

From: **Scott Gustin** <SGustin@burlingtonvt.gov>
Date: Fri, Sep 18, 2020 at 2:48 PM
Subject: RE: Relinquishment of Issued Zoning Permit
To: Brian Dunkiel <bdunkiel@dunkielsaunders.com>
Cc: Kimberlee Sturtevant <ksturtevant@burlingtonvt.gov>, Jesse Beck <jbeck@ffinc.com>

Good afternoon Brian,

I'm looking to check in with others as to the specifics around zoning permit relinquishment and will follow up shortly.

As to my recommendation for the NPA, it's based on the introduction of more than 5 additional dwelling units as compared to the prior iteration of the project presented to the public this past winter. This alone is sufficient to necessitate a pre-application NPA meeting. See Sec. 3.2.1 (d) of the CDO. I think skipping it would leave the project vulnerable to procedural challenge.

Scott

Scott Gustin, AICP, CFM

Principal Planner & Asst. Administrative Officer

Dept. of Permitting & Inspections

645 Pine Street

Burlington, VT 05401

(802) 865-7189

From: Brian Dunkiel [mailto:bdunkiel@dunkielsaunders.com]
Sent: Tuesday, September 15, 2020 5:00 PM
To: Scott Gustin <SGustin@burlingtonvt.gov>
Cc: Kimberlee Sturtevant <ksturtevant@burlingtonvt.gov>; Jesse Beck <jbeck@ffinc.com>
Subject: FW: Relinquishment of Issued Zoning Permit

[WARNING]: External Message

Hi Scott,

I am writing on behalf of BTC and look forward to continue to work with you, on behalf of BTC, to advance the revised project through the zoning review process. BTC is eager to file a zoning application for the revised project.

BTC received your email of September 14 purporting to reject its September 4 notice abandoning, withdrawing and relinquishing its submission related to the Burlington Town Center project. BTC disagrees with your conclusion, and wants to understand the basis for your decision.

In your email, you do not explain the basis for your authority as the zoning administrator to reject the notice, and BTC has not been able to locate any authority supporting your claim that the permit cannot be relinquished because it has been partially acted upon. Could you please identify the authority you rely on so that we can better understand the zoning administrator's position? If the zoning administrator's position is based on past practice, we would also request that you provide examples of situations in which a notice of relinquishment was rejected for similar reasons.

In addition, it is my understanding that you recently notified BTC that it needs to present the revised project at an NPA meeting before it can file a zoning application. However, you may recall, BTC held two public meetings earlier this year on the project, including following the notice requirements in the P&Z guidance. BTC is eager to file an application. Can you please explain why the public meetings earlier this year do not satisfy the BZO 3.2.1(d) requirement?

Thank you,

Brian

Begin forwarded message:

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>](mailto: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

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Burlington, VT 05401

(802) 865-7189

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

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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.

--

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