

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

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Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Zoraya Hightower
Brooks McArthur
Kienan Christianson
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday October 1st 2019, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT Draft Minutes

Board Members Present: G. Hand, B. Rabinowitz, A. LaRosa, S. Harris, K. Christianson, B. McArthur, A.J. LaRosa

Board Members Absent: R. Venkataraman (Alt), S. McKenzie (Alt)

Staff Present: Scott Gustin, Mary O'Neil, Ryan Morrison, Alison Davis

I. Agenda

B. Rabinowitz: No changes to agenda

II. Communications

B. Rabinowitz: Some additional communications submitted earlier via email

III. Minutes

B Rabinowitz: Minutes from 9/17/19 will be discussed at deliberation

IV. Consent

1. 20-0086CU; 37 Village Green (RL, Ward 7N) Jean D. C. O'Sullivan One-bedroom bed and breakfast. (Project Manager: Ryan Morrison)

Jean O'Sullivan appeared on behalf on project.

B. Rabinowitz: Asks if applicant has read staff comments and if they have questions regarding them.

J. O'Sullivan: Approves comments and recommendations.

No objection.

G. Hand: Motion to approve and adopt staff findings and recommendations.

B. McArthur: Seconds motion.

5-0-0

2. 20-0316CA; 180 Manhattan Dr (RCO, Ward 3C/2C) City of Burlington DPW Repair and re-stabilize three stormwater outfalls (Project Manager: Scott Gustin)

James Sherrard appeared on behalf of project.

G. Hand: Recused

B. Rabinowitz: Asks if applicant has read staff comments and if they have questions regarding them.

J. Sherrard: Approves comments and recommendations.

No objection.

A. LaRosa: Motion to approve and adopt staff findings and recommendations.

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B. McArthur: Seconds motion.
4-0-0

V. Public Hearing

1. **20-0260CU; 94 Colchester Ave (I, Ward 1E) Colchester Avenue Housing, LLC** Change of use to Beauty Salon (Project Manager: Ryan Morrison)

Bidur and Radika Dahal, and Miller von Turkovich appeared on behalf of project.

G. Hand: Recused.

B. Rabinowitz: Explains project is straightforward and is recommended for approval. Asks Board if they have questions for project. Asks R. Morrison to clarify project context.

Z. Hightower arrives 5:07 PM

Sharon Bushor and Dr. Martha Lang provided public testimony.

S. Bushor: No objection to change from one commercial use to another. Concerns regarding parking spaces for project in relation with bigger project. Clarifies that applicants are asking for a parking waiver for one space. Concerns with tanning function for business and overlap of customers for parking spaces for successful business. Compliments salon business for proximity to University/students, transportation/walking access, but still has concerns with parking when bigger project regarding units comes to action.

M. Lang: Agrees with the change of use to hair salon from vacant building. Supports this small business in her neighborhood.

B. Rabinowitz: Asks R. Morrison to clarify parking count for overall 75-unit project and other existing uses within PUD.

R. Morrison: 125 spaces proposed, 124 are required. Taking advantage of the other space would create their 3rd space that's required.

B. Rabinowitz: Clarifies that there is no parking waiver request in application.

R. Morrison: Confirms there is no parking waiver with application.

B. Rabinowitz: Explains for parking waiver would not be an issue regarding the location is in easily walkable area. Asks if applicants have comments about parking.

M. von Turkovich: Explains belief that parking that currently exists is sufficient enough for proposed use. Confirms applicant is asking for a parking waiver. Agrees that this change of use would complement the property.

B. Rabinowitz: Asks Board if they have remaining questions for applicants. Closed public hearing.

A. LaRosa: Motion to approve and adopt staff findings and recommendations.

K. Christianson: Seconds motion.

5-0-0

2. **19-0930CA; 221-223 Saint Paul St (FD5, Ward 5S) Dennis Ailor and Chris Khamnei** Appeal of administrative approval regarding re-grade and stabilize slope where prior retaining wall was removed. (Project Manager: Scott Gustin)

Dennis Ailor and Chris Khamnei appeared on behalf of appeal.

B. Rabinowitz: Explains overview of appeal of administrative approval. Asks S. Gustin to explain appeal. Asks appellee and appellant to public hearing.

B. Rabinowitz: Clarifies that C. Khamnei has appealed the administrative approval to re-grade and stabilize a slope on an adjacent property.

S. Gustin: Provides overview of the appeal of a zoning permit issued in June for re-grading to achieve a one rise to two-foot run slope. Provides context regarding retaining wall and ongoing issues between the two adjacent properties. Explains site conditions today do not reflect what was in submitted permit.

LaRosa: Clarifies there are issues with compliance of other permits, but what is in front of them today is an appeal of an issued permit, and whether that permit was issued properly does not relate to whether it's been executed.

C. Khamnei: Explains he is appealing a permit as approved. Asks Board whether they are allowed to approve a permit that he claims was on his property. Explains that he did not apply for a permit to excavate or grade his property, but his neighbor applied for a permit to excavate and grade the neighboring property.

B. Rabinowitz: Asks C. Khamnei if he has a site plan to offer that shows where the property line is.

C. Khamnei: Can provide pictures of boundary markers on property, but no other evidence for property boundaries.

K. Christianson: Asks if C. Khamnei has already provided pictures or is submitting new ones.

C. Khamnei: Confirms he has submitted the photos and there are also additional photos.

K. Christianson: Asks C. Khamnei if he can guide Board through photos.

C. Khamnei: Begins with "Exhibit C" photo to show left side of retaining wall which claims is entirely on his property. Explains that verified by Norm Baldwin's Order, wall is on his property, and is therefore a boundary.

A. LaRosa: Board does not have the authority to determine boundary disputes.

C. Khamnei: This is not a boundary dispute.

A. LaRosa: There is an inherit one here. Asks C. Khamnei if he has pursued this issue in the appropriate venue, or if he is asking the Board to make a surrogate determination about the boundary line that appears to be disputed.

C. Khamnei: Clarifies that he is not asking Board to determine the boundary line.

B. Rabinowitz: Asks C. Khamnei to clarify if he is disagreeing with the zoning approval of the determination regarding the property lines.

C. Khamnei: Clarifies that the property lines are not the issue, but there are multiple factors involved. Explains that the approved zoning permit applies for a 2:1 slope grading, from an elevation on the boundary. Explains that the problem is not the boundary, but the grading plan.

B. Rabinowitz: Explains that is not his concern because it is regarding his neighbor's property.

C. Khamnei: Expresses concern that a zoning permit was approved which causes zoning violations.

S. Gustin: Guides Board through issued zoning permit and explains tow of the proposed slope falls short of the property line, and mentions a related site plan that demonstrates plan, but explains there is a condition that site plan needs to be revised to accurately reflect conditions. Agrees with C. Khamnei that there is concern for grade on site that is not reflected in the site plan.

C. Khamnei: Explains there is more and wants to pass out additional relevant material.
B. Rabinowitz: Agrees to distribute additional material.

Z. Hightower: Clarifying question.

S. Gustin: Clarifies that the conditioned permit has not been released because it was appealed, work has been done, but the permit has not been released and the conditions have not been met.

B. Rabinowitz: Asks intent of distributing photos.

C. Khamnei: Explains he has heard this project is considered complete, the work has already been done.

B. Rabinowitz: Not for the Board or anyone else.

C. Khamnei: Guides Board through photos of graded slope, excavation, and retaining wall. Claims applicant's site plan involves a portion of his property. Explains concerns for building and health of his own property. Shows Board work that has been done on applicant's property.

G. Hand: Explains that is not what is in front of them today and explains the provisions he can take, like filing a complaint with the City. The permit is all the applicant is authorized to do. The Board does not have jurisdiction about your current condition.

C. Khamnei: Explains that the approval of this permit creates multiple zoning violations.

B. Rabinowitz: Our understanding is that everything we are approving is not on your property. If there are issues you have about what has been done on your property, I suggest that is a different application than the one before us.

C. Khamnei: Concern that Board is approving a permit that creates a zoning violation.

G. Hand: Explains that there is a condition for a revised site plan that shows it can be done consistent with all the other zoning requirements and if it cannot be done, the applicant will not be able to obtain the zoning permit.

B. Rabinowitz: Asks D. Ailor to introduce himself and explain issue.

D. Ailor: Explains Geo Tech in Middlebury are involved.

B. Rabinowitz: Asks if applicant is going to have someone revise a site plan because it is one of the requirements so Board can see what the property will look like when project is complete.

D. Ailor: References an email, but does not have with him. Explains in process of waiting for stakeholders. Thinks site is stable for now.

B. Rabinowitz: There is disagreement with how stable the site is. There is a sense of urgency and that this gets done in a timely manner.

G. Hand: Clarifies that D. Ailor is waiting for plans that finalize another building on site, and expresses concern for public due to the condition of the site. Recommends submitting a revised site plan and not waiting for new building design for private interests. Asks when D. Ailor can submit a revised site plan for proposed grading project.

D. Ailor: Explains stakeholders are busy, does not know when a revised site plan will be submitted.

G. Hand: Would like a date by which the Board will see a site plan.

D. Ailor: It is a work in progress. Ask Scott [Gustin] for details.

G. Hand: I don't see a reason to approve this then.

D. Ailor: Explains frustrations.

B. Rabinowitz: The date on the Geo Design letter is May 29th.

D. Ailor: Would like to stop answering questions.

A. LaRosa: Asks S. Gustin to confirm that the standard for compliance for a permit is one year.

S. Gustin: Confirms.

A. LaRosa: We have previously put more expeditious timelines on things?

S. Gustin: Yes.

C. Khamnei: My building is open to the elements, it's open to theft. There are thousands of dollars' worth of material in there. Explains sense of urgency for revised site plan.

B. Rabinowitz: Closed public hearing.

VI. Certificate of Appropriateness

1. 20-0353CA; 10 University Place (I, Ward 1E) University of Vermont & State Agricultural College

Construction of 69 space parking lot between Jeffords East and the trees near jug handle. Vehicle access from existing Jeffords East lot. Removal of wind turbine and some trees. Associated landscaping and pedestrian connections to existing sidewalks.

Lani Ravin, Keith Robinson, Derick Read, Anthony Rock, Mike Willard, Eric Gagnon, appeared on behalf of project.

Sharon Bushor provided public testimony.

20-0203CA; 149 Beaumont Ave (ICC-UVM) University of Vermont & State Agricultural College

62,250 GSF addition to the existing HSRF building. Addition will be 3-4 stories and mechanical penthouse. New green space will replace portion of existing parking lot; to include paths, landscaping, benches and lighting (Project Manager: Mary O'Neil)

M. O'Neil: It would make sense to talk about both projects at the same time since they are interrelated.

G. Hand: Discloses personal involvement with UVM, but nothing related to these applications or physical property.

A. LaRosa: Asks M. O'Neil to clarify the scope of project and review of University in institutional zone.

M. O'Neil: Referring to the State statute which provides a limitation on municipal review. You have quite broad review here. Many things eligible for your consideration.

B. Rabinowitz: Discussed in the staff report, parking is a significant issue, but you've pieced together a way to address this without having the institutional parking management plan renewed yet.

L. Ravin: We have done our best to do so, yes. Introduces UVM Campus Planning Services and rest of team. Reviewed and accepts all staff comments and recommendations. Have already complied with some staff conditions, and is continuing to meet the others. Provides overview of project.

E. Gagnon: Representing the future occupants of new research building. Deeper explanation of building and lab function. Main function is lab and lab support using open contiguous space for team building.

B. Rabinowitz: Clarifies about current location of future occupants.

E. Gagnon: Occupants are in the Larner College of Medicine, primarily located in Given and Health Science Research Facility.

B. Rabinowitz: Changing to main entrance?

L. Ravin: We are adding an addition so there is a new entrance for the addition, but the existing entry is staying the same and you are able to access the addition by both entrances.

A. LaRosa: Clarification on new parking lot location and access.

L. Ravin: Currently an entrance to the east of the Jeffords' East lot, and from that lot there will be an entrance to the Jeffords' East lower lot.

B. Rabinowitz: Parking lot screened by the trees that are located to the East of the lot?

L. Ravin: Correct. We have done no visual studies, but yes, the trees that are there will do some obvious screening. Topography will also screen.

B. Rabinowitz: Asks about landscaping.

L. Ravin: Yes, there will be landscaping and more trees located next to the lot for screening. Removing wind turbine located there due to old technology and inability to fix.

B. Rabinowitz: Trees are part of the bio retention swale?

L. Ravin: Correct, yes.

G. Hands: Asks to clarify the current use of the parking that is going to be lost and if it is used by students.

L. Ravin: No, it is not used by students.

G. Hand: Thinking about your parking management plan, you need 183 spaces for the new use, you are taking out 120-something, plus the 60 additional that you need.

L. Ravin: According to the Comprehensive Development Ordinance, yes.

G. Hand: Building another 60-70 and then you have a proposal for another 200 off-site. From what I've seen from the use of that parking, it does not seem to me like those additional 200 are well positioned to serve the people who are currently using that lot. Asks to clarify more about parking.

L. Ravin: Parking is a part of campus-wide infrastructure. Transportation and Parking divides it up, but in general we are giving the opportunity for residential students who do not access their parking on a regular basis to go to the off-site parking, that frees up parking in other places, not where the new building is, but frees up spaces for faculty and staff and commuters, and that is what frees up parking all around. Because when someone wants to go to Building A or Building B, they don't necessarily park right next to their building.

G. Hand: Yes. Maybe we can get more details. When I have been up there, there are zones and colors, you need the appropriate pass to be in the appropriate lot, so from my understanding, you are essentially kicking students out of a number of spaces to make room for the other faculty and staff spaces that you need to now replace because you're losing those. Correct?

A. Rock: Correct. With this project, we have already started the process, currently we have 100 students that are waiting for the off-site lot to be ready. So we have them in some of the empty spaces that we have on campus currently. By the end of October, 100 students will already be down there to free up spaces for this project. And eventually the rest will move down there when needed. Waiting on proper fencing and few other things before moving students to off-site lot.

M. O'Neil: Disadvantage in the Board Review in that the staff report has not provided them the analysis of UVM's annual reporting to update the Joint Institutional Parking Management Plan. That information is something we detailed year by year for the

Design Advisory Board. I opted to exclude it because it was heavy in detail, and I thought that the limited Parking Management Plan that Ms. Ravin was providing would be sufficient. Explains more about parking demands and specifics. Other disadvantage is that the Joint Institutional Parking Management Plan does not have the 5-year component from UVM at this point. Looking very narrowly at their parking management.

G. Hand: Asks when Joint Institutional Parking Management plan will be updated. It is challenging. UVM has had a number of large projects. Hard to get a campus-wide feel with details about the individual projects and the ongoing construction.

L. Ravin: Joint Institutional Parking Management plan is due for a 5-year update due to issues that are not connected to this project, it got delayed. CATMA usually prepares that with input from the University, the medical center, and Champlain College. 2020-2025 plan hopefully completed in February. First time ever submitting project without benefit of campus wide parking view, but we still treat parking as a campus wide amenity.

A. Rock: Explains site plan and circulation patterns. Shows where existing parking is vs proposed green space and new addition. On different site plan, explains new parking lot.

B. Rabinowitz: Asks about elevation for proposed lot.

D. Read: 5 feet lower.

K. Robinson: Continues conversation showing Board site plans and photos.

B. Rabinowitz: Invites public to speak.

S. Bushor: Explains her involvement of the development of the Hill. Concerns about stormwater runoff from parking and addition. Asks about sewer and plans for sewer management. Concerns about the capacity and infrastructure for sewage. Concerns about tree removal for parking spaces environmental degradation. Concerns about parking availability for the proposed project. Concerns for people who park on top of the Hill. Concerns for parking during events for recreation/athletic games.

B. Rabinowitz: Clarifies with M. O'Neil that review by DPW is not complete.

M. O'Neil: Have initial comments from stormwater engineering program, but subsequent to that the University provided revised plans, which I forwarded, so I do not have a final response. Also revised lighting that corrected deficiencies.

D. Read: Addresses questions about stormwater regarding project. Explains stormwater treatment practices. Improving overall water quality.

LaRosa: Asks about snow removal. Clarifies that the snow is not going to go on top of the bio retention swales.

D. Read: Cannot say for sure. Would almost like it to because as snow melts, it will go through the more infiltrative soil.

L. Ravin: Still a question and still part of the campus wide values for snow removal

D. Read: Explains stormwater path and treatment location.

B. Rabinowitz: Asks to address sewer concerns.

D. Read: Working with Steve Roy from Department of Public Works. Continuing discussions about sewage management. Feels comfortable about plan and capacity. Still need allocation letter.

B. Rabinowitz: Asks L. Ravin to address parking displacement concern.

D. Read: Highlights net gain of trees during project.

A. Rock: Explains lot counts. And parking lot patterns throughout the day.

L. Ravin: Reiterates project takes into account campus wide parking. Explains current TDM strategies (bikes, reducing single occupancy vehicles). This can be a year round phenomenon. Additional parking for mopeds and motorbikes.

B. Rabinowitz: Clarifies where the students are currently coming from and where they are going.

L. Ravin: Yes, moving students out of one area, so employees or commuters can use closer parking for convenience.

A. Rock: Continues explanation of zoned parking and distances to destination.

G. Hand: Asks if reducing visitor parking in Jefford's lot.

A. Rock: Confirms visitor parking is staying the same. An average of 50 empty spaces every day in that Jefford's lot. Explains upcoming events and utilization of parking spaces.

G. Hand: Recalls personal experiences of trying to find parking for events on campus as difficult. Concerns with project waiting and relying on e-bike installation.

L. Ravin: Hopes e-bikes are available in Spring. Explains how events in the evenings have different parking patterns than during the week day faculty and staff are not on campus.

A. Rock: Explains how they perform parking lot counts.

L. Ravin: Highlights that lot counts are being done to support their information with fact.

Sharon: Asks if the number of metered parking spaces is changing.

A. Rock: Confirms visitor parking spaces in Jefford's lot is not changing.

Brad: Closes public hearing.

2. 20-0249CA; 3173 North Ave (RL-W, Ward 7N) Dante Holdings Trust

Demo existing home and build new home on existing footprint. (Project Manager: Scott Gustin)

David Diamantis appeared on behalf of

B. Rabinowitz: Explains application and staff is recommending continuants.

S. Gustin: Explains that there has been a revised site plan that addresses the driveway location and configuration.

B. Rabinowitz: That addressed the primary concerns about the location?

S. Gustin: Yes, it did.

D. Diamantis: We have been going at this for quite some time. Excited to do project.

B. Rabinowitz: Compliments design, well above the flood plain.

D. Diamantis: Comments about how they've had the current house for 35 days, but emphasizes that it is ready to be demolished. Asks for 30-day appeal period to be waived.

S. Gustin: Informs the applicant they have to submit a request for the appeal period to be waived.

B. Rabinowitz: Confirms if request for waiver.

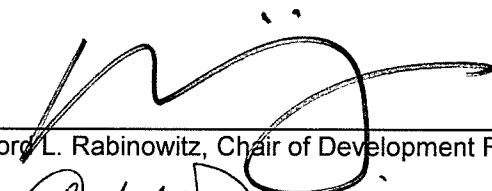
D. Diamantis: Confirms.

S. Gustin: Explains Board does not have to do anything, but is an administrative form.

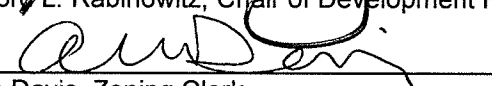
- B. Rabinowitz: Closes public hearing.
 - A. LaRosa: Motion to approve and adopt staff findings and recommendations.
 - B. McArthur: Seconds motion.
- 6-0-0

VII. Adjournment

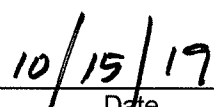
The meeting was adjourned at 6:40PM



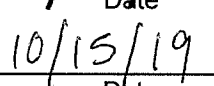
Bradford L. Rabinowitz, Chair of Development Review Board



Alison Davis, Zoning Clerk



Date



Date

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), between the hours of 8:00 a.m. and 4:30 p.m. Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at [www.burlingtonvt.gov/pz/dr/agendas](http://www.burlingtonvt.gov/pz/dr/ agendas) or the office notice board, one week before the hearing for the order in which items will be heard.

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