

Nathan Caswell  
27 Arlington Court  
Burlington, VT 05408

August 23, 2016

**Re: 15-0840CU on the DRB agenda for September 6**

Dear Ms. O'Neil

I am writing you this explanatory note on the advice of Anita at Planning and Zoning.

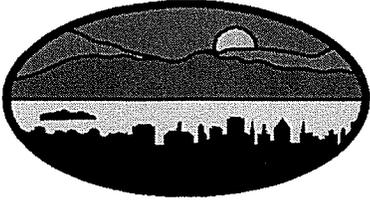
I was issued a certificate of occupancy for conditional use permit #15-0840CU in June of 2015. This permit is for a change of use from single family to single family with bed and breakfast (one room only). I don't operate a bed and breakfast, but I rent a room through AirBnB. Condition #7 of the Project Permit Conditions states, "The applicant shall return to the DRB in one year after issuance of a certificate of occupancy for the Bed and Breakfast to report on any neighborhood concerns or complaints relative to the Bed and Breakfast use." I am not aware of any neighborhood concerns or complaints, and the only neighborhood feedback I have received has been positive. I am returning to the DRP to fulfill the above condition.

Thank you, and I look forward to speaking with you on September 6.

Sincerely,

Nathan Caswell





**ZONING PERMIT  
CONDITIONAL USE**

City of Burlington, Vermont  
Department of Planning and Zoning

Application Date: 03/02/2015

Appeal Expiration Date: 05/21/2015

**Project Location: 27 ARLINGTON COURT**

District: RL

Owner: Nathan Caswell

Ward: 7

Address: 27 ARLINGTON CT  
BURLINGTON VT 05408

Tax ID: 029-1-068-000

Project Type: Residential - Change of Use

Project Description: Change of use from single family to single family with bed and breakfast (one bedroom only).

Construction Cost:	\$0	Lot Size (Sq Ft):	11,406
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	3
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	3
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	3

Zoning Permit #: 15-0840CU

Decision By: Development Review Board

Level of Review: 1

Decision: Approved

See Conditions of Approval

Decision Date: April 21, 2015

Project File: NA

Zoning Administrative Officer

*An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division until 4 pm on May 21, 2015.*

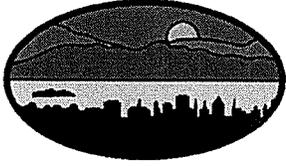
Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$150.00	Yes	Date Paid: _____
Development Review Fee:	\$0.00	NA	Check # _____
Impact Fee:	<i>Not Applicable</i>		

Building Permit Required: **Yes**

Permit Received by: \_\_\_\_\_

Date: \_\_\_\_\_





City of  
Burlington, Vermont  
149 Church Street

## Conditional Use – Conditions of Approval

ZP #: 15-0840CU

Tax ID: 029-1-068-000

Issue Date: April 21, 2015

Decision: Approved

Property Address: 27 ARLINGTON COURT

**Description:** Change of use from single family to single family with bed and breakfast (one bedroom only).

### Project Permit Conditions:

1. **Prior to release of the zoning period for the Bed & Breakfast**, the applicant shall either provide a site plan that demonstrates that three vehicles can be accommodated in the existing driveway so that the third vehicle can egress the property without moving another car; or apply for and obtain approval of a zoning permit to pave an additional width of the driveway (to a maximum of 18 feet) in order to accommodate vehicles parking side by side and allow for a third vehicle to egress the property without moving another car. This widening shall be installed **prior to issuance of a certificate of occupancy** for the Bed and Breakfast. The driveway shall meet all required setback (not less than 5' from any property boundary), lot coverage and any other applicable dimensional requirements. **(NOTE: The applicant did provide evidence and demonstrated to the satisfaction of the DRB that the current parking area is sufficient to accommodate the three vehicles in compliance with the parking requirements).**
2. This approval is for a ONE bedroom Bed and Breakfast use. The applicant will allow Code Enforcement to periodically confirm that the use is limited to the one bedroom rental limitation. This may include review of web-based advertising, posted guest comments, or response to neighborhood complaint.
3. The subject property must be, and remain owner occupied as long as the Bed & Breakfast remains in operation.
4. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
5. All guest parking shall be on-site and off-street.
6. No sign of the Bed and Breakfast use, other than a (separately permitted) sign, shall be visible on the exterior of the residence. Any sign will require a separate sign permit.
7. The applicant shall return to the DRB in one year after issuance of a certificate of occupancy for the Bed and Breakfast to report on any neighborhood concerns or complaints relative to the Bed and Breakfast use.
8. Regarding Standard Permit Condition #1 below the applicant will have to insure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes.
9. **Standard Permit Conditions:**
  1. **Other City, State or Federal Permits.** The owner is solely responsible for obtaining all other

required City, state and federal approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions.

**Note:** All projects receiving a Zoning Permit also require a Construction Permit or written confirmation that a Construction Permit is not required from Department of Public Works-Inspection Services Division (DPW-ISD). All construction permits must be closed out by way of approved inspections by DPW-ISD before issuance of a Unified Certificate of Occupancy (UCO) by the Code Enforcement Office as per Condition 3, below.

2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced by **April 21, 2016**. The owner shall complete the approved project and obtain a UCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) by **April 21, 2017**, or be subject to enforcement actions.

These time limits are binding upon the owner unless one of the following apply: a) longer or shorter time limits are specifically imposed by a condition of approval; or b) the time limits are tolled by additional state or federal permitting for the project or by an appeal; or c) an extension of time has been granted. An extension of time must be requested in writing PRIOR to the expiration of the permit. If the owner has enacted the permit and it lapses, the owner may be responsible to obtain a new zoning permit, if required, which shall be subject to the current Comprehensive Development Ordinance (CDO).

3. **Unified Certificate of Occupancy (UCO):** It shall be unlawful to use or occupy (or allow the use or occupancy of) any land or structure or part thereof which has been created, changed, converted, or wholly or partly altered or enlarged in its use or structure without a UCO.

**If the project is partially completed**, meets “prior to issuance of a UCO” conditions of approval, meets all health and safety standards, and all municipal fees for the project are paid, a Temporary Zoning CO may be requested and issued. **Upon completion of the project**, applicant shall request and obtain a Final UCO from the Code Enforcement Office (located at 645 Pine Street). Additional information on how to request and obtain this UCO is available at this office. **Failure to obtain a certificate of occupancy** places the property in violation of the CDO and is subject to enforcement.

In addition, **Failure to obtain a UCO within the time limits above is subject to** “after the fact” fees ranging from \$75 - \$1500 (in addition to the UCO fee).

4. **Project Modifications.** The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the administrative officer. The project shall not deviate from the approved plans or conditions of approval without prior written approval from the administrative officer.
5. **Property Inspection.** By acceptance of this permit, the owner authorizes City Officials and/or their authorized representatives, access to the subject property for the purpose of observing work in progress, inspecting and/or measuring the property or improvements until such time the project has been issued a Final UCO.
6. **Completion and Maintenance of Improvements and Landscaping.** Owner or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Owner 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.

7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.
10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to two hundred dollars (\$200) per day, municipal tickets, and/or additional permitting fees.
11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined based upon the best evidence available, for instance a survey or other official document. If a permit is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City. If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.
13. **Damage to City Property.** The Owner is responsible for any damage to the City of Burlington's property, including but not limited to its right-of-way, sewer/water lines, etcetera, that occurs during the site improvements authorized by this permit. If damage occurs, the Owner shall restore the property to a condition equal to or better than the condition of the property prior to such damage.
14. **City Rights-of-Way and Ownership.** Permit approval does NOT authorize any work to be undertaken within the public ROW. Any work in the ROW can only occur with prior authorization by DPW and City Council, as required. Any work or improvements that are taken within the City's right of way does not diminish the City's ownership or authority regarding said right of way.
15. **Liquor License Required.** An approval of any use that includes the sale of alcoholic beverages is contingent upon the receipt of a liquor license from the City of Burlington or the State of Vermont, whichever is applicable.



**Burlington Development Review Board**  
149 Church Street  
Burlington, VT 05401  
www.burlingtonvt.gov/PZ  
Telephone: (802) 865-7188  
(802) 865-7195 (FAX)

*Austin Hart, Chair*  
*Missa Aloisi*  
*Alexander J. LaRosa*  
*Michael Long*  
*Brad Rabinowitz*  
*Israel Smith*  
*Jonathan Stevens*  
*Alexandra Zipparo, (alternate)*  
*Jim Drummond, (alternate)*



**Burlington Development Review Board**  
**Findings of Fact**  
**Deliberative Hearing Tuesday, April 13, 2015**

**Board Members Present:** Jonathan Stevens (Vice Chair), Brad Rabinowitz, Michael Long, Israel Smith, Missa Aliosi

**Staff members present:** Ken Lerner

**File:** 15-0840CU

**Location:** 27 Arlington Court

**Zone:** RL **Ward:** 7

**Date application accepted:** March 2, 2015

**Applicant/ Owner:** Nathan Casewell

**Request Change of use from single family to single family with bed and breakfast (one bedroom only).**



**Background:**

- **August 24, 1987 Conditional Use** request to establish a youth hostel. Request approved as a home occupation but limited to six months. Returned after six months and was approved to continue operating. Specifically conditioned for the applicant, Nancy Farrell, and that it does not

run with the property and is not transferable. Decision not appealed. Note that at that time the basement was used as quarters for the hostel. It is not clear as to whether this space meets current requirements as habitable space.

**Overview:** The applicant wishes to convert one bedroom to bed and breakfast use. There exists a 10 ft. wide single width driveway that widens alongside the house to 18 ft. wide. Three parking spaces are required – two for the residential use and one additional for the rented room for a total of three.

**Evidence Presented:**

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

**I. Minutes**

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

**II. Motion by Brad Rabinowitz: In the matter of 15-0840CU, 27 Arlington Court, I move approval of the request for a change of use from single family to single family with bed and breakfast (one bedroom only) as per the following findings and conditions, noting that Condition #4 is a recommendation not a requirement:**

**III. Findings**

**Article 3: Applications, Permits and Project Reviews**

**Part 5: Conditional Use and Major Impact Review**

**Sec. 3.5.6.(a) Conditional Use Review Standards**

*1. Capacity of existing or planned community facilities.*

The change of use to a bed and breakfast appears to pose no identified impact to the capacity of existing or planned community facilities. **Affirmative finding.**

*2. The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan.*

This is an existing, developed residential neighborhood. The conversion of one bedroom in a low density residential neighborhood to rental lodging may have some impact on traffic and circulation, but not noticeably greater than a family with multiple drivers. If most cars are located on-site and only 1 bedroom is intended for rental, the anticipated impact would be negligible. **Affirmative finding.**

*3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;*

The proposed rental of one bedroom would result in one more vehicle to the parking demand, which already has a requirement for 2 parking spaces for the existing single family residential use, as noted above. The change of use will likely increase traffic and circulation from the present residential demand of this parcel, however not so noticeable as to affect the overall neighborhood.

**Affirmative finding.**

*4. Any standards or factors set forth in existing City bylaws and city and state ordinances;*

The application and resultant change in use will be required to meet all bylaws and city and state ordinances in effect at the time of decision. Specific to the proposed use the applicant will have to ensure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes. **Affirmative finding as conditioned.**

5. *The utilization of renewable energy resources;*

See Section 6.2.2 (e), below.

and,

*In addition to the General Standards specified above, the DRB;*

6. *shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;*

A Bed and Breakfast is a special category residential use. The application for a single room is minimal, particularly in this location as it is not close to downtown or other short term rentals. It is possible to consider a conditioned Bed and Breakfast use within the low density residential district with limitations to address potential impacts of traffic, circulation, parking, and intensity of activity. **Affirmative finding.**

7. *in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.*

The change-of-use proposed is for a special residential use, and has different review criteria than identified within this standard.

8. *may control the location and number of vehicular access points to the property, including the erection of parking barriers.*

No change to existing proposed. However, the driveway may be widened in order provide the minimum parking required under Article 8. **Affirmative finding as conditioned.**

9. *may limit the number, location and size of signs.*

Any signage will require a separate permit, and will be limited by the standards for this zoning district. **Affirmative finding as conditioned.**

10. *may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

Nothing is proposed. However, in order to meet the parking requirements a widening of the driveway may occur. If this is not done then it will have to be demonstrated that the parking as it exists can function sufficiently for the three required vehicle spaces. **Affirmative finding as conditioned.**

11. *may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.*

No construction proposed, although there may be a widening of the driveway. Not Applicable.

12. *may specify hours of operation and/or construction to reduce the impact on surrounding properties.*

The applicant states that rental s will be at will; this implies being open 24 hours a day 7 days a week. If approved, arrivals are recommended to commence after 7:00 am and cease after 10:00 pm to preserve characteristic neighborhood quiet. Limitations are suggested. **Affirmative finding as conditioned.**

13. *may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.*

Footnote #4 in Appendix A informs that not more than 3 rooms may be let for that purpose in the RL district. Proposed is for the rental of one room. **Affirmative finding as conditioned.**

14. *may consider performance standards, should the proposed use merit such review.*

The parking circulation is of the most concern. It appears that with two cars parking side by side along the house only one space may be able to exit the driveway without moving another vehicle. If the applicant cannot show that the current configuration operates sufficiently to allow a tandem & another accessible space, than the driveway may have to be widened to meet the parking requirements as discussed in Article 8. **Affirmative finding as conditioned**

15. *may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

If the permit is granted the DRB may request the applicant/owner to return after a period of time to assess neighborhood impacts, if appropriate. **Affirmative finding as conditioned**

#### **Article 4: Zoning Maps and Districts**

##### **Sec. 4.4.5 (c) Permitted and Conditional Uses**

A Bed and Breakfast is a Conditional Use in the RL zoning district.

Appendix A – Use Table has 2 footnotes for Bed and Breakfast Use:

#4: *...no more than 3 rooms permitted to be let in the RL district.*

This is in a RL zone and the application proposes one bedroom. **Affirmative finding as conditioned**

#6: *Must be owner occupied.*

The applicant lives at the subject property.

The property has previously been approved for a hostel as a home occupation. The hostel was confined to the basement that is not included in the subject request. It is not clear as to whether the use of the basement as habitable space would meet current life safety standards. **Affirmative finding as conditioned.**

#### **Article 5: Citywide General Regulations**

##### **Sec. 5.1.1 Uses**

##### **(d) Conditional Uses**

*A conditional use is listed in any district where denoted by the letters “CU” in Appendix A – Use Table. Such uses may be permitted by the DRB only after review under the conditional use provisions provided in Article 3, Part 5, such further restrictions as the DRB may establish and such additional requirements as may be established by this ordinance such as but not limited to dimensional and intensity imitations, performance and design standards, and parking requirements.*

A Bed and Breakfast is a Conditional Use in Appendix A, Use Table, for the RL District. The project meets the two footnote requirements; see Sec. 4.4.5(c), above. The subject parcel, however, may not meet the parking requirements for the proposed use. If it is not shown to meet the operational standards, then a

driveway widening to 18 ft. may be possible in lieu of shuffling parking as would need to occur if this is not widened; see Article 8, Sec. 8.1.12, (c), below. Given the limitation that the driveway cannot be wider than 18', the driveway expansion may be considered. **Affirmative finding as conditioned.**

**Part 2: Dimensional Requirements** See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

**Sec. 5.2.3. Lot Coverage Requirements** See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

**Sec. 5.2.4. Buildable Area Calculation** *For any properties two or more acres in size within any RCO, WRM, RM, WRL, or RL zoning district...*

The subject property is not more than two acres in size. This standard does not apply.

**Sec. 5.2.5. Setbacks** See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

**Sec. 5.2.6, Building Height Limits** See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

**Sec. 5.2.7, Density and Intensity of Development Calculations**

The application is for a change-of-use to a specialty residential use. It is viewed the same as a single dwelling unit for intensity purposes.

**Affirmative finding.**

**Article 7: Signs**

Any signage will require a separate sign permit. Any signage will be required to meet the standards of this article and specific standards of the zoning district. **Affirmative finding as conditioned.**

**Article 8: Parking**

**Sec. 8.1.1 Purpose**

*It is the purpose of this article to:*

- (a) Ensure there are adequate parking and loading facilities to serve the use or uses of the property;*
- (b) Ensure that parking facilities are designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street;*
- (c) Reduce congestion in the streets and contribute to traffic safety; and*
- (d) Encourage alternate modes of travel that will reduce dependence upon the single-occupancy automobile.*

**Table 8.1.8-1 Minimum Off-Street Parking Requirements**

Single family residential use (Neighborhood Parking District) requires 2 parking spaces, the One room Bed and Breakfast (in addition to single-family residence) at 1 per room; requires 1 additional space for a total of 3 spaces required.

On-site parking: 2 are recognized based on the tandem limitations (one in the garage or in front of garage, one in the single-lane driveway.) The applicant claims that currently there is sufficient room to allow two vehicles to enter and exit the driveway without disturbing another space. If this can be demonstrated than this situation can be considered adequate.

Option #2 may be require widening the driveway, and obtain a zoning permit for the widened driveway and thus meet the parking requirement. **Affirmative finding as conditioned.**

#### **Article 13: Definitions**

***Bed and Breakfast:*** *An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.*

The applicant has proposed 1 room to let in the proposed Bed and Breakfast.

**Affirmative finding if conditioned.**

***Owner:*** *Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who alone, jointly or severally with others hold(s) legal or equitable title to any property.*

Per the ordinance, the owner (who must be listed on the deed) is required to be a resident of the Bed and Breakfast. **Affirmative finding as conditioned.**

***Owner Occupied:*** *Where owner occupancy is required by this ordinance, owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year.*

As a Bed and Breakfast, an owner, whose name is on the title, is required to live on the premises at least 6 months of the year. **Affirmative finding as conditioned.**

#### **IV. Conditions of Approval**

1. **Prior to release of the zoning period for the Bed & Breakfast**, the applicant shall either provide a site plan that demonstrates that three vehicles can be accommodated in the existing driveway so that the third vehicle can egress the property without moving another car; or apply for and obtain approval of a zoning permit to pave an additional width of the driveway (to a maximum of 18 feet) in order to accommodate vehicles parking side by side and allow for a third vehicle to egress the property without moving another car . This widening shall be installed **prior to issuance of a certificate of occupancy** for the Bed and Breakfast. The driveway shall meet all required setback (not less than 5' from any property boundary), lot coverage and any other applicable dimensional requirements. **(NOTE: The applicant did provide evidence and demonstrated to the satisfaction of the DRB that the current parking area is sufficient to accommodate the three vehicles in compliance with the parking requirements).**
2. This approval is for a ONE bedroom Bed and Breakfast use. The applicant will allow Code Enforcement to periodically confirm that the use is limited to the one bedroom rental limitation. This may include review of web-based advertising, posted guest comments, or response to neighborhood complaint.
3. The subject property must be, and remain owner occupied as long as the Bed & Breakfast remains in operation.
4. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.

5. All guest parking shall be on-site and off-street.
6. No sign of the Bed and Breakfast use, other than a (separately permitted) sign, shall be visible on the exterior of the residence. Any sign will require a separate sign permit.
7. The applicant shall return to the DRB in one year after issuance of a certificate of occupancy for the Bed and Breakfast to report on any neighborhood concerns or complaints relative to the Bed and Breakfast use.
8. Regarding Standard Permit Condition #1 below the applicant will have to insure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes.
9. Standard Permit Conditions 1-15:

1. **Other City, State or Federal Permits.** The owner is solely responsible for obtaining all other required City, state and federal approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions.

**Note:** All projects receiving a Zoning Permit also require a Construction Permit or written confirmation that a Construction Permit is not required from Department of Public Works-Inspection Services Division (DPW-ISD). All construction permits must be closed out by way of approved inspections by DPW-ISD before issuance of a Unified Certificate of Occupancy (UCO) by the Code Enforcement Office as per Condition 3, below.

2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced within one year of approval. The owner shall complete the approved project and obtain a UCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) within two years of approval, or be subject to enforcement actions.

These time limits are binding upon the owner unless one of the following apply: a) longer or shorter time limits are specifically imposed by a condition of approval; or b) the time limits are tolled by additional state or federal permitting for the project or by an appeal; or c) an extension of time has been granted. An extension of time must be requested in writing PRIOR to the expiration of the permit. If the owner has enacted the permit and it lapses, the owner may be responsible to obtain a new zoning permit, if required, which shall be subject to the current Comprehensive Development Ordinance (CDO).

3. **Unified Certificate of Occupancy (UCO):** It shall be unlawful to use or occupy (or allow the use or occupancy of) any land or structure or part thereof which has been created, changed, converted, or wholly or partly altered or enlarged in its use or structure without a UCO.

**If the project is partially completed**, meets “prior to issuance of a UCO” conditions of approval, meets all health and safety standards, and all municipal fees for the project are paid, a Temporary Zoning CO may be requested and issued. **Upon completion of the project**, applicant shall request and obtain a Final UCO from the Code Enforcement Office (located at 645 Pine Street). Additional information on how to request and obtain this UCO is available at this office. **Failure to obtain a certificate of occupancy** places the property in violation of the CDO and is subject to enforcement.

In addition, **Failure to obtain a UCO within the time limits above is subject to** “after the fact” fees ranging from \$75 - \$1500 (in addition to the UCO fee).

4. **Project Modifications.** The project shall be completed as shown on the plans, which have been stamped "approved" and dated by the administrative officer. The project shall not deviate from the approved plans or conditions of approval without prior written approval from the administrative officer.
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7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.
10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to one hundred dollars (\$100) per day, municipal tickets, and/or additional permitting fees.
11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined based upon the best evidence available, for instance a survey or other official document. If a permit is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City. If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.
13. **Damage to City Property.** The Owner is responsible for any damage to the City of Burlington's property, including but not limited to its right-of-way, sewer/water lines, etcetera, that occurs during the site improvements authorized by this permit. If damage occurs, the Owner shall restore

the property to a condition equal to or better than the condition of the property prior to such damage.

14. **City Rights-of-Way and Ownership.** Permit approval does NOT authorize any work to be undertaken within the public ROW. Any work in the ROW can only occur with prior authorization by DPW and City Council, as required. Any work or improvements that are taken within the City's right of way does not diminish the City's ownership or authority regarding said right of way.
15. **Liquor License Required.** An approval of any use that includes the sale of alcoholic beverages is contingent upon the receipt of a liquor license from the City of Burlington or the State of Vermont, whichever is applicable.

**Second:** Jonathan Stevens

**Vote:** 5-0-0

**Vote:** motion carried

Dated at Burlington, Vermont, this 21 day of April, 2015.

Respectfully Submitted,



Jonathan Stevens, Development Review Board Vice Chair

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Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court, Environmental Division. (Comprehensive Development Ordinance Article 12, Section 12.2.3 Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court within 30 days of the date of the written decision as follows:

(a) **Notice of Appeal:** The appeal shall be taken in such a manner as the Supreme Court or the environmental court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3, Vermont Statutes Annotated. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the DRB, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.)

