

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

David White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Associate Planner
Nic Anderson, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin *SG*
DATE: May 3, 2011
RE: 11-0700CA; 444 Pine 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.

Zone: ELM Ward: 5

Owner/Applicant: Dealer.Com Holdings, LLC

Request: Addition of a 1,985 sf rooftop solarium/meeting room and associated green roof. Also included are miscellaneous site alterations to landscaping, walkways, mechanical equipment, and parking.

Applicable Regulations:

Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), and Article 8 (Parking)

Background Information:

The applicant is seeking approval to construct a new rooftop solarium to serve as meeting space for the existing office use. An associated egress stairway and a section of green roof will also be installed. Other project components involve minor changes to landscaping, walkways, ground-mounted mechanical equipment, and parking.

The Design Advisory Board recommended approval of the project on April 12, 2011 with the following conditions:

1. Incorporate the stockade fence along the eastern property line.
2. Submit an erosion control plan

These two conditions have been addressed as noted in these findings.

Previous zoning actions for this property are noted below.

- 8/17/10, Approval for conversion from warehouse to office space
- 1/7/08, Approval to install parallel sign
- 5/27/07, Approval to remove rooftop mechanical units and install new roofing and skylights
- 5/21/07, Approval to renovate northern half of existing commercial building and associated parking area
- 4/27/07, Approval to remove rooftop mechanical equipment and install skylights

- 5/24/06, Approval to renovate southern half of existing commercial building, construct loading dock, and expand parking area
- 5/19/06, Approval to remove rooftop HVAC units and demolish 10,000 sf storage building
- 1/12/06, “Non-applicability” approval to change one manufacturing use to another manufacturing use

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Recommendation: Certificate of Appropriateness approval as per, and subject to, the following findings and conditions.

Article 4: Maps & Districts

Sec. 4.4.3, Enterprise Districts:

(a) Purpose

(1) Light Manufacturing (ELM)

The subject property is located in the ELM zone which is the primary commercial/industrial center of Burlington. The zone is intended to support a variety of commercial uses that will facilitate high-density job creation and retention. The proposed renovations of the existing office use are consistent with the purpose of this zone. The increase in office space will require the payment of impact fees to help offset increased demands on city services. **(Affirmative finding as conditioned)**

(b) Dimensional Standards & Density

Building FAR will increase to 0.56 with the addition of the solarium. The FAR limit in the ELM zone is 2.

Lot coverage will increase slightly from 75.4% to 76.5%. This percentage remains below the maximum allowable 80% in the ELM zone.

As the subject property is a corner lot, there are two front yards and two side yards. Only the eastern side yard setback is affected by the proposed construction. As the eastern side property boundary abuts a residential zone, a 25’ minimum setback applies. The proposed exterior stairway is more than 30’ from this property boundary and is acceptable.

The top of the solarium will be about 38’ above the average finished grade and under the 45’ height limit in the ELM zone. **(Affirmative finding)**

(c) Permitted & Conditional Uses

Office is a permitted use in the ELM zone. **(Affirmative finding)**

(d) District Specific Regulations

(Not applicable)

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.3 (b) above.

Sec. 5.2.4, Buildable Area Calculation

(Not applicable)

Sec. 5.2.5, Setbacks

See Sec. 4.4.3 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.3 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.3 (b) above.

Sec. 5.5.2, Outdoor Lighting

No new outdoor lighting is proposed.

Sec. 5.5.3, Stormwater and Erosion Control

Although the project is relatively small, associated earthwork is extensive enough to require the submission of a small project erosion control form. This form has been submitted and will be subject to review and approval by the Stormwater Administrator.

The proposed green roof will serve to attenuate a small amount of roof runoff and will comprise a new component in the site's existing stormwater management system. How the green roof will integrate with the existing stormwater system will be subject to review and approval by the Stormwater Administrator. **(Affirmative finding as conditioned)**

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

No significant natural features will be affected by the project. Existing green areas will be retained and enhanced with additional landscaping. **(Affirmative finding)**

(b) Topographical alterations

In general, no significant topographical alterations are proposed. A grassy hillside at the southeastern end of the site will be terraced and landscaped with new concrete block retaining walls and landscaping. The existing timber retaining wall along the eastern property line will be extended southward with associated fill and grading. **(Affirmative finding)**

(c) Protection of important public views

There are no important public views from or through the subject property. **(Affirmative finding)**

(d) Protection of important cultural resources

There are no known archaeological resources on the property. **(Affirmative finding)**

(e) Supporting the use of alternative energy

This project includes no new incorporation of alternative energies. The building presently makes extensive use of passive solar lighting with skylights and windows approved under prior permits.

The proposed solarium will incorporate extensive glass, thereby limiting the need for artificial lighting. **(Affirmative finding)**

(f) Brownfield sites

The property is not on the Vermont DEC Hazardous Site list. **(Affirmative finding)**

(g) Provide for nature's events

See Sec. 5.5.3.

(h) Building location and orientation

Building location and orientation will remain unchanged. **(Affirmative finding)**

(i) Vehicular access

Vehicular access will remain unchanged. **(Affirmative finding)**

(j) Pedestrian access

Pedestrian access to the site will be enhanced with a new concrete walkway and plaza at the northwestern end of the property. The walkway will provide a direct link from the public sidewalk to the building's main northern entrance. **(Affirmative finding)**

(k) Accessibility for the handicapped

Handicap accessibility appears to remain unchanged. **(Affirmative finding)**

(l) Parking and circulation

Parking and circulation remains largely unchanged. The only apparent difference is the addition of 3 new parallel parking spaces on existing asphalt at the northern end of the southern parking lot. These 3 spaces will replace 3 spaces lost due to the pedestrian improvements at the northwestern end of the building. **(Affirmative finding)**

(m) Landscaping and fences

Fairly extensive new landscaping is proposed and serves to enhance existing green spaces. A variety of new trees are proposed along the eastern property boundary (abutting residential properties) for additional screening and shading. New shrubs and ornamental grasses are proposed in several locations, and as mentioned previously, new terraced gardens are proposed at the southeastern end of the site. Green roof turf plantings are proposed at the southern end of the roof along with a number of rooftop planters incorporated into the new rooftop plaza. A new wood privacy fence will be installed at the southern end of the eastern property to provide additional screening for neighboring residential properties. **(Affirmative finding)**

(n) Public plazas and open space

No public plaza or open space is included in this proposal.

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

New ground mounted mechanical equipment is proposed. Specifically, a new chiller and generator are proposed. Both will be enclosed with structural screening consisting of insulated metal panels.

The insulated metal panels will provide noise attenuation and will visually relate well to the office building. **(Affirmative finding)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The proposed rooftop solarium has little effect on the overall massing and scale of the large office building. As noted previously, the top of the solarium will be about 38' above the average finished grade and under the 45' height limit in the ELM zone. **(Affirmative finding)**

2. Roofs and Rooflines

The solarium will have a flat roof – consistent with that of the existing building. **(Affirmative finding)**

3. Building Openings

Much of the solarium will consist of glass. While a departure from the appearance of the rest of the building, it is appropriate for the intended use. New windows or window alterations are proposed at several locations within the existing building. The resulting fenestration pattern remains acceptable. **(Affirmative finding)**

(b) Protection of important architectural resources

The subject building is not historic. The proposed renovations will have no adverse impact on any historic resources. **(Affirmative finding)**

(c) Protection of important public views

There are no significant public views from or through the subject property. **(Affirmative finding)**

(d) Provide an active and inviting street edge

The street edge will remain essentially unchanged. **(Affirmative finding)**

(e) Quality of materials

Building materials consist largely of metal and glass. These materials are consistent with the existing building. **(Affirmative finding)**

(f) Reduce energy utilization

New windows and glazing will allow sunlight into the existing building as well as into the solarium. **(Affirmative finding)**

(g) Make advertising features complimentary to the site

No new outdoor signs are included in this proposal. **(Affirmative finding)**

(h) Integrate infrastructure into the building design

No new building mounted mechanical equipment is proposed. However, as per above, new ground mounted chillers are proposed, which will be screened and include sound attenuation. **(Affirmative finding)**

(i) Make spaces safe and secure

A covered walkway and associated egress stairway and enclosure are proposed along with the solarium. Materials and appearance are consistent with those of the solarium. It is the applicant's responsibility to ensure that egress requirements are met. **(Affirmative finding)**

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The subject property is located in the Shared Use Parking District. The 1,985 sf solarium will increase the parking requirement from 192 spaces to 196 spaces (2 spaces per 1,000 sf). There are 210 parking spaces onsite. **(Affirmative finding)**

Sec. 8.2.5, Bicycle Parking Requirements

The solarium is too small to require any additional bicycle parking spaces. **(Affirmative finding)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, the applicant shall obtain written approval of the Erosion Prevention and Sediment Control Plan and of the Stormwater Management Plan (incorporating the new green roof) from the Stormwater Administrator.
2. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the net new square footage of the proposed development.
3. All outdoor signs are subject to a separate zoning permit.
4. The proposed structure shall comply with Burlington's current energy efficiency standards and with Burlington's current ingress and egress requirements as established by Burlington Electric Department and Burlington Public Works, respectively.
5. It is the applicant's responsibility to comply with all applicable ADA requirements.
6. This property is subject to all applicable nuisance regulations and performance standards in the Burlington Code of Ordinances.
7. Standard permit conditions 1 -18.

Scott Gustin

From: Ken Lerner
Sent: Monday, April 18, 2011 3:05 PM
To: Dick.Ploof@wellsfargo.com; r.ploof@myfairpoint.net
Cc: Scott Gustin; David E. White; Nic Anderson
Subject: RE: Dealer.com Project Inquiry
Mr. Ploof:

Thank you for providing us with a better understanding of your concerns.

As far as the HVAC noise is concerned, the project architect was recently contacted about this situation. Their plan is to install noise attenuation barriers around the chillers that are most likely the noise source. Once completed, these barriers should alleviate disruptive noise from the site. As for fencing, the current pending permit request includes the new fencing. It is anticipated that this project will go before the Development Review Board at their 3 May meeting. You will receive a notice, but can find additional information (including staff comments and recommendations) once it becomes available on the Planning & Zoning website at:

<http://www.ci.burlington.vt.us/planning/boards/drb/agendas.php>

With regard to parking, the pending application includes the addition of 3 new spaces but is otherwise unchanged. The entire office use on this site (96,000 sq. ft.) is required by ordinance to be served by 192 parking spaces and bike parking for 12 (8 long-term and 4 short-term). (Parking requirements are based on the type of use and its size which is stable rather than the number of employees which can vary.) With the proposed changes, they will have a total of 213 approved spaces onsite. This does not include employee parking that is also being provided elsewhere along Pine Street. The zoning ordinance also includes a maximum number of parking spaces which would prohibit them from creating more than 240 spaces onsite (125% of the minimum requirement). Therefore they are well within the requirements of our ordinance.

However getting the employees to use the parking that is provided is a management challenge but is not within the direct purview of the zoning regulatory process in this case. The City continues to work with Dealer.Com and many other businesses around the city to help address this challenge. Given that your wife's daycare is providing the required parking necessary to meet its own needs per its approval, (i.e. 2 drop off/pick up only spaces on-site and 4 spaces at 105 Hayward for tenants and non-resident employees), it is likely that the spill-over from Dealer.Com mostly is an issue for the neighborhood in general. One option for you and your neighbors to consider if this is an ongoing problem is seeking resident-only on-street parking restrictions from DPW.

Please note, in following up on your specific concerns on parking and drop off for the daycare at 75 Hayward, a review of the zoning permit files revealed that the conditional use permit (CU93-008) for the daycare has not been closed as no Final Certificate of Occupancy was evident. This is a matter that you well know is likely to cause some problems in selling or refinancing the property. Thus, if not already done so, this should be closed out with the Code Enforcement Office. In order to obtain a CO, all of the items that were the basis for the approval of CU93-008 must be met and any required CO fees paid. This includes insuring that the 2 drop off/pick up

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only spaces on-site and 4 spaces at 105 Hayward for tenants and non-resident employees are provided as per the permit approval.

Ken Lerner
City of Burlington, Vermont
Department of Planning & Zoning

From: Dick.Ploof@wellsfargo.com [Dick.Ploof@wellsfargo.com]
Sent: Wednesday, April 13, 2011 3:39 PM
To: Dick.Ploof@wellsfargo.com; Ken Lerner; r.ploof@myfairpoint.net
Cc: Scott Gustin; David E. White; Nic Anderson
Subject: RE: Dealer.com Project Inquiry

Dear gentlemen, I was hoping for some sort of response to this email that was sent to you all on April 1st. Is someone able to respond to my concerns and comments below please? Thank you, Dick Ploof 105 Hayward Street. Phone W. 861-2832.

From: Ploof Jr, Richard E.
Sent: Friday, April 01, 2011 3:20 PM
To: 'Ken Lerner'; 'Robin Ploof'
Cc: Scott Gustin; David E. White; Nic Anderson
Subject: RE: Dealer.com Project Inquiry
Importance: High

Dear Mr. Lerner, thank you for answering my question.

I have some very serious concerns regarding the new HVAC equipment that has already been installed on this building, without my knowing anything about it or my neighbors. The new equipment appears to be much, much louder than the equipment that was replaced. There is also more it on this roof now than ever before.

The old equipment on this building also had some sound barriers that were installed between the equipment and the homes it borders. This was done by Specialty Filaments after much complaining by the adjoining property owners.

They have added widows where walls used to be and as I said installed equipment on the roof that now blocks our views from our home of the lake.

I definitely would have been at this zoning meeting to insure that these types of mistakes, like adding bigger and nosier HVAC equipment was addressed. For some time now this building has been a very quiet building when it was Champlain Chocolates warehouse. From just the short amount of time that Dealer.com has been there the HVAC system seems much louder which will impact all of the neighbors once we open our windows.

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They do not even have all of the equipment hooked up that is going to be running night and day.

There are also huge concerns regarding the parking issues this new expansion has had on our little neighborhood. We have been in contact with Meggan Ward the manager of Dealer.com and she tells us she has parking today AS FOLLOWS;

We have 140 spots in our current lot. We also have a 3 year lease at the former Greyhound Station on Pine St., giving us another 100+ spots. We will then be adding the 77 spots, as you noted in your email.

As far as our expansion, we are planning to hiring around 100 employees in the next year, based on finding the appropriate people. We currently have 400 people employed with us right now.

So as this entire project sits right now, once complete, they will have 500 employees and only 317 parking spaces. The employees of this company are parking on Hayward and Howard Streets daily now, making it impossible for the people who live on these streets to park at all.

My wife, Robin Ploof, has owned and operated Stepping Stones Children's Ctr. at 75 Hayward St. for over 20 years. We have never had any problems with parking until Dealer.com showed up. Now we have a potentially serious and dangerous issue with parents trying to drop off and pick up children during the day at the children's center. Because of dealer.com employees parking on our street every day parents can never find parking spaces near the center to drop off and pick up children. I am really afraid that someone is going to get seriously hurt due to the parking issues caused by dealer.com. The parking issue really needs to be addressed as dealer.com is not doing anything about the employees taking up valuable parking spaces in the neighborhood. I am told they monitor this parking issue yet it continues to be a real problem for residents in the Five Sisters Neighborhood. The neighborhood is full of dealer.com cars every week day.

Robin Ploof was also contacted by Meggan Ward, dealer.com, to say that they were installing a 7 foot fence around the property.

We asked all the neighbors on Hayward how they felt about a 7 foot cedar fence going up. We had a great response to this and are planning to move forward. (Meggan Ward, dealer.com email to Robin Ploof) I do not see any mention of any fence in the permit you supplied to me. I am requesting we are made aware of the design and style of fencing proposed and who will maintain this fencing going forward.

So as you can see there are many issues with all of this building and expanding of dealer.com. I have neighbors who feel the same way I do. I would like to know legally what the options of the neighborhood are now since we were never notified of the changes being made to this building and the grounds in the first place. Since we were never notified, as they were legally obligated to do so by city law, we never had any chance at all to voice our opinions and concerns about this expansion and change. Our

voices were never heard.

Sincerely,

Dick Ploof

Home Mortgage Consultant
Wells Fargo Home Mortgage
92 Zephyr Road
Williston, VT 05495
DIRECT LINE 802-861-2832
800-879-3559 Ext. 2832 Toll Free
Toll Free Secure E-fax 1-866-617-0308
Pager 802-749-1000

From: Ken Lerner [mailto:KLerner@ci.burlington.vt.us]
Sent: Thursday, March 31, 2011 2:55 PM
To: Ploof Jr, Richard E.
Cc: Scott Gustin; David E. White; Nic Anderson
Subject: Dealer.com Project Inquiry

Dear Mr. Ploof,

We have received your inquiry regarding the permits issued for changes to the Dealer.com building. After researching the situation it unfortunately was found that the notices for the August 17, 2010 Development Review Board meeting were not sent to adjacent property owners as required. The zoning clerk erred in this and did not realize that a mistake was made until a few months after the permits were issued and construction began. We are truly sorry for this oversight and we can assure you it was a clerical error with no intent to misinform.

The permit approved for the work currently underway is for interior office fit up to facilitate the change in use from warehouse to office, the residing of the building with a similar material to the existing siding and minor site work. In addition, an elevator is being added. Attached are the findings and conditions that were adopted for this project that explains the background and related zoning regulations in detail.

There is, however, a second permit request that has just been filed for this property. This request is for the addition of solarium/meeting room with roof and ground gardens. We will insure that there will no mistake in mailing notice to adjacent owners as this project proceeds through the review process. It is anticipated that this project will be referred to the Development Review Board for a meeting in May (either May 3 or 17). As all board meetings are public, you will be able to express any views on the project either in verbal testimony at the meetings and/or through written correspondence. If you have any questions on this pending proposal you can contact Scott Gustin who is the project manager at 865-7189; email: SGustin@ci.burlington.vt.us for details.

Again we apologize for the defect in notice and would hope that you can understand that errors do happen and that there was no intent to mislead.

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