

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin *SR*
DATE: December 2, 2014
RE: 15-0597CU/HO; 28 East Village Drive

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: I Ward: 7

Owner/Representative: Burlington Cohousing at East Village / Cheryl Herrick

Request: Establish food processing home occupation. Using condo association communal kitchen for portion of process.

Applicable Regulations: Article 3 (Applications and Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), and Article 8 (Parking)

Background Information:

The applicant is seeking approval to establish a home occupation for creating specialty sauces. No site or exterior building construction is included in this application. This home occupation request is unusual in that it involves use of the cohousing community kitchen rather than one within the applicant's dwelling unit. However, the nature and effect of the proposed home occupation remain consistent with home occupations generally. The primary use remains residential.

There are no previous zoning permits on file for the subject dwelling unit except for the cohousing subdivision approval granted on 1/10/06.

Recommendation: Conditional use approval as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

(1) *The capacity of existing or planned community facilities;*

The proposed home occupation will have no perceptible impacts on existing or planned community facilities. **(Affirmative finding)**

(2) *The character of the area affected;*

The subject property is split among three zoning districts: RL along East Avenue, Institutional further behind, and RCO-RG at the rear of the property. Most of the cohousing units, including

the applicant's dwelling and communal kitchen, are located in the Institutional portion of the property. This zone is intended primarily for use by the city's major health care and educational institutions but allows related and other uses, including multi-family dwellings. Cohousing is an allowed use and will remain unchanged. Home occupations are allowed in this zone, subject to the restrictions of Section 5.4.6 of the CDO as noted in these findings. The proposed home occupation will not entail any site or exterior building changes and will not adversely impact the character of the area. **(Affirmative finding)**

(3) Traffic on roads and highways in the vicinity;

Traffic impacts associated with the proposed home occupation are expected to be minimal. Sauce production will take place once per month. The only traffic related to the proposed home occupation will occur when customers come to the premises to purchase and pick up sauces. **(Affirmative finding)**

(4) Bylaws then in effect;

As conditioned, the application is consistent with applicable bylaws. **(Affirmative finding)**

(5) Utilization of renewable energy resources;

Not applicable.

(6) Cumulative impacts of the proposed use;

The proposed home occupation is not expected to generate any significant impacts, cumulative or otherwise. **(Affirmative finding)**

(7) Functional family;

Not applicable.

(8) Vehicular access points;

The subject property is served by a private driveway. The home occupation does not require any change to this access point. **(Affirmative finding)**

(9) Signs;

No exterior signs are proposed for the home occupation. **(Affirmative finding)**

(10) Mitigation measures;

The proposed home occupation does not result in impacts warranting mitigation measures. **(Affirmative finding)**

(11) Time limits for construction;

No construction schedule is needed for this proposal. **(Affirmative finding)**

(12) Hours of operation and construction;

Days and hours of operation are not specified. As proposed, sauce production will be limited to just once per month. In light of the communal nature of the kitchen, scheduling ahead will be required. As proposed, at least 1 week's notice to residents will be provided ahead of sauce production. **(Affirmative finding)**

(13) Future enlargement or alterations;

Any future enlargement or alterations of the home occupation will require additional permit review per the regulations in effect at that time.

(14) Performance standards;
Not applicable.

(15) Conditions and safeguards;
See proposed conditions of approval.

Article 4: Maps & Districts

Sec. 4.4.4, Institutional District:

(a) Purpose

(1) Institutional (I)

The proposed home occupation will take place within the I zone. This zone is intended primarily for the city's major health care and educational institutions. Related and other uses, such as multi-family dwellings, are allowed. The existing cohousing development will remain. **(Affirmative finding)**

(b) Dimensional Standards & Density
Not applicable.

(c) Permitted & Conditional Uses

The existing cohousing multi-family development is a conditional use in the I zone. The proposed home occupation may also be conditionally allowed. **(Affirmative finding)**

Article 5: Citywide General Regulations

Part 4: Special Use Regulations

Sec. 5.4.6, Home Occupations

1. A home occupation shall be conducted solely by resident occupants plus no more than one additional full-time equivalent employee in RL and WRL districts and no more than two (2) full-time equivalent employees in other districts. The home occupation shall be conducted entirely within an existing dwelling unit and/or one enclosed accessory structure.

The home occupation will be conducted by one resident occupant and one non-resident. The sauce-making will take place entirely within the communal kitchen. The minimal amount of related administrative work will take place at a desk in the applicant's dwelling unit. **(Affirmative finding)**

2. No more than thirty-five percent (35%) of the floor area of said residence, including accessory structures, up to a maximum of seven hundred fifty (750) square feet, whichever is less, shall be used for such purpose.

The common dwelling area within the common house condo building amounts to 2,616 sf. The kitchen comprises 420 sf (16.1%) of this area. Within the applicant's dwelling unit, only a desk area of ~ 5 sf will be used. No size information for the dwelling is provided. Presumably, 5 sf is within the size limit for a home occupation. A total square footage of the subject dwelling unit is needed for confirmation. **(Affirmative finding as conditioned)**

3. No home occupation shall require alterations, construction or equipment that would change the fire rating of the structure or the fire district in which the structure is located.

The home occupation does not result in a change to the fire rating of the structure. No modifications to the existing kitchen are needed. The application materials reflect consultation with the city Fire Marshal. **(Affirmative finding)**

4. There shall be no outside storage of any kind related to the home occupation.

No outside storage is proposed. **(Affirmative finding)**

5. There shall be no exterior evidence of the conduct of a home occupation except for: Occasional garage/lawn/yard type sales (up to twice a year not to exceed two (2) days each); and One non-illuminated attached parallel sign that shall not exceed two (2) square feet. No other signs shall be permitted.

No garage/lawn/yard type sales are included in this proposal. No outdoor sign is proposed. **(Affirmative finding)**

6. No home occupation may increase vehicular traffic flow or parking by more than one additional vehicle at a time for customers or deliveries. All parking shall be located off-street and shall maintain the required front yard setback per Article 5.

Traffic generation related to the home occupation is limited to customer pick-ups. Adequate off-street visitor parking is available. The application makes no provision for limiting customer pick-ups to one-at-a-time. While groups of customers arriving all at once is unlikely, provision must be made to ensure that only one customer at a time is onsite. Scheduling ahead for each customer pick-up could adequately address this criterion. **(Affirmative finding as conditioned)**

7. No home occupation shall create sounds, noise, dust, vibration, smell, smoke, heat, humidity, glare, radiation, electrical interference, fire hazard or any other hazard, nuisance or unsightliness which is discernible from any adjacent dwelling unit.

The home occupation as proposed will not generate any nuisance or unsightliness discernible from the exterior. **(Affirmative finding)**

8. The home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.

The proposed home occupation is clearly incidental to the primary residential use of the property. Onsite work is limited to sauce production and related administrative work. There will be little evidence of the home occupation as perceived from outside. **(Affirmative finding)**

9. Delivery of products and materials related to the home occupation by vehicles other than automobiles shall occur no more than once per day.

No commercial delivery vehicles will serve the home occupation. **(Affirmative finding)**

10. *With the exception of one delivery per day, as specified in subparagraph (9), no more than one commercial vehicle shall be allowed on the premises at any one time; and*

No commercial vehicles are associated with the proposed home occupation. **(Affirmative finding)**

11. *There shall be no sale of goods except for goods fabricated on the premises as part of an approved home occupation.*

Only the specialty sauces created as part of this home occupation will be for sale. **(Affirmative finding)**

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The 32-unit cohousing development requires 34 parking spaces under current parking standards (2 each for the 2 single family homes, and 30 for the 30 multi-family dwelling units). As approved, the project contains 51 parking spaces. There is no specific parking requirement for the proposed home occupation; however, per criterion 5.4.6, 6 above, 1 space for customers coming to pick up sauces is needed. The existing parking is sufficient to provide this space. **(Affirmative finding)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, the applicant shall indicate the total square footage of her individual dwelling unit to confirm compliance with the home occupation size limitation of 35%.
2. The applicant shall schedule customer pick-ups to ensure that only 1 customer vehicle is onsite at a time (not including customers who are residents of the cohousing development).
3. The Applicant/Property Owner is responsible for obtaining all necessary permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes as required.
4. Any changes to the home occupation as proposed shall require an amendment to the home occupation permit approval.
5. The applicant is responsible for complying with all representations disclosed on the Home Occupation Questionnaire.
6. Standard permit conditions 1-15.

Scott Gustin

From: Cheryl Herrick <herrickvt@gmail.com>
Sent: Monday, November 17, 2014 11:54 AM
To: Scott Gustin; Cheryl Herrick
Subject: Fwd: square feet

Hi Scott,

My neighbor (and Owners Association president Peter Lackowski) very kindly provided this just now. Would it help to also have the floor plan? I'm glad to dig that out if so.

Cheryl

----- Forwarded message -----

From: Peter Lackowski <petervt3@gmail.com>
Date: Mon, Nov 17, 2014 at 11:48 AM
Subject: square feet
To: Cheryl Herrick <herrickvt@gmail.com>

Dear Cheryl,

I was marooned in the dining room while the crew stripped our hallway, so I took a few minutes to measure the space. My results are below, along with a brief explanation of the what our common space is.

The common dwelling area consists of two floors; 50 X 50 each, plus a room of 161 sq ft. This adds up to 2616 square feet.

This area includes a kitchen, living room, dining room, guest rooms, bathrooms, a multipurpose recreation room, a laundry, an office, a mail room, a pantry, halls and closets. This area is owned in common, and it functions as an extension of our living areas.

The kitchen is $20 \times 21 = 420$ square feet.

The kitchen occupies 16 % of the common area.



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Home Occupation Application Questionnaire

Use this checklist for all applications for a home occupation - See Sec. 5.4.6 of the Zoning Ordinance. This questionnaire is provided to summarize details and is required to accompany a zoning permit application form and required fee (for either administrative approval or conditional use review).

Please note:

- 1. The specific requirements for home occupations can be found in Section 5.4.6 of the Comprehensive Development Ordinance which is available in its entirety on our website at www.ci.burlington.vt.us/planning
2. A 'Business Personal Property Registration Form' may be required to be submitted to the Assessors Office. This form is available at www.ci.burlington.vt.us/assessor/businesses

Name of Business Proposed: DRAGON + DAUGHTER SAUCES

Type of Business Proposed: SPECIALTY SAUCES

Provide a detailed description of the proposed Home Occupation such as: activities involved; materials and equipment used; quantities of materials and equipment stored on-site; methods of operation; hours of operation. This may be done on a separate piece of paper and attached.

Please respond to the following:

- 1. How many persons will be involved or employed in the conduct of the proposed Home Occupation: Residents of premises: 1 Others 1 Total Number 2
2. What type of product will be produced, serviced, or repaired in the conduct of your Home Occupation? (For example: repair of clocks or watches, making jewelry, etc.). Explain: SPECIALTY SAUCES
3. Describe any alterations to the home or premises that might be required to facilitate your Home Occupation: NONE
4. Describe what rooms will be used in the conduct of the Home Occupation and how these rooms will be used. (For example: garage will be used to store supplies; or den will contain desk and file cabinets, etc.). Indicate the gross floor area(s) that will be used in the conduct of the Home Occupation. Indicate the total gross floor areas of your house and include any accessory structure(s) to be used for the Home Occupation, (Ex. Garage). COOKING KITCHEN (~200 sq) FOR COOKING SAUCES, AND HOME OFFICE FOR ADMINISTRATION
5. Describe the mechanical and/or electrical equipment that will be necessary to conduct your business activity: NONE
6. Describe how, where and in what amounts the material, supplies and/or equipment related to your Home Occupation will be displayed or stored: 2-3 CASES OF 12. OZ. SAUCE JARS WAIT IN MY REFRIGERATOR UNTIL THEY GO TO CUSTOMERS.

PLEASE TURN OVER

7. Will people come to your home to obtain any product or utilize any service connected with the proposed Home Occupation activity? Yes No
 If yes, please explain in detail:
THEY COME TO PICK UP SAUCES.
-
8. Are any signs necessary or proposed relative to the Home Occupation?
 Yes No
 If yes, you are required to file for a Sign Permit. An application form can be obtained at the Planning and Zoning Department or on our website.
9. If trucks or other equipment will be used in your Home Occupation, where will they be parked or stored?
N/A
-
10. Will the Home Occupation involve the use of commercial vehicles for delivery of materials to or from the premises? Yes No
 If yes, please explain:

-
11. How many parking spaces will be provided for the home occupation? EXISTING VISITOR'S PARKING
 Where will they be located? Indicate parking spaces on a site plan of this property as part of your application submission.
12. Is your proposed Home Occupation in conformance with the conditions, covenants and restrictions pertaining to your property? Yes No
 We suggest checking your deed for conditions, covenants and restrictions.

I have read and understand 'Sec 5.4.6 Home Occupations' under the City of Burlington Comprehensive Development Ordinance and believe that to the best of my knowledge my proposed Home Occupation would not violate any portion of said Ordinance:

Applicant's Signature: Cheryl Heroux

Date: 10/31/14

Property Owner's Signature: Padm Zakhwani, PRESIDENT, BCEVDA

Date: Nov 1, 2014.

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BURLINGTON COHOUSING EAST VILLAGE OWNERS ASSOCIATION

Members Present: Doris Bedinger, Joan Knight, Don Schramm, Govinda Serchan, Charlotte Norris-Brown (late), Ginni Reeves (late), Clara Bond, John Patterson, Barbara Grant, Jean Hopkins (late), Sally Abruzzi, Melinda Lee, Kate Bove, Gail Holmes, Linda Cooper (late), Loretta Johnson, Joanna Rankin, Cheryl Herrick, Lesley Becker, Dorothy Weicker, Brian Tremback, Anke Tremback, Chet Bielawski, & ZONING DEPARTMENT

Members Absent: Barbro Thelemarck, Barbara Nolfi, Sharyl Green, Peter Lackowski, Nina Parris, Fiona Patterson, Bijaya Serchan, Charles Norris-Brown, Kate Bove, Kate Westdijk, Bart Westdijk, Ming Sherpa, Pemba Sherpa, Audrey Winograd, Kurt Mehta, Mary Fillmore, Serrill Flash, Barbara Bielawski, Kiley Donlan-Kite, Kim Kite. Danny Albert, Susan Linsky,
Special Roles: Facilitator: Brian Tremback, Time Keeper: Janet Hicks, Minutes: Joan Knight, Process reporter: Clara

Minutes: 03/06/14 and 03/16/14 minutes - approved w/ minor changes

Delay while waiting for a quorum: Procedure for election of ExCom: We discussed our memories from the past that included signup sheet and recruitment, indicating that this will appear on our next agenda

Executive Committee Report: (Brian)

Under consideration: Lowering taxes on Southern Lands, Guidelines for ExCom in relation to proposals (See attachment), Committee guidelines (will bring to OA as a proposal).

Supplemental Fair Share (SFS): Joanna reminded us that the process for choice making took a very long time. Only 2 items rose to the top - Multipurpose room (MPR) floor and Shade on the patio. We still have \$5,000 for the shade project. There is about \$7,600 remaining (from sale of Mary Marshall's items and the \$5 per month payments that are now part of our condo fees. Assuming we will need more to finish both projects, there will be fundraising efforts. In that event, Clara will submit a proposal. If we end up having unspent funds, some expressed a desire to carry them forward into next year. Joan said that we may not be able to do that legally; the ExCom is looking into that.

Proposal by Cheryl Herrick and the Home Committee for Use of Common Kitchen and own unit for business: (See attached.)

Communications Committee's Proposal on sharing committee documents. In reviewing the proposal we suggested a few minor changes: It would not be a mandate; guidelines would be a good term. When a committee has a document (agenda or minutes), someone (Call at first) will do the distribution. Agendas, when a committee has prepared them, will be distributed ASAP. Draft minutes will be distributed within 2 weeks. Decision: proposal was not approved. Loretta, a member of the ComCom will revise the proposal accordingly and plans to bring it back to the OA.

Shade on the Patio: Brian reminded us of the history ending in a stalemate and a request that, in the future, a group might find agreement on a design and prepare a proposal. There are 3 structure designs; one has a flat roof, one a slightly domed roof, and a 3rd conceived of by Ken (Kate's Dad) that is wider in proportion. Brian will post all three for us to ponder. Brian will schedule a forum to discuss this again. Many expressed appreciation for the design work that Brian and others have done.

Announcements:

Don said there will be a breakfast next Saturday - before the work day. Please sign up.
Joanna said that she and Mary are planning an Easter morning brunch.

Process report Clara said: We ran way over on time and the degree of concern shown by one presenter was unusual.

Respectfully submitted, Joan Knight

Attached:

Proposal to the Owners' Association
Title: Dragon & Daughter Interim Sauce Making Date: April 20, 2014
Sponsor: Home Committee

Decision: Approval for Cheryl Herrick to use the common house kitchen once each month to make and package small batches of specialty sauces for sale.

Brief History: In fall 2013, Cheryl wanted to find a hobby and outlet for her retired and isolated father. Together, they began making sauces using the recipes from her parents' former restaurant and offered them to sale to a few friends and former staff. As word gets out, without any

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advertising or outreach, requests for the sauce continue to arrive. Cheryl has formed the Dragon & Daughter LLC and purchased a liability policy through Co-op Insurance to allow her to explore the potential to build this new hobby into a business.

Justification: BCOHO has a history of support for activities of its residents. Precedent for use of the common kitchen for private enterprise includes Christi Champagne's bread-making business, and Don and Barbara's maple syrup bottling. The Serchans also have a home cooking business, although it doesn't involve use of the common kitchen.

David Holton of the Essex Agency was consulted about insurance repercussions for the O.A. and saw no problem with this proposal. The Fire Marshall was also consulted, and said that nothing that contains fat can be cooked on the stovetop because of fire hazard; warming sauces in the oven is fine.

The Declaration states:

5.5 Use of Units. Except as hereinafter provided, Units shall be occupied solely for residential purposes, and no Unit shall be used for any commercial or business purpose... The foregoing notwithstanding, ... (ii) with the prior written consent of the Association, a Unit Owner may conduct a home-business if (a) such home business use is on compliance with all applicable laws and regulations, including the Permits and Approvals, (b) such use does not impose a burden on the Cohousing Village by creating any material increase in traffic, parking needs, or create any noxious odors or noise, and (c) such home business use does not include any on-site advertising. Therefore, Cheryl hereby requests written approval for her project and agrees not to use any on-site advertising.

This is an opportunity to support the Herricks and to make use of the QM kitchen at a time when this resource is available. Currently, the sauces are earning in the neighborhood of \$250 (net) per month. If sales grow to meet or exceed \$10,000 per year (about \$800 per month), operations will have to move to a Certified Kitchen facility in order to comply with Health Code. Because of this, and because it is likely that that threshold will be reached within about a year, the use of the QM is an interim solution. The Home Com will be the the contact group for Cheryl, and have responsibility for oversight.

Recommended Action: Upon receipt of proof of insurance coverage and permitting by the town of Burlington, the O.A. should adopt the proposal and supply the necessary written approval for Dragon & Daughter use of the common kitchen.

Costs: Minimal additional water and electricity costs. Cheryl will pay \$10 for each use of the kitchen.

Pros: Supports Cheryl and her family. Makes sauces available for EV'ers, which Cheryl is glad to do at a special neighbor discount.

Cons: Scheduling conflicts could arise. To avoid conflict with common meals or potlucks, Cheryl will only use the kitchen on odd-numbered weekend days. She will also post the times of use on the calendar in the Mail Room at least 1 week in advance.

Cleanliness and orderliness of the kitchen could be an issue. To avoid these issues Cheryl will assure that countertops and floor are clean and neat. If compost buckets used she will empty them in the compost bins in the garden. If common cloths or dishes are used they will be washed and put away. Within 6 hours of completion of sauce making the kitchen will be neat and clean and ready for use.

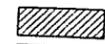
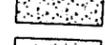
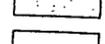
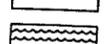
If the business involves buyers or others parking in our lot, the parking policy would apply.

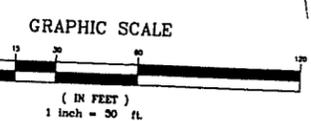
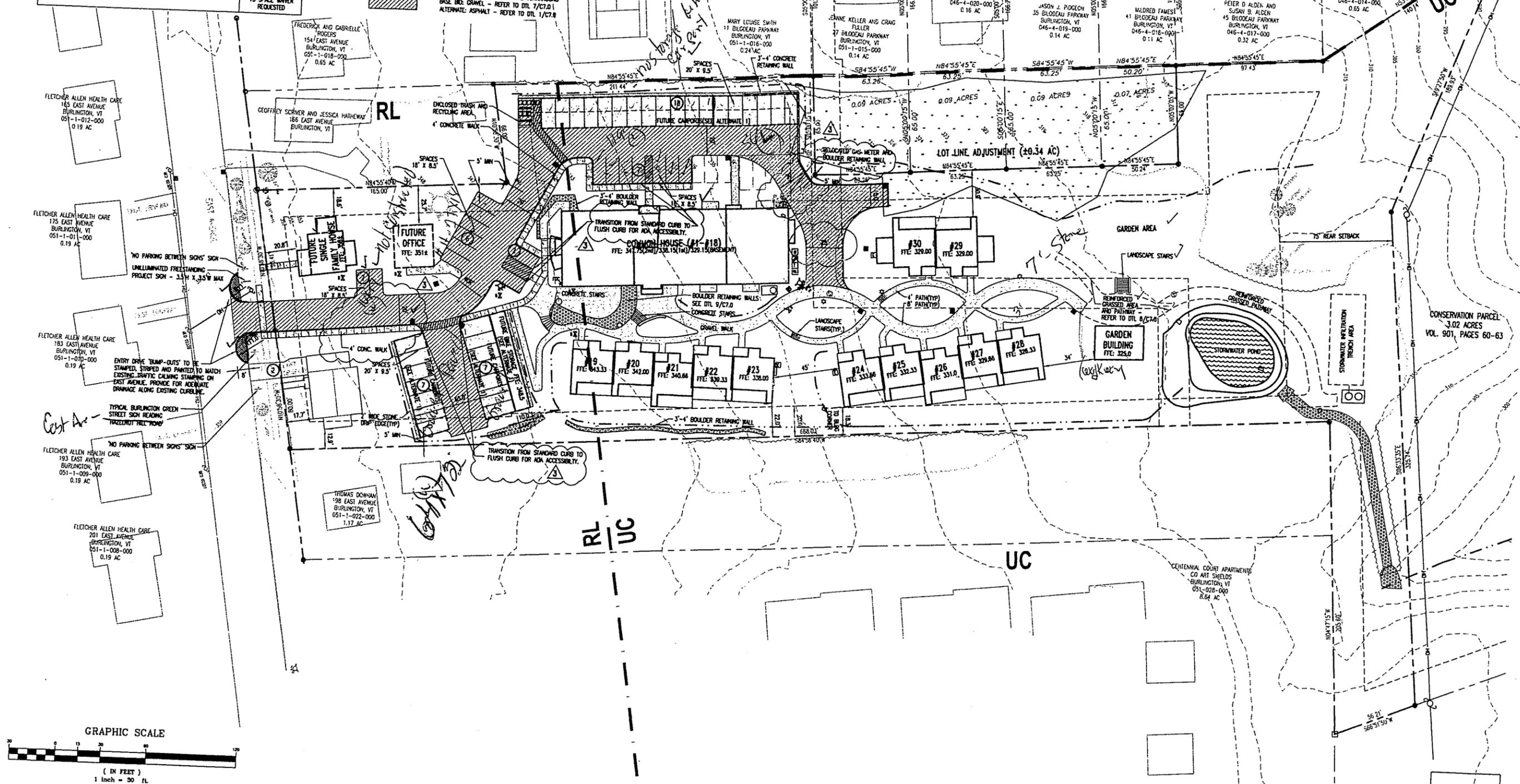
Alternatives: Miss the opportunity to support a neighbor who is attempting to grow a new business. For Cheryl to take on the additional cost of a professional kitchen at this stage would be an unsustainable financial cost and would end the sauce production.

ZONING SUMMARY

ZONING DISTRICT: UC/RL			
LOT SIZE	REQUIRED (MAX./MIN.)	EXISTING	PROPOSED
BUILDING		313,612 SF/7.2 ac	186,752 SF/4.83 ac
DRIVE		3,758 SF	30,833 SF
WALK		401 SF	18,727 SF
TOTAL		82 SF	8,549 SF
LOT COVERAGE		3,741 SF/0.006 ac	57,100 SF/1.31 ac
FRONT SETBACK	40'	1.2'	34.2'
SIDE SETBACK	15'	17'	
REAR SETBACK	10% LOT (MIN/20' MAX)	14'	VARIABLE, SEE PLAN
BUILDING HEIGHT	25% LOT DEPTH (25' MAX)	35'	75'
UNIT DENSITY	20 UNITS/ACRE	76 UNITS ALLOWED	32 PROPOSED
PARKING	2 SPACES/UNIT	84 REQUIRED	51 PROPOSED 13 SPACE WALKER REQUESTED

PROPOSED SURFACES

-  ASPHALT DRIVE/PARKING - REFER TO DTL 1/C7.0
-  CONCRETE/PAVER WALK - REFER TO DTL 3/C7.0
-  GRAVEL WALK/PARKING SURFACE IN CARPORTS REFER TO DTL 3/C7.0
-  BUILDINGS
-  STORM WATER POND
-  EMERGENCY VEHICLE ACCESS AND TURNAROUND BASE BID: GRAVEL - REFER TO DTL 7/C7.0 ALTERNATE: ASPHALT - REFER TO DTL 1/C7.0



BURLINGTON CO-HOUSING WILLIAM MACLAY ARCHITECTS & PLANNERS
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 298 Flynn Avenue Suite 2A, Burlington, VT 05401
 Tel: 802.863.8225 Fax: 802.863.6306

REVISIONS
 REVISION #1 08.01.06
 REVISION #2 07.24.07

REMARKS
 CHANGE ORDER #1
 REVISED PAVT WIDTH TO 20'; CONCRETE SIDEWALK WIDTH TO 4'; RELOCATED GAS METER - APPROX 20' FROM

SITE LAYOUT PLAN 06/01/06

