

**ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 6/15/2007

Appeal Expiration Date: 4/10/2009

Project Location: 211-219 MAIN STREET

District: RH

Owner: WESCO INC

Address: 32 SAN REMO DRIVE
SOUTH BURLINGTON, VT 05403

Ward: 3

Telephone:

Tax ID: 049-3-109-000

Project Description:

Commercial / Other Project Type

Private parking lot use.

Existing Use: RETAIL - PETROLEUM, GAS SERVICE STATION, MINI-MART W/ GAS P
Proposed Use: RETAIL - PETROLEUM, GAS SERVICE STATION, MINI-MART W/ GAS P

Construction Cost:	\$0	Lot Size (Sq Ft):	12,510
Net New Square Feet:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	87.80	Existing # of Parking Spaces:	12
Proposed % Lot Coverage:	87.80	Proposed # of Parking Spaces:	12
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	12

Zoning Permit #: 07-788CA

Decision Type: Development Review Board

Level of Review: 1

Decision: Approved

See Conditions of Approval

Decision Date: March 11, 2009

Project File #: 07-788CA

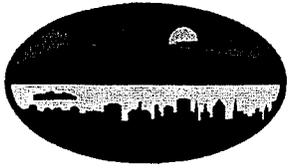
Zoning Administrator

An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court until 4 pm on April 10, 2009.

Fee Type	Amount	Paid in Full	Balance Due:	\$0.00
Application Fee:	\$150.00	Yes	Date Paid: _____	
Development Review Fee:	\$0.00	Yes	Check # _____	
Impact Fee:	Not Applicable			

Permit Received by: MAILED TO OWNER

Date: 8/2/11



City of
Burlington, Vermont
149 Church Street

Zoning Permit - COA Level I – Conditions of Approval

ZP #: 07-788CA

Tax ID: 049-3-109-000

Issue Date: March 11, 2009

Decision: Approved

Property Address: 211-219 MAIN STREET

Description: Private parking lot use.

Project Permit Conditions:

1. Permit conditions are as noted in State of Vermont Environmental Court Stipulation and Order dated March 11, 2009 (attached).

Standard Permit Conditions:

1. **30-Day Posting Period.** Zoning permit is not effective until expiration of 30-day appeal period as required by state statute.
2. **Time Limits.** Zoning permit shall become invalid unless work or action authorized by permit is commenced by March 11, 2010. The Permittee shall complete the approved construction by March 11, 2011.
3. **Required Revisions.** Any revisions or additions to plans required as a result of approval must be submitted in triplicate and stamped "approved" prior to issuance of zoning permit.
4. **Changes.** The project shall be completed as shown on the plans, which have been stamped "approved" and dated by the Department of Planning and Zoning. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Zoning.
5. **Property Inspection.** By acceptance of this permit, Permittee authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
6. **Certificate of Occupancy.** A certificate of occupancy must be issued by the Department of Public Works PRIOR to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Zoning must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permittee may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
7. **Completion and Maintenance of Improvements and Landscaping.** Permittee or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permittee agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.

FILED

**STATE OF VERMONT
ENVIRONMENTAL COURT**

MAR 11 2009

**VERMONT
ENVIRONMENTAL COURT**

IN RE: APPEAL OF WESCO, INC.)
NOTICE OF VIOLATION)
(211-219 MAIN STREET,)
BURLINGTON))

Docket No. 106-5-07 Vtec

CITY OF BURLINGTON)

v.)

Docket No. 177-8-07 Vtec

WESCO, INC.)

IN RE:)

WESCO, INC. PARKING PERMIT)

Docket No. 197-9-07 Vtec

211-219 Main Street)

STIPULATION AND ORDER

NOW COME the parties, by and through their attorneys, David W. Rugh, Esq. and William E. Simendinger, Esq. for Wesco, Inc. (hereinafter "Wesco") and Kimberlee J. Sturtevant, Esq., attorney for the City of Burlington (hereinafter "City") and hereby enter into this Stipulation and request the Honorable Court to so order.

STIPULATION

For resolution of the above-referenced matters, the parties agree that Wesco shall be allowed to lease five (5) of the parking spaces on the site plan dated January 23, 2009, attached hereto as Appendix, during the day and rent the same five spaces out at night on an hourly basis on the following conditions:

1. An engineer's statement/report demonstrates that there is sufficient circulation and parking on Wesco's site (without use of the City's right of way) for all proposed uses at the site, convenience store/gas station/deli/private parking lot, attached hereto.
2. Wesco shall stripe the parking spaces on the property consistent with the site plan dated January 23, 2009, Appendix. Wesco shall maintain the striping.
3. Wesco shall install and maintain the following improvements to the City's right of way consistent with the site plan dated January 23, 2009, Appendix:
 - a. Increase the width of the previously agreed to northeasterly landscape island to extend from the southerly side of the sidewalk to the southerly edge of the right of way/northern property line as shown on the site plan dated January 23, 2009, Appendix.
 - b. Increase the width of the northwesterly landscape area easterly to be flush with the current westerly curb cut on Main Street at the northeasterly corner of the northwesterly landscape island, and begin angling the easterly curb of the northwesterly landscape island 5 feet 6 inches southerly of the sidewalk as shown on the site plan dated January 23, 2009, Appendix.
 - c. Increase the previously agreed to center island to a three-foot-wide planting bed. The White striping marked with "NO PARKING" shall be extended from the southern edge of the curb on the center planting island to the edge of the right of way/northern property line as indicated on the site plan dated January 23, 2009, Appendix.
 - d. All planting beds shall have at least 24 inches deep topsoil that is 10% organic matter.
4. Wesco shall maintain the installed landscaping, including but not limited to greenbelts and curbing. All yews to be planted shall be two-gallon size at the time of planting. Wesco shall replace any dead or diseased landscaping with the same species of equivalent size within fourteen (14) days of the City informing Wesco that such landscaping must be replaced, or within fourteen (14) days of the start of the next planting season.
5. Wesco shall pay for all the improvements established herein.
6. Wesco may install paths in the northwestern and northeastern planting beds from the corners to the parking lot if indicated that they are necessary by the traffic engineer commissioned as noted in Condition 1 above and if approved by the City's engineer in writing.
7. Wesco shall pay the City of Burlington ten thousand dollars (\$10,000.00) for settlement of any fines and/or attorney fees that have accrued regarding this matter within ten (10) days of the Stipulation and Order being executed by the Vermont Environmental Court.

8. The City shall not issue a press release regarding the details of this Stipulation and Order. All parties acknowledge, however, that this Stipulation and Order once entered by the Environmental Court is a public record.

This Stipulation shall not limit the City in any manner whatsoever with regard to conducting work or requesting and/or making improvements in its right-of-way in the future, and does not limit in any way the City's ability to undertake future enforcement proceedings premised on events subsequent to the effective date hereof or the City's pursuit of expedited relief in the Environmental Court premised on any non-compliance with the terms hereof.

All conditions of the September 13, 2007 Stipulation and Order in *In Re: Wesco, Inc. Canopy (211-219 Main Street, Burlington)*, Docket No. 186-8-06 Vtec, that are not directly revised herein, shall remain in effect.

This resolution pertains solely to the issues in the above-reference matters.

The Stipulation and incorporated site plan shall not become effective until such time as it is ratified by the Burlington Development Review Board and/or Burlington City Council.

Dated at Burlington, Vermont this 19th day of February 2009.



David W. Rugh, Esq.

Dated at Burlington, Vermont this 19th day of February 2009.

William Simendinger by David Rugh attorney
for Wesco

William E. Simendinger, Esq.

Attorneys for Wesco, Inc.

Dated at Burlington, Vermont this 10th day of March ~~February~~ 2009.

Joseph C. Farnham, Esq.

Kimberlee J. Sturtevant, Esq.

Attorney for the City of Burlington

RATIFIED by the Burlington Development Review Board
on February 17, 2009.

Dated at Burlington, Vermont this 4th day of March, 2009

Austin O. Hunt

, Chair/President

Burlington Development Review Board

Appeals of Wesco Inc. 106-5-07, 197-9-07 Vtee
City of Burlington v. Wesco, Inc. 177-8-07 Vtel

SO ORDERED, based on the foregoing Stipulation. The above-captioned matters are hereby concluded, with each party bearing its own attorney's fees and costs.

Dated at Berlin, Vermont this 11th day of March 2009.

Merideth Wright

Hon. Merideth Wright, Environmental Judge

Vermont Environmental Court

231172-00006

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-- NOTE --

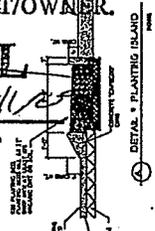
ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED

[Signature] DATE *3/11/08*

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT



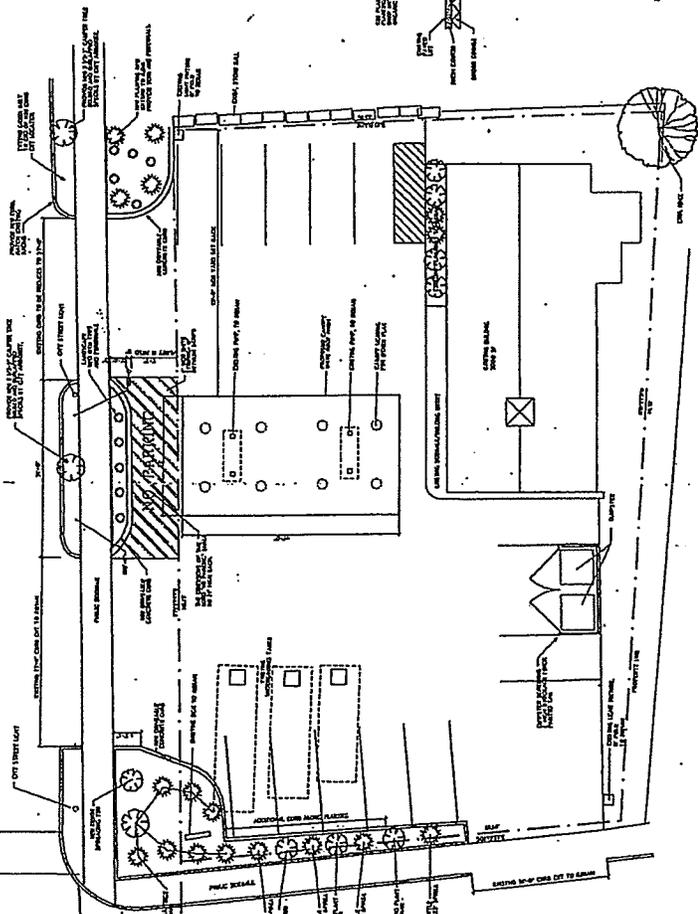
NOTE: SEE SHEET FOR SIGNAGE REQUIREMENTS. SIGNAGE SHALL BE INSTALLED IN ACCORDANCE WITH THE SIGNAGE REGULATIONS OF THE STATE OF VERMONT.

DESIGNED BY: [Firm Name]



APPENDIX TO STIPULATION AND ORDER IN DOCKET NOS. 106-5-07, 177-8-07, AND 197-9-07 Vtec

MAIN STREET



SOUTH WINOOSKI AVENUE

PROPOSED PARKING PLAN
CHAMPLAIN FARMS
211 - 219 MAIN STREET, BURLINGTON, VT.

1/4 & 2008
REVISED SEPT. 15, 2008
REVISED OCT. 01, 2008
REVISED NOV. 01, 2008
REVISED JAN. 21, 2009



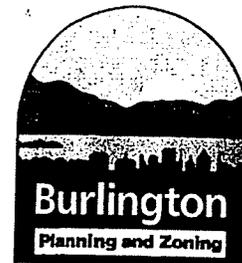
GRAPHIC SCALE



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
Vacant, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, Associate Planner
Kathy Parrott, Zoning Clerk
Elsie Tilloison, Department Secretary*



Burlington Development Review Board

Minutes/Findings of Fact
September 12, 2007

In RE: 07-788CA; 211-219 Main Street (Ward 3, RH) (Tax Lot No. 049-3-109-000)

Owner/Applicant: Wesco, Inc.

Request: Review of a private parking lot use at the existing convenience store / gasoline station.

Members Present:

Glenn Jarrett
Eric Miller
Michael Long
Eleanor Briggs Kenworthy
Kevin Worden
Brad Rabinowitz

Evidence Presented:

The Board examined the materials submitted in support of this request.

I. FINDINGS

Background Information:

The applicant is seeking approval for a private parking lot use (consisting of up to 15 spaces) in addition to the existing convenience store / gasoline station. The private parking lot use has already been established without the necessary permit and has been cited in a zoning violation that was appealed to the Board and upheld in May, 2007. This current application seeks the necessary permit for the private parking lot use. No construction is proposed.

Previous zoning actions for this property are listed below.

- 5/21/07, Uphold issuance of zoning violation notice for un-permitted private parking lot
- 7/24/06, Approval of canopy
- 12/6/05, Withdrawal of canopy application
- 2/21/03, DRB denial of proposed canopy and reconfiguration of parking
- 1/3/03, Administrative denial of proposed canopy and reconfiguration of parking
- 7/2/02, Approval of adding 16 seats and 4 tables inside existing store
- 11/17/00, Approval of replacement freestanding sign
- 8/2/00, Approval of replacement signage
- 4/18/00, Denial of sign variance

- 10/28/99, Denial of nonconforming sign changes
- 5/10/99, Denial of sign variance
- 1/20/99, Approval of replacement signage
- 2/8/95, Denial of nonconforming sign changes
- 5/12/88, Denial of proposed canopy
- 7/19/83, Approval to convert service station to mini-mart
- 2/13/75, Approval for replacement of conduit line and new paving
- 8/30/68, Approval to demolish existing gasoline/service station and replace with new

Article 5: Use, Density and Dimensional Requirements

Section 5.1.4 Permitted Uses: The private parking lot is a permitted use in the RH zone, wherein the subject property is located. **(Affirmative finding)**

Section 5.3 Dimensional Regulations:

Setbacks, height, and lot coverage remain unchanged. **(Not applicable)**

Article 10: Parking

Based on current standards in Article 10, the parking requirement for the existing uses (convenience store / gasoline station and deli) is 23 spaces. This figure breaks down as 19 spaces for the convenience store and gasoline pumps (1 space per 100 sf of the 1,527 sf convenience store and 2 spaces per gasoline pump island for 2 islands) and 4 spaces for the deli (1 per 4 seats for the 16 seats). There are only 15 parking spaces onsite, including 4 for the gasoline pump islands. The 1983 approval to establish the current convenience store / gasoline station use included an approval for 15 parking spaces, although no waiver was specified. The 2002 approval for the deli included a 2 space parking waiver, resulting in an even exchange of 2 spaces for the convenience store swapped out for 2 spaces for the deli. The end result is that the 15 onsite spaces are adequate for the existing uses per the previous permit approvals. However, the current proposal to establish a 15-space private parking lot would utilize every space onsite. Doing so would require a 100% waiver of the parking requirements of the existing uses. Section 10.1.20, *Waiver Limits*, caps parking waivers at 50% of the requirement except for affordable housing, condo conversion with TDM plans, housing and adaptive reuse projects in the CBD and CBD-T zones, and for off-street loading requirements. The subject property qualifies for none of these exceptions. There is insufficient parking onsite to support the requested 15-space private parking lot. **(Adverse finding)**

II. MINUTES

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

III. MOTION

Motion: Eric Miller

I move that the Board deny the requested private parking lot use at the existing convenience store/gasoline station, located at 211-219 Main Street in the RH zone in accordance with Articles 5 and 10. This denial is based on the following reasons. Although reasons two and three, below, are not necessary to the Board's ruling, they nonetheless buttress the Board's conclusion that parking on the site is insufficient for the proposed use.

1. Per Article 10, *Parking*, of the Zoning Ordinance, there is insufficient parking available onsite to support the requested 15-space parking lot. There are 15 onsite parking spaces which are sufficient to meet current demands based on previous permit approvals. The proposed 15-space private parking lot would increase demand by 15 spaces. Sec. 10.1.20, *Waiver Limits*, prohibits granting the 100% parking waiver necessary to support the proposed 15-space private parking lot use.
2. In 1983, the applicant represented, and the Board concluded, that 15 parking spaces were needed for the then-current uses on the property.
3. In applications subsequent to 1983 requiring consideration of onsite parking, the applicant represented uses but did not include a private parking lot as one of the uses onsite.

Seconded: Eleanor Briggs Kenworthy

Vote: 6-0-0, motion carried

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court. (Zoning Ordinance Article 17, Section 17.1.7, Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court. The appeal shall be taken in such a manner as the supreme court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3). The Court rules may require that such an appeal be commenced within Thirty (30) days of the Board's decision.