

**Burlington Development Review Board**  
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*Bradford L. Rabinowitz, Chair*  
*Geoffrey Hand*  
*Springer Charles Harris*  
*Kienan D. Christianson*  
*Zoraya Hightower*  
*Alexander J. LaRosa*  
*Brooks G. McArthur*  
*Ravi Venkataraman (alternate)*  
*Vacant, (alternate)*



**Burlington Development Review Board**  
**Findings of Fact**  
**Deliberative Hearing Tuesday, August 20, 2019**

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**Board Members Present:** Brad Rabinowitz (Chair), Alexander LaRosa, Brooks McArthur, Kienan Christianson, and Zoraya Hightower (alternate.)

**Absent:** Geoff Hand, Harris Springer, Ravi Venkataraman.

**Staff members present:** Mary O’Neil, Ryan Morrison, Layne Darfler.

**File:** ZP20-0037CA/MA

**Location:** 266 College Street

**Zone:** FD5 **Ward:** 8E

**Owner/Applicant:** Smith/Buckley Architects / Hotel Y Burlington LLC

**Request:** Major Impact/Conditional Use review for new hotel and below grade parking structure. Includes rooftop bar and restaurant.

**Evidence Presented:**

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

**I. Findings**

**Background Information:**

The applicant proposes redevelopment of the current YMCA at 266 College Street. The proposal includes retention of the historic gable-roofed building at the corner of South Union Street and College Street, demolition of north (rear) components, and construction of a new addition and structured parking.

The subject building was designed by Frank Lyman Austin and constructed in 1934 to replace the organization’s first building on Church Street, which burned in 1928. It is listed on the National Register of Historic Places within the Main Street – College Street Historic District. See attached narrative from the Federal Register.

The recent approval of a new YMCA a block east on College Street and the sale of this building has made this site available for redevelopment. The new owners propose a hotel (140-144 rooms) with a rooftop restaurant/bar.

The property is located entirely within the FD5 zone and is subject to review under the Downtown Code regulations of Article 14. As such, administrative checklists address much of the project review. This report focuses only on those items not included in the administrative checklists. Conditional use review is

required only relative to outdoor eating areas, proposed along South Union Street and College Street. (Sec. 14.6.6, h).

The Design Advisory Board reviewed this proposal at their July 23, 2019 meeting, and made recommendations in two motions:

*Motion by Matt Bushey: I move we recommend approval of the following:*

1. *Partial building demolition*
2. *Modification to existing southwest corner (entry) acceptable;*
3. *Ceiling height relief granted in part due to existing condition of historic building;*
4. *Building height to 65' per DRB review, with alternative compliance for additional height, based on the step back of the 6<sup>th</sup> floor.*

*2<sup>nd</sup> – Steve Offenhartz*

*Vote 4-0. Motion carries.*

*Motion by Steve Offenhartz:*

*I move the brick element on the northeast corner satisfies the intent for the Form Based Code in differentiating the vertical articulation of the ordinance required under 14.3.13 c) iii. The applicant's proposed distance to the planar change (<50' from the corner) is adequate and meets the 20% DRB alternative compliance option.*

*2<sup>nd</sup> – Ron Wanamaker*

*Vote 4-0.*

*Motion carries.*

The Conservation Board reviewed this application on August 5, 2019 and unanimously recommended project approval. In their motion, the Board strongly encouraged installation of rooftop solar panels and that the building be designed so that rooftop solar panels can be installed. The Board further encouraged additional bike parking within the garage.

### **Zoning Permit Background:**

- **ZP13-0737SN**; new parallel, metal signage for the YMCA. February 2013.
- **Zoning Permit 12-0684SN**; two new parallel signs for annual Giving campaign on College Street and South Union Street elevations. January 2012.
- **Zoning Permit 12-0129AW**; changing graphics on existing awning for the Y. August 2011.
- **Zoning Permit 11-0149SN**; install two parallel signs for Catamount Physical Therapy. One on College St. elevation and one on South Union Street elevation. August 2010.
- **NA12-0239NA**; Non-Applicability of Zoning Permit Requirements; temporary artwork. August 2011.
- **Zoning Permit 08-130CA**; installation of three wood windows at 2<sup>nd</sup> level into infilled brick openings. August 2007.
- **Zoning Permit 00-071**; Amend previously approved zp99-272 to allow relocation of the cogeneration system exhaust pipe to the west side of the existing YMCA as described in the application letter. Pipe will not project above roof line of structure. August 1999.

- **Zoning Permit 99-272**; installation of natural gas fired cogeneration roof top equipment for the existent YMCA. Proposal includes an underground tank, misc. piping and the installation of a door. December 1998.
- **Zoning Permit 98-075**; reopen existing window openings on the south and west elevations of the existing YMCA. New windows to match existing. August 1997.
- **Zoning Permit 91-352 / COA091-071**; installation of shed style awning over entry on College Street with repairs to stairs included. Handicapped access ramp constructed in existing doorway on South Union Street for YMCA. May 1991.
- **Zoning Permit 91-194**; wood sign. December 1990.
- **Zoning Permit 92-154**; construction of a storage shed in brick, to match the existing YWCA building for the storage of chemicals for the swimming pool. October 1991.
- **Zoning Permit 83-60**; construct a 100' x 40'? (Numbers obscured) addition to the existing building to accommodate a new swimming pool. July 1983.

**Applicable Regulations:**

Article 2 (Administrative Mechanisms), Article 3 (Applications and Reviews), Article 5 (Citywide General Regulations), Article 14 (Downtown Code)

**Article 2: Administrative Mechanisms**

**Section 2.7.8, Withhold Permit**

The subject property has expired zoning permits that have not received their required certificates of occupancy. These two permits must be closed out with certificates of occupancy (or relinquished or superseded) prior to issuance of a certificate of occupancy for any new zoning permit. **Affirmative finding as conditioned.**

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

**Section 3.2.1 (d) Pre-Application Neighborhood Meeting**

The proposal was presented at the May 8, 2019 Wards 1 & 8. Attendance and minutes have been submitted with a copy of the notary affidavit. **Affirmative finding.**

**Part 3, Impact Fees**

**Section 3.3.2, Applicability**

Impact fees will be due based on the net new building area. The applicant shall provide a final net new building area for staff to confirm the appropriate fees due.

Based on submitted area calculations, **Draft** Impact Fees are calculated as follows:

**Removed building**  
**SF of Project** 45,148

<b>Department</b>	<b><u>Offices &amp; Other</u></b>	
	<b>Rate</b>	<b>Fee</b>
Traffic	0.686	30,971.53
Fire	0.202	9,119.90

Police	0.356	16,072.69
Parks	0.425	19,187.90
Library	0.000	0.00
Schools	0.000	0.00
<b>Total</b>	1.669	<b>\$ 75,352.02</b>

New area

SF of Project 174,567

Department	Offices & Other	
	Rate	Fee
Traffic	0.686	119,752.96
Fire	0.202	35,262.53
Police	0.356	62,145.85
Parks	0.425	74,190.98
Library	0.000	0.00
Schools	0.000	0.00
<b>Total</b>	1.669	<b>\$ 291,352.32</b>

Difference **\$ 216,000.30**

Allocation by department

Enter Total Fee: \$216,000.31

Department	Offices & Other	
	Rate	Fee
Traffic	0.686	88781.43
Fire	0.202	26142.64
Police	0.356	46073.16
Parks	0.425	55003.07
Library	0.000	0.00
Schools	0.000	0.00
<b>Total</b>	#REF!	<b>\$ 216,000.30</b>

**Affirmative finding as conditioned.**

### **Section 3.3.8 Time and Place of Payment**

*(b) Existing buildings: Impact fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within thirty (30) days of issuance of the building permit. **Affirmative finding as conditioned.***

### **Part 5, Conditional Use & Major Impact Review:**

#### **Section 3.5.6 (a) Conditional Use Review Standards**

*Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:*

- 1. Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;*

The property is served by municipal utilities. A letter of capacity for water and sewer service from the Department of Public Works Water Division will be required prior to release of the permit. A State of Vermont wastewater permit will be required. The applicant is advised to inquire with VT DEC as to wastewater permit requirements. **Affirmative finding as conditioned.**

- 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;*

The property is located within the downtown, specifically within Form District 5. This zone is intended for a variety of high density building types that provide locally and regionally serving office, retail, service, hospitality, entertainment, and civic functions. The district is characterized by shallow front yard setbacks and active street frontages. The outdoor eating area along South Union Street and as proposed in the ROW on College Street helps to activate this street frontage and is consistent with the intent of the zone. **Affirmative finding as conditioned.**

- 3. The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

The outdoor eating areas along College and South Union Streets will likely be seasonal. Insofar as it is directly across the street from residences on South Union Street, the zoning permit application will articulate days and hours of operation (and seasonality, if applicable) of this outdoor eating area. The applicant has defined the outdoor patio on South Union Street will be utilized for breakfast coffee; afternoons for light beverages. It is anticipated that all evening refreshments will be provided indoors. Times of operation should respect the nearby residential uses. **Affirmative finding as conditioned.**

- 4. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and*

*access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies;*

See Sec. 3.5.6 (b) 5 below.

The DRB requires that the proposed pickup/drop-off area on College Street be replicated on the Union Street frontage, as it is closer to the identified main entrance and will ease potential congestion along College Street. **Affirmative finding as conditioned.**

*and,*

5. *The utilization of renewable energy resources;*

No renewable energy utilization is included in this proposal. The Conservation Board made a strong recommendation for the installation of solar panels, and that the building be constructed with that available option. (Meeting August 5, 2019. Minutes attached.) The applicant is encouraged to consider the feasibility of rooftop solar. **Affirmative finding.**

*and,*

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

It is the applicant's responsibility to comply with other applicable city and state bylaws and ordinances. **Affirmative finding as conditioned.**

#### **(b) Major Impact Review Standards**

1. *Not result in undue water, air, or noise pollution;*

No significant air or noise pollution is anticipated as a result of this development. A state wastewater permit will be needed. A capacity letter from the Department of Public Works will be needed prior to obtaining the state wastewater permit. **Affirmative finding as conditioned.**

See Sec. 5.5.3 for stormwater management.

2. *Have sufficient water available for its needs;*

The development will be served by the city's water supply system. A capacity letter from the Water Division will be required to confirm availability and capacity. **Affirmative finding as conditioned.**

3. *Not unreasonably burden the city's present or future water supply or distribution system;*

A new wastewater line will be constructed as part of this project. The project intends to connect to the existing municipal water main on College Street in accordance with DPW requirements. Any changes will require review and approval by the Department of Public Works. **Affirmative finding as conditioned.**

4. *Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;*

See Sec. 5.5.3.

5. *Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;*

A traffic impact assessment has been provided, shared and revised per comments submitted by the Department of Public Works. The assessment addresses standard items like trip generation, intersection capacity, and high crash locations. Additional detail and comments from the Department of Public Works were provided August 20, 2019. DPW and VHB agree on estimated trip generation and distribution figures: A total of 68 net new trips weekday mornings (peak) and 87 net new trips weekday evenings. Minimal additional delay at nearby intersections will result from the new development. LOS remains acceptable with little or no change in service due to the project. DPW acceptability of the revised TIS, with recommendations remains a condition of approval. The DRB will require replication of the College Street drop-off/pickup area on South Union Street as a condition of approval. **Affirmative finding as conditioned.**

*6. Not cause an unreasonable burden on the city's ability to provide educational services;*  
No impacts on the city's educational system are anticipated as a result of this commercial development. **Affirmative finding.**

*7. Not place an unreasonable burden on the city's ability to provide municipal services;*  
The proposed commercial development will generate additional impacts on city services; however, those impacts are expected to be relatively modest. Impacts will be mitigated by payment of impact fees based on the net new building area. **Affirmative finding as conditioned.**

*8. Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;*  
See Article 5 for historic buildings.

*9. Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;*  
The proposed development will bring additional hotel rooms and a rooftop public restaurant to the city's downtown. Within the downtown, the hotel will be located close to a variety of city attractions and services. Institutions are located nearby at the top of the hill. The project will not adversely impact the city's present or future growth patterns. The increase in intensity of development on this site is not expected to have an undue adverse impact on the city's ability to accommodate growth. **Affirmative finding.**

*10. Be in substantial conformance with the city's municipal development plan;*  
The proposed redevelopment substantially complies with the municipal development plan.

This redevelopment intensifies the degree development on this property within the city's downtown. While doing so, it retains the historically significant building along College Street. Applicable standards will require that the present absence of stormwater management be replaced with comprehensive onsite stormwater management infrastructure that will significantly mitigate offsite discharge. (Distinctive City, Policies 1, 2, & 3).

The project will bring about additional economic development to the city's downtown, thereby strengthening the city's status as a regional growth center. Applicable energy efficiency standards will

result in a much more energy efficient building than is presently the case (Dynamic City, Policies, 6 & 10).

The project's downtown location ensures access to a variety of transportation options, thereby lessening dependence on personal vehicle travel (Connected City, Policy 17). **Affirmative finding.**

*11. Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability and location;*

The proposed commercial development will have no adverse impact on the present or projected housing needs of the city. **Affirmative finding.**

*12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.* Little impact on the city's park and recreation needs is expected as a result of this development.

What impacts there are will be mitigated by payment of applicable impact fees. **Affirmative finding as conditioned.**

*(c) Conditions of Approval:*

*In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:*

*1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

The hotel and rooftop restaurant will likely not generate offsite noise or glare substantial enough to require mitigation. **Affirmative finding.**

*2. Time limits for construction.*

. The standard 3-year timeframe for zoning permits applies. **Affirmative finding as conditioned.**

*3. Hours of operation and/or construction to reduce the impacts on surrounding properties.*

Hours of operation are not applicable to the hotel project. The owner provided testimony that the outdoor seating area proposed for South Union Street will be utilized for morning coffee, and afternoon light refreshments. Any further food and beverage service will be provided indoors at the rooftop restaurant/bar. **Affirmative finding as conditioned.**

Unless specifically requested in advance and approved by the DRB, days and hours of construction shall be limited to Monday – Friday from 7:30 AM – 5:30 PM. Saturday construction may occur for interior work only. No construction activity on Sunday.

*4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions;*

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time. *and,*



5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.  
See the recommended conditions.

**Article 5: Citywide General Regulations**

**Section 5.2.3, Lot Coverage Requirements**

See Form Code standards, Article 14 (below.)

**Section 5.2.4 Buildable Area Calculation**

Not applicable.

**Section 5.2.5 Setbacks**

See Form Code standards, Article 14 (below.).

**Section 5.2.6 Building Height Limits**

See Form Code standards, Article 14 (below.).

**Section 5.2.7 Density and Intensity of Development Calculations**

Not applicable in FD5.



**Sec. 5.4.8 Historic Buildings and Sites**

*The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:*

*To preserve, maintain and enhance Burlington’s historic character, scale, architectural integrity, and cultural resources;*

*To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;*

*To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,*

*To promote the adaptive re-use of historic buildings and sites.*

*(a) Applicability:*

*These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.*

266 College Street is listed on the National Register of Historic Places within the Main Street College Street Historic District.

*(b) Standards and Guidelines:*

*The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.*

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

The property was constructed as a building for the Young Men's Christian Association (YMCA.) Additions included those for a pool (northerly most addition, 1983) and storage (1991.) The northerly most pool addition is non-contributing, but the original pool, which is proposed for demolition, is part of the historic whole of the site.

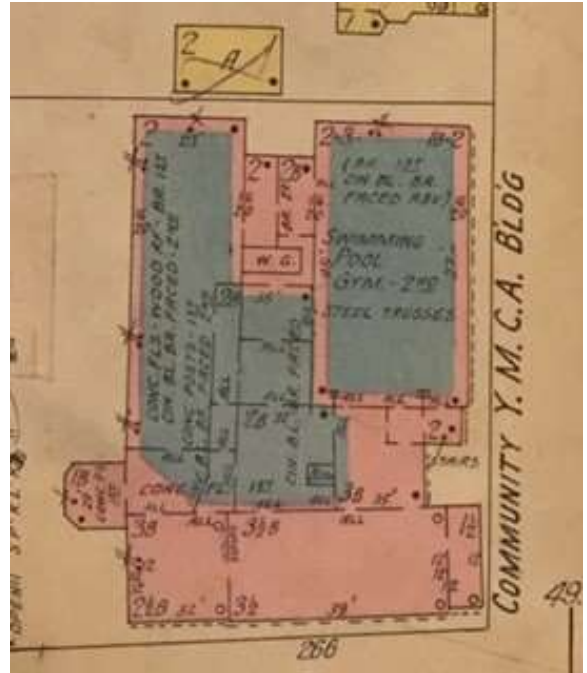
The YMCA began as a welfare movement in London, but has branches all over the world. It is typically associated with use as a *hostel* for young men, which may include recreational facilities.

Although the new use is no longer proposed to be centered on fitness/recreational activities, the short term residential occupancy associated with the original YMCA is similar to the residency of a hotel. In that manner, the use is not so dissimilar. **Affirmative finding.**

- The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

The structure at the corner of South Union and College Streets is proposed to be retained and rehabilitated for the new use. The National Register nomination identifies the central addition on the north among the spatial characteristics of the building without discount to its value. From the 1942 Sanborn Map image, that central section is original to the building.

Both the central and northerly addition are proposed to be removed. **Affirmative finding.**



1942 Sanborn Map image.

- Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

Conjectural features from other properties are not proposed. The building addition is clearly a product of its own time and obvious in its new design. The 1934 F.L. Austin building (without northerly pool addition) will remain intact. **Affirmative finding.**

- Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

The northerly pool and storage additions have garnered no merit on their own part, and are considered non-historic. The central addition is original to the Austin design; its proposed demolition sparks requirements of Section 5.4.8 (d).

The sheltered entrance on the east façade will be retained and utilized as a primary and focal entrance to the hotel. The DRB will require that the brickwork in the gable end come down to the ground.

**Affirmative finding as conditioned.**

- Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

The southeasterly building is proposed to be rehabilitated, with new windows, repointing of mortar, and installation of a new entryway within the corner structural component. Rather than re-sheathing the southeasterly corner entrance, the DRB requires that the brickwork continue to arrive at the ground. A new entry may be introduced. **Affirmative finding as conditioned.**

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

Windows are proposed to be replaced in the original corner building, matching the design and appearance of the existing windows. Specific treatments and alterations are detailed in the VHB memorandum, dated June 25, 2019. **Affirmative finding as conditioned.**

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

No chemical or physical treatments are identified within the submission materials.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

There are no known archaeological deposits on this site; however the Y was built into the Burlington Ravine. Other than a brick sewer, there may be any kind of fill debris below the building site. Discovery of any resources during construction shall be reported to the Vermont Division for Historic Preservation for assessment, evaluation, and appropriate disposition. **Affirmative finding as conditioned.**

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

The proposed addition is connected by a small hyphen from the north side of the existing building. The addition rises a full 6 stories; taller in height than the existing building. The project anticipates exploitation of the significant grade change (former ravine) to provide new opportunities for parking and service area. The northeasterly corner drops to four stories, creating a transition to buildings of smaller scale on South Union Street.

The sixth floor is proposed to be highly glazed; its appearance above the F.L. Austin corner building is visible, but unobtrusive as interpreted by the submitted modeling. As it is set back from both the College Street and South Union Street facades, it is less discernable by the passerby.

The westerly addition (attached to the College Street façade) is clearly modern in vocabulary and evident as new construction. Visibility of the west façade is largely obscured by other buildings and the changing grade of the street. **Affirmative finding as conditioned.**

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

While unlikely, it is conceivable that the new addition could be detached and removed from the existing YMCA building without negative impact to the historic resource. The original pool addition, however, is less likely so. The YMCA that faces College Street, however, embodies the essential form of the original use, and therefore the integrity of the property and its environment may be interpreted to be impaired to a lesser degree. **Affirmative finding.**

#### **Section 5.4.8 (d) Demolition of Historic Buildings**

*The purpose of this subsection is:*

- *To discourage the demolition of a historic building, and allow full consideration of alternatives to demolition, including rehabilitation, adaptive reuse, resale, or relocation;*
- *Provide a procedure and criteria regarding the consideration of a proposal for the demolition of a historic building; and,*
- *To ensure that the community is compensated for the permanent loss of a historic resource by a redevelopment of clear and substantial benefit to the community, region or state.*

1. *Application for Demolition.*

*For demolition applications involving a historic building, the applicant shall submit the following materials in addition to the submission requirements specified in Art. 3:*

- A. *A report from a licensed engineer or architect who is experienced in rehabilitation of historic structures regarding the soundness of the structure and its suitability for rehabilitation;*

The applicant is a licensed architect who proposes rehabilitation of a portion of the historic structure, and demolition of the northern additions.

- B. *A statement addressing compliance with each applicable review standard for demolition;*

The submission materials direct attention to the Standards of Review for Demolition.

- C. *Where a case for economic hardship is claimed, an economic feasibility report prepared by an architect, developer, or appraiser, or other person experienced in the rehabilitation and adaptive reuse of historic structures that addresses:*

- (i) *the estimated market value of the property on which the structure lies, both before and after demolition or removal;*

This has not been provided.

*and,*

- (ii) *the feasibility of rehabilitation or reuse of the structure proposed for demolition or partial demolition;*

Rehabilitation of the central pool building is not proposed. SBA memo Attachment 4 is made to support the redevelopment rather than rehabilitation of the northerly buildings.

- D. *A redevelopment plan for the site, and a statement of the effect of the proposed redevelopment on the architectural and historical qualities of other structures and the character of the neighborhood around the sites;*

The subject of this application is redevelopment of the site, with a partial demolition of the former YMCA. See VHB Memorandum and comments of Britta Tonn.

*and,*

- E. *Elevations, drawings, plans, statements, and other materials which satisfy the submission requirements specified in Art. 3, for any replacement structure or structures to be erected or constructed pursuant to a development plan.*

These have been included as part of the submission packet.

2. *Standards for Review of Demolition.*

*Demolition of a historic structure shall only be approved by the DRB pursuant to the provisions of Art. 3, Part 5 for Conditional Use Review and in accordance with the following standards:*

- A. *The structure proposed for demolition is structurally unsound despite ongoing efforts by the owner to properly maintain the structure;*

The applicant does not claim structural instability that would prevent occupancy, but rather the steep challenge of rehabilitation for a current use.

*or,*

- B. *The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property in conformance with the intent and requirements of the underlying zoning district; and, the structure cannot be practicably moved to another site within the district;*

Moving the northerly sections of the building is not practically conceivable. Redevelopment that would consider rehabilitation of aging indoor pools and fitness areas would have intense structural concern with limited practical application.

*or,*

- C. *The proposed redevelopment of the site will provide a substantial community-wide benefit that outweighs the historic or architectural significance of the building proposed for demolition.*

The VHB memo underlines the high demand for quality hotel accommodations within the City, the creation of jobs, the opportunity to provide public gathering places (lobby, rooftop restaurant/bar), and enhanced tourism.

*And all of the following:*

*D. The demolition and redevelopment proposal mitigates to the greatest extent practical any impact to the historical importance of other structures located on the property and adjacent properties;*

See VHB Memorandum, p. 7.

*E. All historically and architecturally important design, features, construction techniques, examples of craftsmanship and materials have been properly documented using the applicable standards of the Historic American Building Survey (HABS) and made available to historians, architectural historians and others interested in Burlington's architectural history;*

The applicant team has committed to preparation of a Historic Resource Documentation Package, to be completed prior to the commencement of project activities. This shall be provided to the city for retention within the zoning file, as well as to the Vermont Division for Historic Preservation.

*and,*

*F. The applicant has agreed to redevelop the site after demolition pursuant to an approved redevelopment plan which provides for a replacement structure(s).*

*(i) Such a plan shall be compatible with the historical integrity and enhances the architectural character of the immediate area, neighborhood, and district;*

The new addition will be contemporary in design, but utilizes building step-backs and differing materials to fit within the context of the neighborhood.

*(ii) Such plans must include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project;*

The YMCA is not expected to move to their new location until spring 2020; demolition of the north wings will begin thereafter with construction commencing within the required 6-month window. The entire project is estimated to take 18 months from start to finish; reasonably within the three year zoning permit window.

*and,*

*(iii) The time between demolition and commencement of new construction generally shall not exceed six (6) months.*

See above.

*This requirement may be waived if the applicant agrees to deed restrict the property to provide for open space or recreational uses where such a restriction constitutes a greater benefit to the community than the property's redevelopment.*

The applicant does not propose deed restriction for open space or public recreation.

**Affirmative finding as conditioned.**

3. *Deconstruction: Salvage and Reuse of Historic Building Materials.*

*The applicant shall be encouraged to sell or reclaim a structure and all historic building materials, or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials for future use. An applicant may be required to advertise the availability of the structure and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition.*

The applicant has offered to make building materials available for salvage. See VHB Memorandum, p. 9.

**Affirmative finding.**

**Section 5.5.1, Nuisance Regulations**

Nothing in the proposal appears to constitute a nuisance under this criterion.

**Section 5.5.2 Outdoor Lighting**

The applicant has provided photometrics (exterior, and garage deck interiors) and fixture information. A mixture of down lighting, wall mounts, and poles are proposed. Light levels are acceptable, but there are illustrated fixtures within the southerly canopy that extend into the public ROW. Sufficiently placed high above the sidewalk at the vertical access entry, they will need to be included within an encroachment agreement with the Department of Public Works and approved by City Council. Similarly, pole lights proposed within the ROW will require approval by the same bodies. **Affirmative finding as conditioned.**

**Section 5.5.2 (F) Specific Outdoor lighting Standards**

**5. Parking Garage Lighting**

Illuminance for the parking garage as provided is generally higher than recommended by IESNA RP-20-98. Parking floors are expected to have an overall illuminance of 5 fc (8-9 provided), with a 10:1 max/min horizontal uniformity ratio. Similarly, the entrance ramp should not exceed 50 fc (52.4 provided) as a transition from daylight to the interior of the facility. A revised photometric for the garage lighting shall be provided to reflect these standards, or any current standards of IESNA or similar.

**Affirmative finding as conditioned.**

**Section 5.5.3 Stormwater and Erosion Control**

The submission includes a fully articulated stormwater management plan and construction site erosion prevention and sediment control plan that were forwarded to the Stormwater Engineering group for review. Approval of both documents will be a condition of approval. **Affirmative finding as conditioned.**

**Article 8: Parking**

Parking within the Form Districts is addressed within the compliance checklists completed by the applicant. One area that is not specifically addressed within the Form Codes checklists is bicycle parking. Bike parking for the use (Temporary lodging; hotel, motel, etc.) is 1 per 20 rooms Long Term Spaces; and 2 per 20 rooms Short term spaces. For 144 rooms, **7 Long Term Spaces and 14 Short Term Spaces** are required. The applicant has given testimony that long term spaces will be provided within the building at the lower level. Short term spaces are illustrated in two locations on the site plan within the ROW. The DRB requires that the applicant secure approval from DPW and City Council as necessary for bike



parking within the public ROW; alternately provide Payment in Lieu to DPW (as allowed by Section 8.2.7) to provide bike parking at their chosen location to accommodate the project. **Affirmative finding as conditioned.**

## **Article 14: Plan BTV Downtown Code**

### **Section 14.6.4 Building Height**

#### **(f) Design and Public Space Standards Required for Additional Building Height**

*i. Design Standards: The maximum building height and mass are permitted By Right by the underlying Form District, as may be modified by the chosen Building Type and Frontage Type. However, there are a number of ways that building shape, articulations, and choice of materials can be used to reduce the perceived height and mass of taller buildings, and ensure a high quality of design that complements the character of the Downtown and Waterfront area.*

*After consultation with the Design Advisory Board and a Public Hearing, the Development Review Board shall evaluate any proposal seeking additional Building height under each of the following additional design standards, and find affirmatively that:*

- a. The proposed building presents a design that emphasizes slender, vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline; reinforces opportunities for establishing points of reference for visual orientation; and provides visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing, or other architectural design techniques;*

The applicants are seeking a maximum height of 72.51' above the average grade. This form district allows 45' by right, with height up to 65'/6 stories with DRB review. There is also a provision (see below) allowing for up to 20% relief ( $65' \times .20 = 13'$ ) from standards. Combined, these standards allow for consideration of the height requested.

The building elevations illustrate a vertical rhythm with fenestration in regular columns, building articulation that guides the eye upward, and changing materials in vertical segments. Human scale is addressed along the pedestrian level of South Union Street with a proposed Office front, Doorway and Terrace building frontages, accentuated with easily identifiable entrances, landscaping, a canopied patio area, and generous glazing.

- b. Step backs, horizontal and vertical variation, selection of materials, and/or other architectural design technics are used to reinforce the street wall, create transitions from buildings of a smaller mass and height, and reduce the perceived height and mass of upper stories from the street level;*

The plane of the new building varies along the streetfront, with the northeasterly corner extruded to the property frontage line abutting the pedestrian way. Corresponded recesses appear at the north elevation where building planes change again. Alternation is evident, again, in the manipulation of fenestration: regularly spaced in vertical columns along the east and north elevations, yet banded in the uppermost floor. The beltcourse of the Austin building is echoed in the smaller (yet similarly scaled and sheathed) northeasterly corner. Pronounced cornice lines cap each building mass.

The southwesterly component of the addition is smaller in scale; deferential to the existing Austin building and set back from the streetfront (also to accommodate garage access.) The larger addition is firmly set behind the historic streetfront building.

The DRB requires that there be an additional step-back along the South Union Street façade at the fifth floor level to reduce the apparent building mass and pronounced street wall along that façade. Revised plans shall be submitted to staff for review.

*and,*

- c. *Upper story proportions of the building are oriented and tapered and/or separated into separate masses in order to retain sky view between individual building elements from the public thoroughfare.*

Due to the rising grade of College Street and the relatively flat plane of South Union Street, it is unlikely that views between individual building elements will be afforded from the public thoroughfare. The required step back at the fifth floor level will help visually reduce the building's perceived mass. The roof planes are differentiated and articulated at differing elevations, varying the sky view between these building components.

*The DRB may condition approval of additional building height by reducing the By-Right building mass by no more than 10% of the total floor area of the new floors enabled by granting the additional building height. In no case shall the maximum By-Right building height be reduced.*

The DRB has reduced the by right building mass by requiring a step-back at the fifth floor level on the east side (part of the additional height requested) to minimize the apparent building volume at the South Union Street frontage. The area of the reduction cannot exceed 10% of the total floor area of the new floors enabled by granting the additional building height. Final calculation will be made upon submittal of final plans. **Affirmative finding as conditioned.**

*ii. Active Public Space and Restrooms*

*A minimum of 20 sf/1,000 sf of the gross floor area above 85 feet shall be dedicated to active and publicly accessible upper story rooftops and terraces, and/or street-level public restrooms as follows....*

Not applicable. The building is not proposed to exceed 85'.

**Section 14.7.3 (b) Alternative Compliance Granted by the Development Review Board**

- i. *DRB Alternative Compliance: Relief from any non-numerical standard by no more than 20% of such requirement or an additional 10% beyond any Administrative Relief permit above, may be granted by the Development Review Board after review and recommendation by the Design Advisory Board and a Public Hearing. Decisions by the DRB regarding any Alternative compliance granted shall be made in writing and upon affirmative findings that:*

- A. *The relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;*

The project applicant is requesting relief in two areas: Relief from the 65' maximum height; instead proposing 72.51' above the average grade. The difference (7.51') is less than the 20% maximum relief allowance (13'), measuring 11.55% deviation. The applicant has offered that the significant changing grade of the site, situated well into Burlington's ravine, to present a unique challenge. Coupled with the topography, the existing building has 20 different vertical levels, which the plan seeks to remediate in the expansions.

A second area of relief requested is in the Floor-to-Floor height of the first floor. **Article 14, Section 14.4.10 – Mixed Use Building** type; Required ground floor height, floor to floor = 14' minimum.) The plan proposes 12' 5 3/4" in order to align new floors with existing floors. 12' maximum administrative relief is afforded in Table 14.7.3-A, with the caveat that *The relief is necessary to better align floors with pre-existing adjacent Building*. DRB relief is an additional 10% beyond administrative relief. 14' required, - 1 ft. admin relief – (10% 13' or 1.3') = 12.4'. 12' 5 3/4" proposed.

- B. The relief if granted is the minimum necessary to achieve the desired result;*  
In trying to reconcile floors that do not align, the ravine, and the opportunity of below grade parking, the applicant feels the request for relief in both building height and floor-to-floor height is well exercised in this plan.
- C. The property will otherwise be developed consistent with the purpose of this ordinance, the intent of the Form District, the intent and purpose of the section that the relief is being sought, and all other applicable standards;*  
The application seeks compliance in all other matters of Plan BTV Downtown Code. Confirmation of compliance with the FBC Checklists will be the task of staff.
- D. The relief if granted will not impose an undue adverse burden on existing or future development of adjacent properties;*  
There are no known adverse impacts introduced to neighboring properties or future development of adjacent properties.  
*And*
- E. The relief, if granted will yield a result equal to or better than strict compliance with the standard being relieved.*  
This site is among the most challenging in the city. The intent of Plan BTV Downtown Code is to utilize physical form as the organizing principle in shaping new development. Burlington's unique characteristics, including significantly changing grades, sometimes tests parameters of dimensional standards, like average building height. The existing building presents unique challenges in the number of vertical levels present, and the desire to align floors with the existing conditions. Consideration of relief in these areas, as allowed by this section, will acknowledge the challenges of context while respecting the goals of the Plan.  
**Affirmative finding as conditioned.**

## **II. Minutes**

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

## **III. Motion by Brad Rabinowitz**

In the matter of 266 College Street, ZP20-0037CA/MA, I move we approve the application and adopt Findings and conditions noted herein.

**IV. Conditions of Approval**

1. The subject property has expired zoning permits that have not received their required certificates of occupancy. These two permits must be closed out with certificates of occupancy (or relinquished or superseded) **prior to issuance of a certificate of occupancy** for any new zoning permit.
2. The DRB specifically gives approval to the additional height requested beyond the By-Right allowance, with the condition that the building step back at the fifth floor level on South Union Street. Revised elevations and plans shall be provided to staff for review and approval.
3. The DRB offers Alternative Compliance/relief on the floor-to-floor height of the first floor, based on the Findings of Section 14.7.3 (b), above.
4. The DRB requires that the pull-off/drop-off area on College Street be replicated along the South Union Street frontage.
5. Impact fees will be due based on the net new building area. Based on submitted area calculations, the following **is an estimate** of those fees. A final calculation will be made by staff based on finalized area calculations submitted by the applicant.

**Removed building**

**SF of Project** 45,148

<b>Department</b>	<b><u>Offices &amp; Other</u></b>	
	<b>Rate</b>	<b>Fee</b>
Traffic	0.686	30,971.53
Fire	0.202	9,119.90
Police	0.356	16,072.69
Parks	0.425	19,187.90
Library	0.000	0.00
Schools	0.000	0.00
<b>Total</b>	1.669	<b>\$ 75,352.02</b>

**New area**

**SF of Project** 174,567

<b>Department</b>	<b><u>Offices &amp; Other</u></b>	
	<b>Rate</b>	<b>Fee</b>
Traffic	0.686	119,752.96
Fire	0.202	35,262.53
Police	0.356	62,145.85
Parks	0.425	74,190.98
Library	0.000	0.00

Schools	0.000	0.00
<b>Total</b>	1.669	<b>\$ 291,352.32</b>

Difference **\$ 216,000.30**

**Allocation by department**

Enter Total Fee: **\$216,000.31**

<b>Department</b>	<b>Offices &amp; Other</b>	
	<b>Rate</b>	<b>Fee</b>
Traffic	0.686	88781.43
Fire	0.202	26142.64
Police	0.356	46073.16
Parks	0.425	55003.07
Library	0.000	0.00
Schools	0.000	0.00
<b>Total</b>	<b>#REF!</b>	<b>\$ 216,000.30</b>

6. Impact fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within thirty (30) days of issuance of the building permit.
7. The days and hours of operation of any outdoor seating shall be limited to mornings and afternoons. Evening refreshment shall be provided within the building or on the rooftop deck.
8. A State Wastewater permit will be required. It is the obligation of the applicant/owner to secure such permit.
9. Conditions and recommendations of the Department of Public Works relative to the submitted Traffic Impact Study are incorporated into Conditions of Approval.
10. **Days and hours of construction** shall be limited to Monday – Friday from 7:30 AM – 5:30 PM. Saturday construction may occur for interior work only. No construction activity shall occur on Sundays.
11. On the southeast corner, the brickwork in the gable end shall come down to the ground. A new entry may be introduced at this location.
12. Discovery of any archaeological resources within the ravine during construction shall be reported to the Vermont Division for Historic Preservation for assessment, evaluation, and appropriate disposition.
13. A Historic Resource Documentation Package will be completed prior to the commencement of development, and provided to the City for retention within zoning project files. This HRDP shall also be provided to the Vermont Division for Historic Preservation.
14. **Prior to release of the zoning permit**, a revised photometric plan for the garage lighting shall be provided to reflect adjusted light measurements consistent with IESNA RP-20-98, or current edition of IESNA or similar lighting manual.

15. **Prior to release of the zoning permit**, Erosion Prevention and Stormwater management plans shall be approved, in writing, by the stormwater engineering program.
16. Any conditions imposed by the Form Based Code checklists (see attachment to permit).
17. Standard Permit Conditions 1-15.

**Second:** Zoraya Hightower

**Vote: 5-0**

**Vote: motion carried**

Dated at Burlington, Vermont, this \_\_\_\_ day of August, 2019.

Respectfully Submitted,

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Bradford L. Rabinowitz, Development Review Board 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.)**