

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin *[Signature]*
DATE: July 16, 2013
RE: 13-1253SD; 173-193 St. Paul 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: DT Ward: 5

Owner/Representative: Mansfield Professional Building, LLC / Robert H. Rushford, Esq.

Request: Subdivide single lot into two lots. No new construction included.

Applicable Regulations:

Article 3 (Applications and Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Design Review), and Article 10 (Subdivision)

Background Information:

The applicant is requesting approval to subdivide an existing lot into two lots. The subject lot is the construction site for a 34-unit residential building that received approval August 31, 2009 and subsequent time extensions. The lot also contains an existing commercial building. No new development is included in this subdivision application. The subdivision will simply create separate lots for the two buildings. As only two lots are proposed, this subdivision is eligible for combined preliminary and final plat review per Sec. 10.1.7, *Combined Preliminary & Final Plat*, of the Comprehensive Development Ordinance.

Recommendation: Consent approval of combined preliminary & final plat as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Sec. 3.5.6, Review Criteria

(a) Conditional Use Review Standards

1. The capacity of existing or planned community facilities;

The proposed subdivision will have no impact on existing or planned community facilities.

(Affirmative finding)

2. The character of the area affected;

The proposed subdivision will have no impact on the character of the neighborhood. **(Affirmative finding)**

3. Traffic on roads and highways in the vicinity;

The proposed subdivision will generate no traffic impacts. **(Affirmative finding)**

4. Bylaws then in effect;

As conditioned, the subdivision will be in compliance with all applicable bylaws. **(Affirmative finding)**

5. Utilization of renewable energy resources;

The proposed subdivision will have no impact on renewable energy resources. **(Affirmative finding)**

6. Cumulative impacts of the proposed use;

Not applicable.

7. Functional family;

Not applicable.

8. Vehicular access points;

Not applicable.

9. Signs;

Not applicable.

10. Mitigation measures;

Not applicable.

11. Time limits for construction;

Not applicable.

12. Hours of operation and construction;

Not applicable.

13. Future enlargement or alterations;

In the event of future alterations, permits would be required and reviewed under the regulations then in effect.

14. Performance standards;

Not applicable.

15. Conditions and safeguards;

See conditions of approval.

Article 4: Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

(2) Downtown Transition District (DT)

(C) DT South

The subject property is located in the Downtown Transition (DT) District. This zone is intended to provide a balance and continuity in the character and scale of development along gateways into Burlington's urban core. No new development is included in this subdivision, but the existing commercial building and the new residential building under construction are consistent with the intent of this district. **(Affirmative finding)**

(b) Dimensional Standards & Density

The proposed subdivision does not affect any dimensional standards or density. Insofar as the construction underway was approved as part of a major Planned Unit Development, the introduction of new interior lot lines does not affect the overall dimensional requirements or density. **(Affirmative Finding)**

(c) Permitted & Conditional Uses

Not applicable.

(d) District Specific Regulations

Not applicable.

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.1 (b) above.

Sec. 5.2.4, Buildable Area Calculation

This criterion does not apply to properties in the DT zone.

Sec. 5.2.5, Setbacks

See Sec. 4.4.1 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.1 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.1 (b) above.

Sec. 5.5.1, Nuisance Regulations

Not applicable.

Sec. 5.5.2, Outdoor Lighting

Not applicable.

Sec. 5.5.3, Stormwater and Erosion Control

Not applicable.

Article 6: Development Review Standards:

Part 1, Land Division Design Standards

(a) Protection of important natural features

There are no important natural features on the subject property. **(Affirmative finding)**

(b) Block size and arrangement

No new blocks are proposed. The existing city block size and arrangement will remain unchanged. **(Affirmative finding)**

(c) Arrangement of Lots

The existing lot is irregular in shape. The proposed lot 1 will remain irregular; however, proposed lot 2 will be approximately square. There is no way to cure the existing irregularity as part of this subdivision. **(Affirmative finding)**

(d) Connectivity of streets within the city street grid

No new streets are proposed. Existing street grid connectivity will remain. **(Affirmative finding)**

(e) Connectivity of sidewalks, trails, and natural systems

Not applicable.

Article 10: Subdivision

See Articles 3, 4, 5, and 6 of these findings.

II. Conditions of Approval

1. Within 180 days of the date of final approval, the subdivision plat mylar, with all applicable endorsement signatures, shall be filed with the City Clerk per Sec. 10.1.11 of the Comprehensive Development Ordinance. Failure to do so shall render void the final plat approval.
2. Standard permit conditions 1 -15.

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DEPARTMENT OF
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**Application Narrative
for
Mansfield Professional Building, LLC**

This Application is an amendment to the prior Final Plat Approval for a 34-unit residential condominium approved as a planned residential development in Permit #08-167PD (183 St. Paul Street, Ward 5, RH), as amended by Judgment Order in Docket No. 260-11-07 Vtec dated March 16, 2009 and by supplemental order dated August 31, 2009. The Final Plat Approval was for the construction of a new 34-unit residential condominium building on a lot that also contains an existing medical office building. The 34-unit residential building is currently under construction. No changes to the previously approved Final Plat are proposed by this Application other than the creation of a new lot line between the new 34-unit residential condominium building and the existing medical office building.

The sole purpose of this application is to legally subdivide the land associated with the 34-unit residential condominium building from the land associated with the existing medical office building to meet the Fannie Mae eligibility requirements for secondary market mortgages. The Applicant intends to declare a condominium for the 34-unit residential building. However, under Fannie Mae eligibility requirements, “[n]o more than 20 percent of total square footage of the project can be used for nonresidential purposes.” Fannie Mae Announcement 07-18 at 7. If a single mixed use condominium were declared for both the new 34-unit residential building and the existing medical office building, the residential units would not be eligible for secondary market financing because more than 20% of the square footage consists of nonresidential purposes.

To address this issue, the Applicant proposes the creation of a two lot subdivision consisting of: (1) a new lot (Parcel 2, containing 11,815 SF) generally comprised of the footprint of the 34-unit residential building; and (2) a new lot (Parcel 1, containing 20,330 SF) generally comprised of the footprint of the existing medical office building all as shown on a proposed subdivision plat entitled: “Subdivision Property Plat, Mansfield Professional Building, 173-193 St. Paul Street, Burlington, Vermont,” prepared by Summit Engineering, Inc., dated May 24, 2013 (the “Subdivision Property Plat”). Once a separate lot is created for the 34-unit residential building, a stand-alone residential condominium can be created that meets the Fannie Mae eligibility requirements.

This application is being made under the PUD Rules set forth on Article 11 of the Comprehensive Development Ordinance. We note the following with respect to the review criteria under Article 11:

Sec. 11.1.4. General Requirements and Applicability.

For the RH District, no minimum lot size is required.

The Application meets this requirement: Parcel 1 is 20,330 SF and Parcel 2 is 11,815 SF.

Planned unit developments are not authorized for non-residential uses except as provided in Sec. 11.1.7.

Section 11.1.7(a) states that “[a] planned unit development may contain a building or buildings intended for use as a . . . business office if the DRB determines that such use or uses will not contribute to parking problems on site or in the surrounding area. The parking for this project was previously approved by the Final Plat Approval and no changes are proposed by this amendment that would increase the parking demands. Easements will be granted between the two new Parcels for shared access and parking.

Sec. 11.1.5. Modification of Regulations.

With the approval of the DRB, subject to the limitations of Sec 11.1.6, the density, frontage and setback regulations may be altered for a planned unit development. More than one principal use and more and one principal structure may be permitted on a single lot. At the discretion of the DRB, the dwelling units may be of varied types including single detached, attached, duplex or apartment construction. Any proposed modifications of regulations shall be listed in a statement accompanying the plat submission and such modifications shall be subject to the provisions of Sec. 11.1.6 and Sec. 11.1.7.

No changes are proposed to the perimeter setbacks, building height, density or frontage. Therefore, no proposed modifications are required other than the approval of the new lot line between the two building footprints with no internal setbacks between the two lots.

Sec. 11.1.6. Approval Requirements.

- (a) Lot coverage requirements of the district shall be met.

See above—no minimum lot size for the RH District.

- (b) The minimum setbacks required for the district shall apply to the periphery of the project.

The setbacks for the periphery of this project were previously approved in the Final Plat Approval and this Amendment makes no changes to the setbacks along the periphery.

- (c) The minimum parcel size shall be met if the project is located on a RL or RL-W district.

N/A.

- (d) The project shall be subject to design review and site plan review of Article 3, Part 4.

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The project was previously reviewed under these criteria during the Final Plat Approval process and no changes are being proposed to the buildings or their design elements.

- (e) The project shall meet the requirements of Article 10 for subdivision review.

See below.

- (f) All other dimensional, density, and use requirements of the underlying zoning district shall be met as calculated across the entire project.

The project was previously reviewed during the Final Plat Approval process and no changes are being proposed to dimensional, density and use requirements other than the requested approval for the new lot line between the two building footprints with no internal setbacks between the two lots.

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

N/A—see prior findings. Common access and parking will be established through a permanent easement between the two lots.

- (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.

N/A—no phasing is planned.

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

See prior affirmative findings in Final Plat Approval.

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

The project was previously reviewed during the Final Plat Approval process for compliance with the municipal development plan no changes are being proposed other than requested approval of the new lot line between the two building footprints with no internal setbacks between the two lots.

Subdivision Review Standards—Burlington Major Impact Review Standards Sec. 3.5.6(b)

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

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

2. Have sufficient water available for its needs.

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

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

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

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.

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

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 prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

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

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

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

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

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 prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

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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.

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

10. Be in substantial conformance with the city's municipal development plan and all incorporated plans.

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

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.

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application. Eligibility for Fannie Mae financing will help support the housing needs of purchasers.

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

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application.

13. Specific Review Criteria—monuments, lots and blocks, subsurface improvements, easements, trees, street names and house numbers, land for recreation, preservation of natural features and performance bond.

See prior affirmative findings in Final Plat Approval. No changes are proposed by this amendment Application other than requested approval of the new lot line between the two building footprints with no internal setbacks between the two lots.

Conclusion

Because no changes to the approved project are proposed other than requested approval of the new lot line between the two building footprints, and because this Application satisfies the general and specific review criteria for PUD approval, the Applicant respectfully requests the approval of the two-lot subdivision depicted on the Subdivision Property Plat.

I, _____ City Engineer, do hereby certify that the subject plat has been examined by me and found to comply with the engineering requirements set forth in the regulations governing plats of subdivision land adopted but the City Council, with the following exceptions:

City Engineer _____ Date _____

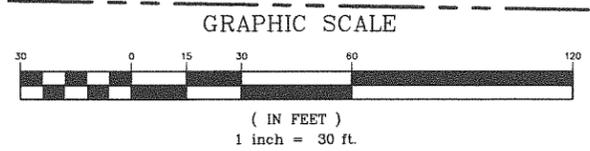
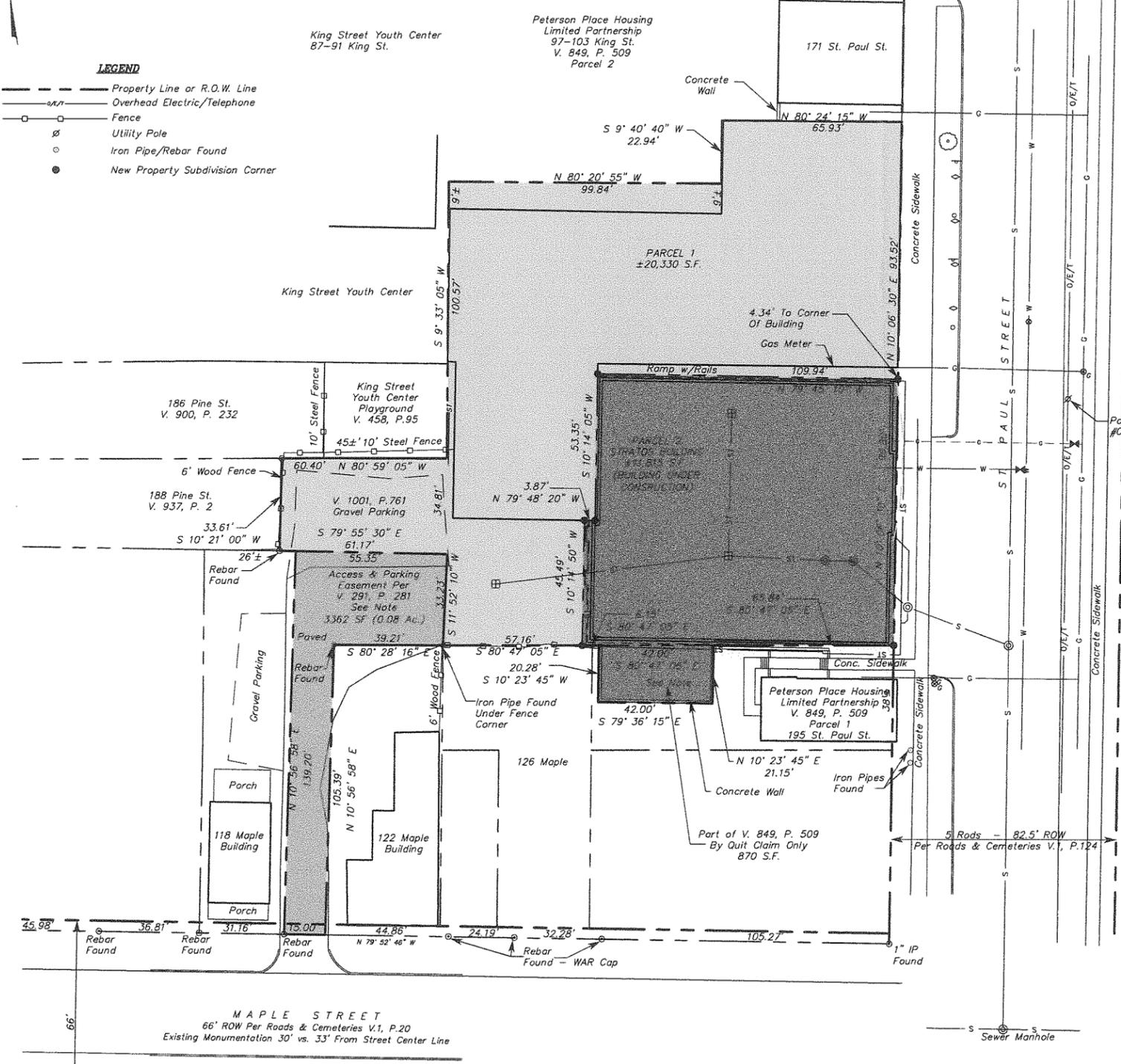
I, _____ Fire Marshall, do hereby certify that the subject plat has been examined by me and found to comply with the fire prevention requirements set forth in the regulations governing plats of subdivision land adopted but the City Council, with the following exceptions:

City Fire Marshall _____ Date _____

I, _____ Superintendent of Parks, do hereby certify that the subject plat has been examined by me and found to comply with the street planting requirements set forth in the regulations governing plats of subdivision land adopted but the City Council, with the following exceptions:

City Superintendent of Parks _____ Date _____

- LEGEND**
- Property Line or R.O.W. Line
 - Overhead Electric/Telephone
 - Fence
 - o Utility Pole
 - o Iron Pipe/Rebar Found
 - o New Property Subdivision Corner

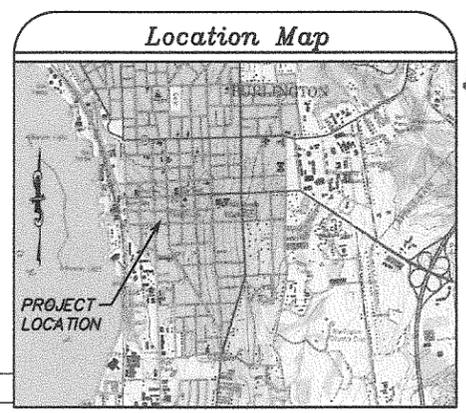


APPROVED BY RESOLUTION OF THE CITY OF BURLINGTON DEVELOPMENT REVIEW BOARD, VERMONT, ON THE _____ DAY OF _____ 2013 SUBJECT TO ALL REQUIREMENTS AND CONDITIONS OF CHAPTER 28 ENTITLED SUBDIVISION REGULATIONS OF THE BURLINGTON, VERMONT CODE OF ORDINANCES, SIGNED THIS _____ DAY OF _____ 2013 BY

Witness _____ Chairman _____

The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, certifies that this plat was made from an actual survey, and that all taxes or other assessments now due on this land have been paid.

Agent _____ Owner _____
Date _____ Date _____



- Reference Plans:**
- 1.) "Former Colonial Dist. Building" by Engineers Inc. of Vermont dated 1/31/83 and recorded in Map Slide 130
 - 2.) "King Street Youth Center" dated 6/22/92, revised 7/1/92 and recorded Slide 252C.
 - 3.) "King Street Youth Center" dated 6/22/92, revised 2/27/96 and recorded Slide 301A.
 - 4.) "Colonial Distributors, Inc." dated 4/18/66 by Richard Emerson, LS recorded Vol. 176, Pg. 388.
 - 5.) "J. Stuart McGowan & Joan H. Watson - 124 Maple St." by Warren Robenstien dated 7/27/07 & 8/8/07
 - 6.) "J. Stuart McGowan & Joan H. Watson - 116 Maple St." by Warren Robenstien dated 3/27/07
 - 7.) Stratos Condominiums Design Plans By DeWolfe Engineering dated 2/16/07 last revised 7/10/09.
 - 8.) "Property Plat" Mansfield Professional Building, by Summit Engineering, Inc., dated 8/29/07, last revised 9/10/07.
 - 9.) "Stratos" by Innovative Design, Inc. dated 11/9/09, last revised 5/2/12

- Encroachments Per Ref Plan #7:**
- Storm line through Peterson Place Housing
 - Shared storm line between parcel 1 & Parcel 2
 - Access between parcel 1 & parcel 2

SURVEY NOTES

The 21'x42' area was not included in the written description in Vol. 291, Pg. 278, (Dicksen Realty To 173 St. Paul Street Associates), but is shown on the reference survey plat, reference plat no. 1 hereon and in this deed as being included. This portion was conveyed to Peterson Place Housing, LP, in Vol. 849, Pg. 509 by Quit Claim Only.

The Access and Parking easement from Maple St., shown hereon, is land owned by the current owners of 122 Maple St. and is for "ingress and egress of vehicles and parking over and upon" (Vol. 291, Pg. 281).

See also Easement between Turnbaugh and Dickson Realty Corp., Vol. 176, Pg. 377

This is a correct survey, to the best of my knowledge, based upon City of Burlington land records and an EDM total station field survey performed on August 2006 and August 2007.

It is noted that no site assessment of hazardous or other waste materials has been performed and Summit Engineering, Inc. takes no responsibility for any materials or conditions which may exist on this site.

The bearings shown on the property or tie lines on this plan are based upon magnetic observations and are subject to change without notice. The bearings are shown only as an aid in determining the angular relationship between various lines and should not be used as the sole determination of alignment. Summit Engineering, Inc. further advises that lot lines set forth hereon be laid out in the field by a licensed land surveyor prior to reliance thereon for construction or any other purpose.

Utilities shown are approximate only and were depicted from surface features located and referenced plans. No issues related to zoning are addressed by this plat.

This plat is for the sole use of the parties certified to.

This plat meets the requirements of 27 VSA 1403.

The purpose of this plat is to show all property of Mansfield Professional Building, LLC, and to subdivide into parcel #1 ±20,330 square feet, and into parcel #2 ±11,815 square feet.

I hereby certify that this plat is true and correct to the best of my knowledge and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown hereon actually exist or are marked as "future" and their location, size, type and materials are correctly shown.

By: Larry D. Young Registered: LS #568

Seal:

Owners of Record:
Mansfield Professional Building, LLC
Vol. 1187, Pg. 287
Vol. 516, Pg. 722
Vol. 1001, Pg. 761
See Quit Claim deed (Vol. 1010, Pg. 121) which merges all lands and premises of Mansfield Professional Building into one parcel.
32,145 SF (0.74 Ac.)
3362 SF (0.08 Ac.) in Easement Area

DRAFT
5/24/13

SURVEY LDY DESIGNED	 SUMMIT ENGINEERING, INC. Engineers • Surveyors • Planners • Landscape Architects 1233 Shelburne Road C2 South Burlington, VT 05403 (802) 658-5588	SUBDIVISION PROPERTY PLAT	DATE 05/24/13
LDY CHECKED		MANSFIELD PROFESSIONAL BUILDING 173-193 ST. PAUL STREET BURLINGTON, VERMONT	DRAWING NO. B1
LDY SCALE 1"=30'			PROJECT NO. 7961

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FILED 2013 JUN 20 10:45 AM