

September 28, 2020

Via Hand Delivery

Scott Gustin, Principal Planner
Bradford L. Rabinowitz, Principal Planner
City of Burlington Development Review Board
Office of City Planning
City Hall, 3rd Floor
149 Church Street
Burlington, VT 05401

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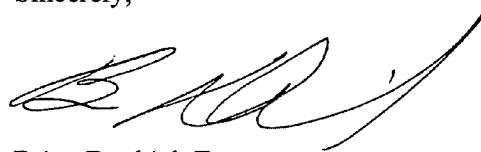
**Re: Zoning Permit 17-0662CA/MA – Notice of Appeal Pursuant to CDO Section 12.2.2 of
September 14, 2020 Zoning Administrator Decision**

Dear Mr. Gustin:

Enclosed please find BTC Mall Associates, LLC's ("BTC") appeal of the September 14, 2020 Zoning Administrator Decision, related to 75 Cherry Street (Parcel ID 044-4-033-000) which concludes that BTC cannot relinquish the above-referenced zoning permit.

Please contact me if you need additional information or have any questions.

Sincerely,



Brian Dunkiel, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
*Counsel for BTC Mall Associates, LLC and Devonwood
Investors, LLC*

cc: Don Sinex, BTC Mall Associates, LLC



Department of Permitting and Inspections

645 Pine Street
Burlington, VT 05401-8415
Phone: (802) 865-7188
www.burlingtonvt.gov/dpi

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 75 Cherry Street

Subject Property Owner: BTC Mall Associates, LLC and Devonwood Investors, LLC

Appellant: BTC Mall Associates, LLC and Devonwood Investors, LLC

Agent/Representative: Brian Dunkiel, Esq.

Mailing Address: PO Box 545

City, St, Zip: Burlington, VT 05402-0545

Day Phone: (802) 860-1003 Email: bdunkiel@dunkielsaunders.com

Appellant Signature: [Signature] Date: 9/28/20

In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

- The Appeal fee of \$250;
Description of the decision under appeal;
Description of the property subject to the appeal;
Reference to the regulatory provisions applicable to the appeal;
Relief requested by the appellant;
Alleged grounds why such requested relief is believed proper under the circumstances.

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Office Use Only:
Check No. 16289 Amount Paid 250 Zoning Permit # 21-0354AP

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CITY OF BURLINGTON DEVELOPMENT REVIEW BOARD

NOTICE OF APPEAL

BTC Mall Associates, LLC and Devonwood Investors, LLC (collectively, "BTC"), through undersigned counsel, hereby give notice of their intent to appeal to the Burlington Development Review Board ("DRB") the Decision of the Zoning Administrator in an email dated September 14, 2020 (attached hereto as **Exhibit 1**) concluding that BTC cannot relinquish zoning permit 17-0662CA/MA. This appeal is taken pursuant to Section 12.2.2 of the Burlington Comprehensive Development Code ("CDO").

Name of Appellant: BTC Mall Associates, LLC & Devonwood Investors, LLC

Address of Appellant: 101 Cherry Street Suite 440
Burlington, VT 05401

Property Identification: 75 Cherry Street

Party Status: Property owner

Regulatory provisions applicable to the appeal:

This appeal involves CDO § 3.2.9 along with other rules, regulations, and statutes associated with Appellant's appeal.

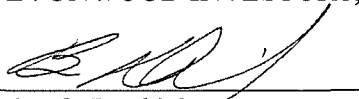
Relief Requested: Reverse Zoning Administrator's determination of September 14, 2020 that BTC may not relinquish Permit No. 17-0662CA/MA.

Grounds for Relief: The CDO provides no authority for the Zoning Administrator to deny relinquishment of a permit; the September 14, 2020 decision is without any basis in the applicable rules, regulations, or statutes.

Dated this 28th day of September, 2020.

BTC MALL ASSOCIATES, LLC
DEVONWOOD INVESTORS, LLC

By:



Brian S. Dunkiel
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
91 College Street
Burlington, VT 05402
(802) 860-1003
bdunkiel@dunkielsaunders.com

From: Scott Gustin <SGustin@burlingtonvt.gov>
Date: September 14, 2020 at 9:58:40 AM EDT
To: Donald Sinex <dsinex7184@gmail.com>
Cc: "LShelkrot@langrock.com" <LShelkrot@langrock.com>, Roger Roisman <roger@rmroisman.com>, James Aronoff <Jim.Aronoff@ThompsonHine.com>, William Ward <wward@burlingtonvt.gov>, Kimberlee Sturtevant <ksturtevant@burlingtonvt.gov>
Subject: RE: Relinquishment of Issued Zoning Permit

Good morning Don,
I've reviewed your request submitted below and have conferred with other pertinent city staff. Zoning permit 17-0662CA/MA, issued for the mixed use redevelopment of the mall, cannot be relinquished because it was released and acted on, at least in part (i.e. demolition of the rear portion of the mall). In the event that a new zoning permit is approved for redevelopment of the site and acted on, that new zoning permit could supersede 17-0662CA/MA.

Scott

Scott Gustin, AICP, CFM
Principal Planner & Asst. Administrative Officer
Dept. of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
(802) 865-7189

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From: Donald Sinex [<mailto:dsinex7184@gmail.com>]
Sent: Friday, September 04, 2020 3:05 PM
To: Scott Gustin <SGustin@burlingtonvt.gov>
Cc: LShelkrot@langrock.com; Roger Roisman <roger@rmroisman.com>; James Aronoff <Jim.Aronoff@thompsonhine.com>
Subject: Relinquishment of Issued Zoning Permit

[WARNING] External Message

Scott,

I attach a letter addressed to the DRB that relinquishes the earlier issued zoning permit for the BTC development project.

Donald F. Sinex
Managing Member
Devonwood Investors, LLC
212-203-2018
dsinex@devonwoodinvestors.com

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.