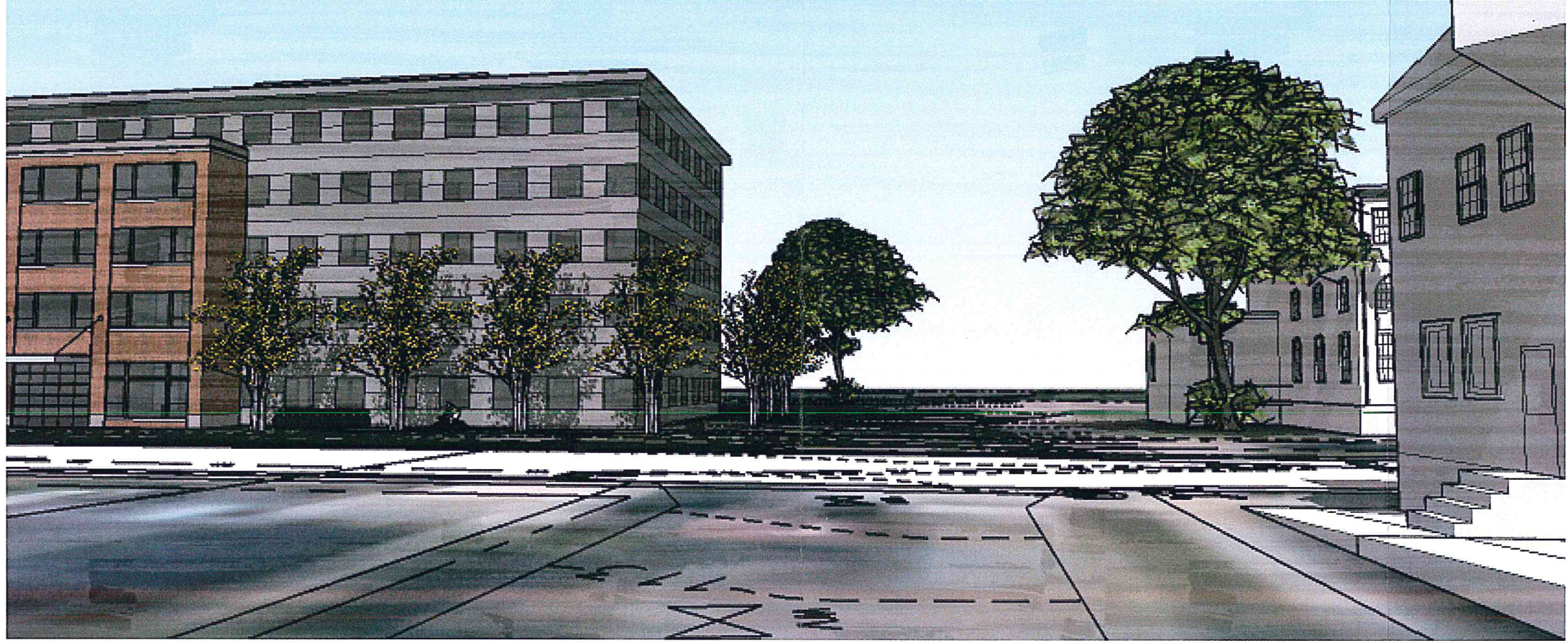
ELEVATIONS

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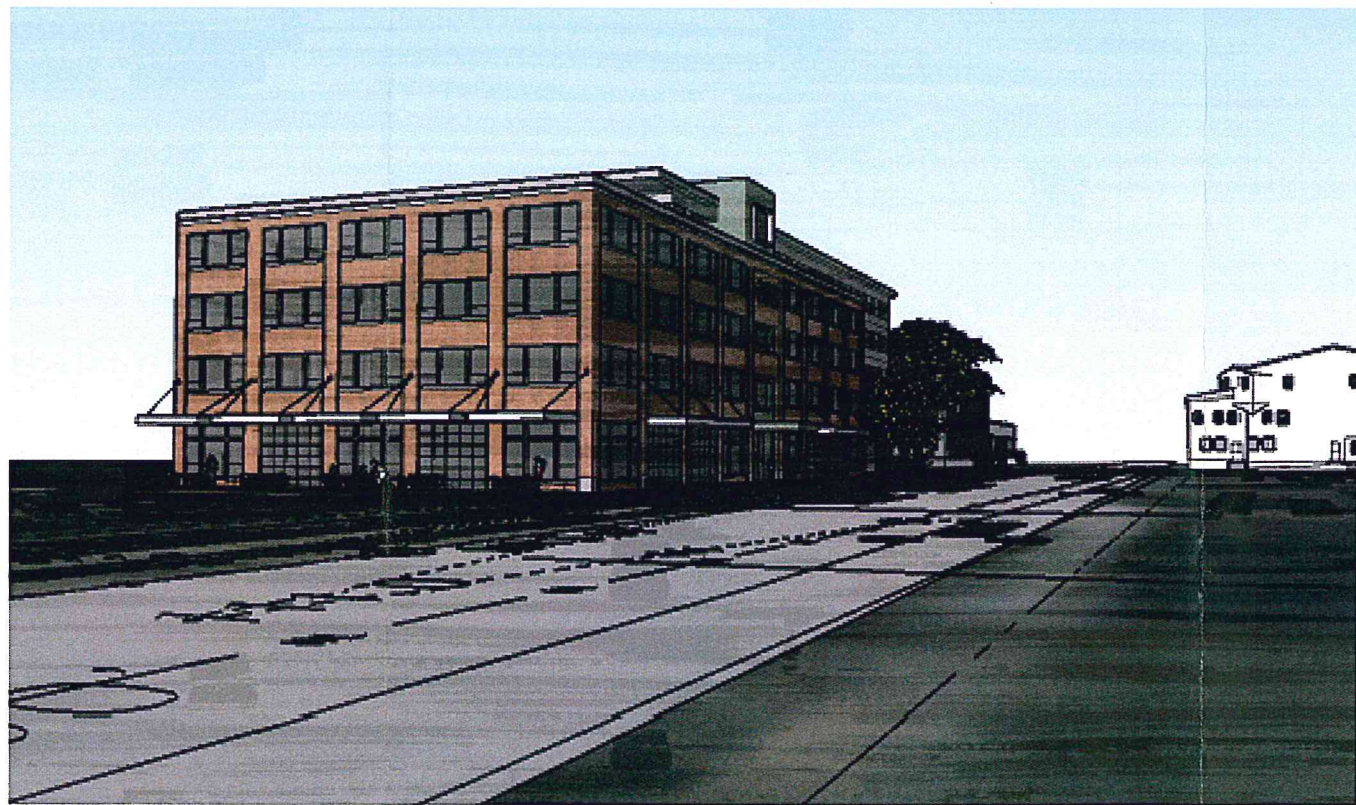
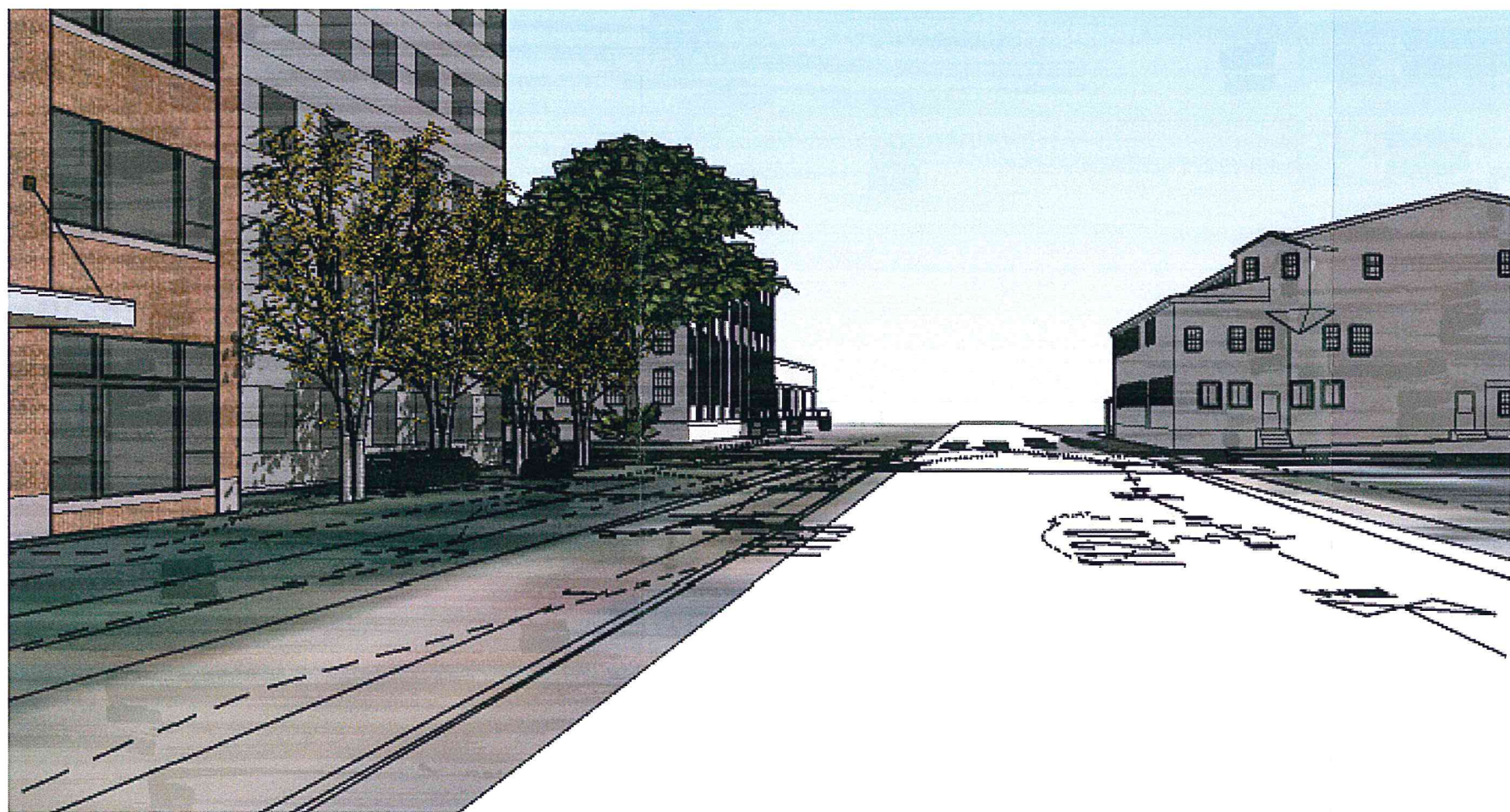
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VIEWS



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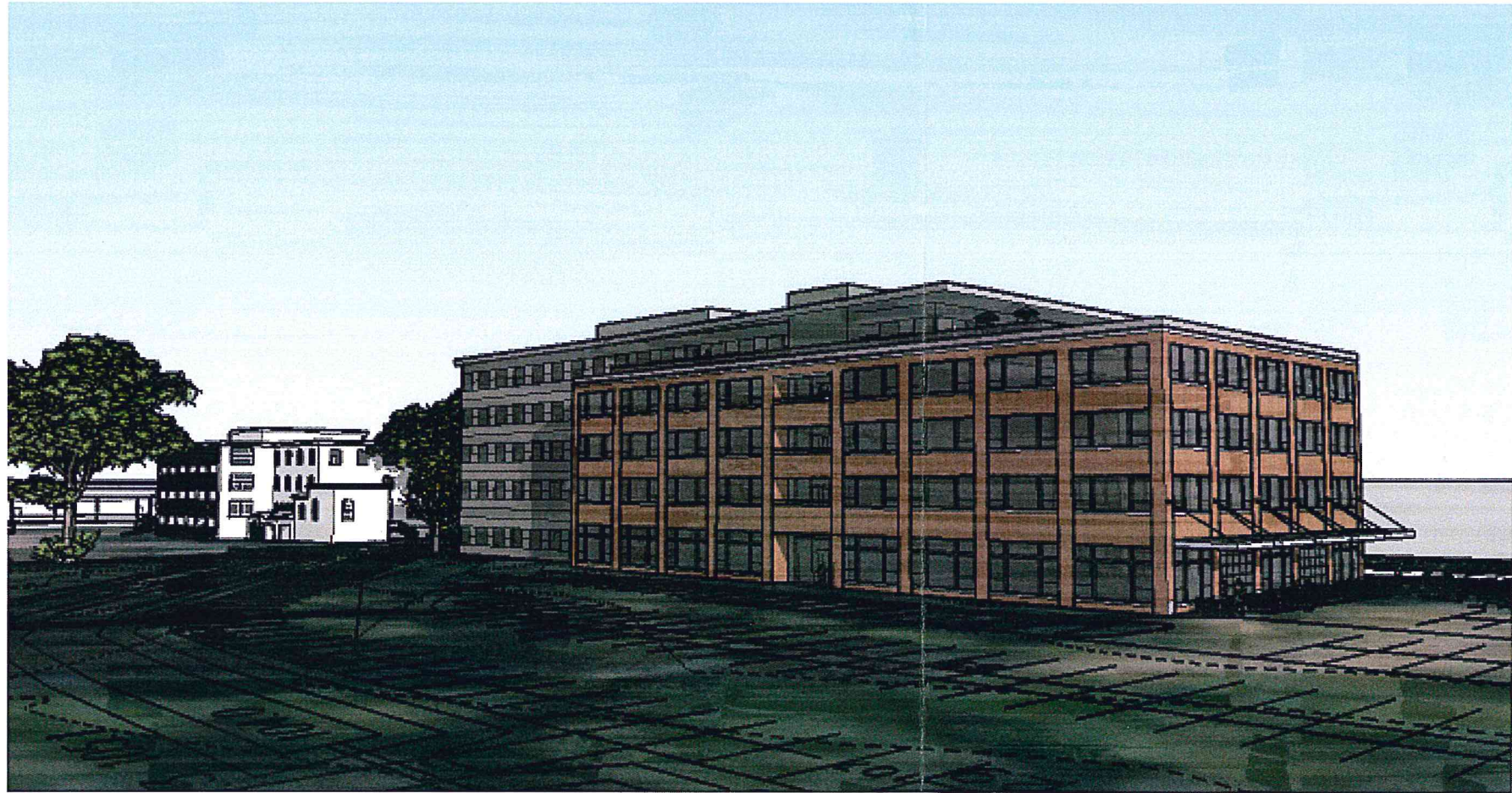
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OFFICE OF
THE CITY ATTORNEY
AND
CORPORATION COUNSEL

TO: Development Review Board
FROM: Kimberlee J. Sturtevant, Assistant City Attorney 
DATE: January 11, 2016
RE: 16-0151DT; 2-8 Hickok Place

Appellants have requested “grandfathering” of five and six bedroom usage in four of the living units at 2-8 Hickok Place. After review of the material submitted as well as City ordinances and files, the “grandfathering” request was denied administratively as there was insufficient evidence to demonstrate consistent use from the date when it was legal. Appellants have appealed that determination, which is the subject of the pending matter before the Board. As requested, the following is the City’s legal analysis of the issue.

Grandfathering

The request before the Administrative Officer and the Board on appeal is to recognize as a pre-existing legal non-conforming (“grandfathered”) status, the occupancy of units 2B, 4B, 6B, and 8B at 2-8 Hickok Place by 5-6 unrelated persons, as opposed to the limit of four unrelated persons required by the current CDO. A property can be grandfathered if lots/parcels/structures/uses are non-compliant with a current zoning regulation, but were compliant with prior regulations and have not materially changed. This determination request is not a Bianchi or 15-year statute of limitation request; it is a grandfathering request. To achieve a “grandfathered” status, the burden is upon the applicant to demonstrate that the property was in fact legal prior to the zoning regulation change and that the facts that made the property legal prior to the change have continued without cessation (which is defined as discontinuing for a year or more).¹ The determination of grandfathering therefore requires going back to ordinances in effect prior to the change and analyzing if the property was, at any time in its history, legal. If so, and that status has continued without cessation to the present, the property can be grandfathered. Otherwise, it cannot.

¹ There are circumstances in which the allowed time for discontinuance is more than a year, but those are not the facts in this matter. See CDO Sec. 5.3.4(b).

City Ordinances

Based upon our review, the first Zoning Ordinance in the City of Burlington was approved by Mayor John J. Burns on January 28, 1947. Since then, the zoning regulations have been amended a number of times. The following are excerpts from the definition sections of various regulations that may be pertinent to your review:

- January 28, 1947:
 - Apartment House: A building or portion thereof used or designed to be used as a residence for three or more families living as units independently of one another.
- December 1970:
 - Apartment House: same as 1947
 - Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes.
- April 3, 1973:
 - Apartment House: same as 1947 and 1970
 - Family: same as 1970
- April 8, 1994:
 - Apartment: A dwelling unit in a building containing more than two dwelling units or a dwelling unit in a mixed-use building.
 - Apartment house: A structure containing three or more apartments.
 - Dwelling unit: A room or set of rooms fitted with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit occupied by a family and where rooms are not let to individuals.
 - Family: Same as 1970 and 1973
- November 2000 zoning amendment #2000-1:
 - Dwelling unit: A room or set of rooms fitted with a private bath, kitchen, and living facilities comprising an independent, self-contained dwelling space occupied by a family and where rooms are not let to individuals. Bathroom, kitchen and living facilities must be separate and distinct from bedroom facilities. Each bedroom must contain a minimum square footage consistent with the current minimum housing standards. Separate bathroom facilities will be deemed to exist only when it is possible to access such bathroom facilities without passing through a room which is designated as a bedroom. If there is more than one meter for any utility, address to

the property, or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units: or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; but this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they (A) share a single common bathroom as the primary bathroom or (B) share a single common kitchen as the primary kitchen. Each dwelling unit must have a minimum of one hundred eighty (180) square feet of parking space on the premises for every two occupants thereof, such parking area may not be in the front yard.

- Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes. Occupancy by any of the following shall be deemed to constitute a family:
 - (a) Members of a single family, all of whom are related within the second degree of kinship (by blood, adoption, marriage or civil union).
 - (b) A “functional family unit” as defined below.
 - (c) Persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the “Fair Housing Amendments Act of 1988”.
 - (d) A state registered or licensed day care facility serving six or fewer children as required by 24 V.S.A. 4412(5), as the same may be amended from time to time.
 - (e) No more than four unrelated adults and their minor children.

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

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

In addition to changing the definition of family, the November 2000 zoning amendment, #2000-01, also included modifications to Section 3.1.4, Residential Districts Established, which explicitly stated that occupation of dwelling units in RL, WRL, RM and WRM districts was limited to members of a family as defined in Article 30, Section 30.1.2.

In 2008 the City’s zoning regulations were rewritten and codified in the City’s Comprehensive Development Ordinance. The definitions of Apartment, Dwelling Unit and Family were not significantly changed from the prior versions.

- **Apartment:** A single dwelling unit located in a building containing more than two dwelling units or a single dwelling unit located in a mixed-use building. (See Dwelling Unit and Mixed Use Building)
- **Dwelling Unit** (or Housing Unit): A room or set of rooms fitted with a private bath, kitchen, and living facilities comprising an independent, self-contained dwelling space occupied by a family and where rooms are not let to individuals. Kitchen, living and shared bathroom facilities must be separate and distinct from bedroom facilities. Each bedroom must contain a minimum square footage consistent with the current minimum housing standards. Separate bathroom facilities will be deemed to exist only when it is possible to access such bathroom facilities without passing through a room which is designated as a bedroom. If there is more than one meter for any utility, address to the property, or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units; or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; but this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they (A) share a single common bathroom as the primary bathroom or (B) share a single common kitchen as the primary kitchen. (See also definition of Family and Rooming Unit)
- **Family:** same as 2000 amendment

The January 30, 2008 CDO continued the residential occupancy limits in Section 4.4.5 (d) 5, C. In that Section, the occupancy limits of all dwelling units within the residential zones are limited to a family as defined in Article 13 (as provided above).

Analysis

Based upon the ordinance review identified above, the relevant timeframes and requirements are as follows:

- November 2000 until present
- December 1970 through November 2000
- January 1947 through December 1970
- Prior to January 1947

There has been no assertion that the current 5-6 person occupancy is in compliance with the current regulations. To the contrary, the application for grandfathering starts with the basic understanding that it is not. The question then becomes was it ever legal, if so when, and then, whether the applicant can demonstrate the continuous (no period of discontinuance of a year or more) use of the property from the point in time it was legal until today.

Prior to January 1947, zoning permits were not required in Burlington. As such, the use of the 2-8 Hickok as an apartment building in whatever form of occupancy was legal. If Appellant could demonstrate the units and their occupancy levels were present in 1946 and have continued since then, it would be appropriate to acknowledge the property as a pre-existing non-conformity (grandfathered) with respect to that occupancy. However, that evidence has not been presented.

Between January 1947 and December 1970, there was no definition of family, so one would need to look at the common definition of family to establish the requirement. See *Franks v. Town of Essex*, 2013 VT 84, ¶ 8, 194 Vt. 595, 87 A.3d 418 (“Words that are not defined within a statute are given their plain and ordinary meaning, which may be obtained by resorting to dictionary definitions.”).

The meaning of word “family” necessarily depends on field of law in which word is used, purpose intended to be accomplished by its use, and facts and circumstances of each case. Most commonly refers to group of persons consisting of parents and children; father, mother and their children; immediate kindred, constituting fundamental social unit in civilized society. A collective body of persons who live in one house and under one head or management. A group of blood-relatives; all the relations who descend from a common ancestor, or who spring from a common root. A group of kindred persons. Husband and wife and their children, wherever they may reside, and whether they dwell together or not.

The word conveys the notion of some relationship, blood or otherwise. In restricted sense, the word “family” may be used interchangeably with household.....

BLACK’S LAW DICTIONARY 604 (6th ed. 1990)(internal citations omitted). While there does not appear to be evidence regarding the occupancy during this timeframe, ultimately it is immaterial as the evidence in the record would contradict a claim that an occupancy consistent with this definition of “family” has occurred consistently even within the last decade.

This brings us to the 1970 definition of family which continued through until November 2000 when the current definition was adopted. That definition of family was analyzed during an appeal before the Vermont Environmental Court, *In re: Appeal of John Mentos*, Docket No. 132-6-00 Vtec (Vt. Env’tl. Div. October 22, 2001 and May 10, 2002). The *Mentos* case stemmed from an appeal by John Mentos of the Zoning Administrator’s decision not to take enforcement action against the owners of a 7-bedroom home at 36 North Willard Street occupied by seven unrelated students. “Family” and “group quarters” were central to that case. The 1999 zoning regulations in effect at the time contained the same definition of “family” as adopted December 21, 1970. The Court found that “...to fall within the zoning use category of a single detached dwelling, the occupants of the house must satisfy *both* prongs of the definition of family. ...The shared student housing at issue... met the first prong of this test, in that the students were living as a single, nonprofit housekeeping unit, but found that material facts were disputed as to

whether or not they also fell outside of the category of ‘group quarters.’” The Court decided that occupancy by unrelated adult students amounted to group quarters and was, therefore, prohibited under the zoning ordinance. Pursuant to the Court’s interpretation, the 5-6 person occupancy at 2-8 Hickok would not have been legal under the 1970-2000 definition of family either.

Ultimately, the burden is upon the applicant to demonstrate that at one point in time, the 5-6 person occupancy of the units was legal and that 5-6 person occupancy in those units continued without stopping (for a year or more) from then until the present. Appellants have not done so. During the initial hearing, Appellants argued that since the property was an apartment prior to 1970, it should be grandfathered. As laid out above, establishing that the building has been an apartment house since pre-1970 does not make the occupancy of the units grandfathered. To demonstrate that the 5-6 person occupancy is grandfathered, Appellants need to demonstrate what the occupancy was, that it was legal, and that it continued to remain consistently. Appellants have not done that. While it may appear to be a heavy burden, one must keep in mind that one of the primary goals of zoning is to gradually phase out non-conforming uses. See *In re Lashins*, 174 Vt. 467 (2002). Zoning provisions allowing nonconforming uses should be strictly construed. *Id.*

CITY OF BURLINGTON

BURLINGTON DEVELOPMENT REVIEW BOARD

IN RE: 16-1051IDT; 2-8 Hickok Place

Appeal of Adverse Zoning Determination Relative to Grandfathering of Five
and Six Bedroom Usage of Four Living Units

MEMORANDUM OF APPELLANT DIEMER APARTMENTS, LLC

Appellant, Diemer Apartments, LLC, by and through its attorneys, Bergeron, Paradis & Fitzpatrick, LLP, submits this Memorandum in support of its appeal of the adverse zoning determination relative to grandfathering of five and six bedroom usage of four living units.

BACKGROUND

Diemer Apartments LLC (hereinafter "Diemer") owns an apartment building with 8 units located at 2-8 Hickok Place. Three of the units contain five bedrooms. One unit contains six bedrooms. A public hearing on Diemer's appeal was held on November 17, 2015. Diemer presented overwhelming evidence at the hearing as to the use of the property as 3 five bedroom units and 1 six bedroom unit since 1986. Diemer provided evidence of the permits issued by the City in 1986 for the conversion the units to five and six bedrooms. Director of Code Enforcement, Bill Ward, testified there was no dispute of the use of the property as five and six bedroom units since 1986. Jill Diemer testified on the lengths taken by Diemer with multiple City departments to confirm the use of the five and six bedrooms in the property prior to their

purchase in 2003. The evidence presented at the hearing abundantly demonstrates that the Development Review Board should grant the Diemer's appeal.

The City's position is, that despite having issued the permits for the five and six bedroom living units in 1986, its 1970 zoning ordinance controls the use of the Diemer property and the 1970 definition of "family" prohibits occupancy of the Diemer units as "group quarters". The City then relies on a 2002 Environmental Court decision interpreting "group quarters" to include shared student housing. Finally, while at the same time as acknowledging that their records are not complete, the City contends that the City records do not demonstrate consistent use of the apartments as "group quarters" with 5-6 unrelated adult occupants back to December 20, 1970. The City's argument fails on its face.

ARGUMENT

At the outset, Diemer submits that they have provided convincing evidence of the use of the five and six bedrooms not for just fifteen years, but for almost thirty years. The City is attempting to transport us back forty-five years by relying on the December 1970 ordinance. The inquiry, however, starts and stops in 1986. The City's own actions in interpreting its 1970 ordinance and issuing the permits in 1986 for the five and six bedroom units should end the discussion. This is the best evidence of how the City interpreted its ordinance as it applied to an apartment house. The Diemer's appeal should be granted.

Although Diemer's appeal should be successful based upon the above, Diemer contends that the City's reliance upon the 1970 ordinance and the 2002 Environmental Court interpretation of the definition of family do not survive scrutiny. The City relies heavily on the unappealed Environmental Court decision *In re: Appeal of John Mentec*, Docket No. 132-6-00 Vtec. (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002). *Mentec* involved the rental of a

seven bedroom single family residence by seven University of Vermont students. The case turned on the definitions of “single detached dwelling” and “family” as found in the 1999 zoning ordinance. (*Mentes*, October 22, 2001 decision at p. 2). Significantly, the Environmental Court noted that no argument was made that the use of the property was either an apartment or boarding house. *Id.* The 1999 ordinance defined single detached dwelling as a “free standing residential structure containing a single family unit occupied by a single nonprofit housekeeping unit, but not including group quarters; see definition of ‘family’ and where rooms are not let to individuals.” *Id.* Family was defined as “one or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes.” *Id.* The October 22, 2001 decision concluded that as a single detached dwelling, the occupants of the dwelling had to meet the definition of family. The ultimate inquiry was whether the shared housing use by the students fell within the exclusion of “group quarters” in the definition of family. *Id.* at pp. 2-3.

In its May 10, 2002 decision, the Environmental Court addressed the interpretation of group quarters as an exclusion to the definition of family. The Court determined that list of uses following group quarters in the definition of family was not an exclusive list of uses but were examples only of types of group quarters. (*Mentes*, May 10, 2002 decision at p. 1.). The Court then concluded that the use of the property by the seven students was “similar to the five listed ‘group quarter’ uses, especially that of commune...” The Court concluded that the shared student housing use of a single detached dwelling was prohibited under the 1999 ordinance. *Id.* at p. 2.

Diemer is distinguishable from *Mentes*. In *Mentes*, it was the **use** of the single detached dwelling that triggered the examination of the definition of family. Conversely, Diemer owns

an 8 unit **apartment house**, not a single detached dwelling. The Court in *Mentes* noted that no argument was made by the parties that the use of the property was as an apartment or boarding house. Presumably, an argument to that effect would have triggered a different analysis by the Court. The use of the Diemer property as an apartment house since the late 1990s presents a different scenario and analysis. *Mentes* does not apply.

In *Mentes*, the City relied upon its 1999 ordinance. Given the history of the use of the property since 1986, the City cannot rely on that ordinance and instead is going back to its 1970 ordinance. Once again, the City efforts should fail. In its 1962 zoning ordinance, the City provided a definition of apartment house, which the Diemer property met. (Exhibit 1). The 1962 ordinance did not include a definition of family. If the City is seeking a grandfathered determination, it should be based upon the 1962 ordinance, not the 1970 ordinance. In such an analysis, the Diemer's appeal should be granted.

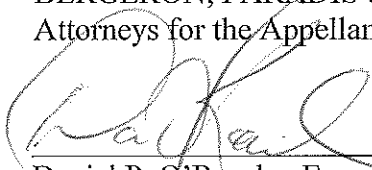
Finally, the Court in *Mentes* was confronted with interpreting the 1999 ordinance which contained different uses and additional definitions than the ordinances that preceded it. In this case, the Board has the benefit of knowing how the City interpreted the ordinance in 1986 as it applied to the five and six bedroom units at the Diemer property. The Board has the benefit of knowing that the City issued permits for conversion to five and six bedroom units at the Diemer property. The City's own actions demonstrate the City's interpretation of the ordinance as it applies to the property. The original permittees and the Diemers have the right to rely on the City's 1986 interpretation.

CONCLUSION

Based upon the foregoing, the Appellant, Diemer Apartments, LLC requests that the Board grant its appeal of the adverse zoning determination relative to grandfathering of five and six bedroom usage of four living units at its property at 2-8 Hickok Place.

DATED at Essex Junction, Vermont this 17th day of December, 2015.

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Exhibit 1

Revised
Ordinances
of 1962



City of
BURLINGTON
Vermont

§ 6501. Definitions

For the purpose of this chapter:

(1) Singular words shall include the plural, and plural the singular, words in the present tense shall include the future, "used" shall include "designed or intended to be used," and the word "shall" is mandatory and not merely directory.

(2) Apartment house. A building or portion thereof used or designed to be used as a residence for three or more families living as units independently of one another.

(3) Building. Anything constructed or erected, the use of which requires more or less permanent location on the soil, or attached to something having a permanent location on the soil.

(4) Height of building. The vertical distance from the street curb level to the mean level of the slope of the main roof, provided, however, that the average elevation of the finished grade in front of the building may be substituted for the street curb level where the building in question is set back from the street a distance at least equal to the difference in elevation between the curb level and the grade level.

(5) Hotel. A building occupied as the temporary or permanent abiding place of individuals lodged therein with or without meals, in which there are more than fifteen sleeping rooms above the first story for separate occupancy and no provision made for cooking in individual rooms.

(6) Nonconforming use. The use of a building or premises which does not conform with the use regulations of the district where located.

(7) Public garage. A garage other than private, used or designed to be used for the housing or care of more than three self-propelled vehicles, where any such vehicles are for hire, stored, repaired, serviced, or kept for lease or sale.

§ 6502. Administration and enforcement

The building inspector of the city, or in case of his absence from the city, inability to serve, resignation, death or removal, the deputy building inspector, shall be the zoning administrative officer. No building or structure, or part thereof, shall be erected, altered or moved without a permit from the zoning administrative officer, issued upon application, stating that the plans and intended use indicate that the building is to conform in all respects with the provisions of this chapter. He shall have general charge of the administration of this chapter.

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: January 19, 2016
RE: ZP16-0517CA 122 Summit Street

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

File: ZP16-0517CA

Location: 122 Summit Street

Zone: RL **Ward:** 6S

Date application accepted: November 17, 2015.

Applicant/ Owner: Ramsay Gourd Architects / Robert and Sally Linder

Request: Appeal of administrative denial for bay window on west elevation third floor.

Background:

- o **Zoning Permit 16-0517CA;** replace third floor window with bay window. Denied November 2, 2015. (Focus of appeal.)
- o **Zoning Permit ZP16-0128CA;** new front porch, mudroom addition on east, conversion of attic to living space with new dormers and egress deck on each (rear) side. Approved September, 2015.
- o **Non-Applicability of Zoning Permit Requirements 16-0127NA;** replacement of painted wood shingle siding with same. Repair/replace trim as required. July 2015.
- o **Zoning Permit 89-465;** Convert existing 2nd story of existing detached garage to living/studio space. Install 18' x 36' inground pool. Garage work to include construction of 10' gabled dormer, 8' x 10' second story balcony, first floor door to access interior stairs. Bathroom facilities to be provided. Approved September 1989 conditioned that the expansion of living space into the garage in no way allows for the establishment of a second residential unit. Property remains a single family residence.



- o **Zoning Permit** request; Conditional Use request to change single family home to a single family home with home occupation, doctor's office. Erect a 72 sf. addition to the rear of the existing porch. **Denied**, March 1977.

The **Design Advisory Board** reviewed ZP16-0128CA, which originally included the third floor bay window as part of a larger development plan, at their August 25, 2015 meeting. The DAB approved the proposed alterations, with the exception of the third floor bay window. The DAB did approve an enlarged window, but not the projecting bay.

They Board *did* find the building eligible for historic listing, and Section 5.4.8 to be applicable. The applicants removed the bay window from the plan in order to secure permit approval and begin work. Under separate application (ZP16-0517CA) they have again applied for the third floor bay window; a permit that was denied administratively following the recommendation of the Design Advisory Board. This appeal is relative to that administrative denial.

Recommendation: The Design Advisory Board recognized the architectural and historic merit of 122 Summit Street; its integrity supported by existing building characteristics and features. The proposed projected bay window was not supported by the DAB. The recommendation is to adopt the DAB's recommendation, **upholding the administrative denial** per Articles 5 & 6; and to deny appeal.

I. Findings

Article 5: Citywide General Standards **Part 5: Special Use Regulations**

Sec. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

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

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

1. *The building is 50 years old or older;*

122 Summit Street was constructed in 1928; therefore greater than 50 years old.

2. *The building or site is deemed to possess significance in illustrating or interpreting the heritage of the City, state or nation in history, architecture, archeology, technology and culture because one or more of the following conditions is present:*

A. *Association with events that have made a significant contribution to the broad patterns of history;*

122 Summit Street reflects the residential expansion of the Hill Section of Burlington; specifically as providing high style dwellings of exceptional quality, many professional designed and reflecting popular architecture of the period. This particular building is the work of A. Raymond Ellis of Hartford, Connecticut, an architect that is identified with this particular blended style of Tudor/Colonial Revival domestic architecture. Other examples of his work are within the Prospect Avenue Historic District in Hartford, Connecticut and Irving Park in Greensboro North Carolina.

or,

B. *Association with the lives of persons significant in the past; or,*

C. *Embodiment of distinctive characteristics of a type, period, or method of construction, or representation of the work of a master, or possession of high artistic values, or representation of a significant or distinguishable entity whose components may lack individual distinction;*

See above reference to the building architect.

Overall, the residential structures on Summit Street reflect the increased prosperity of Burlington, with dwellings on large lots that were designed and constructed for more affluent professionals just after the First World War. Clearly evident are Tudor Revival, Colonial revival and similar early 20th century architectural styles. 122 Summit St. specifically presents a blended style; predominantly reflecting the Tudor presence (steeply pitched roof, varied eave lines, window arrangement) with the period popular Colonial influence (6/6 windows, entry hood and slender tapered columns.) Several other examples of the Tudor style co-exist on this street (141, 176, and 178 Summit another blended style) as well as on neighboring streets (436 and 452 South Willard.) In the context of the street, style, and as representative of an identified period of domestic architecture, this house is eligible for historic designation. The Design Advisory Board echoed that sentiment in their decision August 25th.

The Vermont State Register listings for Summit Street end at house number 109, reflecting time and resource limitations in the effort to complete Historic Site and Structure Surveys in 1979.

or,

D. *Maintenance of an exceptionally high degree of integrity, original site orientation and virtually all character defining elements intact;*

122 Summit Street is virtually unaltered from its original appearance, and retains a high degree of integrity of design, materials, association, feeling, location, setting and

workmanship. Recent permitting will alter the rear (east) façade (which will not be visible from the street), and the entrance canopy of the front porch.

or,

E. *Yielding, or may be likely to yield, information important to prehistory; and,*

3. *The building or site possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association*

See above.

(b) Standards and Guidelines:

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

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

The property was designed as a single family residence; the use is not proposed to change.

Affirmative finding.

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

At question is the proposed alteration of third story attic window.

Although pure Tudor examples may have no porch or only a small arched portico, 122 Summit reflects the influence of Colonial styling (the other most common architectural style in the early 1920s.) At present, the building is a visual confirmation of the popularity of both styles. The replacement of the Colonial door hood has been approved to help alleviate water problems.

The third floor window is among one of the truest character defining features of the Tudor style. The influence was early 16th century English architecture, with small window openings referencing an "arrow loop" or "loophole" for light, air, or shooting weaponry in defense. While first or second floor windows may reflect multi-paned or oriel (projecting) window arrangements, the third floor is most typically the smaller example.

The following are visual examples, as taken from McAllisters *Field Guide to American Houses*:



Cleveland OH, 1920s.



Toledo OH, 1920s.

Although stylistically windows mulled together, or infrequently bay windows may be evident on the first and second floors, large windows are mostly absent from third floors in the Tudor style. The proposal to introduce a three bay projecting window at the third floor on the primary façade at 122 Summit Street is an alteration that changes the spatial characteristics of the identified style, altering the original arrangement that is characteristic of the style and this example. **Adverse finding.**

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

The large third floor bay window is not original to the house, nor was originally proposed in the architectural plans. To add one now is inconsistent with the style and this particular example. **Adverse finding.**

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

None identified.

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

See above.

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

There is no evidence that the third story window, as proposed, previously existed. The Design Advisory Board would allow a larger window as a replacement, but specifically did not support the proposed projecting bay window. **Adverse finding.**

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

No chemical or physical treatments are proposed. Not applicable.

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

None identified. Not applicable.

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

The small third story window is a typical and representative characteristic of the blended Tudor/Colonial style at 122 Summit Street, and has been recommended for retention.

Adverse finding..

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

Although unlikely it may be possible to consider the proposed alterations reversible if sound plans are provided for the existing features. **Affirmative finding.**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

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

(a) Protection of Important Natural Features:

Not applicable.

(b) Topographical Alterations:

None proposed. Not applicable.

(c) Protection of Important Public Views:

There are no protected public views from the site. Not applicable.

(d) Protection of Important Cultural Resources:

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

See Section 5.4.8, below.

(e) Supporting the Use of Renewable Energy Resources:

No part of this application will prevent the use of wind, solar, water, geothermal or other alternative or renewable energy resources. **Affirmative finding.**

(f) Brownfield Sites:

None identified. Not applicable.

(g) Provide for nature's events:

Not applicable.

(h) Building Location and Orientation:

No change. Not applicable.

(i) Vehicular Access:

No change. Not applicable.

(j) Pedestrian Access:

No change. Not applicable.

(k) Accessibility for the Handicapped:

Not applicable..

(l) Parking and Circulation:

No change. Not applicable.

(m) Landscaping and Fences:

No changes are included within the plan.

(n) Public Plazas and Open Space:

Not applicable.

(o) Outdoor Lighting:

Not applicable.

(p) Integrate infrastructure into the design:

Not applicable.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

While the massing and height of the structure is not proposed to change from the streetfront, the Design Advisory Board found that the proposed window on the third floor, as presented and projecting from the building plane, was not appropriately scaled to the existing building. **Adverse finding.**

2. Roofs and Rooflines.

The preceding application proposed replacement of the front door hood with a metal clad shed-roofed canopy, which was approved. The projecting roof on the bay window (under appeal) is proposed to be flat seamed copper. The Design Advisory Board particularly objected to the window protruding from the plane of the primary façade, and specifically did not support that part of the application previously. **Adverse finding.**

3. Building Openings

The small third story attic window on the primary façade is proposed to be replaced with a three-part bay window. See Section 5.4.8, below for further discussion.

(b) Protection of Important Architectural Resources:

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

See Section 5.4.8.

(c) Protection of Important Public Views:

This is a private parcel; there are no protected views. Not applicable.

(d) Provide an active and inviting street edge:

The existing building is a notable example of a blended Tudor/ Colonial Revival. The proposed bay window in the third floor is an odd addition; but the building remains welcoming and attractive from the street. **Affirmative finding.**

(e) Quality of materials:

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

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

The proposed bay like the entrance canopy will be metal standing seam. The proposed material is considered durable. **Affirmative finding.**

(f) Reduce energy utilization:

All development will be required to meet the *Guidelines for Energy Efficient Construction* pursuant to the requirement of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding if conditioned.**

(g) Make advertising features complementary to the site:

No signage is included with the application. Not applicable.

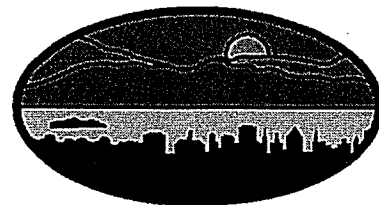
(h) Integrate infrastructure into the building design:

Not applicable.

(i) Make spaces secure and safe:

Construction shall meet all applicable building and life safety code as defined by the Building Inspector and Fire Marshal, as appropriate. **Affirmative finding if conditioned.**

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



**ZONING REQUEST DENIAL
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 10/23/2015

Appeal Expiration Date: 11/17/2015

Project Location: 122 SUMMIT STREET

District: RL

Owner: Robert E Linder

Ward: 6S

Address: 122 SUMMIT STREET
BURLINGTON, VT 05401

Tax ID: 050-4-007-000

Project Type: Residential - Renovation/Facade

Project Description: Replace one window, third floor.

Construction Cost:	\$6,000	Lot Size (Sq Ft):	14,875
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 16-0517CA

Decision By: Administrative

Level of Review: 1

Decision: Denied

See Reasons for Denial

Decision Date: November 2, 2015

Project File: NA

Zoning Administrative Officer

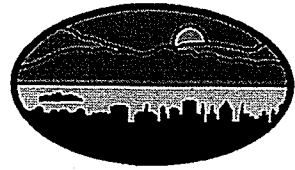
An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on November 17, 2015.

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

Building Permit Required: **Not Applicable**

Received by: _____

Date: _____



Zoning Permit - COA Level I – Reasons for Denial

ZP #: 16-0517CA

Tax ID: 050-4-007-000

City of
Burlington, Vermont
149 Church Street

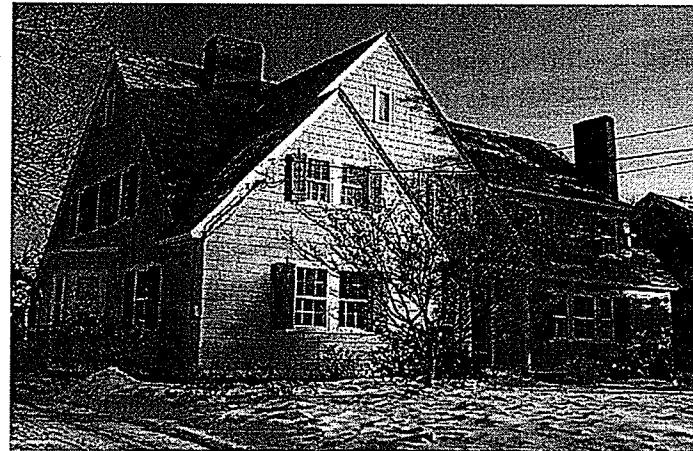
Issue Date: November 2, 2015

Decision: Denied

Property Address: 122 SUMMIT STREET

Description: Replace one window, third floor.

The request was previously reviewed under Zoning Permit 16-0128CA by the Design Advisory Board at their August 25, 2015 meeting. From the minutes:



16-0128CA; 122 Summit Street (RL, Ward 6S) Robert Linder

New front porch roof, mudroom addition and deck on east side of house; bay window third floor west side of house; conversion of attic to living space with associated new dormers.

Present: Patrick King and Ramsey Gourd, architects

Bob and Sally Linder, applicants

Motion by Matt Bushey: Regarding 122 Summit Street, the Board feels the property is eligible for historic listing to the Vermont State Register due to its historic integrity and condition per the standards before us. The Board has no objection to changes proposed for the north, south or east elevations. There is no objection to the proposed alteration of the front entry, as has been revised. The proposed bay window at the 3rd floor of the west elevation is not approved; revision with a larger window in the same plane of the house is acceptable.

2nd – Jeremy Gates

Vote 3-2 (CA, PH)

Motion carries.

The applicant provided a revised elevation plan with a paired double hung window at the third floor; that application was subsequently administratively approved.

Reason for denial, based on previous review by the Design Advisory Board:

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(d) Protection of Important Cultural Resources:

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

See Section 5.4.8, below. **Adverse finding.**

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(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 eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings.

See Section 5.4.8. **Adverse finding.**

Sec. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

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

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

1. The building is 50 years old or older;

122 Summit Street was constructed in 1928; therefore greater than 50 years old.

2. *The building or site is deemed to possess significance in illustrating or interpreting the heritage of the City, state or nation in history, architecture, archeology, technology and culture because one or more of the following conditions is present:*

A. *Association with events that have made a significant contribution to the broad patterns of history;*

122 Summit Street reflects the residential expansion of the Hill Section of Burlington; specifically as providing high style dwellings of exceptional quality, many professionally designed and reflecting popular architecture of the period. The architect that designed 122 Summit Street was A. Raymond Ellis of Hartford, Connecticut. Known for his high style hybrid between Colonial Revival and Tudor, other works have been listed on the National Register of Historic Places (Prospect Avenue Historic District in Hartford Connecticut, Irving Park in Greensboro North Carolina.)

or,

B. *Association with the lives of persons significant in the past; or,*

C. *Embodiment of distinctive characteristics of a type, period, or method of construction, or representation of the work of a master, or possession of high artistic values, or representation of a significant or distinguishable entity whose components may lack individual distinction;*

The residential structures on Summit Street reflect the increased prosperity of Burlington, with dwellings on large lots that were designed and constructed for more affluent professionals just after the First World War. Clearly evident are Tudor Revival, Colonial revival and similar early 20th century architectural styles. 122 Summit St. specifically presents a blended style; predominantly reflecting the Tudor presence (steeply pitched roof, varied eave lines, window arrangement) with the period popular Colonial influence (6/6 windows, entry hood and slender tapered columns.) Several other examples of the Tudor style co-exist on this street (141, 176, and 178 Summit another blended style) as well as on neighboring streets (436 and 452 South Willard.) In the context of the street, style, and as representative of an identified period of domestic architecture, this house is eligible for historic designation under Criterion C.

The Vermont State Register listings for Summit Street end at house number 109, reflecting time and resource limitations in the effort to complete Historic Site and Structure Surveys in 1979. No further historic resource surveys have been completed on the street.

or,

D. *Maintenance of an exceptionally high degree of integrity, original site orientation and virtually all character defining elements intact;*

122 Summit Street is virtually unaltered from its original appearance, and retains a high degree of integrity of design, materials, association, feeling, location, setting and workmanship.

or,

E. *Yielding, or may be likely to yield, information important to prehistory; and,*

3. *The building or site possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association*

See above.

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic

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

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

The property was designed as a single family residence; the use is not proposed to change.

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

At question is the proposed alteration of third story attic window.

The third floor window is among one of the truest character defining features of the Tudor style. As the influence was early 16th century English architecture, the small opening references an “arrow loop” or “loophole” for light, air, or shooting weaponry in defense. While first or second floor windows may reflect multi-paned or oriel (projecting) window arrangements, the third floor is most typically a smaller example.

The following are visual examples, as taken from McAllister’s *Field Guide to American Houses*:



Cleveland OH, 1920s.



Toledo OH, 1920s.

Although stylistically windows mulled together, or infrequently bay windows may be evident on the first and second floors, large windows are mostly absent from third floors in the Tudor style. The proposal to introduce a three bay projecting window at the third floor on the primary façade at 122 Summit Street is an alteration that changes the spatial characteristics of the identified style, altering the original arrangement that is characteristic of the style and this example. **Adverse finding.**

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

The large third floor bay window is not original to the house, nor was originally proposed in the architectural plans. To add one now is inconsistent with the style and this particular example. **Adverse finding.**

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

None identified.

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

See above.

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

There is no evidence that third story window, as proposed, previously existed. **Adverse finding.**

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

Not applicable.

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

None identified. Not applicable.

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

The small third story window is a typical and representative characteristic of the blended Tudor/Colonial style at 122 Summit Street. The Design Advisory Board found that a larger replacement window, in the same plane as the front elevation to be acceptable; replacement with a

three part bay window inconsistent with the architectural style and out of scale relative to the stylistic features and character of the structure.

Adverse finding.

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

It may be possible to consider the proposed alteration reversible.

Burlington Design Advisory Board

149 Church Street, City Hall
Burlington, VT 05401
<http://www.burlingtonvt.gov/PZ/Boards/Design-Advisory-Board/>
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

Matt Bushey, Chair
Ron Wanamaker, Vice Chair
Sean McKenzie
Chris Alley
Steve Offenhartz
Jeremy Gates, Alternate
Phil Hammerslough, Alternate



MINUTES

BURLINGTON DESIGN ADVISORY BOARD

Tuesday, August 25, 2015, 3:00 p.m.

Conference Room 12, City Hall, 149 Church Street, Burlington, VT

Present: Matt Bushey (Chair), Sean McKenzie, Chris Alley, Jeremy Gates (alternate), Phil Hammerslough (alternate.)

Staff present: Mary O'Neil

Absent: Steve Offenhartz, Ron Wanamaker

16-0128CA; 122 Summit Street (RL, Ward 6S) Robert Linder

New front porch roof, mudroom addition and deck on east side of house; bay window third floor west side of house; conversion of attic to living space with associated new dormers.

Present: Patrick King and Ramsey Gourd, architects

Bob and Sally Linder, applicants

Motion by Matt Bushey: Regarding 122 Summit Street, the Board feels the property is eligible for historic listing to the Vermont State Register due to its historic integrity and condition per the standards before us. The Board has no objection to changes proposed for the north, south or east elevations. There is no objection to the proposed alteration of the front entry, as has been revised. The proposed bay window at the 3rd floor of the west elevation is not approved; revision with a larger window in the same plane of the house is acceptable.

2nd – Jeremy Gates

Vote 3-2 (CA, PH)

Motion carries.

Certified Local Government / Historic Preservation Review Committee

CLG Board present: Matt Bushey, Sean McKenzie (alternate, Jeremy Gates (alternate)

CLG Board absent: Ron Wanamaker, Steve Offenhartz

Staff present: Mary O'Neil

86 Lake Street, (WFCE, Ward 3)

Lake Street Associates.

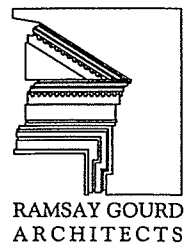
Project representatives for both agenda items: Brian Sullivan, Britta Tonn, Louis

Hodges, Andrew Davis

Section 106 review of revised plans for telecommunications facility installation.

HPRC review for any adverse effect on historic properties.

Original reviews were April 4, 2015 and July 14, 2015.



RECEIVED

NOV 17 2015

DEPARTMENT OF
PLANNING & ZONING

City of Burlington, VT Planning & Zoning,

I am writing, as the applicant for zoning permit #16-0517CA, on behalf of the owners, Robert & Sally Linder at 122 Summit Street, Burlington, VT. The permit application submitted 10/23/2015 was administratively denied on 11/02/2015 for reason that it was previously denied when considered under permit 16-0128CA by the Design Advisory Board. It was noted that the house was eligible for historic listing to the Vermont State Register due to its historic integrity and condition. This was not a unanimous decision, which had a 3-2 vote to carry the motion. We feel that although the house is old and well maintained it is not a pure example of a specific historic architectural style that would command a historic designation.

It was the feeling of the majority of the Design Advisory Board that the addition of the third floor bay window was misrepresentative of the home's architectural style and period. We have clear evidence that it was the intention of the original Architect, as illustrated in the 1928 blueprints, for a bay window of similar scale and detail to what we have proposed, be constructed on the second floor of the house. For reasons unknown this bay window was never constructed. There is also historic precedence that Oriel windows, as they are referred, are not uncommon throughout many historic styles of architecture, including Tudor and Colonial as this house has been described in section 2/C.

Due to the aforementioned, we are requesting to have our permit application reviewed before the Development Review Board. Thank you for your time and consideration.

Respectfully Submitted,

Patrick King, AIA – Ramsay Gourd Architects



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVED
NOV 17 2015

DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

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

SUBJECT LOCATION ADDRESS: 122 Summit Street

Subject Property Owner: Robert & Sally Linder

Appellant: Ramsay Gourd Architects: Applicant

Agent/Representative: Patrick King, Ramsay Gourd Architects

Mailing Address: 1 Mill Street, Suite 311

City, St, Zip: Burlington, VT 05401

Day Phone: 802-861-1480 Email: prk@rgavt.com

Appellant Signature: *Prk* Date: 11/17/2015

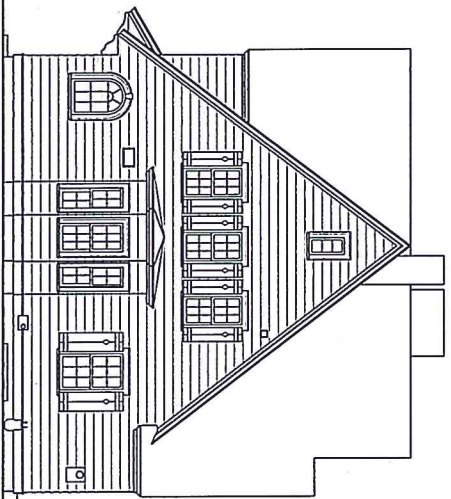
In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

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

Office Use Only:

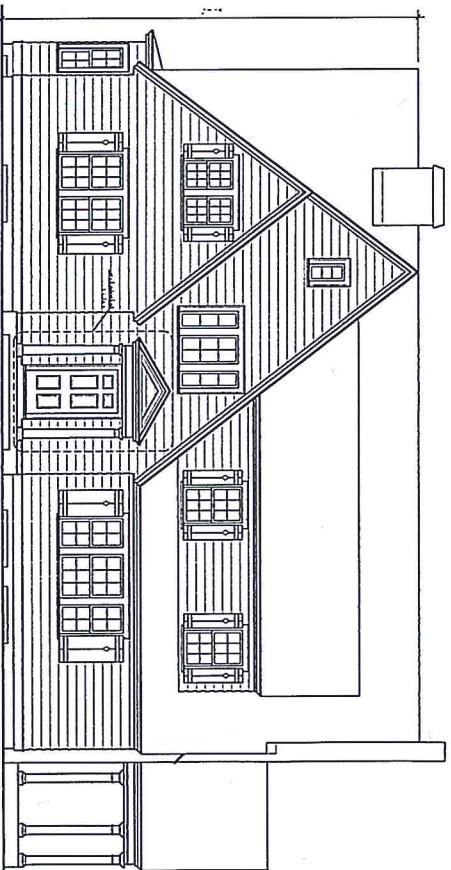
Check No. 66 Amount Paid 250.- Zoning Permit # 16-0517CA

submitted via email 8/19/15



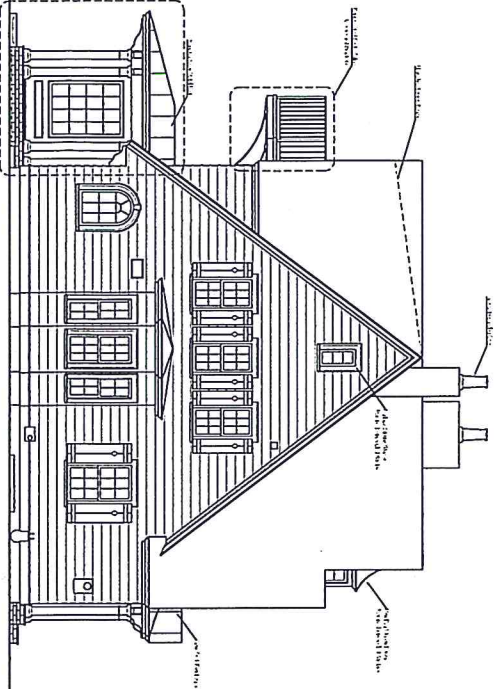
④ Existing North Elevation

Scale: 1/4" = 1'-0"



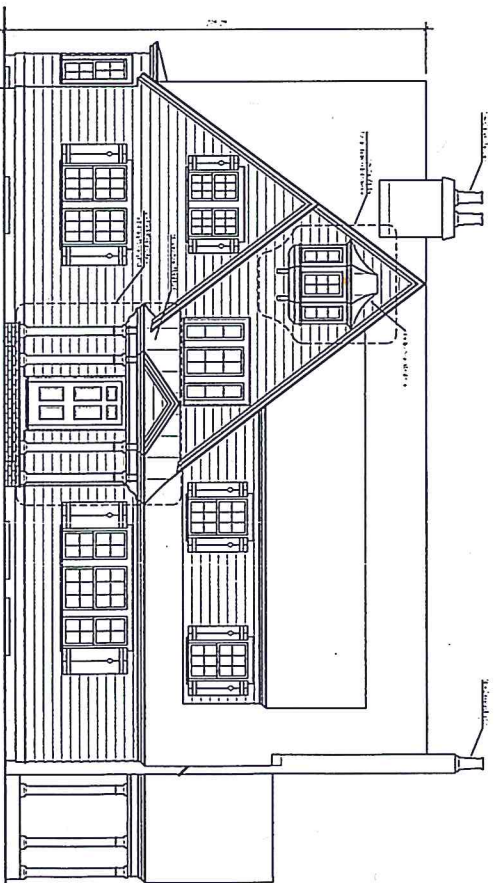
② Existing West Elevation

Scale: 1/4" = 1'-0"



③ Proposed North Elevation

Scale: 1/4" = 1'-0"



① Proposed West Elevation

Scale: 1/4" = 1'-0"



④ Proposed South Elevation



⑤ Proposed East Elevation

Scale: 1/4" = 1'-0"

NOTE

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

FINAL APPROVAL

SIGNED

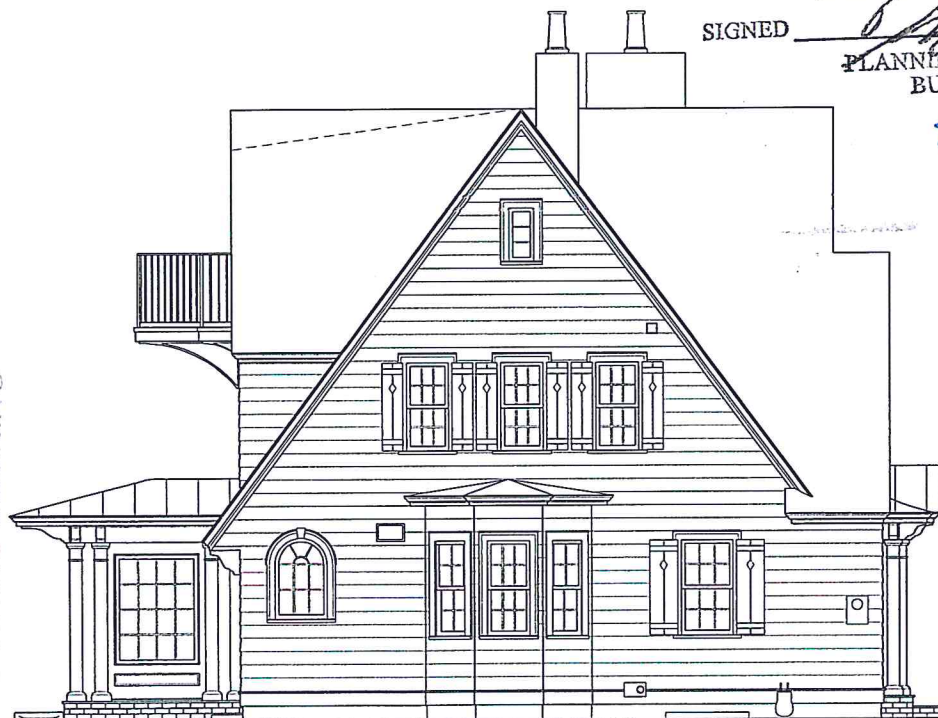
PLANNING & ZONING DEPARTMENT
 BURLINGTON, VERMONT

DATE

9/3/15

2016-0128CA

(As approved by DAB)



③ Proposed North Elevation

Scale: 1/4" = 1'-0"



① Proposed West Elevation

Scale: 1/4" = 1'-0"

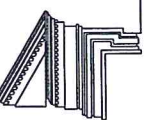
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SEP 03 2015

DEPARTMENT OF
 PLANNING & ZONING

Drawn By: PRK
 Date: 3 September 2015

LINDER RESIDENCE
 122 Summit Street
 Burlington, VT
RAMSAY GOURD ARCHITECTS
 7190 Main Street • Manchester Center, VT
 (802) 362-1480 • FAX (802) 362-0179



Exterior Elevations

A-2.1

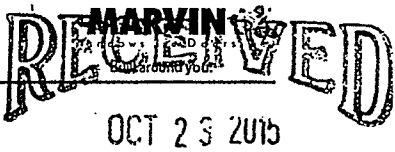
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JUL 24 2015

Clad Ultimate Casement Collection

Unit Features



Ultimate Casement Collection:

- Clad Ultimate Casement (CUCA), Clad Ultimate Awning (CUAWN), Clad Ultimate Casement Picture (CUCAP), Clad Ultimate Casement Bows and Bays (CUCABB), Clad Ultimate Casement Round Top (CUCART), Clad Ultimate Push Out Casement (CUPCA), Clad Ultimate Push Out Awning (CUPAWN), Clad Ultimate Push Out Casement Picture (CUPCAP), Clad Ultimate Push Out Casement Bows and Bays (CUPCABB), Clad Ultimate French Casement (CUFCA), Clad Ultimate Push Out French Casement (CUPFCA), Clad Ultimate Venting Picture (CUCAVP), Clad Ultimate Casement Polygon (CUCAPOLY), Clad Ultimate Replacement Casement (CURCA), Clad Ultimate Replace Awning (CURAWN), Clad Ultimate Replacement Casement Picture (CURCAP), Clad Ultimate Replacement Push Out Casement (CURPCA), Clad Ultimate Replacement Push Out Awning (CURPAWN), Clad Ultimate Replacement Push Out Casement Picture (CURPCAP), Clad Ultimate Replacement Push Out French Casement (CURPFCA), Clad Ultimate Replacement Casement Round Top (CURCART), Clad Ultimate Replacement Casement Polygon (CURCAPOLY)

NOTE: Clad Ultimate French Casement, Clad Ultimate Push Out French Casement, Clad Ultimate Venting Picture, Clad Ultimate Replacement Casement Round Top, Clad Ultimate Replacement Casement Polygon, and Clad Ultimate Replacement Push Out French are not available with CE mark.
Bows and Bays are not available with CE mark from the factory. Bow and Bay kits are available for field mulling.

Frame:

- Frame thickness: 1 3/16" (30)
- Full frame units have a frame base (with pre-drilled installation holes in jambs): is 4 9/16" (116) from backside of nailing fin to interior wood face of frame
- Replacement frame: Units have overall base frame of 3 1/4" (83) jambs
- Frame bevel: Standard is no bevel, optional available are 8 degree bevel and 14 degree bevel

Sash:

- Nominal Sash thickness for full frame:
 - 1 5/8" (41) with 3/4" (19) insulating glass
 - 1 7/8" (48) with 1" (25) insulating glass
- Nominal Sash thickness for replacement frame: 1 5/8" (4) with 3/4" (19) insulating glass
- Stile and Rails 2 1/16" (52) standard
- Optional tall bottom rail 3 9/16" (90) available
- Standard interior wood cope sticking: Ogee
- Optional interior wood cope sticking: Ovolo and Square

Hardware: - See Individual Product Chapters

Insect Screen:

- Standard is a full size roll formed aluminum surround, in Satin Taupe, optional Stone White or Bronze
- Optional wood screen available
- Standard screen mesh: Charcoal Fiberglass
- Optional screen mesh: High Transparency, Silver Gray Fiberglass, Charcoal Aluminum, Black Aluminum, Bright Aluminum, or Aluminum Bright Bronze

Wood Interior Swinging Insect Screens:

- Wood screen surround: Matches window species.
- Screen mesh: Charcoal High Transparency (CH HI-Tran) fiberglass.
- Ball and Catch latch system used.
- Screen mesh options: Charcoal Fiberglass, Silver Gray Fiberglass, Charcoal Aluminum, Black Aluminum, Bright Aluminum and Bright Bronze.

Clad Ultimate Casement Collection



Unit Features

Retractable Screen:

- The screen and its associated hardware shall have minimal exposure and shall not interfere with commonly used window dressings
- Standard screen mesh: stiffened high transparency mesh
- Visible interior screen is all wood
- Species: Pine
 - Alternate species: Mahogany and Vertical Grain Douglas Fir
- Incorporated weather seal that provided optimal seal
- Color matched to gliding block
- Adjustable gliding block
 - Standard color: beige
 - Optional color: black and white
- Optional pull handle: factory applied or shipped loose
- Colors: Satin Taupe, Bronze, Stone White, Brass, Antique Brass, Polished Chrome, Satin Chrome, Oil Rubbed Bronze, Satin Nickel

Weather Strip:

- Frame weather strip is made of a foamed EPDM material with a hollow built in it to reduce compression force. The material is UV resistant, durable, has a low COE, and is flexible enough to be bent around 90 degree corners to allow for fewer seams in it around the frame. It is only available in beige.
- Sash weather strip is made of glass filled polypropylene material and is formulated to be UV resistant, have low COE, and slide easily in and out of frame. Standard color is beige, with optional black or white.

Glass:

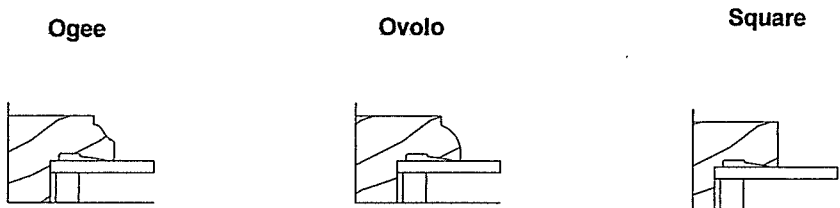
- Glazing seal: Silicone glazed
- Standard glass: Insulating Low E2 Argon or Air
- Optional glazing: Low E1 Argon or Air, Low E3 Argon or Air, clear, tints, tempered, obscure, and decorative glass options
- Insulating glass will be altitude adjusted with capillary tubes for higher elevations
- Argon gas is not available for elevations that require capillary tubes
- See unit features in product sections for Tripane glass options

CE Optional Glazing:

- Glazing seal: silicone glazed
- Standard glass: Insulating Low E2 Argon or air
- Optional glazing available: Low E1 Argon or air, Low E3 Argon or air, Low E2/ERS Argon or air, Low E3/ERS Argon or air, clear, laminated clear & tints, tempered, sandblasted
- Glass panes available in 3, 4, and 6 mm thicknesses
- Laminated panes available in 7.0 and 7.8 mm thicknesses
- Insulating glass will be altitude adjusted with capillary tubes for higher elevations
- Argon gas is not available for elevations that require capillary tubes
- See unit features in product sections for Tripane glass options

Interior Sticking Options:

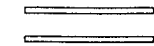
- Standard interior sticking: Ogee
- Optional interior sticking: Ovolo or Square



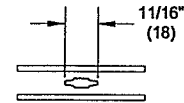
Clad Ultimate Casement Collection



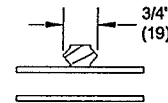
Lite Options



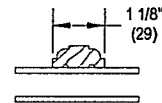
Insulating Glass



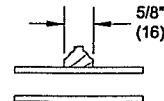
Aluminum 1 1/16" Contour GBG



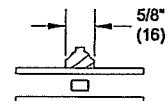
3/4" Grille



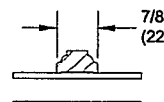
1 1/8" Grille



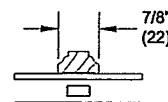
5/8" SDL



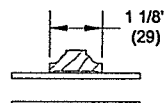
5/8" SDL
W/Spacer



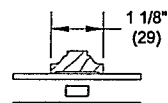
7/8" SDL



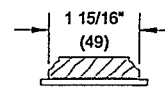
7/8" SDL
W/Spacer Bar



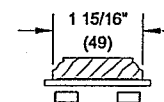
1 1/8" SDL



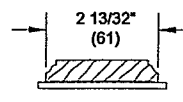
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W/Spacer Bar



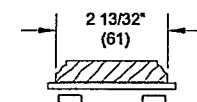
1 15/16" SDL



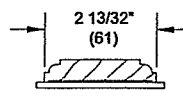
1 15/16" SDL
W/Two Spacer Bars



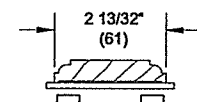
2 13/32" SDL



2 13/32" SDL
W/Two Spacer Bars



2 13/32" SDL
Optional Double Hung



2 13/32" SDL
W/Two Spacer Bars
Optional Double Hung

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OCT 23 2013
DEPARTMENT OF
PLANNING & ZONING

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

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

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Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: January 19, 2016
RE: ZP16-0622CA; 351 North Avenue

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

File: ZP16-0622CA

Location: 351 North Avenue

Zone: WRM **Ward:** 4N

Date application accepted: November 17, 2015

Applicant/ Owner: Eric Farrell / E.F. Farrell, LLC

Request: Change roof material from slate to standing seam copper on former orphanage building.



Background:

- o Zoning Permit 16-0007 CA/MA; Convert former orphanage and college building to 63 residential units and relocate college within building. Associated site improvements. Approved September 2015.
- o Zoning Permit 15-0702LL; Lot line adjustment with 329 North Avenue. Approved December 2014. [Plat recorded 1/16/2015; Plat file 509C.]
- o Zoning Permit 14-1286CA; Installation of CCTA bus shelter on Burlington College property. Approved June 2014.
- o Zoning Permit 12-0706SN; replace existing non-conforming freestanding sign with new freestanding sign for Burlington College – Main Campus. Approved March, 2012.
- o Zoning Permit 12-0121CA; Install rooftop air handler, five ac units, bike racks, and remove walls from garage. Approved August 11, 2011.
- o Zoning Permit 11-0282CU; convert existing institutional office use and group home use to post-secondary school. No site or exterior building changes proposed. Approved November 2010.
- o Zoning Permit 09-526CA; Demolish single car garage. Approved February 2009.
- o Non-applicability of zoning permit requirements; continued use of existing group home. June 1998.
- o Zoning Permit 92-096 / COA 092-016; Removal of existing wooden cross with installation of fiberglass statuary of St. Mary on top of Diocese building. Overall height to be 104' with exterior illumination to surround statue. Approved September 1991.
- o Notice of selective landscape removal on west. No change in grade of site or drainage of runoff water. December 1991.
- o Zoning Permit 79-352; install septic tank and seepage bed. July 1979.
- o Zoning Permit 77-03; renovation of existing structure "St. Josephs Child Center" into office space and three apartments for Bishop and two priests. Approved January 1977.
- o Zoning Permit 77-628; Convert St. Joseph's Child Center into office building, three apartments and three guests' rooms. Remove some windows and brick up openings. Install new windows. Erect 28'6" x 30' addition and 32' x 66' addition. December 1976.

Overview: The applicant received approval for the rehabilitation of the former orphanage building in September 2015; part of that application included the installation of roof windows, alteration of a rear roof and replacement of the existing slate roof with new or reused slate. The applicant now wishes to revise that plan, and install a standing seam metal (copper) roof in place of the approved replacement-in-kind.

The **Design Advisory Board** reviewed the application at their December 8, 2015 meeting, and voted 4-1 to allow the material replacement with the following conditions:

1. Snow guards be added;
2. All flashings to match roof material.

Recommendation: Although there appear conflicts with Section 5.4.8 (b), the Design Advisory Board has made a recommendation for approval with conditions. If the DRB concurs, then approval is recommended.

I. Findings:

Article 5: Citywide General Regulations

Sec. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

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

351 North Avenue is listed on the State Register of Historic Resources.

(b) Standards and Guidelines:

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

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

The overall redevelopment is to convert the former orphanage to apartments; consistent with its general historic residential purpose. The major difference is the conversion of the attic space into habitable area, which has precipitated the requests for the most significant changes to the character of the building; the introduction of roof windows (which were permitted under ZP16-0007CA/MA), and this request to change the roof sheathing to standing seam copper. The present request for material changes to the large roof and its connected wings will

be a significant and visible material change likely to result in a loss of historic character and overall diminishment of the building's historic integrity. An interpretation of the alteration as a "minimal" and therefore acceptable change will be necessary to reach an affirmative finding. The Design Advisory Board has, however, recommended approval of the project.

Affirmative finding if concurrence with DAB recommendation.

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

The St. Joseph's Orphanage was constructed with Vermont slate in 1884, and has retained that characteristic original material. Per this standard, its removal and replacement with a different material should be avoided.

Two letters have been submitted (Heritage Slate, and Cold Hollow) supporting the removal of the existing slate roof and replacement with a new material. While these representatives were not present at the DAB hearing, an employee of the applicant did speak relative to the need to replace the slate.

The Design Advisory Board has recommended approval of the project. **Affirmative finding** if concurrence with DAB recommendation.

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

While copper is a quality material that has been utilized for centuries, it is not consistent with the original materials on this building. Its substitution for slate would be historically inaccurate; however replacement with copper material can be entertained if slate consultants' reporting is acceptable. **Affirmative finding as conditioned.**

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

Not applicable.

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

The slate roof is a distinctive material, feature and finish that characterize the property, and should be retained. The Design Advisory Board has, however, recommended approval of the project. **Affirmative finding** if concurrence with DAB recommendation.

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

The replacement in kind was approved under ZP16-0007CA/MA, however this request diverges from that approval and proposes a new roof sheathing which does not match the old in design, color, texture or material. Previous applications for slate replacement have required submission of a report from one qualified to assess the condition of the slate roof; (two letters have been submitted for this application.) The difficulty is that they based their abbreviated opinion on the cost analysis between repairing and maintaining the existing slate roof as the supporting argument for replacement with a new material. Previous review and approval was for a replacement slate roof, not repair.

Letters from two roofing contractors have been submitted supporting the removal of the existing slate roof and replacement. This is consistent with the requirements of the Slate Roof Policy of 1995. **Affirmative finding as conditioned.**

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

If the supporting consultant's letters are found acceptable to support replacement of the historic material with a different material, an affirmative finding can be made. **Affirmative finding as conditioned.**

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

Not applicable.

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

The slate roof is a major characteristic of the historic structure. Removal and replacement with a different material will diminish the integrity of the building's appearance; however the new work will be differentiated and clearly discernable as a new roofing material, particularly when it is newly installed.

The examples of standing seam metal roofs provided by the applicant team (H.O. Wheeler School, and Edmunds Middle School) were not completed under the current zoning ordinance which has specific standards for the treatment of historic resources. Additionally, material replacement on either structure would be exempt from municipal review per §4413, public and private schools and other educational institutions.

The slate roof on St. Joseph's Church was replaced in 1985 with standing seam copper, and the project architect has confirmed the change in the visual character of the building.¹

The Design Advisory Board has, however, offered a recommendation for approval of the project. **Affirmative finding** if concurrence with DAB recommendation.

¹ Tyler Scott, Scott & Partners, January 5, 2016. Mr. Scott was working in the office of Colin Lindberg at the time of the project. Although an attempt was made to locate material to match the existing red slate, it was determined there was no inventory of similar slate available for replacement. Subsequently the copper roof was approved.

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

As the existing orphanage building will remain despite material changes to the roof, the essential form and integrity of the historic property will remain. **Affirmative finding.**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

Not applicable.

(b) Topographical Alterations:

Not applicable.

(c) Protection of Important Public Views:

Distant terminal views of Lake Champlain and the mountains to the east and west, and important public and cultural landmarks, framed by public rights-of-way or viewed from public spaces shall be maintained through sensitive siting and design to the extent practicable.

The former St. Joseph's Orphanage is an iconic structure, visible from some distance along North Avenue and from Lake Champlain. The change in material from slate to standing seam copper will be discernable to those traveling along these public thoroughfares. The DAB and DRB will determine whether material change is appropriate given its significance as a cultural landmark, and weigh the supporting consultant letters within the context of the request.

The Design Advisory Board has offered a recommendation for approval.

Affirmative finding if concurrence with DAB recommendation.

(d) Protection of Important Cultural Resources:

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

See Section 5.4.8, below.

(e) Supporting the Use of Renewable Energy Resources:

Not applicable.

(f) Brownfield Sites:

Not applicable.

(g) Provide for nature's events:

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

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

Material substitution on the roof is not likely to have immediate implications for stormwater management; however snow slide is a problem on standing seam roofs. Several adjacent structures have suffered significant damage from snowslide off St. Joseph's roof since a standing seam copper roof was installed in 1985. The applicant is advised to review walkways, pedestrian areas, and building entrances to assess the potential for personal injury or property damage. The Design Advisory Board has included a condition for snow guards if the project is approved. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

Not applicable.

(i) Vehicular Access:

Not applicable.

(j) Pedestrian Access:

See previous note about increased likelihood of snowslide and proximity of pedestrian way. **Affirmative finding as conditioned.**

(k) Accessibility for the Handicapped:

Not applicable.

(l) Parking and Circulation:

Not applicable.

(m) Landscaping and Fences:

Not applicable.

(n) Public Plazas and Open Space:

See previous note about increased likelihood of snowslide and proximity of pedestrian areas, like the plaza/ patio on the west side of the building although recent application has suggested that the patio may be abandoned from development plans. **Affirmative finding as conditioned.**

(o) Outdoor Lighting:

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

Not applicable.

(p) Integrate infrastructure into the design:

Not applicable.

Part 3: Architectural Design Standards
Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

Not applicable.

2. Roofs and Rooflines.

The former orphanage is among the most recognizable in Burlington; part of that character is the assembled materials of brick, stone and slate. The replacement of the existing and historic slate roof with standing seam copper will introduce a new material on all roofs of the collected whole.

The existing gabled roofs are not proposed to be structurally altered in this application, but roof alterations were permitted under ZP16-0007CA/MA including the installation of roof windows and changes to the rear convent roof addition to create an outdoor space.

The Design Advisory Board has offered a recommendation for approval of the project.

Affirmative finding as conditioned.

3. Building Openings

Not applicable. Roof windows were permitted under ZP16-0007CA/MA.

(b) Protection of Important Architectural Resources:

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

See Section 5.4.8.

(c) Protection of Important Public Views:

See Section 6.2.2. (c), above.

(d) Provide an active and inviting street edge:

The proposed new material will have a different look from the street, but will support an inviting appearance. **Affirmative finding as conditioned.**

(e) Quality of materials:

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

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

Submission materials from consulting contractors support whole roof replacement with copper, identifying the new material as “maintenance free”, although lifetime estimates are not given. A similar comparison to the whole roof slate replacement, which has already been approved, was not provided.

Copper is recognized to be a superior product with an extended life of service when installed properly.

There is nothing within the submission packet to support consultation with an architectural historian on the appropriateness of the material replacement proposal for this particular building. A gentleman who identified himself as an employee of the applicant (Charlie Pughe) asserted at the Design Advisory Board meeting that the material switch was necessary.

The Design Advisory Board has recommended approval of the project. **Affirmative finding as conditioned.**

(f) Reduce energy utilization:

The narrative within the application materials states that the applicant wishes to “take the orphanage building as close as possible to the energy efficiency standards of a new building, while not sacrificing the quality of finishes and building amenities; just to offset those costs.” The request for material replacement is therefore indirectly linked to a desire to achieve a higher energy efficiency of the overall building, where investment will be directed. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

Not applicable.

(h) Integrate infrastructure into the building design:

Not applicable.

(i) Make spaces secure and safe:

Submission materials support the removal of existing slate in part due to dangers associated with failing, and falling materials. As noted, snow slide from standing seam metal roofs have their own safety issues. Methods of arresting rapid slide will need to be explored to prevent injury or damage from such typical weather related events. **Affirmative finding as conditioned.**

II. Conditions, if approved

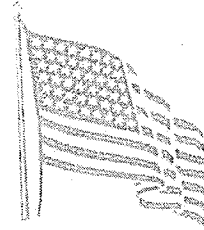
1. Snow guards shall be added.
2. All flashing shall match the roof material.
3. Standard Permit Conditions 1-15.

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

EF Farrell, LLC

P.O. Box 1335, Burlington, VT 05402

802-861-3000 fax 802-861-3003



November 27, 2015

Mary O'Neil, AICP
Senior Planner
Coordinator, Certified Local Government Program
Dept. of Planning & Zoning
149 Church Street
Burlington, VT 05401
(802) 865-7189

Re: 351 North Avenue

Hi Mary,

I have attached another letter from a slate roof contractor, which reinforces what the first contractor indicated, that is, that the existing slate roof is beyond its useful life and needs to be replaced. We expect to get a third letter next week with similar findings.

I have also attached an excerpt from Article 5 of the City's Comprehensive Development Ordinance, which states that historic standards "... are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility".

I have made every attempt to repurpose this iconic building in a historically sensitive manner, however, like many buildings in this category, the economic realities are very challenging.

By way of example, I recently completed a new 55,500 sf, 5-story, 54-unit, energy-efficient, apartment building in South Burlington that cost \$117 per sf. The Orphanage measures 55,000 sf, is 5-story and will contain 63 apartments, i.e. very similar metrics. However, the Orphanage will cost about \$152 per sf to place back in service. The \$35 per sf difference, represents a cost premium of \$1,925,000, which cannot be recovered in rents, nor will it be reflected in additional appraised value.

I want to take the Orphanage building as close as possible to the energy efficiency standards of a new building, while not sacrificing the quality of finishes and building amenities, just to offset those costs. This does involve making some difficult choices.

Replacing the existing (failed) slate roof with a standing-seam copper roof represents a cost savings without sacrificing quality or aesthetics. Of course, I could have asked to replace the slate with asphalt shingles or even painted-metal standing-seam. Both would have represented considerable additional savings, but not a choice I felt to be reasonable.

Standing-seam copper is universally recognized as an appropriate material to be used on historic buildings. Two very good examples of this exist in Burlington with H. O. Wheeler School and Edmunds Middle School. Both buildings have standing-seam copper roofs that replaced the original slate.

An added benefit of copper over slate is that slate, even in good condition, requires ongoing annual maintenance, the cost of which is exacerbated by the height of the building; plus slate can actually be dangerous on a building of this height, in that loose slates hit the ground at a very high speed.

Another benefit of copper is that it affords an opportunity to install solar panels (on the west elevation only), which is not possible due to the ongoing maintenance requirements of slate.

In summary, there are many costs that potentially represent tipping points in my effort to save this building. Given that the slate has failed and needs to be replaced, having to replace it with new slate will represent an unreasonable burden on my efforts.

I hope that you and the Planning Staff will acknowledge my efforts to restore this magnificent building for much-needed housing by supporting my request to replace the slate roof with copper.

Please pass my comments onto the DRB.

Many thanks,



Eric Farrell
Sole Member

David E. White
Scott Gustin
Owiso Makuku

Attachments



COLD HOLLOW.

November 25, 2015

To Whom It May Concern:

In September 2015, Wright & Morrissey reached out to Cold Hollow and other roofing companies to assess the condition of the slate roof on the Orphanage building at 375 North Avenue in Burlington VT.

I was told the owner intended to repair the existing slate roof, if possible, and to estimate how much slate could be salvaged for a re-installation.

After performing my inspection, it is my opinion that the roof is beyond repair and that there is not enough good slate to consider re-installing the existing slate.

I recommend replacement of this roof with a material of similar quality to achieve a lasting solution.

Regards,

Tim Heaghney - President

A handwritten signature in black ink, appearing to read 'Tim Heaghney', with a large, stylized flourish at the end.

Heritage Slate
Lowell VT
802-323-2456

November 12, 2015

Mr. Doug Young
Wright and Morrissey, Inc.
PO Box 421
Burlington, VT 05402

RECEIVED
NOV 17 2015

DEPARTMENT OF
PLANNING & ZONING

Re: 351 North Avenue, Burlington, Vermont

Dear Mr. Young,

After our conversation about the roof project at Burlington College, and an inspection on the premises Sept 25th, here are my findings.

First let me give you my recommendation on the roof as a whole. Unfortunately the roof requires such a high degree of maintenance that at this point in time it should be considered failed. All the flashings need to be replaced, including valleys, vent boots, step flashing and all cap and apron flashing. Because of the large number of valleys and dormers, this necessitates that all of the slate be removed. While it theoretically would be possible to repair the existing slate, such a repair is not recommended, because it would not result in the long-life integrity of a new roof and consequently, would expose the owner to massive amounts of maintenance in the future.

Therefore, I strongly recommend that you replace the entire roof to avoid long-term maintenance issues, where probable future leaks risk damage to the building structure. Also, due to the unknown age of the existing fasteners, failure of the fasteners could make the maintenance cost prohibitive. An added benefit to replacing the entire roof is that it will allow us to inspect and make any needed repairs to the roof deck. A total slate replacement would cost \$409,000, which I believe to be prohibitive given the alternatives.

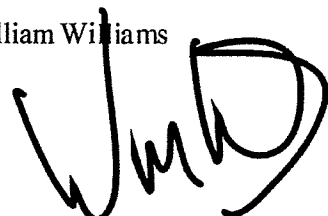
Due to the high cost of a new slate roof, I would recommend a standing-seam copper roof, which is a historically appropriate material to replace the existing roof, according to the National Park Service, which lists copper roofs as old as 1774.

A new copper roof has several advantages over slate for the following reasons:

1. Copper will last as long as a slate roof and remember, all your flashings on a slate roof are of the same copper material as a standing-seam roof.
2. A standing-seam roof is as nearly maintenance free any roof can be. A slate roof that is as high off the ground as yours makes access for repairs problematic and expensive. Also, with the northern winters contributing large amounts of ice and snow buildup, annual slate maintenance can easily cost \$4,000 - \$6,000 per year likely increasing over time.
3. The cost of a standing-seam copper roof is much more reasonable at \$258,000 with no annual maintenance cost.

Thank you for your consideration.

William Williams

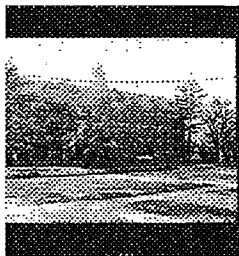


Design Review Board
Slate roofing material policy
May 16, 1995

Slate roofs shall be maintained, not replaced by substitute roofing materials, unless there exist numerous compelling reasons otherwise.

If an application is brought forward to the Design Review Board, the following items should be included.

1. Submit photographs of the building including all elevations with visible portions of the roof.
2. Describe the reason why you feel the slate roof should be removed.
3. If applicable, include a statement by an experienced architect, contractor or engineer as to the condition of the roof structure.
4. Describe the roofing materials on adjacent buildings.



STATE OF VERMONT
Division for Historic Preservation
Montpelier, VT 05602

HISTORIC SITES & STRUCTURES SURVEY
Individual Structure Survey Form

COUNTY: Chittenden	SURVEY NUMBER:
TOWN: Burlington	NEGATIVE FILE NUMBER: 78-A-285
LOCATION: 351 North Avenue	UTM REFERENCES: Zone/Easting/Northing
COMMON NAME:	U.S.G.S. QUAD. MAP:
FUNCTIONAL TYPE:	PRESENT FORMAL NAME: St. Joseph's Orphanage
OWNER: ADDRESS:	ORIGINAL FORMAL NAME: St. Josephs Orphanage Asylum
ACCESSIBILITY TO PUBLIC: Yes ☐ No ☒ Restricted ☐	PRESENT USE: orphanage
LEVEL OF SIGNIFICANCE: Local ☒ State ☐ National ☐	ORIGINAL USE: orphanage
GENERAL DESCRIPTION: Structural System	ARCHITECT/ENGINEER:
1. Foundation: Stone ☒ Brick ☐ Concrete ☐ Concrete Block ☐	BUILDER/CONTRACTOR: James Ross (of Rutland)
2. Wall Structure	PHYSICAL CONDITION OF STRUCTURE: Excellent ☒ Good ☐ Fair ☐ Poor ☐
a. Wood Frame: Post & Beam ☒ Balloon ☐	STYLE: Italianate
b. Load Bearing Masonry: Brick ☐ Stone ☐ Concrete ☐	DATE BUILT: 1884
c. Iron ☐ d. Steel ☐ e. Other:	
3. Wall Covering: Clapboard ☐ Board & Batten ☐ Wood Shingle ☐	
Shiplap ☐ Novelty ☐ Asbestos Shingle ☐ Sheet Metal ☐	
Aluminum ☐ Asphalt Shingle ☐ Brick Veneer ☒ Stone Veneer ☐	
Bonding Pattern: common	
4. Roof Structure	
a. Truss: Wood ☒ Iron ☐ Steel ☐ Concrete ☐	
b. Other:	
5. Roof Covering: Slate ☒ Wood Shingle ☐ Asphalt Shingle ☐	
Sheet Metal ☐ Built Up ☐ Rolled ☐ Tile ☐ Other:	
6. Engineering Structure:	
7. Other:	
Appendages: Porches ☐ Towers ☐ Cupolas ☒ Dormers ☒ Chimneys ☒	
Sheds ☐ Ells ☒ Wings ☒ Bay Window ☐ Other:	
Roof Style: Gable ☐ Hip ☐ Shed ☐ Flat ☐ Mansard ☐ Gambrel ☒	
Jerkinhead ☐ Saw Tooth ☐ With Monitor ☐ With Bellcast ☐	
With Parapet ☐ With False Front ☐ Other:	
Number of Stories: 4 1/2	Entrance Location: center
Number of Bays: 13 x 3	
Approximate Dimensions:	
THREAT TO STRUCTURE: No Threat ☐ Zoning ☐ Roads ☐ Development ☐ Deterioration ☐ Alteration ☐ Other:	LOCAL ATTITUDES: Positive ☐ Negative ☐ Mixed ☐ Other:

ADDITIONAL ARCHITECTURAL OR STRUCTURAL DESCRIPTION:

Massing - Gable sided orientation with large rear ell. Center pavilion on facade. 3 story modern wing on south elevation. Entry has addition. Brick banding at window lead height. Stone water table. Random course ashlar stone base.

Fenestration - Round headed windows. 2/2 & 1/1 sash. Stone sills with feet. Entrance - Altered.

Enrichments - Modillions on dormers and mansard roofed cupola. Decorative wood paneling on dormers. Tin plated roof on cupola.

RELATED STRUCTURES: (Describe)

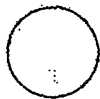
STATEMENT OF SIGNIFICANCE:

The "Sisters of Charity" ran an orphanage for many years in the old inn which stood on the present site of the DeGosbriand unit of the MCHV. By the 1870's the tremendous growth in Burlington's Catholic population necessitated larger facilities. Guy Willard layed the stone foundation in 1879, and Cummings and son did the masonry with bricks made by Francis LeClair in Winooski. James Ross of Rutland was the general contractor. The building was completed in 1884. Although still used as an orphanage, much of the building now houses the Bishop's residence and offices.

REFERENCES:

1890, Sanborn maps; BFP, 2/23/84.

MAP: (Indicate North in Circle)



SURROUNDING ENVIRONMENT:

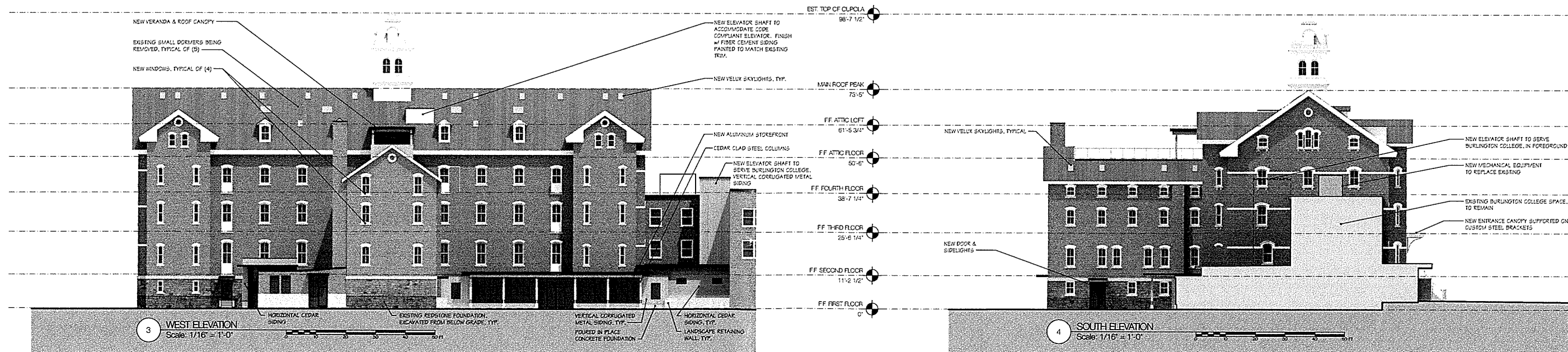
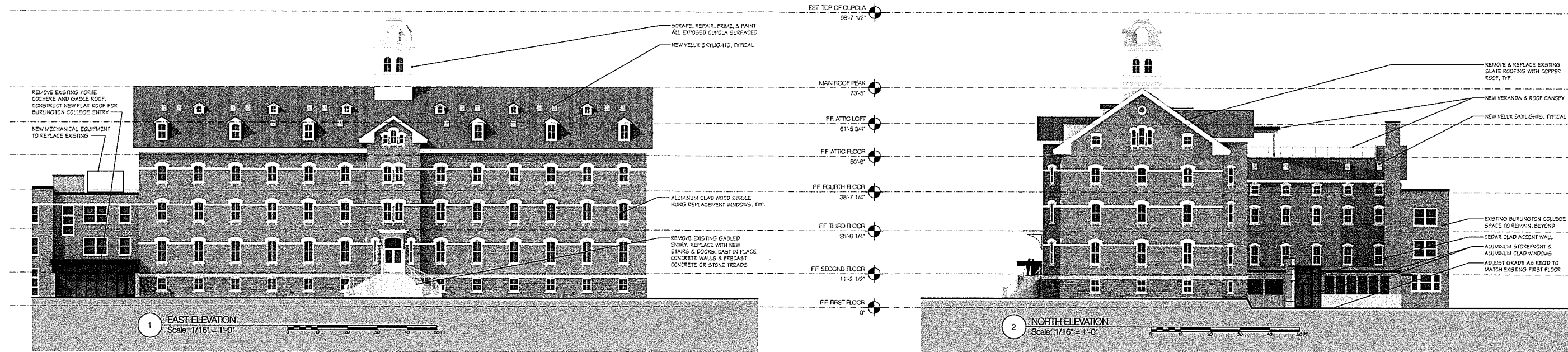
Open Land ☒ Woodland ☐
Scattered Buildings ☐
Moderately Built Up ☐
Densely Built Up ☐
Residential ☒ Commercial ☐
Agricultural ☐ Industrial ☐
Roadside Strip Development ☐
Other:

RECORDED BY:
C. Richard Morsbach

ORGANIZATION:
VT. Div. for Historic Preservation

DATE RECORDED:

12/3/78



RECEIVED
NOV 17 2015

351 NORTH AVE
BURLINGTON, VERMONT

DEPARTMENT OF
PLANNING & ZONING

PERMIT SET

Duncan
Wisniewski
ARCHITECTURE

255 SOUTH CHAMPLAIN STREET
BURLINGTON, VERMONT 05401
T: 802.864.6693

DATE: 11.13.15

A2.1

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DEPARTMENT OF
PLANNING & ZONING

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

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

Telephone: (802) 865-7188
(802) 865-7195 (FAX)

David E. White, AICP, Director
Meagan Tuttle, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: January 19, 2016
RE: ZP16-0587SP, 194 & 202 South Champlain Street

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

File: ZP16-0587SP

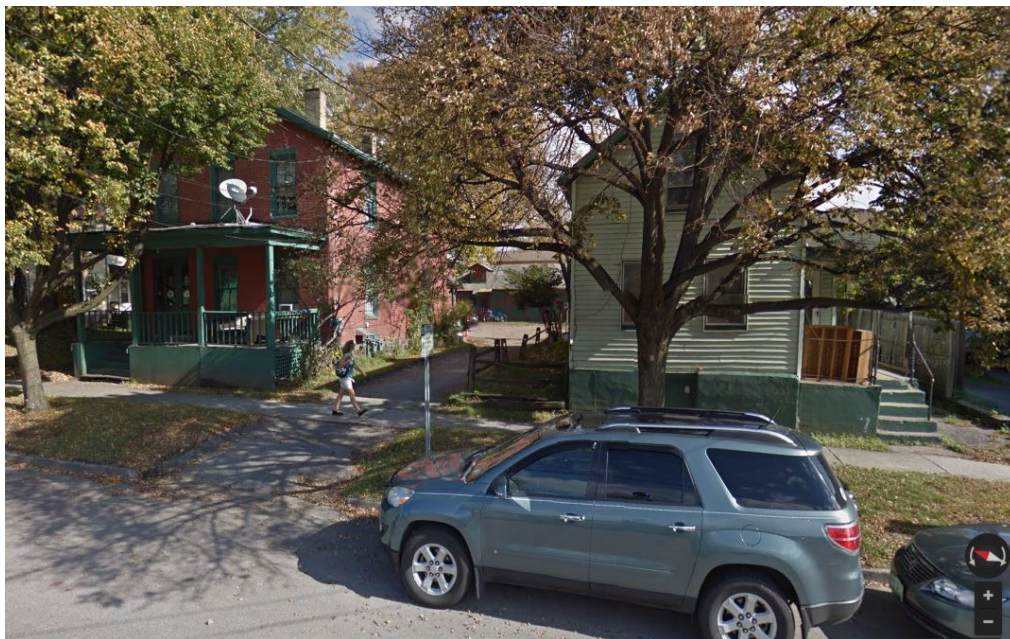
Location: 194 and 202 South Champlain Street

Zone: RH **Ward:** 5S

Date application accepted: November 9, 2015

Applicant/ Owner: Erik Hoekstra

Request: Sketch Plan review of proposed Planned Unit Development: Demolish addition and garage at 194 South Champlain Street, replace with new addition to create a fourplex with garage. Demolish single family home at 202 South Champlain Street and replace with new single family home.



Background:

194 South Champlain Street

- o Zoning Permit 15-1081CA; remove two chimneys from structure. Denied May 2015.
- o Zoning Permit 15-0984CA; window replacement, replace front porch. Approved May 2015.

202 South Champlain Street

There are no zoning permits on file for this property.

Overview: The applicant owns both properties: 194 South Champlain Street is a duplex with an accessory garage; 202 South Champlain Street is a single family residence. The proposal is to demolish a rear addition and garage at 194 and replace with a new attached duplex and garage structure. The abutting single family home at 202 South Champlain is proposed to be demolished and replaced with a new single family home. Both properties are on the National Register of Historic Places within the original **Battery Street / King Street Historic District**, listed in 1977.

The **Design Advisory Board** reviewed the application at their November 24, 2015 meeting. As this was Sketch Plan, no action was taken.

Article 3: Applications, Permits and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

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

Impact fees will be calculated based upon the gross square foot area for the new dwelling units at 194 South Champlain Street. If permitted, the new single family home at 202 South Champlain Street would not be assessed Impact Fees as it would be a replacement structure for an existing single family residence.

Section 3.3.7 Time and Place of Payment

Impact Fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:

- a) New buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof;*
- b) Existing building: Impact fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within thirty (30) days of issuance of the building permit.*

Part 4: Site Plan and Design Review

- (a) Site Plan Review shall be required for the approval of all development subject to the provisions of this ordinance with the exception of single family dwellings not otherwise subject to the requirements of Design Review.*
- (b) Design Review shall be required for the approval of all development subject to the provisions of this ordinance within the Design review Overlay District as defined in Article 4, Section 4.5.1, and any of the following:*

3. Any development subject to the provisions of Article 5, Part 4 – Special Use Regulations

6. Any development subject to the provisions of Article 11 – Planned Development

The subject area is within a Design Review district, is subject to the provisions of Section 5.4.8 and Article 11, Planned Development.

Part 5: Conditional Use and Major Impact Review

Section 3.5.2 Applicability

Conditional Use Review shall be required for the approval of all development subject to the following provisions of this ordinance:

Footnote 1 in the table of Section 11.1.3 directs the PUD as subject to Conditional Use.

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards (as adopted by City Council 8.10.2015)

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities, or services are capable of supporting the proposed use in addition to the existing uses in the area.*

This is a developed residential area within the high density residential zoning district. The applicant will be obligated to provide confirmation of sewer and water capacity from the Department of Public Works. The proposed two new units should not unreasonably impact existing municipal infrastructure.

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

As noted, this is an existing developed residential area. The proposed development is consistent with the expressed intent of the zoning district as outlined in Section 4.4.5 (a) 5. The Municipal Development Plan, however, has a specific chapter relative to Historic Preservation, which includes the directive to “protect historic sites and structures from unnecessary demolition or changes incompatible with their historic significance.”¹ While this chapter has not been significantly updated since its publication in 2006, the zoning ordinance has; it now includes standards defining which resources are protected under local regulation, review of proposals for the demolition of historic buildings, and review of potential demolition by neglect. The Comprehensive Development Ordinance has incorporated the “action plan” items identified in the Municipal Development Plan, are now identified as Section 5.4.8 of the CDO, and should be implemented strictly.

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

No nuisance impacts are anticipated from the proposed development greater than typically generated by other permitted uses in this district.

¹ Municipal Development Plan, Page IV-5.

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation, safety for all modes; and adequate transportation demand management strategies;*

194 South Champlain Street has an existing access driveway to the public way; 204 South Champlain Street has neither a driveway nor curbcut. The street has pedestrian walkways that connect to the overall pedestrian network of the downtown.

and

5. *The utilization of renewable energy resources;*

The plan lacks specific detail, but does not include any wind, water, geothermal, or solar amenities at this time.

and

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*

Impact fees will be calculated for the addition to 194 South Champlain as it results in new dwelling units. Written confirmation of adequate water and sewer capacity will be required; state waste water permits will be required as well.

(c) Conditions of Approval

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;*

If approved, the rear parking will need landscape screening to prevent headlight spill onto abutting residential properties.

2. *Time limits for construction.*

The zoning permit, if approved, will have a two year window for completion. Typical hours of construction are limited to 7:30 am to 5:30 pm Monday-Friday, with Saturday construction limited to interior work.

3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*
See above.

4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*

As a conditional use, this is a requirement.

and

5. *Such additional reasonable performance standards, conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

This is at the discretion of the DRB.

Article 4: Zoning Maps and Districts

Section 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 entrance are oriented to the sidewalk, and historic development patterns are reinforced. Parking shall be placed either behind, within, or to the side of the 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.

6. 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 proposal includes the addition of 2 new residential units for a total of 4 on the 194 South Champlain Street parcel; consistent with the high density nature of the zoning district. The proposed new single family home will be of different massing than the existing. Parking is proposed behind 194 South Champlain Street. There is no parking on the 202 South Champlain Street site.

Table 4.4.5-2 limits density to 40 units / acre in the RH zoning district.

An examination of available density:

194 South Champlain Street, 4 units proposed

4 / .01372 acres = 29.15, < 40 per acre limitation (✓)

202 South Champlain Street

Existing density is one unit; replacement is one unit. (✓)

Table 4.4.5-3 Residential District Dimensional Standards

RH	Max Lot Coverage 80%	Setbacks			Max Height 35'
		Front: Ave of 2 adjacent lots on both sides +/- 5'	Side: 10% of lot width or average of side yard setback on 2 adjacent lots on both sides	Rear: 25% of lot depth but in no event less than 20'	
194 South Champlain	81.83% existing; 71.5% proposed.	No change	5' proposed on north (lot width approximately 49+')	New parking area appears to continue current non- conforming setback of approximate ly 2'.	Elevations and Measurements not provided

202 South Champlain	67.2% existing; 62.2% proposed	Existing and proposed < 2'. *	4 ½' south elevation existing, 5 ½' proposed. North elevation setback is ignored in new plan, creates encroachment into 194; property line remains. Are lots to be merged in PUD? Then southerly setback will need to be 10% of lot width unless demonstration that setback meets average of 2 adjacent parcels.	Existing 7 ½', proposed 13' to steps.	Elevations and Measurements not provided
---------------------	-----------------------------------	----------------------------------	--	---------------------------------------	--

*It is not clear if the properties have been surveyed, or site plans are estimations based on features in situ. Property boundaries, with measurements, will need to be provided on final application plans.

** Structures cannot cross property boundaries. The structure proposed for 202 South Champlain Street must either remain within property boundaries or meet appropriate setbacks, or the lots merged as part of the PUD. If merged, the new structure must meet the 10% (new) lot width setback on the southerly property line.

Section 4.4.5 (c) Permitted and Conditional Uses

Attached dwelling, 3 or more units is a permitted use in the RH zoning district. The single family home is a replacement for an existing single family home.

Section 4.4.5 (d) District Specific Regulations

1. Setbacks

A. Encroachment for Residential Driveways

No request has been made for a driveway for 202 South Champlain St.; nor is there room on the parcel. 194 has an existing driveway.

B. Encroachment into the Waterfront Setback

Not applicable.

2. Height

No request has been made for exceptions to height. Not applicable.

3. Lot Coverage

A. Exceptions for Accessory Residential Features

This is not within the RL, RL-W, Rm or RM-W zoning district. Not applicable.

4. Accessory Residential Structures and Uses

The application proposes the removal of an existing accessory (parking and storage) structure. Any and all vehicles shall be stored in an approved parking space per subsection D.

5. Residential Density

A. Additional Unit to Multi Family

Not in the RL district. Not applicable.

B. Additions to Existing Residential Structures

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

The application form requests 2 new residential units within the addition proposed for 194 South Champlain Street.

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. Notwithstanding the following, the minimum square footage requirements shall be reduced by 10% in situations where the residential premises are owner occupied.

The applicant has indicated that he will reside at 194 South Champlain Street. The size of the proposed new residential units is unknown at Sketch Plan Review.

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

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

The applicant is advised of the required review if more than four unrelated adults are proposed to occupy any new unit.

6. Uses

No neighborhood commercial uses are existing or requested. Not applicable.

7. Residential Development Bonuses

No residential development bonuses are sought. Not applicable.

Article 5: Citywide General Regulations

Section 5.1.2 Structures

(a) Pre-existing Structures

Not applicable.

(b) Preexisting non-conforming Structures

See Section 5.3.5, Non-conformities.

(c) Principal Structures

Only one principal structure shall be permitted on any lot in any residential zoning district defined pursuant to Article 4 – Zoning Districts unless otherwise authorized pursuant to the requirements of Article 11 – Planned Development.

The application proposes a PUD. See Article 11.

(d) Accessory Residential Structures

The application proposes the removal of an existing accessory (parking and storage) structure.

(e) Accessory Nonresidential Structures

Not applicable.

(f) Temporary Structures

Not applicable.

Part 2: Dimensional Requirements

Section 5.2.1 Existing Small lots

There is no minimum lot size in RH per Table 4.4.5-1. Not applicable.

Section 5.2.2. Required Frontage or Access

Both lots have frontage on a public street. There is no vehicular access to 202 South Champlain Street. The applicant indicates that parking for that use has been provided at 194 South Champlain Street.

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

Section 5.2.4 Buildable Area Calculation

This is not within the RCO, WRM, RM, WRL or RL zoning districts; nor does it exceed 2 acres. Not applicable.

Section 5.2.4 Setbacks

See Table 4.4.5-3, above.

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above.

Section 5.2.7 Density and Intensity of Development Calculations

See Table 4.4.5-2, above and limitations of Functional Family in Section 4.4.5 (d) 5. C., above.

Part 3: Non-conformities

Section 5.3.5 Nonconforming Structures

(a) Changes and Modifications

Any change or modification to a nonconforming structure, other than to full conformity under the Ordinance, shall only be allowed subject to the following:

1. *Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below.*

Within the residential districts, and subject to Development Review Board approval, existing nonconforming single family homes and community centers (existing enclosed spaces only) that project into side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure. Such expansion shall be of the existing nonconformity (i.e. setback) and shall:

- i) Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development);*
- ii) Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,*
- iii) Be compatible with the character and scale of surrounding structures.*

Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.

2. *Such a change or modification shall not create any new nonconformity; and,*
3. *Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.*

When any portion of a nonconforming structure has been made conforming, it shall not be made nonconforming again except as provided for historic building features pursuant to Sec. 5.2.6(b)(3).

The proposal does not include vertical expansion of the existing single family home; it suggests demolition and replacement.

The existing accessory parking structure at 194 is proposed to be demolished and replaced with surface parking. This parking area may not encroach any further into setbacks than current encroachment. The parking area must be revised to either meet the current setback encroachment, or to meet the minimum required setback (5', east and south boundary lines.)

A non-conforming residential structure may be enlarged up to the dimensional standards of the underlying zoning district, subject to review and approval by the DRB pursuant to Art. 3, Part 4 Design Review and Art. 3, Part 5 Conditional Use Review. Adaptive reuse or residential conversion bonuses may allow a greater expansion than the underlying zoning district allows approved per the provisions of Article 4.

(b) Demolition:

A nonconforming structure may be replaced by a new structure retaining the same degree of nonconformity as the original structure. This provision is limited to the existing dimensional nonconformity (i.e. setback, lot coverage, or height), and shall not expand the degree of nonconformity except as provided for in (a) above. The new structure shall be subject to conformance with all other dimensional requirements (i.e. setback, lot coverage, and height). Zoning permit application for the replacement

structure shall be completed within 1 year of demolition of the nonconforming structure; failure to do so shall result in the loss of the ability to retain the nonconformity.

The replacement building at 202 South Champlain Street is proposed to lessen the degree of non-conformity relative to setbacks. The northerly setback may be ignored if part of a Planned Unit Development. (See Article 11.) If parcels are not combined, all structure must remain on individual lots and not cross property lines.

As noted, construction must occur within one year of demolition to retain the existing non-conformity.

In all other cases, a nonconforming structure that has been demolished or moved shall not be re-built or relocated in any way other than in full conformance with the provisions of this ordinance. Structures or any portion thereof that are structurally unsound, and are required to be removed by order of the building inspector, may be replaced within the original footprint provided both the requirement to demolish the building is not the result of demolition by neglect and the replacement shall not expand the degree of nonconformity.

As noted.

Section 5.3.7 Nonconforming Signs

Not applicable.

Section 5.3.8 Rebuilding After Catastrophe

Not applicable.

Part 4: Special Use Regulations

Sec. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

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

Both properties are listed on the National Register of Historic Resources, within the Battery Street / King Street Historic District. See attached information.

194 South Champlain Street was built in 1850 as a replacement for a wooden school house. Originally within District 2, it was re-identified as the District 8 schoolhouse. It was sold in 1874 to Horace W. Smith and converted to residential use. The accessory structure (garage) was constructed between 1938 and 1942.

202 South Champlain Street was constructed between 1853 and 1869, originally on the same parcel as the store owned by Horace W. Smith (now Handy's Lunch.) The lot was subdivided sometime between 1889 and 1918, leaving the single family residence on its own parcel.

(b) Standards and Guidelines:

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

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

194 South Champlain Street's original use was a district schoolhouse, but has been residential since 1874. The residential use is proposed to continue. 202 South Champlain Street, constructed between 1853 and 1869 has been residential. It is proposed to be demolished and replaced with another single family home. Uses will continue; structures are not proposed to be retained at 202 South Champlain; partial demolition is proposed for the principle structure and total demolition of the accessory building at 194.

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

The rear ell of 194 South Champlain Street can be documented prior to 1889 (Fire Insurance Map), and was likely an addition to accommodate conversion to residential use in 1874. The multiple chimneys suggest the likelihood that this was a domestic kitchen. The proposal to remove the rear ell on the primary structure will eliminate a portion of the building that characterizes the property and has gained historic significance in its own right.

The proposed removal of the garage/workshop (built between 1938 and 1942) will eliminate one component of the site, its use to be replaced by a similar use (parking.)

The proposed demolition of 202 South Champlain Street will remove an original single family residence, built between 1853 and 1869. Despite its replacement siding, it retains its location, design, setting, feeling, association and likely materials and workmanship under more modern alterations. Early mapping indicates that it was originally on the same parcel at Smith's Store (now Handy's Lunch), but was subdivided from that lot. It has remained a single family residence. Its removal will erode the historic integrity of the street and the district, particularly when viewed collectively with the ordered demolition of 189-191 South Champlain Street a few years ago. As neighborhood character is established by a collection of buildings that have a contextual relationship to each other, the Battery King Street Historic

District is a record of those buildings; few of which were singularly notable examples. It was the cohesiveness and relationship between the buildings that gave credibility to the significance of the district. As the corner of Maple and South Champlain Street has two empty lots, 189-191 South Champlain has been demolished, and now alteration or replacement is proposed for 194 and 202, the fabric of the historic district is fraying with the proposed additional loss.

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

As more definitive plans emerge, an assessment of project design can be made to determine if conjectural features are proposed. Such an appraisal cannot be made without a better understanding of design elements which are, at present, unknown.

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

The rear ell of 194 South Champlain Street has acquired historic significance in its own right; evidence of the change of use to residential from schoolhouse, and as tangible testimony to traditional 19th century building evolution. Its loss will be an erasure of an important building component that has merit in its own right.

202 South Champlain Street is already recognized as part of a complex of historic structures, and retains its importance as part of that collection within the Battery King Street Historic District. It retains further importance as it becomes one of the more rare examples from a streetscape that was significantly erased between Pearl Street and Main Street as part of the Urban Renewal program. The 1977 National Register nomination, the first historic district in Burlington, was a direct response to those losses and an attempt to memorialize the neighborhood character as evidenced by its remaining buildings.

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

Horace W. Smith purchased 194 South Champlain Street from the City of Burlington in 1874 when the schoolhouse was no longer retained for use within the new district configuration.²

As Smith is recognized as a carpenter, builder and slater, it can reasonably be assumed that the rear addition may be his own work. Smith's store was on the corner of South Champlain and Maple Street (the current Handy's Lunch), and 202 South Champlain Street was built on a lot shared with his store. He may have an association with the construction of that structure as well. While perhaps not elaborately designed or embellished, their construction should be considered consistent with building construction techniques of the mid 19th century. Some particular elements may not be evident without further scrutiny and removal of more recent alterations.

² Smith paid \$1,962.67; agreed to by the School Commissioners and the City Council. *Tenth Annual Report of the City of Burlington, Vt.* (Burlington: R.S. Styles & Son's Steam Job Printing House, 1875), p. 65.

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

As elevations or plans for the proposed redevelopment have not been submitted, it cannot be determined how compatible replacement will be with the existing structures. The removal, in whole or in part will constitute a loss to the historic integrity of all structures on both parcels as well as the streetscape; and is proposed not as a solution to deterioration or failure but to provide increased or replacement housing and surface parking.

At 202 South Champlain, the development will remove a historic single family home with replacement of a single family home. As building plans have not been submitted, it cannot be discerned if the replacement is intended to be a reproduction or some new design.

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

Demolition is the the most extreme form of physical treatment. The appropriateness will be determined by this review.

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

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

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

The rear ell of 194 remains a distinctive component of the structure, embodying information about building evolution and traditional residential expansion; certainly worthy of retention. If it is determined that a greater public good is served by its removal, the new residential addition will need to meet this standard of differentiation and compatibility.

A late submission of a suggested streetfront appearance suggests a rear building addition at 194 South Champlain Street that exceeds the height of the existing (historic) structure. The compatibility of any structural addition will require an examination of compatibility with the existing resource.

Similarly, the structure at 202 South Champlain Street continues to have historic merit and will be subject to this standard. While the historic integrity of the property will be substantially diminished by building removal, the suitability of a replacement structure will be analyzed within these standards.

The demolition of the accessory structure at 194 South Champlain Street will be a similar loss of historic fabric and historic integrity of the property and its environment. New development will be weighed relative to demonstration of a greater benefit to the public.

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

The removal of the rear ell at 194 will leave 2/3 of the historic resource which, fronting the public street, will retain most of its visual characteristics. Therefore the removal of the proposed residential addition would leave a fractional measure of the essential historic structure.

The removal of 202 South Champlain will entirely eliminate the historic merit of the property, and render it a loss to the historic district. The structure's removal will not retain the historic integrity of the property, which will have been lost.

The garage structure, as accessory, has gained importance on a secondary level. Development that sacrifices accessory structures has found acceptability when a greater public benefit is identified. While it would be preferable to retain the structure and rehabilitate for the proposed parking need, its loss can be weighed within the context of the overall development proposed for 194 and 202.

c) Demolition by Neglect

The applicant has not asserted that the purpose of the request to demolish 202 South Champlain Street is structural failure due to neglect; rather poor construction and the inability to meet current building codes.

d) Demolition of Historic Buildings

The purpose of this subsection is:

- *To discourage the demolition of a historic building, and allow full consideration of alternatives to demolition, including rehabilitation, adaptive reuse, resale, or relocation;*
- *Provide a procedure and criteria regarding the consideration of a proposal for the demolition of a historic building; and,*
- *To ensure that the community is compensated for the permanent loss of a historic resource by a redevelopment of clear and substantial benefit to the community, region or state.*

1. Application for Demolition.

For demolition applications involving a historic building, the applicant shall submit the following materials in addition to the submission requirements specified in Art. 3:

- A. *A report from a licensed engineer or architect who is experienced in rehabilitation of historic structures regarding the soundness of the structure and its suitability for rehabilitation;*

- B. *A statement addressing compliance with each applicable review standard for demolition;*
- C. *Where a case for economic hardship is claimed, an economic feasibility report prepared by an architect, developer, or appraiser, or other person experienced in the rehabilitation and adaptive reuse of historic structures that addresses:*
 - (i) *the estimated market value of the property on which the structure lies, both before and after demolition or removal; and,*
 - (ii) *the feasibility of rehabilitation or reuse of the structure proposed for demolition or partial demolition;*
- D. *A redevelopment plan for the site, and a statement of the effect of the proposed redevelopment on the architectural and historical qualities of other structures and the character of the neighborhood around the sites; and,*
- E. *Elevations, drawings, plans, statements, and other materials which satisfy the submission requirements specified in Art. 3, for any replacement structure or structures to be erected or constructed pursuant to a development plan.*

An application submitted for the PUD that includes demolition of all or part of 194 and 202 South Champlain Street will require the above submission documents.

2. Standards for Review of Demolition.

*Demolition of a historic structure shall only be approved by the DRB pursuant to the provisions of Art. 3, Part 5 for **Conditional Use Review** and in accordance with the following standards:*

- A. *The structure proposed for demolition is structurally unsound despite ongoing efforts by the owner to properly maintain the structure; or,*
- B. *The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property in conformance with the intent and requirements of the underlying zoning district; and, the structure cannot be practicably moved to another site within the district; or,*
- C. *The proposed redevelopment of the site will provide a substantial community-wide benefit that outweighs the historic or architectural significance of the building proposed for demolition.*

And all of the following:

- D. *The demolition and redevelopment proposal mitigates to the greatest extent practical any impact to the historical importance of other structures located on the property and adjacent properties;*
- E. *All historically and architecturally important design, features, construction techniques, examples of craftsmanship and materials have been properly documented using the applicable standards of the Historic American Building Survey (HABS) and made available to historians, architectural historians and others interested in Burlington's architectural history; and,*

- F. *The applicant has agreed to redevelop the site after demolition pursuant to an approved redevelopment plan which provides for a replacement structure(s).*
- (i) *Such a plan shall be compatible with the historical integrity and enhances the architectural character of the immediate area, neighborhood, and district;*
 - (ii) *Such plans must include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project; and,*
 - (iii) *The time between demolition and commencement of new construction generally shall not exceed six (6) months.*

This requirement may be waived if the applicant agrees to deed restrict the property to provide for open space or recreational uses where such a restriction constitutes a greater benefit to the community than the property's redevelopment.

A redevelopment plan will be required as part of an application submission, with the above noted materials and thresholds. If approved, the time limit between demolition and construction shall be a condition of approval.

3. Deconstruction: Salvage and Reuse of Historic Building Materials.

The applicant shall be encouraged to sell or reclaim a structure and all historic building materials, or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials for future use. An applicant may be required to advertise the availability of the structure and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition.

As noted.

Section 5.4.9 Brownfield Remediation

Neither site is listed on the VEC site.

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

Any application for a zoning permit shall be required to demonstrate compliance with the applicable nuisance regulations and performance standards pursuant to the requirements of the Burlington Code of Ordinances.

Section 5.5.2 Outdoor Lighting

A final application shall be expected to include lighting information, including fixture location, size and illumination level. A photometric plan may be required to assure compliance with the standards of this section. See Section 5.5.2 (d) for submission requirements, (e) for General Outdoor Lighting Standards, and (f) for specific outdoor lighting standards.

Section 5.5.3 Stormwater and Erosion Control

The development will be required to demonstrate compliance with the standards in Article 3, Stormwater and Erosion Control of Chapter 26 of the City Code of Ordinances: Wastewater Stormwater and Pollution Control.

Section 5.5.4 Tree Removal

Any tree removal shall be identified as part of an overall project landscaping plan.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No division of land is proposed. Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a)Protection of Important Natural Features:

The application does not contain enough information to understand any existing natural features. A full application will require submission of an existing and proposed landscaping plan.

(b)Topographical Alterations:

None identified.

(c)Protection of Important Public Views:

There are no protected views from either site.

(d) Protection of Important Cultural Resources:

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

Both properties are listed on the National Register. See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

No information has been submitted about intent to include renewable energy resources.

(f) Brownfield Sites:

None are identified. The rear garage/workshop will need to be assessed for any potential contamination issues relative to petroleum spill or similar environmental concern based upon its previous uses.

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected.

All development and site disturbance will need to follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

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

The availability of porches, canopies, and similar architectural solutions to shielding occupants from inclement weather will be evaluated when design information is submitted. Snow storage will need to be identified for the development.

(h) Building Location and Orientation:

The structure at 194 is proposed to be retained, with development at the mid and rear block area. 202 South Champlain will be redeveloped, and proposes a new structure that will be aligned with the street fronts of other existing buildings. A fuller analysis of buildings, including the setback of the property north of 194 South Champlain should be included to confirm appropriate front yard setbacks.

It appears that the replacement structure at 202 South Champlain Street duplicates the existing south side yard setback. This would be acceptable if the lots remain separate; merging lots (as part of a PUD) will require a building setback that is 10% of the new lot width.

The replacement structure proposed for 202 South Champlain is depicted as crossing a property boundary line on the north. If the development is proposed as a PUD, then the applicant should clearly define. Otherwise, the replacement building unacceptably crosses onto another parcel.

(i) Vehicular Access:

There is an existing driveway at 194 South Champlain Street. 202 South Champlain Street has neither driveway nor parking.

(j) Pedestrian Access:

Both properties can be accessed via the public sidewalk. A ramp/walkway is shown as existing from the rear of 202 South Champlain Street to the driveway and parking area of 194. As there are no permits on file, it is not known when this was established.

(k) Accessibility for the Handicapped:

There is no identification of handicap access or parking at either address. ADA requirements are under the review of the building inspector.

(l) Parking and Circulation:

Submitted plans illustrate an expansive gravel drive and parking area at 194 South Champlain Street, with a multi-bay garage structure/workshop in the rear. 202 South Champlain has no defined parking; but the walkway illustrated suggests that some arrangement is in place for use

of parking at the 194 location. When reviewed by the DRB under Article 8, parking requirements will be addressed.

(m) Landscaping and Fences:

More information will have to be submitted to understand existing and proposed landscaping.

(n) Public Plazas and Open Space:

There are no public plazas present. Open space for tenant use is a requirement for Planned Unit Developments. See Article 11.

(o) Outdoor Lighting:

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

A lighting plan will be a requirement for final application.

(p) Integrate infrastructure into the design:

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

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

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

Minimal information has been submitted for the benefit of Sketch Plan Review; more comprehensive information will be expected at the time of final application submission.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

As building elevations have not been submitted, an analysis of massing, height and scale cannot be completed. A late submission with a street view depiction suggests new structure of greater height than existing. Any new development should be compatible with the context of the existing historic buildings and context of the neighborhood. See Section 5.4.8 (b).

2. Roofs and Rooflines.

Flat roofs are suggested in a street depiction. Until building elevations are submitted, details are not clear.

3. Building Openings

No information to address for Sketch Plan.

(b) Protection of Important Architectural Resources:

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

See Section 5.4.8.

(c) Protection of Important Public Views:

There are no public views from either site.

(d) Provide an active and inviting street edge:

Not enough information has been submitted to make an analysis of this standard.

(e) Quality of materials:

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

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

Not enough information has been submitted to make an analysis of this standard.

(f) Reduce energy utilization:

Not enough information has been submitted to make an analysis of this standard.

(g) Make advertising features complementary to the site:

Not enough information has been submitted to make an analysis of this standard.

(h) Integrate infrastructure into the building design:

Not enough information has been submitted to make an analysis of this standard.

(i) Make spaces secure and safe:

All development will be required to meet appropriate building and life safety code, and any standards relative to ingress and egress as defined by the building inspector and fire marshal.

Article 8: Parking

This is within the Neighborhood Parking District, where 1 parking space is required per dwelling unit. For the proposed 4 units at 194 South Champlain, 8 parking spaces will be required. For the single family home, 2 are required. A total of seven are proposed on site at 194 South Champlain. As the latter has no on-site parking at present, it is within the DRB's discretion to allow a replacement structure with the same parking conditions at present.

Overall, the parking requirement for all units is 10 parking spaces (5 units x 2.) A 3 space parking waiver will be required, unless the replacement building is approved to continue existing conditions (-2 parking spaces) for a total of a one parking space waiver for the four units at 194 South Champlain.

Article 9: Inclusionary and Replacement Housing

Inclusionary Housing shall not be required, as the project does not propose the development of five or more residential units through new construction and/or substantial rehabilitation of existing structures. The replacement house proposed for 202 South Champlain Street would not trigger IZ requirements.

Section 9.1.12 Additional Density and Other Development Allowances

As Inclusionary provisions do not apply to this project, additional density or other allowances under this section are not available.

Part 2: Housing Preservation and Replacement/Demolition and Conversion

Housing replacement is not applicable, as the proposed demolition of 202 South Champlain Street is associated with a replacement residential unit on the same site.

Article 10, Subdivision Review

Section 10.1.6 Sketch Plan Review

Whenever a subdivision is proposed that will create five or more lots or dwelling units, the applicant shall submit sketch plans and data pursuant to Article 3, Section 3.2.1 © Sketch Plan Review showing existing conditions within the site and its vicinity and the proposed layout and development of the subdivision prior to the preparation of any preliminary and/or final plats. All other applications are encouraged but not required to submit sketch plans for review prior to submitting an application.

As proposed, the project is not a subdivision. The project will not create five or more lots or dwelling units. Recent amendments to the ordinance have removed the requirement for Article 10 review, unless applicable. As suggested, the project is not subject to review under Article 10.

Article 11: Planned Development

Section 11.1.1 Intent

The intent of this Article is to:

- (a) Promote the most appropriate use of land through flexibility of design and development of land;*
- (b) Facilitate the adequate and economical provision of streets and utilities;*
- (c) Preserve the natural and scenic qualities of open space;*
- (d) Provide for a variety of housing types;*
- (e) Provide a method of development for existing parcels which because of physical, topographical, or geological conditions could not otherwise be developed; and*
- (f) Achieve a high level of design quality and amenities.*

Sec. 11.1.3 Major and Minor Planned Unit Development

This section was deleted by City Council under Zoning Amendment 15-02.

Sec. 11.1.4 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:

Districts

Minimum Lot Size

RH, RM, RM-W, Downtown and Neighborhood Mixed Use, Institutional ¹	No minimum lot size.
RL, RL-W , RCO-R/G	2 acres or more

1. Subject to Conditional Use Review pursuant to Art 3, Part 5.

~~2. The two acre minimum may be waived by the DRB for the conversion of an accessory structure existing as of January 1, 2007 to a residential use.~~

There is no minimum project size in the RH zoning district.

Although recent revisions to Conditional Use Review have removed the requirement for Conditional Use review for PUDs, the change overlooked removal of the footnote 1, above. Therefore, Conditional Use Review standards have been stated in Article 3, until the zoning ordinance is again amended to remove said footnote to reflect removal of PUDs from Conditional Use Review.

Sec.11.1.4 Modification of Regulations.

With the approval of the DRB after a public hearing, the following modifications of the requirements of the underlying zoning may be altered within a planned unit development:

- *density, frontage, lot coverage, and setback requirements may be met as calculated across the entire project rather than on an individual lot-by-lot basis;*

Density and lot coverage appear to be conforming to the zoning district. Setbacks at the periphery cannot exceed current non-conforming encroachment. See Table 4.4.5-3, above. No setback will be required from the internal property boundary, assuming it is retained.

- *Required setbacks may apply only to the periphery of the project rather than on an individual lot-by-lot basis;*

See above.

- *More than one principal use and more than one principal structure may be permitted on a single lot;*

Only one structure is proposed on each lot. It is not clear if the lots will be merged, however.

- *Buildings may be of varied types including single detached, attached, duplex or apartment construction.*

One four-plex and one single family home are proposed for the development.

Any proposed modifications of regulations shall be listed in a statement accompanying the application submission and such modifications shall be subject to the provisions of Section 11.1.5 and 11.1.6.

The applicant is advised of this requirement in preparation of final application submission.

Section 11.1.5 Approval Requirements

- a. The minimum project size requirements of Section 11.1.3 shall be met;*

There is no minimum project size within the RH zoning district.

- b. The minimum setbacks required for the district have been met at the periphery of the project;*

Setbacks will be determined on whether the lots are merged or not. If merged, setbacks will need to be 10% of the new lot width.

Existing non-conforming setbacks cannot be increased in their level of non-conformity.

- c. The project shall be subject to design review and site plan review of Article 3, Part 4 and the standards of Article 6;*

See articles 3 and 6, above.

- d. The project shall meet the requirements of Article 10 for subdivision review where applicable;*

As proposed, the project is not subject to Article 10.

- e. Density, frontage, and lot coverage requirements of the underlying zoning district have been met as calculated across the entire project.*

The applicant will be required to demonstrate that the front yard setback for 202 South Champlain Street is the average of 2 adjacent lots +/- 5'.

Density, as proposed, meets the limitations of the ordinance.

Lot coverage is within the allowable limits of the ordinance for each individual lot.

f. All other requirements of the underlying zoning district have been met as calculated across the entire project.

Parking remains deficient for the uses proposed, and will require a parking management plan and parking waiver.

g. Open space or common land shall be assured and maintained in accordance with the conditions as prescribed by the DRB;

A small green area is available on the northeast corner of 194 South Champlain Street; similarly a small rear yard will be created at 202 South Champlain Street for the use of residents. These will need to be formalized, and maintained in a manner prescribed by the DRB for the continued use for the life of the PUD.

h. The development plan shall specify reasonable periods within which development of each phase of the planned unit development may be started and shall be completed. Deviation from the required amount of usable open space per dwelling unit may be allowed provided such deviation shall be provided for in other sections of the planned unit development;

The applicant will be required to define any phasing at the time of application review.

Any deviation from required usable open space must be requested by the applicant, allotted for in another area of the development, and the plan agreed to by the DRB.

i. The intent as defined in Sec. 11.1.1 is met in a way not detrimental to the city's interests;

The alteration or removal of listed historic resources is contrary to the Municipal Development Plan and Article 5.4.8, as noted, unless development provides a substantial community wide benefit. See Section 5.4.8 (b) and (d).

and,

j. The proposed development shall be consistent with the municipal development plan.

See comments relative to the Municipal Development Plan at Section 3.5.6 (a) 2.

k. Any proposed accessory uses and facilities shall meet the requirements of Section 11.1.6, below.

None proposed.

Section 11.1.6 Accessory Facilities

a. A Planned unit development may contain a building or buildings intended for non-residential uses such as but not limited to a community center, recreation facility, child care center and/or business office if the DRB determines that such use or uses are compatible with the intended principle residential use and will not contribute to parking problems on site or in the surrounding area.

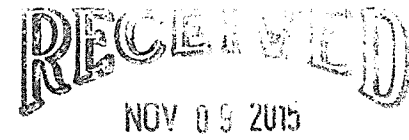
No accessory facilities or buildings are included within the scope of this Sketch Plan Review.

b. A planned unit development may contain a building or buildings intended for use as a community convenience store if approved by the DRB under the following standards:

As noted, no buildings are intended for use as a community convenience store. Not applicable.

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

**194 & 202 South Champlain
Proposed Redevelopment Project**



DEPARTMENT OF
PLANNING & ZONING

Narrative

After acquiring the properties in April 2015, a restoration of the historic masonry structure at 194 South Champlain was completed including a complete reconstruction of a historically compatible front porch. The next phase of this project seeks to remove a poorly built wood addition off the rear of the masonry building along with a concrete block garage structure to replace both with a new duplex building with covered parking on grade beneath the new duplex. The overall lot coverage on 194 South Champlain will be reduced along with greater compliance to rear and side yard setbacks with the new structure. Green space will be added in the rear where none currently exists. The structurally and functionally obsolete house at 202 South Champlain is also proposed for demolition to be replaced by a single-family home with a smaller building footprint. The new structure will increase the rear yard setback providing more green space for the occupants.

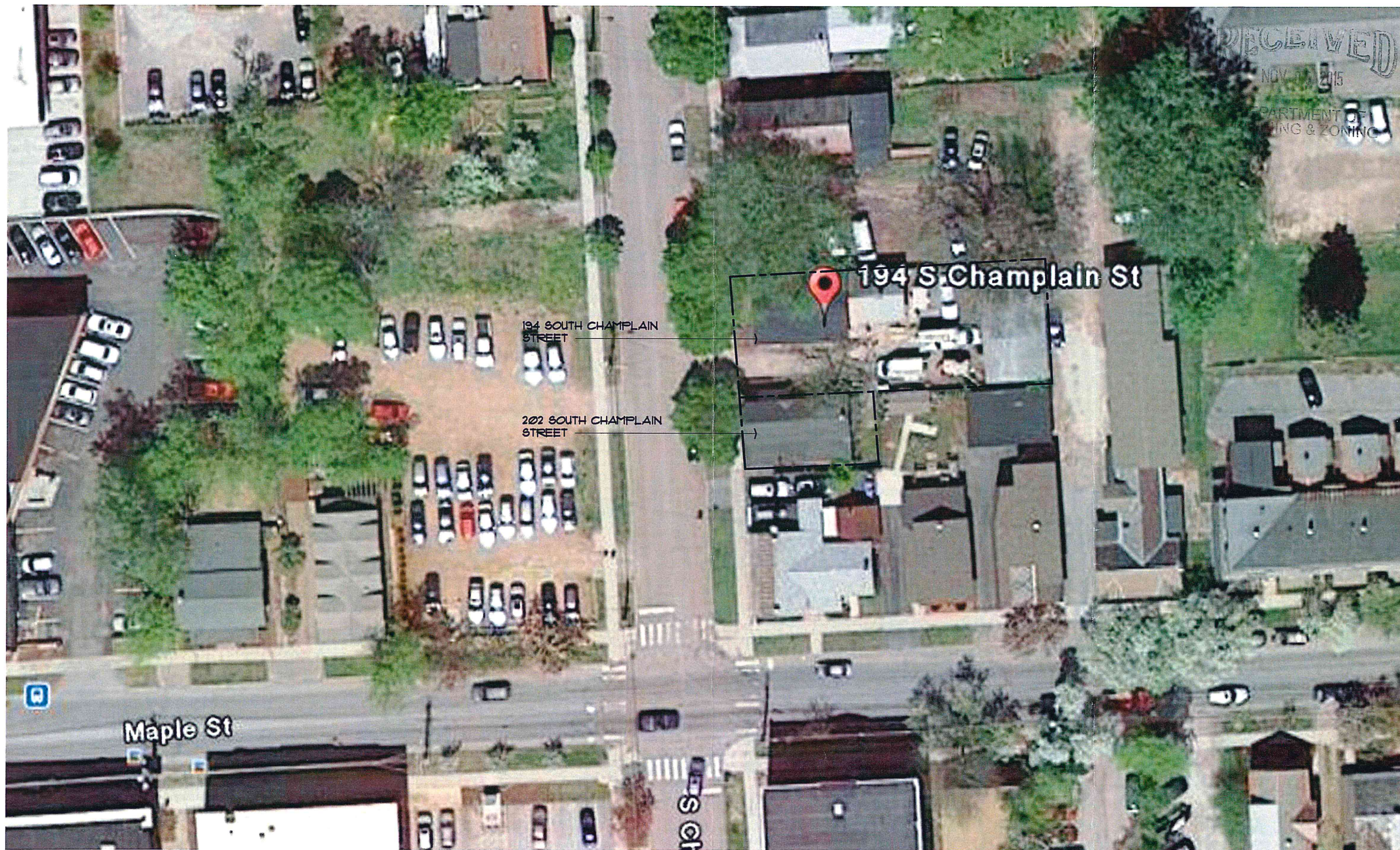
Density and Parking Calculations

194 South Champlain

- Lot area – 0.1372 acres
- Potential density in RH at 40 units per acre – 5.488 units
- Existing density – 2 units
- Proposed density – 4 units
- Existing parking – approximately 7 spaces
- Proposed parking – approximately 7 spaces

202 South Champlain

- Lot area – 0.0333 acres
- Potential density in RH at 40 units per acre – 1.3 units
- Existing density – 1 units
- Proposed density – 1 units
- Existing parking – 0 spaces
- Proposed parking – 0 spaces



186 SOUTH
CHAMPLAIN

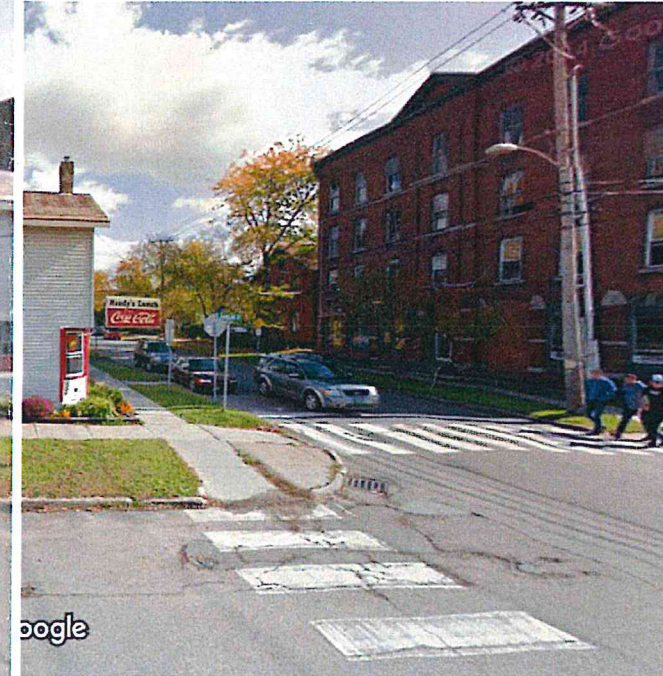


194 SOUTH
CHAMPLAIN



202 SOUTH
CHAMPLAIN

HANDY'S
LUNCH



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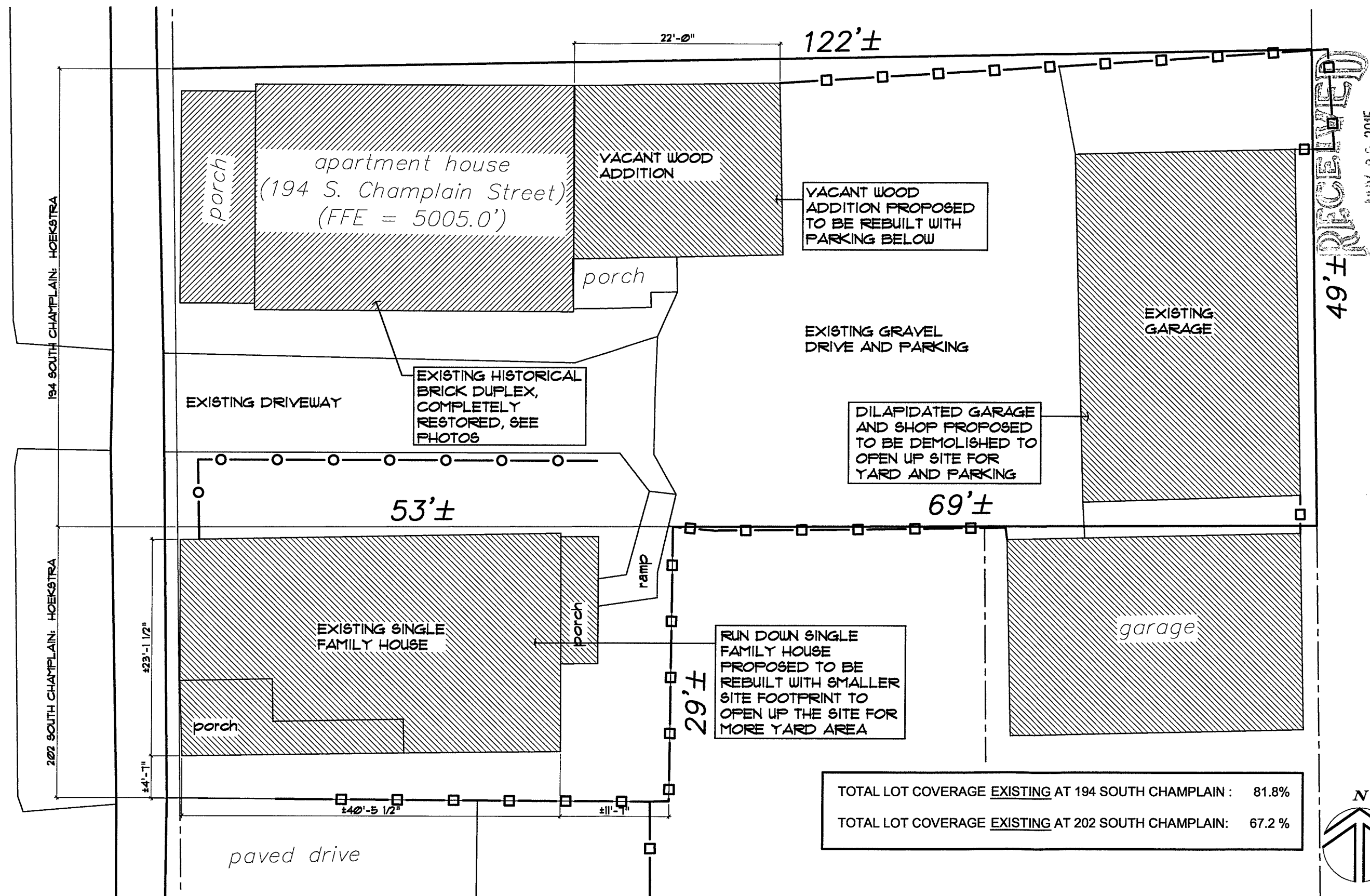
MAPLE STREET

ADVANCE
MUSIC

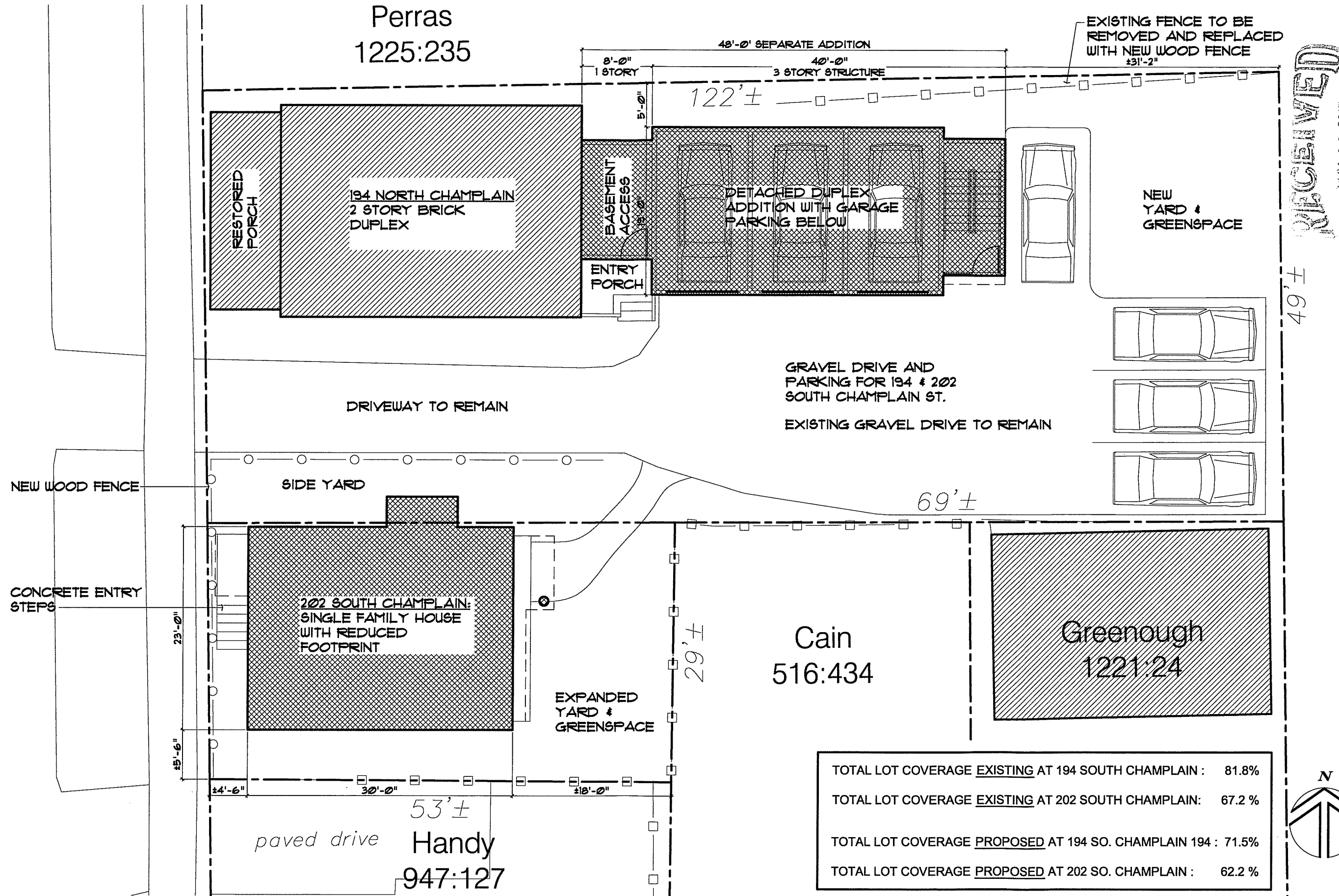


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SOUTH CHAMPLAIN STREET



SOUTH CHAMPLAIN STREET





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1976

27

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19. Gray's Carriage Works, 183 South Champlain Street, ca. 1830, Federal style. $3\frac{1}{2}$ -story, 7 bays long by 4 bays wide, gabled roof with paired end chimneys, raking gable end parapets; granite foundation, lintels and sills with layered brick detailing under the cornice. Wooden double doors and a gabled wooden door hood are later additions; rear porches on all stories. A comparison should be made with the Gideon King House (# 80). Charles B. Gray established the carriage manufactory in 1830 employing 10 men in the manufacture of light and heavy carriages and wagons. The Company did - an annual business of \$ 15,000 in 1882. The business was in operation in 1885, but by 1889 the building was used for apartments, as it is today.
21. FEDERAL TOWN HOUSE, 42 King Street, before 1853, $2\frac{1}{2}$ -story, brick with stone foundation, gabled roof sheathed in poly chrome slates, paired chimneys on sides, 3 bays wide. Semi-elliptical fan in pedimented gable, square cut stone lintels with smooth margins and rough faces over fenestration and door openings. The water struck brick has been painted and is laid in a bond of 7 courses of stringers alternating with a course of headers. The grade around the house appears to have been changed so that the house presently has a high foundation. The front door is reached by 7 cut and shaped stone steps which have a wrought iron railing. The original front door has been replaced by a modern commercial aluminum door. There is an attached Butler-type steel and metal one-story warehouse on the west side.
24. Enos Blinn House, 151 South Champlain Street, c. 1850.
27. Schoolhouse, 194 South Champlain Street, c. 1850.
58. 193 St. Paul Street, c. 1850.
103. 81 Maple Street, c. 1865.

These four Greek Revival style houses are significant because of their common stylistic features. They are characterized by a front gable orientation, side hall plan, pointed arched gable light, and granite door lintel and sill. They are all $2\frac{1}{2}$ -story, brick, 3-bay houses. This is a common house type found throughout Burlington, most prevalent in the North end. It was a popular mid-nineteenth century house type.

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24 is distinguished by a pedimented gable.

27 is constructed in common bond with Flemish variation, and incorporates a wooden entrance porch. In the 1860's and possibly earlier, this building was the grammar school for the 8th district. In 1874, six years after the district system was changed to the graded system, the building was sold to Horace W. Smith, builder and slate roofer.

58 This building fit the pattern with no exceptions. It was demolished September 1976.

103 This house is the only one of the four constructed with wood framing and brick veneer. It features an Italianate door hood.

32. Greek Revival Town House, 46 King Street, before 1853; brick, 2½-stories, gable roof sheathed in poly chrome slate, interior end chimneys on gable ends, 3 bays wide, triangular windows in gable end; radiating brick voussoirs over fenestration, square cut stone lintel over door with smooth margins and rough face. The water struck brick has been painted and is laid in a bond of 7 courses of stringers followed by a course of headers. The grade around the house has been changed so the house has a high stone foundation. The front door is reached by poured concrete steps, a later addition.

35. Row Houses, 94, 96, 98, 100, 102, 104, 106 Maple Street, French Second Empire, c. 1885; seven row houses each 2½-stories, 3 bays with side hall entrances and entrance porches, double leaf doors with transom lights and covered by an elaborately patterned imbricated slate mansard roof which is not continued on the rear elevation. Each section has a central shed dormer and a rear ell. Slate sidewalks are laid in front of the block, number 94 Maple Street having a marble slab in front of the steps as well. The slate roof and sidewalks reflect the fact that the owner and builder of the block was Loomis P. Smith, son of Horace W. Smith builder and slater. Loomis was involved in his father's business as well as being Burlington's Constable in 1889 and a reputedly rich gambler.

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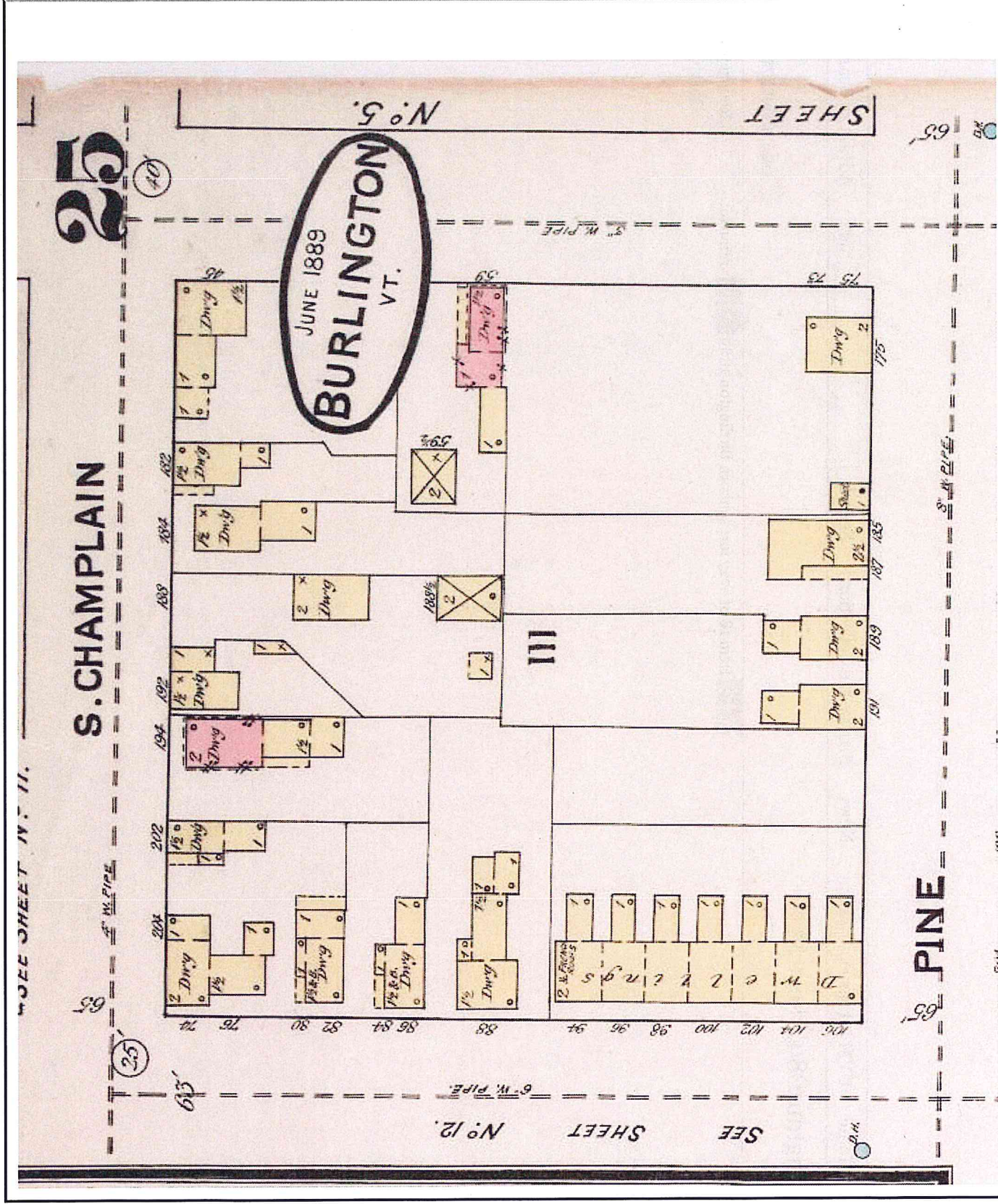
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- ✓16. Emile Dupont Roofing Company, see Description.
- ✓17. White & Auto Diesel Service, 197 & 201 South Champlain Street, 1-story rock face cement block with clapboarded addition, one block having a pressed and raised deco pattern, c. 1935, Wayne gas pump.
- ✓18. House, 189 South Champlain Street, 1½-story, frame, asphalt siding in imitation of brick, front gable roofed with enclosed front porch, before 1885.
- ✓19. Gray's Carriage Works, 183 South Champlain Street, see Description.
- ✓20. Red Lion Restaurant and apartment house, 39 & 41 King Street, 2½-story, wood frame covered with aluminum siding with perma stone covered projecting first story on north-east corner for restaurant, gable roof sheathed in slate with decorative imbricated band. A one-story porch with turned posts is across the front of a wing on the west side of the main building; this wing has a gable roof sheathed with asphalt.
- ✓21. Federal Town House, 42 King Street, see Description.
- ✓22. House, 161 & 163 South Champlain Street, c. 1900; 2-story double house, asbestos shingle siding, frame, flat roof, bracketed cornice.
- ✓23. The Foreign Car Shop, 159 South Champlain Street, 1-story, asbestos shingle, flat roof. On the site of a wheelwright's shop from 1885-1919 and then a blacksmith's shop.
- ✓24. Enos Blinn House, 151 South Champlain Street, see Description.
- ✓25. Handy's Lunch Store, 74 & 76 Maple Street, c. 1865. 2-story, aluminum siding, frame, gable roofed with corner entrance and side ell. The store was run by Horace W. Smith in 1869.
- ✓26. House, 202 South Champlain Street, 1½-story, clapboarded, frame, gabled roof.



Reference Image
88 South Willard



Submitted by email "11/8/15



