

**ACT 250 NOTICE
MINOR APPLICATION
10 V.S.A. §§ 6001-6092**

On May 25, 2010, E.F. Farrell LLC and the State of Vermont Dept. of Buildings and General Services, filed application #4C1234 for a Project generally described as:

a two lot subdivision of the parcel; demolish 22,000 sf of the existing building on Lot #1, construct a 24-unit residential building on Lot #2 with associated parking and infrastructure and construct a new second access onto North Avenue. The Project will share access driveways with two independent projects. The Project is located on North Avenue in the City of Burlington, Vermont.

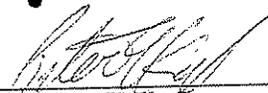
The District 4 Environmental Commission will review this application under Act 250 Rule 51 - Minor Applications. Copies of the application and proposed permit are available for review at the **Burlington** Municipal Office, Chittenden County Regional Planning Commission located at 110 West Canal Street, Winooski, and the office listed below. The application and proposed permit may also be viewed on the Natural Resources Board's web site (www.nrb.state.vt.us/lup) by clicking on "Act 250 Database," selecting "Entire Database," and entering the case number above.

A hearing will held on **July 8, 2010 only if**, on or before **June 22, 2010**, a party notifies the District Commission of an issue or issues requiring the presentation of evidence at a hearing or the commission sets the matter for hearing on its own motion. Any hearing request shall be in writing to the address below, shall state the criteria or subcriteria at issue, why a hearing is required and what additional evidence will be presented at the hearing. Any hearing request by an adjoining property owner or other interested person must include a petition for party status. Prior to submitting a request for a hearing, please contact the district coordinator at the telephone number listed below for more information. Prior to convening a hearing, the District Commission must determine that substantive issues requiring a hearing have been raised. Findings of Fact and Conclusions of Law will not be prepared unless the Commission holds a public hearing.

Should a hearing be held on this project and you have a disability for which you are going to need accommodation, please notify us by **June 22, 2010**.

Parties entitled to participate are the Municipality, the Municipal Planning Commission, the Regional Planning Commission, adjoining property owners and other persons to the extent they have a particularized interest that may be affected by the proposed project under the 10 criteria. Non-party participants may also be allowed under 10 V.S.A. § 6085(c)(5).

Dated in Essex Junction, Vermont, this **2** day of **June** 2010.

By 
Peter E. Keibel
Natural Resources Board
District #4 Coordinator
111 West Street
Essex Junction, VT 05452
T/ 802-879-5658
E/ peter.keibel@state.vt.us

This is a **DRAFT** permit; please submit any written comments or corrections to: Peter E. Keibel, District #4 Coordinator, 111 West Street, Essex Junction, VT 05452

A permit will **NOT** be issued by the District Commission until the following information is received:

- 1) Potable Water Supply and Wastewater System Permit issued by the ANR-DEC Wastewater Management Division;
- 2) Discharge Permit (stormwater) issued by the ANR-DEC Water Quality Division;
- 3) Construction General Permit issued by the ANR-DEC Water Quality Division;
- 4) School Impact Questionnaire
- 5) Municipal Impact Questionnaire
- 6) Ability to Serve letters from applicable utilities
- 7) Corrected Sheet A2-5.0

CASE NO 4C1234
APPLICANT E.F. Farrell LLC
ADDRESS c/o Eric Farrell
P.O. Box 1335
Burlington, VT 05402-1335

LAWS/REGULATIONS INVOLVED
10 V.S.A. §§ 6001 - 6092 (Act 250)

and

Dept. of Buildings and General Services
State of Vermont
Two Governor Aiken Avenue
Montpelier, VT 05633

District Environmental Commission #4 hereby issues Land Use Permit 4C1234, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6092. This permit applies to the lands identified in Book 286, Page 182, of the land records of the City of Burlington, Vermont, as the subject of a deed to the State of Vermont, the Permittees as Grantees.

This permit specifically authorizes the Permittees to subdivide the parcel into two lots and demolish 22,000 sf of the existing building on Lot #1, construct a 24-unit residential building on Lot #2 with associated parking and infrastructure and construct a new second access onto North Avenue. The Project will share access driveways with two independent projects. The Project is located on North Avenue in the City of Burlington.

The project is subject to Act 250 jurisdiction because the project involves the ten or more housing units and thus constitutes "development" pursuant to 10 V.S.A. § 6001(3)(iv).

The Permittees, and their assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Commission in accordance with the following conditions:

1. All conditions of Land Use Permit #4C1234 are in full force and effect except as amended herein.
2. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
3. The project shall be completed, operated and maintained in accordance with: the plans and exhibits on file with the District Environmental Commission, and the conditions of this permit.
4. The approved plans are:
 - Sheet C1 - "Existing Conditions Site Plan, Thayer Commons" dated July 31, 2009;
 - Sheet C2 - "Proposed Conditions Site Plan, Thayer Commons" dated July 31, 2009, last revision 2/22/10;
 - Sheet C2.1 - "Proposed Grading & Drainage Plan, Thayer Commons" dated March 2010, last revision 3/19/10;
 - Sheet C3 - "Proposed Utility Site Plan, Thayer Commons" dated Jan., 2010, last revision 2/22/10;
 - Sheet L-102 - "Planting Plan, Thayer Commons" dated 3/31/10, last revision 4/13/10;
 - Sheet L-105 - "Signage Plan, Thayer Commons" dated 1/21/10, last revision 5/07/10;
 - Sheet L-101 - "Lighting Layout Plan, Thayer Commons" dated 3/31/10, last revision 5/07/10;
 - Sheet L202 - "Lighting Specification Sheet, Thayer Commons" dated 3/31/10, last revision 5/07/10;
 - Sheet L202a - "Lighting Details (LED Fixtures) Alternate, Thayer Commons" dated 4/13/10;
 - Sheet A2-1.0 - "East Elevation Residential Bldg., Thayer Commons" dated 4/15/2010;
 - Sheet A2-2.0 - "South Elevation Residential Bldg., Thayer Commons" dated 4/15/2010;
 - Sheet A2-3.0 - "West Elevation Residential Bldg., Thayer Commons" dated 4/15/2010;
 - Sheet A2-4.0 - "North Elevation Residential Bldg., Thayer Commons" dated 4/15/2010;
 - Sheet A2-5.0 - "[North & East] Elevation Existing Bldg., Thayer Commons" dated 4/15/2010;
 - Sheet A2-6.0 - "North & East Elevation Existing Bldg., Thayer Commons" dated 4/15/2010; and
 - Sheet A2-7.0 - "Trash Enclosure, Thayer Commons" dated 4/15/2010.
5. A copy of this permit and approved plans shall be on the site at all times throughout the construction process.
6. No changes shall be made in the design or use of this project without the written approval of the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules.
7. Pursuant to Act 250 Rule 51(G), the permit application and material representations relied upon during the review and issuance of this permit by the District Commission shall provide the basis for determining future substantial and material changes to the approved project and for initiating enforcement actions.

8. The District Environmental Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permit holder file an affidavit certifying that the project is being completed, operated and maintained in accordance with the terms of the permit, as provided by 10 V.S.A. §§ 6001-6092 and the rules of the Natural Resources Board (Act 250 Rules).
9. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittees and their successors and assigns.
10. The project is approved for the following maximum impacts:
4,560 & 2,904 - gallons per day of water and wastewater, respectively;
101 - AM peak hour vehicle trips; and
151 - PM peak hour vehicle trips;
11. This permit hereby incorporates all of the conditions of the following Agency of Natural Resources Permits:
 - Potable Water Supply and Wastewater System Permit #WW-4-# issued on DATE by the Wastewater Management Division;
 - Construction General Permit #3-9020 (NOI #X-9020) issued on DATE by the Water Quality Division; and
 - Final Discharge Permit #-9015 issued on DATE by the Water Quality Division.

Any subsequent nonmaterial changes to these permits shall be automatically incorporated herein upon issuance by the Agency of Natural Resources. Subsequent amendments involving material changes to the Act 250 permit shall not be constructed prior to review and approval of the District Coordinator or the District Commission under applicable Act 250 Rules.
12. Prior to the construction of any additional buildings on the lots approved herein, the Permittees shall obtain a permit from ANR Wastewater Management Division and a permit amendment from the District Commission for a wastewater disposal system which complies with the Wastewater System and Potable Water Supply Rules.
13. The Permittees shall apply and maintain calcium chloride and/or water on all roadways or disturbed areas within the project during construction and until pavement and/or vegetation is fully established to control dust.
14. Immediately upon initial roadway clearing, a stabilized construction entrance must be installed and maintained at the intersection of the new access driveway and North Avenue. This entrance must be constructed and maintained in accordance with the specifications as described in the *Vermont Standards & Specifications for Erosion Prevention & Sediment Control* (2006). No further clearing or construction beyond may occur until the stabilized construction entrance is complete.

15. There shall be no floor drains installed at the facility without first acquiring the required Underground Injection Control Permit from the Wastewater Management Division of the Agency of Natural Resources.
16. No later than 30 days prior to commencement of building construction, the Permittee shall submit a Construction Waste Reduction Plan <http://www.anr.state.vt.us/dec/waste/div/recycling/pubs/ACT250template.doc> to be approved by the Agency of Natural Resources Solid Waste Management Program. The contractor shall be obligated to implement the Plan.
17. The Permittees and all subsequent owners or lessees shall install and maintain only low-flow plumbing fixtures in any buildings. Any failed water conservation measures shall be promptly replaced with products of equal or better performance.
18. The Permittees shall comply with Exhibits # [CGP] for erosion control. The Permittees shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas. The Commission reserves the right to schedule hearings and site inspections to review erosion control and to evaluate and impose additional conditions with respect to erosion control as it deems necessary.
19. All mulch, siltation dams, water bars and other temporary devices shall be installed immediately upon grading and shall be maintained until all roads are permanently surfaced and all permanent vegetation is established on all slopes and disturbed areas. Topsoil stockpiles shall have the exposed earth completely mulched and have siltation checks around the base.
20. All areas of disturbance must have temporary or permanent stabilization within 14 days of the initial disturbance. After this time, any disturbance in the area must be stabilized at the end of each work day. The following exceptions apply: i) Stabilization is not required if work is to continue in the area within the next 24 hours and there is no precipitation forecast for the next 24 hours. ii) Stabilization is not required if the work is occurring in a self-contained excavation (i.e. no outlet) with a depth of 2 feet or greater (e.g. house foundation excavation, utility trenches).
21. All disturbed areas of the site shall be stabilized, either seeded and mulched or covered in stone or rolled erosion control matting immediately upon completion of final grading. All disturbed areas not involved in winter construction shall be double mulched and seeded before September 15. Between the periods of October 15 to April 15, all earth disturbing work shall conform with the "Winter Construction" standards and specifications of the *Vermont Standards & Specifications for Erosion Prevention & Sediment Control (2006)*.
22. A copy of the approved erosion control plan shall be on the site at all times during construction.
23. In addition to conformance with all erosion control conditions, the Permittees shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the Permittees from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.
24. The 1947 school building will be rehabilitated as follows:

- Non-historic spandrel panels will be removed from the classroom window's and new glass will be installed in keeping with the original design of the building;
 - On the west elevation, large window openings that have been in-filled with brick will be restored in keeping with the original design of the building;
 - The south end of the 1947 building will be restored to the original design following removal of the 1967 addition;
 - The interior floor plan and finishes will be renovated as necessary to accommodate the new use as office space; and
 - The original design of the school entrance and entry hall will be retained, including the glazed tile and exposed brick walls. A small display of historic images and text describing the significance of the school building will be permanently installed in this space.
25. The footprint and exterior materials of the 1947 Thayer School building will not be altered.
26. Any significant change, to the proposed plans or the scope of work for the 1947 Thayer School building will be submitted to the Division of Historic Preservation and District Coordinator for review and approval.
27. Any future work on the 1947 Thayer School building will be submitted to the Division of Historic Preservation and District Coordinator for review and approval.
28. All stumps shall be disposed of on-site above the seasonal high water table or at a State approved landfill so as to prevent groundwater pollution.
29. The Permittees and all assigns and successors in interest shall continually maintain the landscaping as approved in Exhibit #23 (Sheet L-102) by replacing any dead or diseased plantings within the season or as soon as possible after the ground thaws, whichever is sooner.
30. The installation of exterior light fixtures is limited to those approved in Exhibits #25, #26 and #27 (Sheets L-101, L202 and L202a) and shall be mounted no higher than 24 feet above grade level. All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.
31. The Permittees shall not erect additional exterior signage (other than approved in Exhibit #24 (Sheet L-105)) without first obtaining approval from the District Commission. Signage includes banners, flags, and other advertising displays, excepting temporary real estate marketing signs.
32. Pursuant to 21 V.S.A. Section 266, the Permittees and/or subsequent lot owner shall construct the single family home, two family home, multi-family home three stories or less, or residential addition 500 square feet or greater in accordance with Vermont's Residential Building Energy Standards (RBES) in effect at the time of construction.

33. Pursuant to 21 V.S.A. § 268, energy design and construction shall comply with *The 2005 Vermont Guidelines for Energy Efficient Commercial Construction* and shall further include any custom energy measures referenced in comments by the Department of Public Service if found by the applicant to be cost-effective on a life-cycle-cost basis.
34. The installation and/or use of electric resistance space heat is specifically prohibited without the prior written approval of the District Environmental Commission.
35. Six months to one year and five years after the development is fully constructed and occupied, a traffic monitoring study will be conducted by the Permittees to ascertain if excessive congestion has occurred at the Project's access. The monitoring study will include conducting turning movement counts at the driveway intersections with North Avenue and then analyzing the results for turn-lane warrants, Level-of-Service, delay and queue lengths.
36. The Permittees are to be held responsible for their proportional share, based on the monitoring study, above, to mitigate future adverse traffic and safety conditions along North Avenue. The City of Burlington in consultation with VTrans will develop a methodology to determine the Permittees' proportional share.
37. The Commission reserves the right to evaluate and impose additional conditions with respect to Criteria 5 and 9(K). The Commission reserves the right for a period of time commencing with issuance of this Permit and expiring one year after submittal of the five year monitoring study.
38. Each prospective purchaser of any lots shall be shown a copy of the approved plot plan, Potable Water Supply and Wastewater System Permit, Stormwater Permits and the Land Use Permit before any written contract of sale is entered into.
39. No further subdivision, alteration, and/or development of any parcel of land approved herein shall be permitted without the written approval of the District Commission or a written determination from the District Coordinator that a permit is not required.
40. The Permittees shall reference the requirements and conditions imposed by Land Use Permit #4C1234 in all deeds of conveyance and leases.
41. Pursuant to 10 V.S.A. § 6090(c) this permit is hereby issued for an indefinite term, as long as there is compliance with the conditions herein. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the Permittees have not commenced construction and made substantial progress toward completion within the three year period in accordance with 10 V.S.A. § 6091(b).
42. All site work and construction shall be completed in accordance with the approved plans by October 30, 2013, unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without public hearing.
43. The Permittees shall file a Certificate of Actual Construction Costs, on forms available from the Natural Resources Board, pursuant to 10 V.S.A. § 6083a(g) within one month after construction

has been substantially completed or two years from the date of this permit, whichever shall occur first. Application for extension of time for good cause shown may be made to the District Commission. If actual construction costs exceed the original estimate, a supplemental fee based on actual construction costs must be paid at the time of certification in accordance with the fee schedule in effect at the time of application. Upon request, the Permittees shall provide all documents or other information necessary to substantiate the certification. Pursuant to existing law, failure to file the certification or pay any supplemental fee due constitutes grounds for permit revocation. The certificate of actual construction costs and any supplemental fee (by check payable to the "State of Vermont") shall be mailed to: Natural Resources Board, National Life Records Center Building, National Life Drive, Montpelier, VT 05620-3201. Attention: Certification.

44. Failure to comply with all of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A., § 6027(g).

Dated at Essex Junction, Vermont, this day of June, 2010.

By _____
Thomas A. Little, Chair
District #4 Commission

Members participating in
this decision:

Jim McNamara
Larry Veladota

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A). Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8504(k). Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220.

The Notice of Appeal must include all information required by Rule 5(b)(3) of the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Ctr. Bldg., Drawer 20, Montpelier, VT, 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the VRECP. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Court is: Environmental Court, 2418 Airport Rd., Suite 1, Barre, VT 05641-8701. (Tel. # 802-828-1660)

CERTIFICATE OF SERVICE

I hereby certify on this 2nd day of June, 2010, a copy of the foregoing ACT 250 NOTICE OF MINOR APPLICATION #4C1234, was sent by U.S. mail, postage prepaid to the following individuals without email addresses and by email to the individuals with email addresses listed.

Note: any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify our office of any email address changes. All email replies should be sent to nrb-act250essex@state.vt.us

E.F. Farrell, LLC
c/o Eric Farrell
PO Box 1335
Burlington, VT 05402-1335
efarrell@farrellrealestatevt.com

State of Vermont/Dept. Buildings & General Services
c/o Tom Sandretto
Office of the Commissioner
Two Governor Aiken Avenue
Montpelier, VT 05633
tom.sandretto@state.vt.us

Peter Smiar, PE/Civil Engineering Associates, Inc.
10 Mansfield View Lane
South Burlington, VT 05403
psmiar@cea-vt.com

Jonathan Leopold, City Clerk
Chair, City Council/Chair, City Planning Comm.
City of Burlington
149 Church Street
Burlington, VT 05401

Chittenden County Regional Planning Comm.
110 West Canal Street, Suite 202
Winooski, VT 05405
stilton@ccrpcvt.org

Elizabeth Lord/Agency of Natural Resources
103 South Main St. - Center Bldg., 3rd Floor
Waterbury, VT 05671-0301
anr.act250@state.vt.us

FOR YOUR INFORMATION

District #4 Environmental Commission
Thomas Little, Chair
Jim McNamara/Larry Veladota
111 West Street
Essex Junction, VT 05452

Mike Kandrath/Vt. Dept. of Public Service
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Montpelier, VT 05620-2601
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Craig Keller/Utilities & Permits/VTrans
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Louise Waterman/Brendan O'Shea
Vt. Agency of Agriculture, Food & Markets
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Montpelier, VT 05620-2901
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Division for Historic Preservation
National Life Building, Drawer 20
Montpelier, VT 05620
scott.dillon@state.vt.us
devin.colman@state.vt.us

NRCS, Dist. Conser./USDA Soils Conser. Service
1193 S. Brownell Road, Suite 35
Williston, VT 05495-7416
Danny.Peet@vt.usda.gov

Winooski NRCO Office
c/o Abbey Willard
617 Comstock Road, Suite 1
Berlin, VT 05602
abbey.willard@vt.nacdnet.net

County Forester/Agency of Natural Resources
111 West Street
Essex Junction, VT 05452

Patty Malenfant/ANR, Dept. of Fish & Wildlife
5 Perry Street, Suite 40
Barre, VT 05641-4266
patty.malenfant@state.vt.us

Seven Days/Classified Ad Section
255 South Champlain Street, PO Box 1164
Burlington, VT 05402
classifieds@sevendaysvt.com

Green Mountain Power Corporation
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163 Acorn Lane
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Brian Gray/Vermont Gas Systems
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Michael Barsotti, Water Quality Director
Champlain Water District
403 Queen City Park Road
South Burlington, VT 05403
mikeb@cwd-h20.org

ADJOINING LANDOWNERS

On File at District Commission Office

Dated at Essex Junction, Vermont, this 2nd day of June, 2010.

/s/Christine Commo
Natural Resources Board Technician
879-5660
christine.commo@state.vt.us

