



**CODE ENFORCEMENT OFFICE**

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

**VOICE (802) 863-0442**

**FAX: (802) 652-4221**

**APPEAL OF ZONING ADMINISTRATOR'S DECISION  
STAFF REPORT**

<b>TO:</b>	Development Review Board
<b>FROM:</b>	Jeanne Francis, Zoning Specialist, Code Enforcement Office
<b>DATE:</b>	April 29, 2013
<b>RE:</b>	Report on Appeal of Zoning Administrator's Decision of Notice of Violation #234023 dated March 18, 2013, for Premises Located at 199 So Union Street, Burlington, Vermont

NOTE: These are staff comments only; decision on appeals are made by the Development Review Board, who may uphold or overturn an administrative decision in re: of this appeal. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

**LOCATION:** 199 South Union Street, Burlington, VT

**TAX LOT #:** 049-3-199-000

**APPELLANT:** Chris C. Khamnei

**APPEAL:** Appealing Zoning Administrator's Decision that a violation exists on Premises located at 199 So. Union Street, as cited under ZV #234023

**BACKGROUND INFORMATION:**

- House and carriage barn are/were listed on the National Register of Historic Places October 31, 1988. The house is a two story mansard French Second Empire structure built in 1879 for a well-known Burlington orator and lawyer. The garage (also referred to as "carriage barn") was a two story wood frame garage.
- ZP 06-603CA requesting to demolish the garage at rear of property was denied by the Development Review Board June 12, 2006. Application included a letter from then-owner Mark Lafayette that included a proposal with 3 options and short synopsis of the zoning request; submitted in support of the application was a site plan of property with dimensions. Then-owner appealed the DRB decision to the

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Vermont

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Environmental Court; settlement agreement reached by owner and City November 28, 2006, permit approved.

- Stipulation and Order reached November 28, 2006 issued to implement the agreement included the following: (1) may demolish carriage barn; (2) materials shall be salvaged for reuse; (3) mitigation payment to historic preservation, paid to City's Historic Preservation Fund; (4) stipulation resolves matters pertaining to Docket No. 148-6-06; (5) stipulation shall be binding
- 2008 Appellant purchased the property.
- May 9-11, 2012, complaint received at Code Enforcement Office regarding parking expansion; site visit conducted, complaint verified, inspector spoke with property manager, temporary barrier installed.
- June 18, 2012, barriers were removed. Parking monitored by Code over the next few months. Municipal Tickets issued for Lawn Parking on under Sec. 20-55 of the City Ordinance.
- Over the first two weeks of July, 2012 vehicles have been parking in the dirt area that had previously been blocked by a snow fence. The fence has been removed. Resulted in 4 parking tickets being issued over that time for vehicles parked on the dirt and not on the pavement.
- 2000 and 2004 Aerial Photos – illustrate grass in front, sides, rear, southwest and southeast corners. Also along sides of house.
- July 13, 2012 a notification letter mailed to Owner notifying of complaint for the increased parking area. Owner was given 10 days to refute allegation.
- Property continued to be monitored; expanded parking violations continued at property.
- January 23rd and January 25, 2013 Code Enforcement inspectors verified vehicles parked in the southeast corner of property on.
- February 1, 2013 Code Enforcement Director met with Owner, who was informed, that additional action for the ongoing parking violation at 199 S. Union was being considered.
- February 1, and February 15, 2013 vehicles observed parked in the southeast corner of property; vehicles were ticketed
- March 11, 2013 inspection of the property and found:
  - Southeast corner of property lawn had been disturbed, evidence of recent tire indentations; small stones were partially placed around the area.
  - No barriers were installed around the paved parking area as indicated on the April 25, 2006 site plan.
  - Area indicated as "Grass" on the April 25, 2006 site plan had been removed, area is now dirt.
  - Area directly behind the house indicated as "grass" on the 2006 plan was severely disturbed.

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- A trailer was parked within the 14'x31' space indicated as "grass" on the 2006 plan, with the "grass" area severely disturbed.
  - On the west side of property land has been disturbed, there were no vehicles in this area, however, the 2006 plan does allow for 2 vehicles.
  - The 23x20.5 garage indicated on the 2006 plan had been removed, however, part of the concrete foundation is still in place (2006 plans indicated this structure would be completely removed and replaced by grass, thus enhancing the green space on the property. The land has been severely disturbed where the garage was located and there is evidence of vehicles parking in this area (tire indentations and ruts).
  - West of the remaining garage foundation was disturbed with pieces of concrete strewn about, some of which with sharp edges, creating an unsafe situation. Photos show evidence of this area being used as a walking path.
  - The northeast corner of property (north of walkway leading to front entrance door) shows disturbance of the land.
  - The area identified as "grass" on the 2006 plan is now dirt, with no grass.
  - Area north of house indicated as "grass" on the 2006 plan is now dirt with a vehicle parked in close proximity to the house,; not clear as to its relationship relative to the property line.
- To date property does not comply with setbacks, coverage, parking, and front yard setback.

**FINDINGS/APPLICABLE REGULATIONS:**

Article 2

*Article 2 Part 7 Enforcement*

*Sec. 2.7.5. Observation or Complaints of Violations*

*Upon receipt of a written ... the administrative officer shall investigate the complaint, take whatever action is warranted, and, if requested, inform the complainant ...*

A complaint was received by the Code Enforcement Office for front yard parking at the subject site in May 2012. Subsequent investigation found the complaint to be viable. Code staff tried to work with appellant to remedy the violation prior to issuance of a notice of violation, but that attempt was unsuccessful. A notice of violation was issued on March 18, 2013 and appealed on March 26<sup>th</sup>.

Article 3

*Sec. 3.1.2. Zoning Permit Required*

*(a) Exterior Work:*

*3. Change of use or expansion of use: parking area has been expanded*

*5. Alterations, changes, or modifications to building lots or sites related to site improvements including, but not limited to, increased lot coverage. Portions of the site have been damaged from repeated parking in areas not authorized for parking, thus causing an increase in lot coverage. Vehicles and/or trailers are still parking outside the recognized parking area.*

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12. *New or expanded parking areas, driveways, and walkways ... parking areas have been expanded.*

The expansion of the parking area on the property clearly requires a zoning permit. In addition, property does not comply with site plan dated April 25, 2006 submitted in support of ZP 06-680CA.

Article 4

*Table 4.4.5-3 Residential District Dimensional Standards:*

*Setbacks:*

*RH Zone:*

*Max. Lot Coverage: 80%*

*Front Setback: Min/Max: Ave(g) of 2 adjacent lots on both sides +/- 5-feet.*

*Side Setback: Min. 10% of lot width, but in no event less than 5-feet*

*Rear Setback: 25 % of lot depth but in no event less than 20'*

Lot size: 11827 sf; Property Dimensions: 66'x165'

The parking area on the south side of property encroaches into the side yard setback, parking on the east side of property encroaches into the front yard setback, and parking on the west side of the property encroaches into the side and rear setbacks. See attached labeled D-1 thru D-10. Photos show parking has occurred within the 15' front yard setback, on existing grass, and in areas indicated as "grass" on the 2006 site plan. March 15, 2012 photo shows the front as green grass, now it is dirt.

Article 8

*Table 8.1.8-1 Minimum Off-Street Parking Requirements*

*Residential Uses*

Multi-unit attached dwelling units, studio units or 1-bedroom dwelling unit in the Neighborhood Parking District requires 2spaces/dwelling unit. The subject property requirement: 2x12 (number of units) = 24 parking spaces required.

Based on the lot size, only 11 residential units are permitted; currently there are 12 units (note: an inspection/research has not been initiated to determine if the 12<sup>th</sup> unit is legal – in 1985 building permits were issued to enclose porches to add additional habitable spaces, 2003 rental registration shows 12 units no other research has been concluded to date).

15 parking spaces are shown on the 2006 "existing" site plan.

Previous' owner's proposal for ZP 06-06-680CA was "completely remove the structure and plant grass ..", the garage was used as storage for 10+ years and owner indicated the garage was never used as a garage, was always used for storage. There is no request or approval for a waiver of the number of parking spaces on record.

As observed on April 29, 2013, a car was parked in the southeast corner of property, an area not allowed for parking. A trailer was also parked in the southwest corner of property.

Article 12

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*Sec. 12.2.2 Appeals of Administrative Officer Decisions*

*Any interested person may take an appeal from any final order or decision of the administrative officer to the DRB within fifteen (15) days after the date of decision or act appealed from ...*

A complete timely appeal was filed on March 26, 2013 in the Planning/Zoning Office. Appellants appeal appears to request additional time to plant grass and not necessarily contending that a violation does not exist. An offer was suggested to appellant that he enter into an Agreement with the City in order to extend time to comply with Remedy Option #3 as stated in the Notice of Violation.

VSA §4451

*Statute VSA T.24 § 4451 (2013 Edition) states persons who violate the bylaw ... shall be fined not more than \$200.00 for each offense. No action may be brought ... unless the alleged offender has had at least seven days' warning notice by certified mail. Owner was provided a notice of violation served by both first class and certified mail. The notice, which outlined that a violation exists at property, violation shall be cured within seven days, and offender will not be entitled to any additional warnings or notice for a violation occurring after the seven days. The notice further describes the violation, provides findings, provides remedies, and appellant's right to appeal the notice. Photos with descriptions were provided. Permits and other pertinent documents relating to the violation were also included with the notice.*

**APPELLANT SUBMITTALS:**

- Appellant submitted a one page appeal (Appeal of an Administrative Decision Request) with handwritten "answers" to "... ALL of the following information must be provided... Attachment A

**CODE ENFORCEMENT OFFICE SUBMITTALS:**

- ZP 06-680CA "Demolish garage at rear of property" Denied – Attachment B
- Site Plan Submitted with ZP Application Dated April 25, 2006 – Attachment C
- Stipulation and Order Docket No. 148-6-06 Vtec Dated November 28, 2006 – Attachment D
- Aerial Photos – Attachment E
- Photographs – Attachment F
- Notification Letter Dated July 13, 2012 – Attachment G
- March 18, 2013 Notice of Violation – Attachment H
- Appeal – Attachment I

**CITY'S RESPONSE TO APPELLANT'S DISPUTE:**

Description of the decision under appeal.

Applicant response: "should grow grass".

- Appellant was cited with: "Property does not comply with setbacks, coverage, parking, and 2006 site plan". April 25, 2006 previous owner submitted a site plan in support of ZP 06-680CA, specifically noting dimensions for parking and location of grass areas.

Description of the property subject to the appeal.

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Appellant response: 199 South Union Street

- Property contains a historic structure built in 1879, the Henry Ballard residence. It is listed on Burlington's Inventory of Historic Resources and on the National Register of Historic Places as an individually listed contributing building to the South Union Street Historic District. 12 units. Neighborhood Parking District.

Reference to the regulatory provisions applicable to the appeal:

Appellant response: §4451

- VSA §4451 states: *Enforcement; penalties. Under adoption of this chapter, any bylaw violated shall be fined not more than \$200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail 4451 relates to penalties and enforcement.* A Notice of Violation was mailed to appellant, both certified and first class mail, stating that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. See attached notice of violation, all the above are included in the NOV.

Relief requested by the appellant:

Appellant response: Applicant would like to grow grass in the warmest weather, followed by drawings of sun and flowers.

- Appellant was provided with the opportunity to enter into an Agreement with the City to incorporate a timeline in which to bring property into compliance beyond the 7 days from date of the notice (Option #3 of remedy options in the NOV).

Alleged grounds by such requested relief is believed proper under the circumstances.

Appellant response: Barriers not required under zoning application of 2006. No proof that parking is occurring on grass. Inspector is nincompoop. It is mud season in Vermont.

- Barriers were not required in 2006. Barriers are required now as a remedy to prohibit parking in unpermitted areas.

**CODE ENFORCEMENT RECOMMENDATION:** Appellant seeks relief from ZV #234023 dated March 18, 2013. Appellant states he should grow grass (includes an inappropriate drawing on the appeal form), references VSA §4451 as a regulatory provision applicable to the appeal; states he would like to grow grass in the spring/warmer weather (more drawings), and states the alleged grounds why such requested relief is believed property under the circumstances he replies barriers not required under zoning application of 2006, no proof that parking is occurring on grass, inspector is nincompoop, it is mud season in Vermont. See above for City's responses to appellant's written appeal.

Since May of 2012 Code Office began receiving complaints of "illegal" parking at this Property. Despite contact with the Owner and issuance of tickets the violation has continued.

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Vermont

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Code Enforcement Office recommends that the DRB uphold the March 18, 2013 NOV for ZV # 234023 and upon issuance of an affirmative judgment, instruct Appellant to **remedy the violation, within 30 days from date of DRB decision. Appellant shall (1) install the barriers (which shall be reviewed and approved by Code Enforcement Office in consultation with Planning/Zoning prior to installation) as indicated on Attachment A (ie. 2006 Site Plan), and (2) replenish all the grass on property to reflect that shown in the 2006 site plan, Attachment A.**

It is further recommended that the Board inform the appellant that this is a serious matter and failure to (1) install the barriers (which shall be reviewed and approved by Code Enforcement Office in consultation with Planning/Zoning prior to installation), and (2) plant/maintain grass as reflected in the 2006 site plan (Attachment A), the City will pursue enforcement actions of the violations as provided in statute, including fines of up to \$200 a day, for each violation. In addition, Municipal Tickets in the amounts of \$100, \$150, and \$250 will be issued to Owner as allowed under Article 2, Sec. 2.7.7. (a) of the CDO.

Attachment A



Department of Planning and Zoning

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

www.burlingtonvt.gov/pz

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MAR 26 2013

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: 199 South Union St.

Subject Property Owner: Chris C. Khamnei

Appellant: Chris C. Khamnei

Agent/Representative:

Mailing Address: 82 Overlake Park

City, St, Zip: Burlington, VT 05401

Day Phone: (802) 222-6080 Email: chris@rentinvt.com

Appellant Signature: Chris Khamnei Date: 03-26-13

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

NOV # 234023

- The Appeal fee of \$250;
Description of the decision under appeal; - Applicant should grow grass
Description of the property subject to the appeal; - 199 South Union
Reference to the regulatory provisions applicable to the appeal; - §4451
Relief requested by the appellant; - Applicant would like to grow grass in the
Alleged grounds why such requested relief is believed proper under the circumstances.

Barriers not required under zoning application of 2006. No proof that parking is occurring on grass. Inspector is incompetent. It is mud season in Vermont.

Office Use Only: Check No. 5117 Amount Paid \$250 Zoning Permit # 13-0863A



**ZONING PERMIT - CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont

Department of Planning and Zoning

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

Application Date: 4/25/2006

Appeal Expiration Date: 7/12/2006

**Project Location: 199 SOUTH UNION ST**

Zone: RH

Ward: 6

Owner: 199 SOUTH UNION STREET LLC

Address: 40 BARBER TERRACE  
SO BURLINGTON, VT 05403

Telephone:

Parcel ID: 049-3-199-000

Project Description: Residential / Demolition  
Demolish garage at rear of property.

Existing Use:

Proposed Use:

Construction Cost:	\$3,000	Lot Size (Sq Ft):	11,827
Net New Square Feet:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 06-680CA

Decision Type: Development Review Board

Level of Review: 1

Decision: Denied

*See Reasons for Denial*

  
\_\_\_\_\_  
Zoning Administrator

Decision Date: 6/12/2006

Project File #: 06-680CA

*An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court until 4 pm on Jul 12 2006.*

<b>Fee Type</b>	<b>Amount Paid</b>	<b>Paid in Full</b>	<b>Balance Due:</b>	<b>\$0.00</b>
Application Fee:	\$75.00	Yes	Date Paid: _____	
Development Review Fee:	\$0.00	Yes	Check # _____	
Impact Fee:	Not Applicable			

Permit Received by: \_\_\_\_\_

Date: \_\_\_\_\_

From: 199 South Union Street, LLC  
Mark Lafayette, MM  
40 Barber Terrace  
South Burlington, VT 05403

To: Burlington Planning and Zoning  
149 Church Street, City Hall  
Burlington, Vermont 05401

**REGARDING: GARAGE @ 199 SOUTH UNION STREET**

I would like the Planning and Zoning Board to consider three different proposals for a garage at 199 South Burlington. I think most would agree that the building is in *disrepair and has limited value in its present use*. We have not used the building for storage for approximately 10 years because we found it impossible to keep secure. It is not easily visible because it is located at the far rear of the lot and became an attractive place for homeless intruders and drug users. It was broken into many times with warming fires built on the concrete floor and drug paraphernalia scattered throughout. We finally gave up in trying to keep it secure. We could not keep anything in the building without it being stolen or damaged.

I would like to discuss with the Board the following three options:

1. Completely remove the structure and plant grass, thus enhancing the green space on the property.
2. Completely remove the structure and replace it with a near identical structure that would house two studio type housing units.
2. Attempt to renovate the existing structure that would house two studio type housing units.

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MAY 30 2013  
DEPT. OF  
PLANNING & ZONING

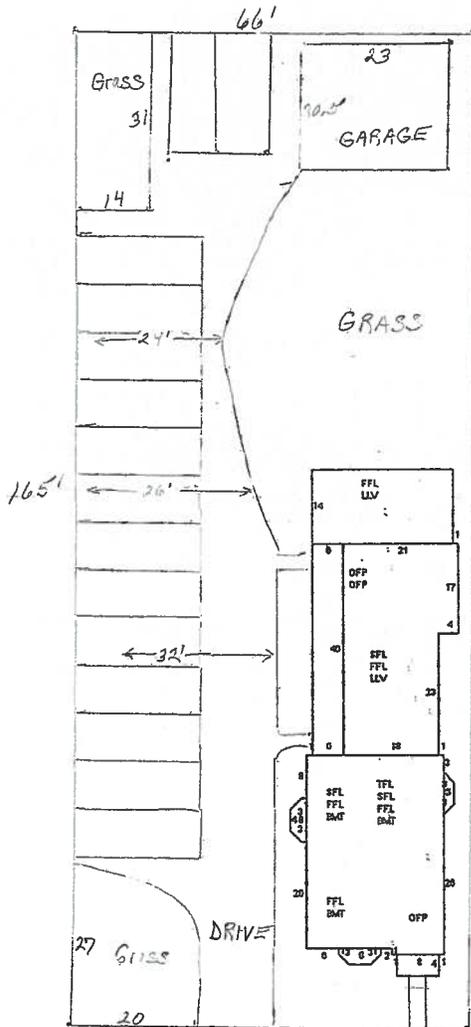
199 South Union Street  
Burlington, Vermont



Scale 1" = 16'

West

RECEIVED  
APR 25 2006  
DEPARTMENT OF  
PLANNING & ZONING



South

North

South Union Street

East

Attachment D-1  
**RECEIVED**  
NOV 28 2006

**STATE OF VERMONT  
CHITTENDEN COUNTY**

**DEPARTMENT OF  
PLANNING & ZONING**

In Re: 199 South Union Street LLC )  
Demolition Permit ) Vermont Environmental Court  
) Docket No. 148-6-06 Vtec  
)

**STIPULATION AND ORDER**

NOW COME the parties, by and through their attorneys, Vincent A. Paradis, Esq., attorney for 199 South Union Street LLC ("LLC") and Kimberlee J. Sturtevant, Esq., attorney for the City of Burlington ("City") and hereby enter into this stipulation and request the Honorable Court to so order.

**WITNESSETH:**

WHEREAS, LLC owns property located at 199 South Union Street, Burlington, Vermont (the "Property"); and

WHEREAS, the Property has a carriage barn located on it that is listed on local, state and national historic registers; and

WHEREAS, on June 12, 2006 the City denied LLC's request for a certificate of appropriateness and zoning permit to demolish the carriage barn (06-680CA) and LLC appealed said denial to the Vermont Environmental Court which is the basis of the above-referenced matter; and

WHEREAS, the carriage barn is an accessory structure to the primary building on the site, the carriage barn is somewhat hidden by the primary structure as the primary structure is much larger and is located between the carriage barn and the street frontage; and

Attachment D-2

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NOV 28 2006  
DEPARTMENT OF  
PLANNING & ZONING

WHEREAS, the carriage barn appears to have fallen into such disrepair that has diminished the integrity of its original setting, location, association, feeling, workmanship, design and materials; and

WHEREAS, both parties agree it is in their mutual best interests to resolve this matter without the use of further judicial resources.

NOW THEREFORE IT IS AGREED, by and between the City and LLC as follows:

1. LLC may demolish the carriage barn located at the Property.
2. To the extent possible, the carriage barn materials shall be salvaged for reuse.
3. As mitigation for loss of the historic carriage barn, LLC shall pay the City of Burlington eight thousand five hundred dollars (\$8,500.00) to be used for designated historic preservation initiatives within the City of Burlington by certified or cashier's check on or before November 30, 2006.
4. This Stipulation resolves all matters pertaining to Docket No. 148-6-06.
5. This Stipulation shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Dated at Essex Jct., Vermont this 27<sup>th</sup> day of November 2006

  
 Vincent A. Paradis, Esq.  
 Attorney for 199 South Union LLC

Dated at Burlington, Vermont this \_\_\_\_ day of November 2006.

Kimberlee J. Sturtevant  
Kimberlee J. Sturtevant, Esq.  
Attorney for the City of Burlington

**ORDER**

Based on the foregoing Stipulation, it is hereby ordered that:

1. That the above-captioned matter shall be dismissed.

Dated at Berlin, Vermont this \_\_\_\_ day of November 2006.

\_\_\_\_\_  
Merideth Wright, Judge  
Vermont Environmental Court

231130-00094 Stip and Order 10-4-06

RECEIVED

NOV 28 2006

DEPARTMENT OF  
PLANNING & ZONING

THIS TRIMLINE AREA OF THE DOCUMENT CHANGES COLOR GRADUALLY AND EVENLY FROM DARK TO LIGHT

**VERMONT STATE BANK**

**TREASURER'S CHECK**

White St. M/S (OFFICE) VERMONT

DATE October 26, 2006

NO. 028174018

PAY TO THE ORDER OF: \*\*\*\*\* City Of Burlington \*\*\*\*\*

\$ \*\*\*\*\* 8,500.00 \*\*\*\*\*

*[Signature]*

SIGNATURE

# 302914 # : 0116000201 : # 01 90004 # 21#

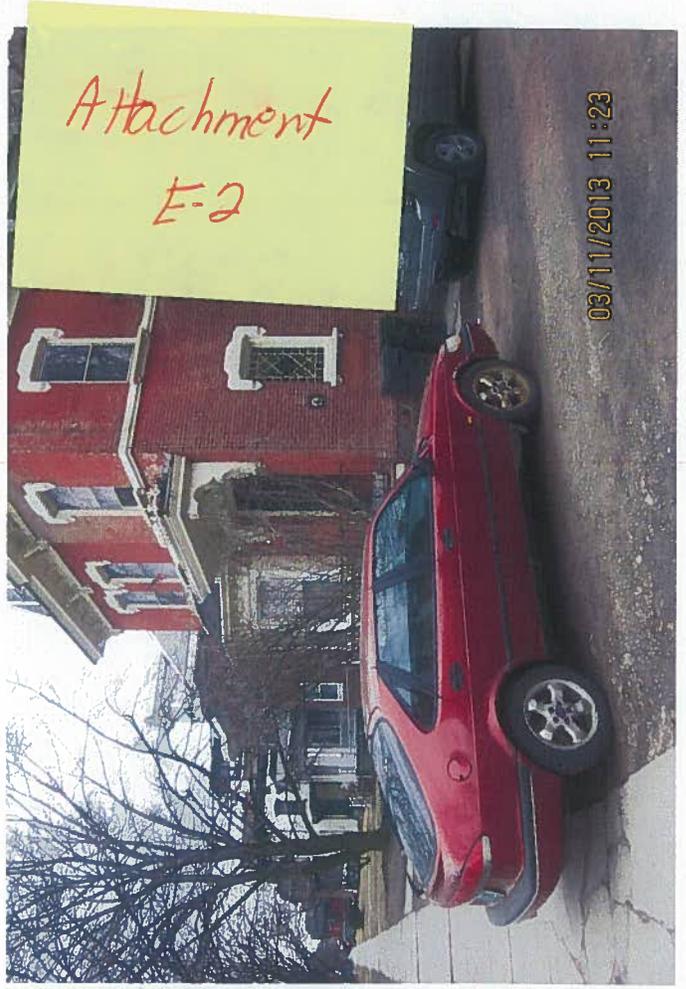
THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW.

11/28/06 deposited in Treasurer's office  
 with newly created Historic Preservation Initiative Fund  
 as per settlement agreement in re: 199 So. Union  
 Court Docket No. 148-6-06 etc.  
 Item #3

Attachment  
E-1

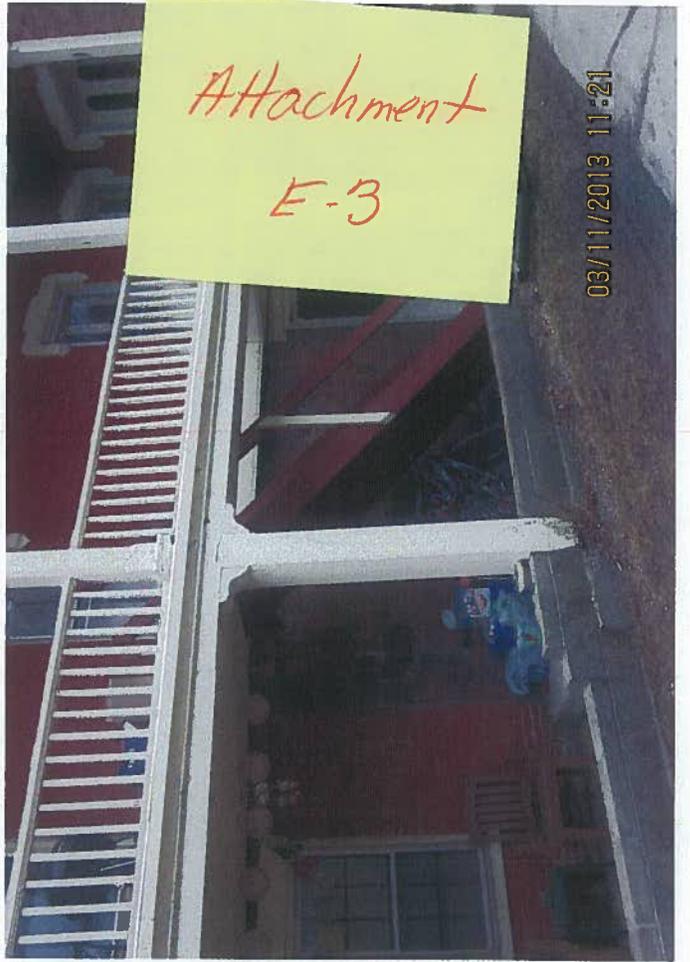
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Attachment  
E-3

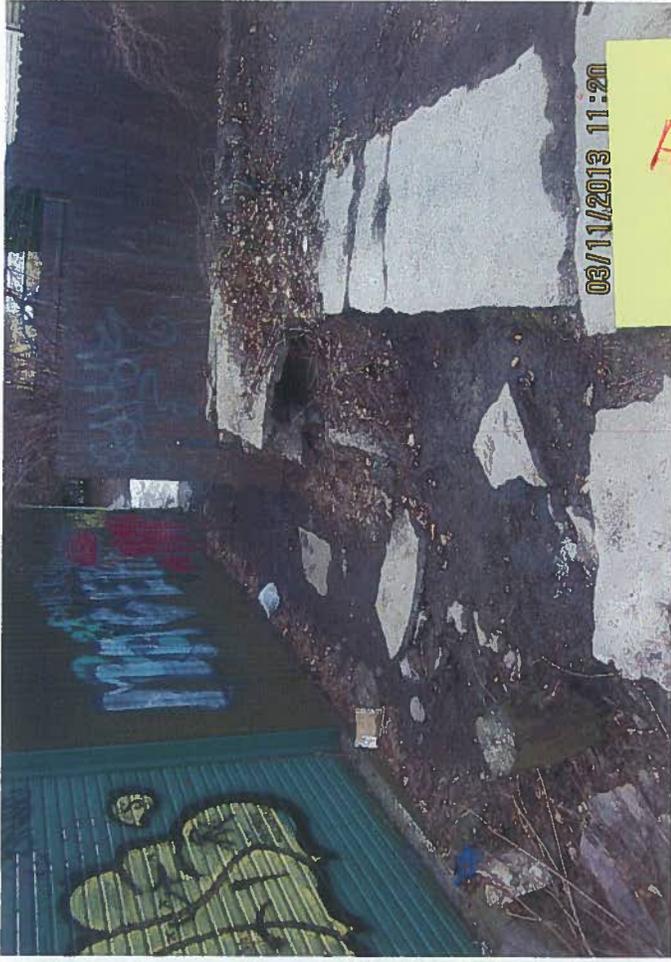
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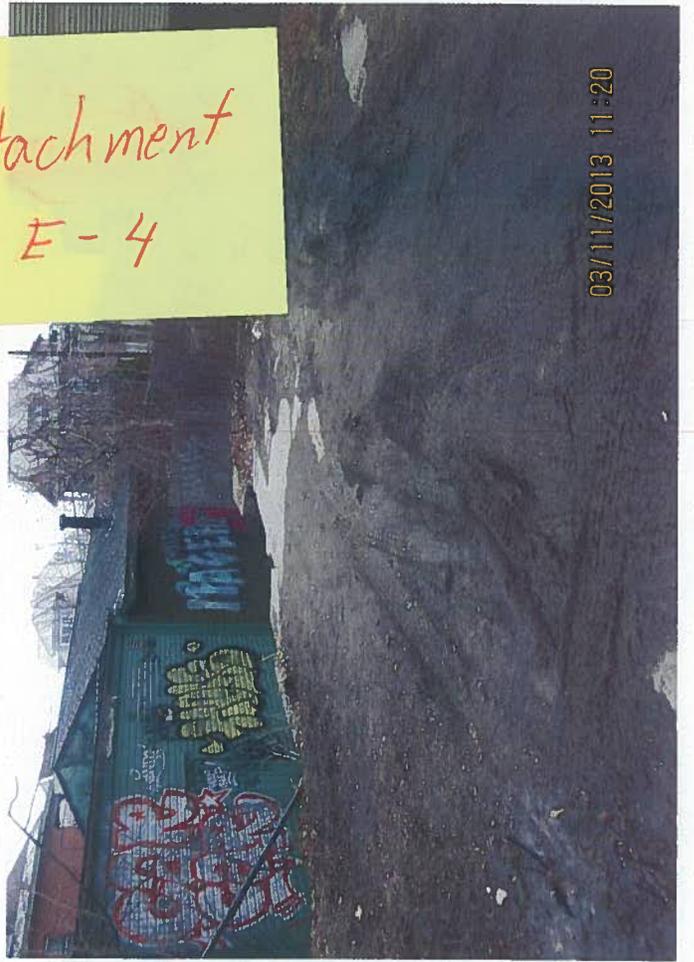
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Attachment  
E-4





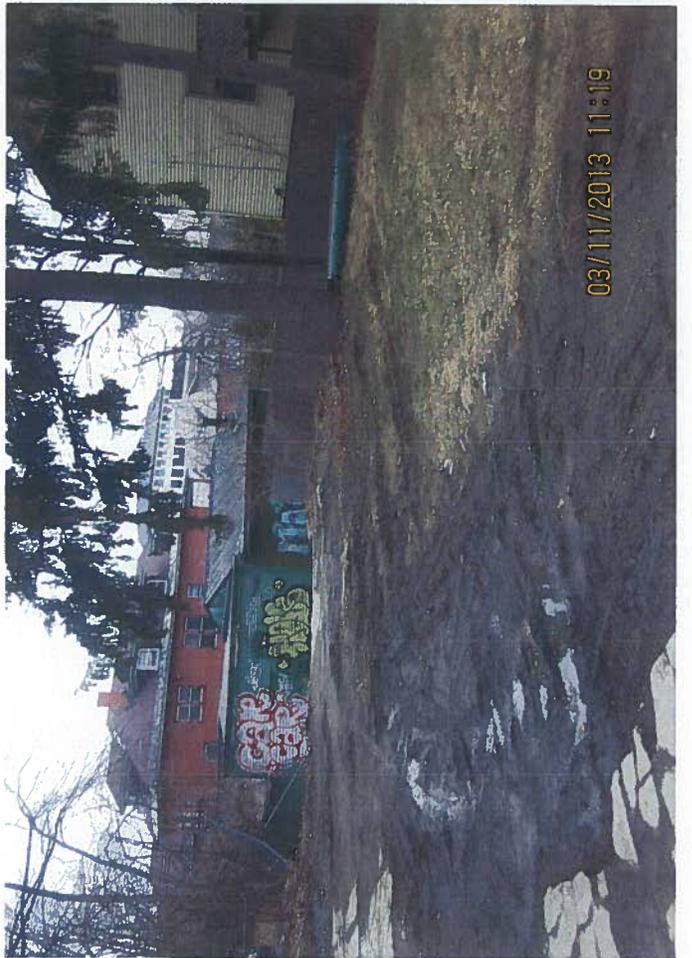
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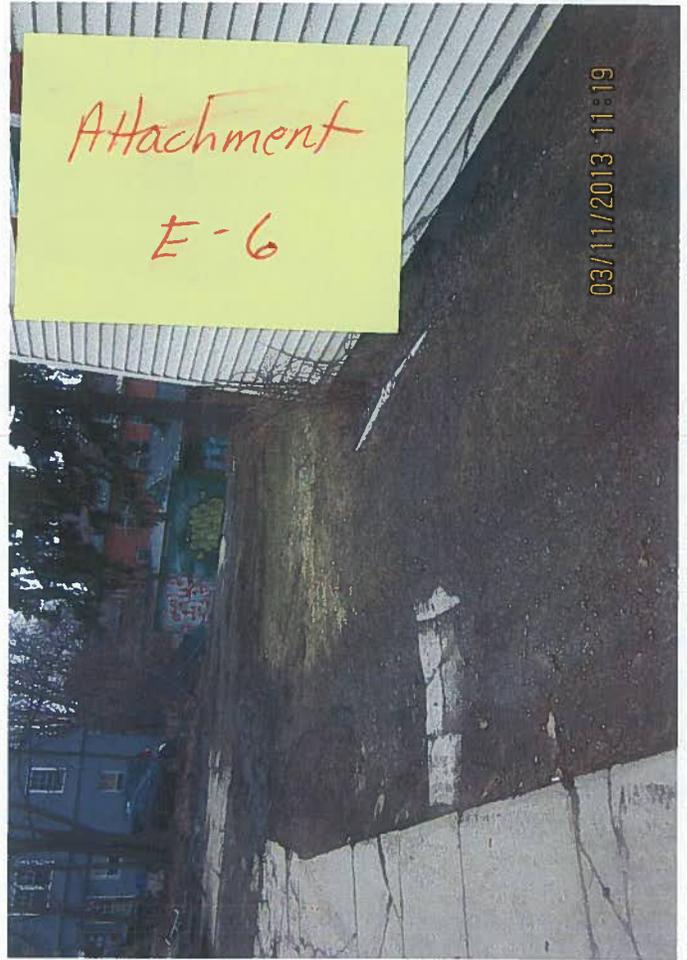
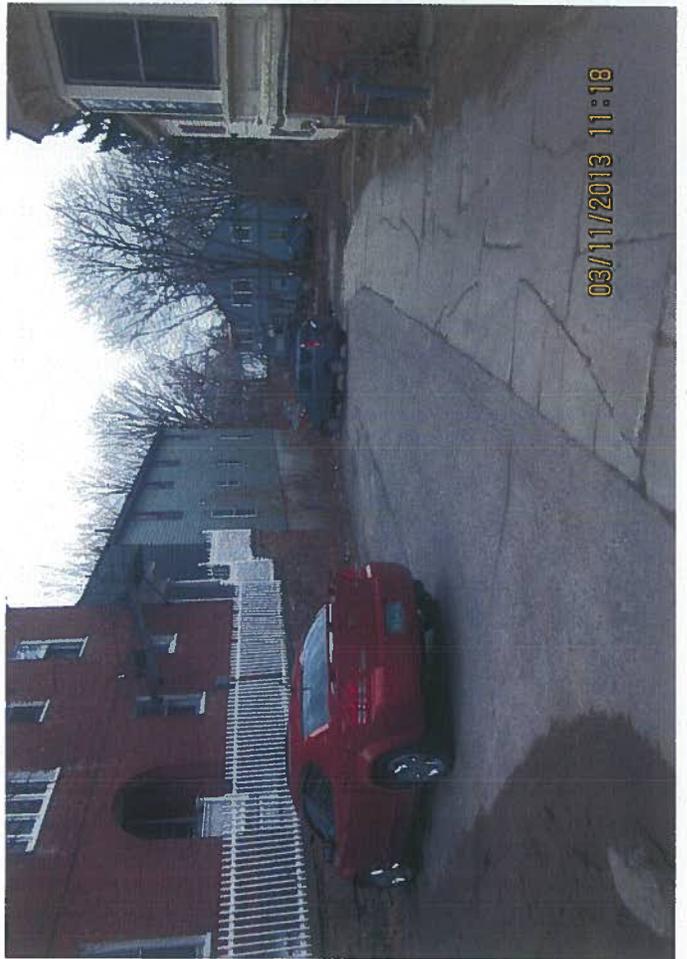
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Attachment  
E-7



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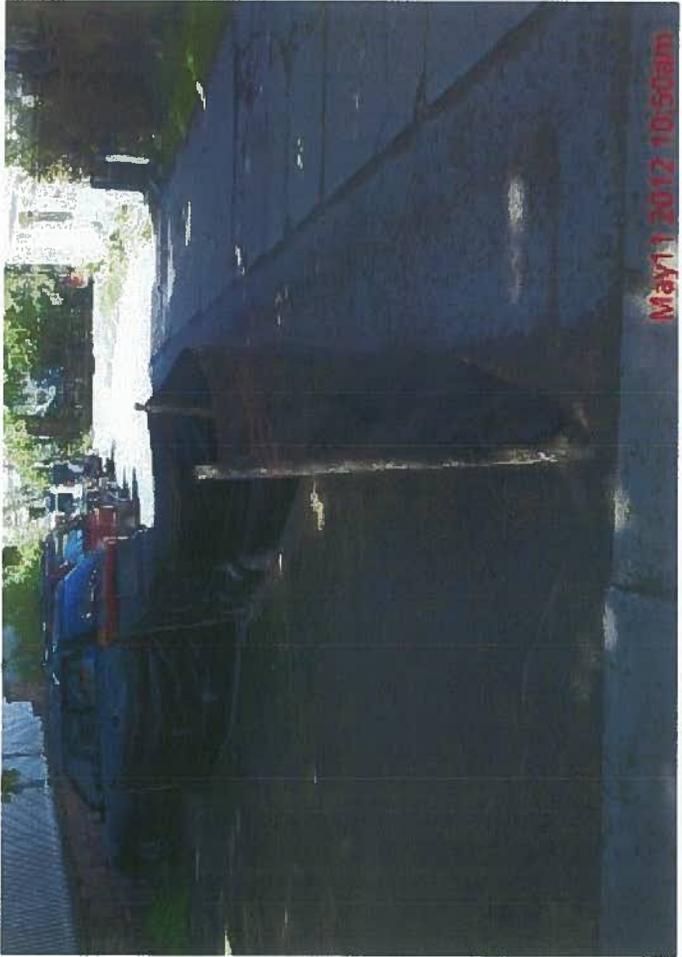
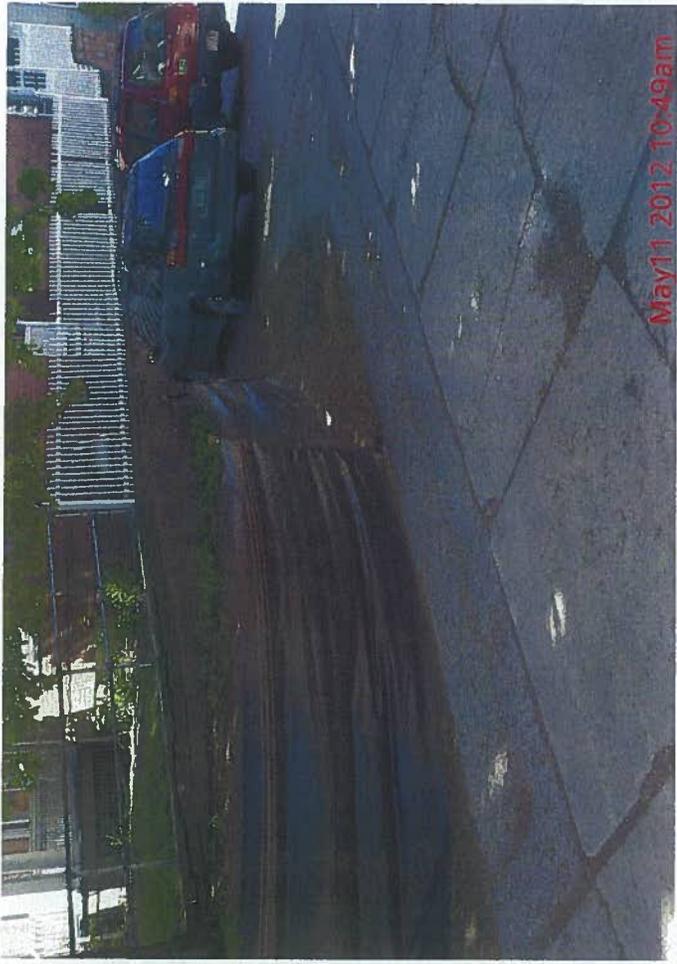


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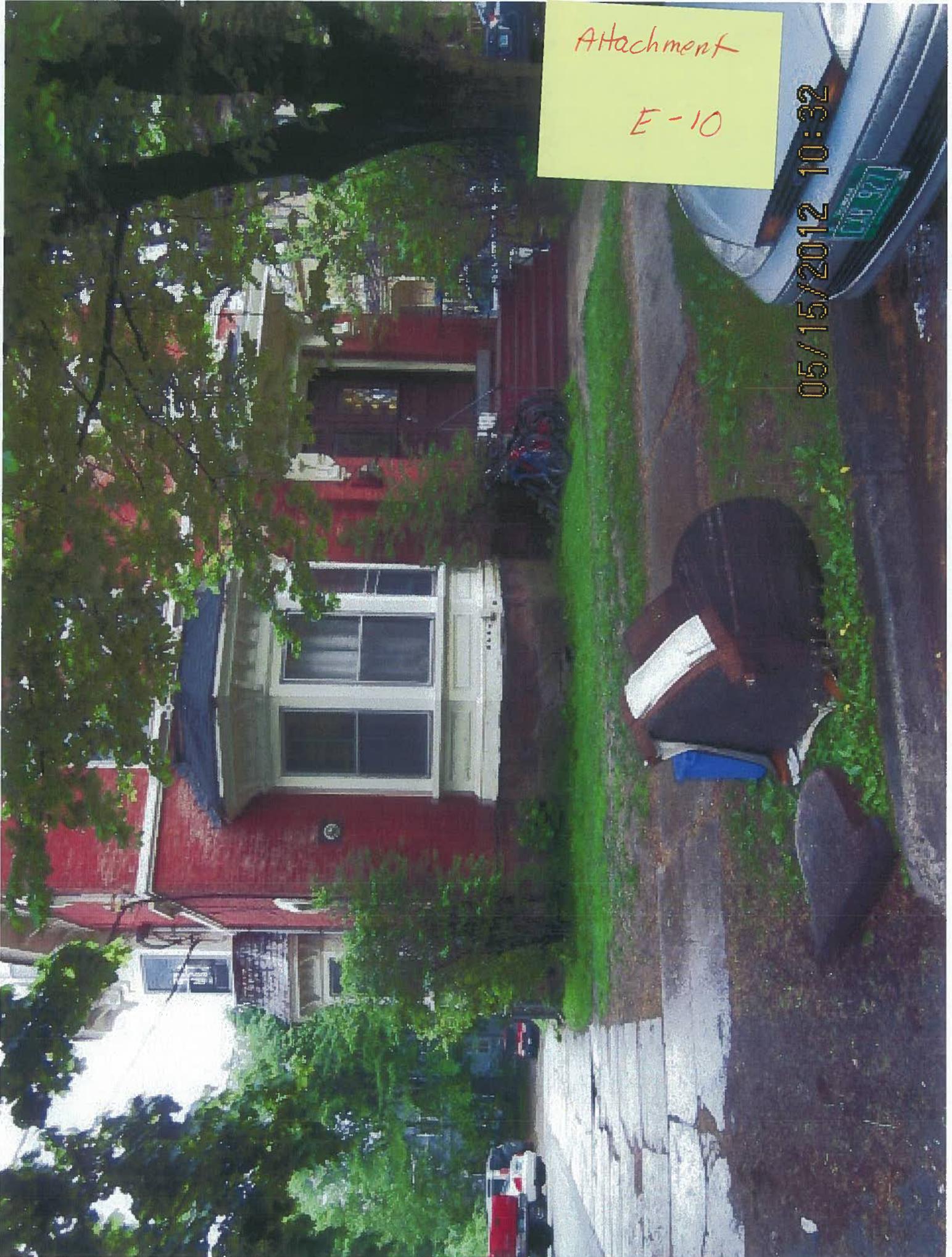




Attachment

E-10

05/15/2012 10:32





Attachment F

**CODE ENFORCEMENT OFFICE**

645A Pine St, PO Box 849

Burlington, VT 05402-0849

**VOICE (802) 863-0442**

**FAX: (802) 652-4221**

2012-07-13

Chris Khamnei  
82 Overlake Park  
Burlington, VT 05401

RE: 199 South Union Street Burlington, Vermont

Dear Owners,

According to our records, you are the owner of record of the above-referenced property. This letter is to inform you that the Code Enforcement Office has received the following complaint(s) regarding this property:

- Increasing parking area without an approved zoning permit

Our office has initiated an investigation regarding the complaint(s), however, as of this date; a final determination has not been made. Should you have any information that you believe will be useful to us during our investigation, please submit it to the Code Enforcement Office, **in written form, within the next ten (10) business days**.

This is your opportunity to provide information to refute the allegation(s) prior to our issuance of a formal determination and possibly a Notice of Violation. Information that may be helpful includes, but is not limited to, the following:

- Permits which document that the condition that is alleged to be in violation has been approved by the City.
- Photographs of the property and/or other documents (both current and historical with verifiable dates) that demonstrate the alleged violation does not exist, has been remedied, or has existed for more than 15 years.
- Affidavits from yourself and other persons who are aware of facts relevant to the allegation(s) that testify to the fact that the alleged violation does not exist, has been remedied, or has existed for more than 15 years.

Please note, while any information from you as the property owner is useful, the investigation will occur with or without the information. This letter is intended to give you notice of the alleged complaint(s) against your property and to provide you an opportunity to refute the allegation prior to a formal determination being issued. Please note that the complainant's identity remains confidential pursuant to Section 2.7.5 of the *Burlington Comprehensive Development Ordinance*.

Should you have questions, please don't hesitate to call me at 863-0442.

Sincerely,

Jeanne Francis, Zoning Specialist

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



**CODE ENFORCEMENT OFFICE**  
645A Pine St, PO Box 849  
Burlington, VT 05402-0849  
**VOICE (802) 863-0442**  
**FAX: (802) 652-4221**

**NOTICE OF ZONING VIOLATION (NOV)**

March 18, 2013

Mailed Certified Mail 7010 3090 0003 5693 9191  
And FIRST CLASS MAIL

CHRIS KHAMNEI  
82 OVERLAKE  
BURLINGTON, VT 05401

**NOTICE OF VIOLATION AT:**  
**199 SOUTH UNION STREET, BURLINGTON, VT**  
**TAX LOT #049-3-199-000**

**Zoning Violation# 234023**

Dear Chris,

It has come to the attention of this office that a zoning violation exists at 199 South Union Street (see attached photos).

**Description of Violation:** Property does not comply with setbacks, coverage, parking, and 2006 site plan.

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 4, 5, 8, 12, and 24 VSA §4451.

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

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

This NOV is a decision of the Zoning Enforcement Officer, designee of the Burlington Zoning Administrator, may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV March 15, 2013, and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application shall be filed with the City's Planning and Zoning Office (City Hall, 149 Church Street) by **4 pm on April 2, 2013**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call me at (802) 864-8518.

Sincerely,

Jeanne Francis  
Zoning Compliance Officer

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 049-3-199-000

## VIOLATION DETAILS

**LOCATION:** 199 South Union Street

**DECISION DATE:** March 18, 2013

**VIOLATION DESCRIPTION:** Property does not comply with setbacks, coverage, parking, and 2006 site plan (see attached photos).

- FINDINGS:**
- ZP 06-603CA application submitted with three options: 1. Completely remove the structure and plant grass, thus enhancing the green space on the property; 2. Completely remove the structure and replace it with a near identical structure that would house two studio type housing units; 3. Attempt to renovate the existing structure that would house two studio type housing units. Application included a site plan dated April 25, 2006 (see attached): 27x20 grass area located at southeast corner of property, Grass around front of house, down the north side to property line, behind house to "garage", and 14x31 space on the southwest at corner of property. "Garage – a.k.a. Carriage Barn" 23x20.5 has since been removed from property.
  - ZP 06-680CA – demolish garage (a.k.a. carriage barn) at rear of property; Application Accepted (Apr 25 2006) -> Scheduled for DAB on May 9 2006 -> Scheduled for DRB on Jun 6 2006 -> Scheduled for DRB Deliberation on Jun 12 2006 -> Decision: Denied (Jun 12 2006) -> Appeal Received: DRB Decision to Environmental Court (Jun 22 2006) -> VEC Outcome: Stipulation Agreement Reached by City and Appellant (Nov 28 2006)
  - Stipulation and Order reached November 28, 2006: (1) may demolish carriage barn; (2) materials shall be salvaged for reuse; (3) mitigation payment to historic preservation, paid October 26, 2006 (4) stipulation resolves matters pertaining to Docket No. 148-6-06; (5) stipulation shall be binding
  - May 9-11, 2012, complaint received at Code Enforcement Office regarding parking expansion; site visit conducted, complaint verified, inspector spoke with property manager, temporary barrier installed.
  - June 18, 2012, barriers were removed. Parking monitored over the next couple months. Municipal Tickets issued for Lawn Parking under Sec. 20-55 of the City Ordinance.
  - Over the first two weeks of July, vehicles have been parking in the dirt area that had previously been blocked by a snow fence. The fence has been gone, so 4 parking tickets have been issued over that time for vehicles parked on the dirt and not on the pavement.
  - 2000 and 2004 Aerial Photos – grass in front, sides, rear, southwest and southeast corners. Also along sides of house.
  - July 13, 2012 a notification letter mailed to Owner notifying him of an increase parking area parking complaint. Owner was given 10 days to refute allegation.
  - Property continued to be monitored; expanded parking violations continued at property.
  - Inspectors verified vehicles parked in the southeast corner of property on January 23rd and January 25, 2013.
  - February 1, 2013 Code Enforcement Director William Ward met with Owner Chris where Owner was informed additional action for the ongoing parking violation at 199 S. Union was being considered.

- February 1, 2013 and again on February 15, vehicles were parked in the southeast corner of property; vehicles were ticketed
- March 11, 2013 I inspected the property and found: southeast corner of property lawn had been disturbed, evidence of recent tire indentations; small stones were partially placed around the area. No barriers were installed around the paved parking area as indicated on the April 25, 2006 site plan. Area indicated as "Grass" on the April 25, 2006 site plan had been removed, area is now dirt. Area directly behind the house indicated as "grass" on the 2006 plan has been severely disturbed. A trailer was parked within the 14'x31' space indicated as "grass" on the 2006 plan, grass has been severely disturbed. On the west side of property land has been disturbed, there were no vehicles in this area, however, the 2006 plan does allow for 2 vehicles. The 23x20.5 garage indicated on the 2006 plan has been removed, however, part of the concrete foundation is still in place (2006 plans indicated the structure, ie garage, would be completely removed and plant grass, thus enhancing the green space on the property. The land has been severely disturbed where the garage was and there is evidence of vehicles parking in this area (tire indentations and ruts). West of the remaining garage foundation has been disturbed with pieces of the concrete strewn about and broken pieces of the concrete shown with sharp edges, showing signs of an unsafe situation while photos show evidence of this area being used as a walking path. The northeast corner of proper (north of walkway leading to front entrance door) shows deterioration of the land. What was indicated as "grass" on the 2006 plan is now dirt, no grass. Area north of house indicated as grass on the 2006 plan is not dirt – vehicle is parked in close proximity to the house, but it is unsure where the property line is.
- To date property does not comply with setbacks, coverage, parking, and front yard setback.

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

- 1) –Restoring the Premises to comply with the April 25, 2006 site plan, adding barriers around parking areas (to be reviewed and approved by the Code Enforcement Office and subject to permits) and informing the Code Enforcement Office that the violations have been removed so our office may verify compliance; or
- 2) - Obtaining approval from the City's Department of Planning and Zoning for increased parking (see photos below), encroaching into front yard setback, increasing lot coverage (see photos below) without an approved zoning permit (permit application fee is doubled if complete application is submitted within seven days from receipt of the NOV, tripled if a complete application is submitted 7-15 days from receipt of the NOV, or triple plus \$75 per hour of Code Enforcement staff time (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8. **PLEASE NOTE:** If the zoning permit request is denied, the violation is **NOT** cured. Owner shall be required to remove the violation as noted in #1 above or request an agreement as noted in #3 below within five (5) business days from date of the permit denial to remedy the violation; or
- 3) - Enter into an Agreement with the City of Burlington to incorporate a timeline in which to bring property into compliance beyond the 7 days from date of this notice and mandated by 24 VSA §4451 (**administrative fees required**).

**APPEAL RIGHTS:** You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days **from the date of this notice**. **The deadline for filing an appeal is 4 pm on April 2, 2013.** Submit a complete application with ZV# and appropriate fee to the Department of Planning and Zoning, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

**REGULATION CITATION:** CDO Article(s): 2, 3, 4, 5, 8, 12 and 24 VSA §4451



Northwest corner of property. Area has been damaged by parking; compare area to attached 2004 Aerial Photo. Remedy: smooth out ruts and plant grass in this area as shown on the 2006 site plan. Barrier, to be reviewed and approved by Code Enforcement Office shall be implemented along the 23x20.5 area (former carriage barn/garage) to protect grass area from parking; subject to permits.