



55 Green Mountain Drive  
South Burlington, VT 05403

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SEP 27 2016

DEPARTMENT OF  
PLANNING & ZONING

September 19, 2016  
File: 195311267

**Attention: Mr. Dan Goltzman**  
Redstone  
210 College Street, Ste. 201  
Burlington, VT 05401

Dear Dan,

**Reference: Pine Street Deli Site, Burlington, VT**

We understand that the Burlington Development Review Board (DRB) has reopened the public hearing for the above project to allow for continued discussion of traffic impacts. Traffic concerns raised at the latest DRB hearing related to a lack of coordination between the traffic studies for your Pine Street project and for the City Market project on Flynn Avenue. We reviewed the traffic studies prepared for the City Market proposal and confirm our earlier finding that your proposed mixed-use redevelopment project at the Pine Street Deli site will have only nominal impacts on the area roadway system. Furthermore, the City Market studies conclude that the roadway system will operate at a high level of service under future conditions with both projects built with and without completion of the Champlain Parkway project.

#### **PROJECT DESCRIPTIONS**

Our current investigation considers three proposed projects. First is your proposed mixed-used development to be located on the site of the existing Pine Street Deli at the intersection of Pine Street and Flynn Avenue. The proposed use includes 30 residential apartments and 3000 square feet of commercial space to replace an approximately 2,800 square feet deli/convenience store, an approximate 1,000 square bottle redemption center and a three-unit apartment building. The City Market proposal consists of an approximate 34,000 square feet supermarket to be located on Flynn Avenue just west of Briggs Street. Briggs Street is located approximately 850 feet west of Flynn Avenue. The third project is the proposed Champlain Parkway. The Parkway is a proposed new roadway that will be oriented parallel to Pine Street and located just east of Briggs Street.

#### **STUDY REVIEWS**

Several documents were reviewed as part of the current investigation which were not available to us at the time we completed our June 19, 2016 traffic study for your proposed development. These include:

- *Proposed City Market/Onion River Co-op (South End) Traffic Impact Study (Update)* prepared by VHB and dated July 27, 2016;



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**Reference: Pine Street Deli Site, Burlington, VT**

- *Review of the Proposed Pine & Flynn Project's Traffic Impacts on City Market Traffic* prepared by VHB and dated August 10, 2016; and,
- A memorandum from Scott Gustin (Burlington Department of Planning and Zoning) to the DRB regarding 207 Flynn Avenue (the City Market project) dated August 17, 2016.

Key findings from these documents are discussed below.

**Updated City Market Traffic Study**

The updated VHB City Market Traffic Study finds that:

- The proposed supermarket will generate 260 PM peak hour vehicle trips of which 75 percent will pass through the Pine Street/Flynn Avenue intersection. This percentage is reduced to 40 percent with the Champlain Parkway built.
- The Pine Street/Flynn Avenue signalized intersection will operate at Level of Service (LOS) C or better (on a scale of A to F) in 2022 with the supermarket built and without the Champlain Parkway built.
- The Champlain Parkway project when built will remove nearly 1000 vehicles from the Pine Street/Flynn Avenue intersection during the PM peak hour. (The PM peak hour entering volume decreases from 1950 vehicles without the Parkway to 980 vehicles with the Parkway.)
- The Pine Street/Flynn Avenue signalized intersection will operate at Level of Service B in 2022 with both the supermarket and Parkway projects built.
- "Based on the assessment of existing site conditions, crash conditions and existing and projected traffic volumes, no off-site traffic improvements were deemed necessary to mitigate the impact of site generated trips in the pre-Champlain Parkway condition."

**Pine and Flynn Project Review Memo**

VHB considered the potential combined impacts of the City Market project and your proposed mixed-use development in their August 10, 2016 memorandum. VHB concludes:

"Given that the change to peak hour traffic volumes from the proposed Pine & Flynn Project is minimal (i.e. one additional trip during the PM peak hour), the congestion results presented in the July 27, 2016 City Market TIS are not expected to change in any way that is significant to overall traffic conditions."

In other words, peak hour operating conditions at the intersection are projected to be the same with just the City Market project built as with both the City Market and mixed-use projects built. Consequently, based on the above analysis results, LOS C or better operations can be expected at the Pine Street/Flynn Avenue intersection under projected 2022 peak hour conditions with both development projects completed and assuming the Parkway is not built. Similarly, with both development projects built and the Parkway constructed projected 2022 peak hour intersection operations will be at LOS B.



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### **Staff Report**

The Department of Planning and Zoning staff report for the City Market project provides comments and recommendations regarding traffic. It also summarizes comments from the Department of Public Works which reportedly reviewed the City Market Traffic Study. The staff report indicates concern for potential City Market traffic impacts on residential streets. It recommends a post-build traffic monitoring plan on these streets and a requirement that City Market fund traffic calming measures if warranted. The Department of Planning and Zoning, and apparently the Department of Public Works, have not recommended any improvements at the Pine Street/Flynn Avenue intersection to mitigate City Market impacts.

### **POTENTIAL MITIGATION**

City Market's updated Traffic Impact Study mentions possible future mitigation for the Pine Street/Flynn Avenue intersection once the Champlain Parkway is built. The study states the following in a report section referring to "Post-Parkway Traffic Mitigation":

"Investigate opportunities to remove on-street parking spaces on the south side of Flynn Avenue at the approach to Pine Street and place pavement markings to delineate an eastbound right-turn lane at the intersection."

Given that the Parkway will remove approximately half of the projected PM peak hour volumes from the intersection and that the intersection is projected to operate at LOS B after the Parkway is built this potential future mitigation measure does not appear to be warranted.

### **CONCLUSIONS**

The traffic study that Stantec prepared for your mixed-use development project demonstrated that the proposed development will have no measurable impact on operations at the Pine Street/Flynn Avenue intersection. This conclusion remains valid whether or not the City Market and/or the Champlain Parkway projects are completed. With the City Market project built, future traffic volume levels at the Pine Street/Flynn Avenue intersection will be higher than projected in our study however, the impact of your project remains negligible. Similarly, if the Champlain Parkway project is built future traffic volume levels at the Pine Street/Flynn Avenue intersection will be lower than projected in our study however, the impact of your project again remains negligible.

We trust that the above adequately addresses concerns raised regarding coordination between the City Market and Pine Street Deli Site traffic studies. If we can be of further assistance please do not hesitate to call.



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Mr. Dan Goltzman

**Reference: Pine Street Deli Site, Burlington, VT**

Regards,

**Stantec Consulting Services Inc.**

A handwritten signature in cursive script that reads "Richard S. Bryant".

Richard S. Bryant, P.E.  
Associate  
Phone:802 864 0223  
Fax:802 864 0165  
Richard.Bryant@stantec.com

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DEPARTMENT OF  
PLANNING & ZONING

*VIA E-MAIL*

September 26, 2016

City of Burlington Development Review Board  
City Hall  
Burlington, VT 05401

RE: 16-1507CA/MA; 316-322 Flynn Ave, G & C Properties, LLC

Dear Development Review Board Members:

We understand the Development Review Board (the "Board") has voted to reopen the already closed hearing on the above-referenced project (the "Project") and to hold a further evidentiary hearing on October 4, 2016. Further, we understand that the determination to reopen the hearing was in part based upon the advice of the City Attorney that the Board may consider the traffic impacts associated with the currently proposed but not yet approved City Market Project which is planned to be built further west on Flynn Avenue.

While the Applicant will address such traffic issues at the reopened hearing, we are writing to inform the Board that we do not believe the Board has the authority to consider the potential impacts of a property which has not yet obtained all of its final permits and begun construction.

Furthermore, an untenable precedent will be established by the Board's consideration of impacts of proposed but not yet approved projects (or even approved but not yet constructed projects). Where will the Board draw the line for consideration of the effects of potential projects? Projects on the drawing board but without a permit application on file? Those filing an application? Those in sketch plan? Those in preliminary review? Those in final review? And how will the Board consider the impacts of changes that might be made to those projects either voluntarily or through permit conditions? And what if after consideration of potential impacts of other projects, those other projects are not built?

As a result of such a speculative process, the Vermont courts and agencies have established a policy that impacts of other projects should only be considered when the other project is actually built.

We would first note that the City itself has previously pointed to this rule during the Act 250 permitting process for the Champlain Parkway:

Finally, [the neighbor's] argument that the traffic modeling should account for possible future development is misplaced; Environmental Court precedent establishes that potential future growth in traffic volume due to potential undetermined future development is properly addressed when that future

development actually occurs, and that development can include its own traffic mitigation measures, if required. *In re JLD Properties of St. Albans, LLC*, Docket Nos. 129-5-06 Vtec, 242-10-06 Vtec, 92-5-07 Vtec, 80-4-08 Vtec, 116-6-08 Vtec, 40 (Vt. Env. Ct. Jan. 20, 2010).

*The Applicant City of Burlington's Proposed Findings of Fact and Conclusions of Law*, Permit Application #4C0438-17, District #4 Environmental Commission, filed December 23, 2011, at 64.

In *JLD Properties*, the Environmental Court concluded that it would not require the developer of a St. Albans Wal-Mart to consider “additional future traffic” generated by two significant nearby commercial/industrial parks, because the future development in these parks: (1) “[was] not yet permitted”; (2) “may only occur at some undetermined point in the future”; and (3) “the [Act 250] District Commission may impose additional traffic improvement conditions upon such future development, if and whenever it actually occurs.” Docket Nos. 129-5-06 Vtec, 242-10-06 Vtec, 92-5-07 Vtec, 80-4-08 Vtec, 116-6-08 Vtec, slip op. at 40 (Vt. Envtl. Ct. Jan. 20, 2010) (Durkin, J.), *aff'd*, 190 Vt. 259.

In the present matter, City Market has the same characteristics as the prospective commercial/industrial parks in St. Albans. City Market has not yet been permitted; rather it is still in the middle of its review by this Board. Moreover, given the financing and construction hurdles of any major project, even if and when City Market has obtained all its permits, there is no certainty the development will be constructed any time in the near future. Finally, this Board can impose additional traffic conditions that it deems necessary if and when it decides to approve the City Market project.

In addition, in the Environmental Division appeal of the Champlain Parkway Act 250 permit, the Court noted that the traffic modeling used in that proposal, the Chittenden County Transportation Model (“CCT”), “does not account for traffic changes on a property-by-property or development-by-development basis, however, it projects general growth trends based on existing land uses and projected changes in residential and commercial growth.” *Champlain Pkwy A250 Permit*, No. 68-5-12 Vtec, slip op. at 8–9 (Vt. Super. Ct. Envtl. Div. July 30, 2014) (Walsh, J.). Nevertheless, the Court concluded that the model’s general overestimate of growth rates offset any need for the City’s traffic study to account for specific nearby properties, even those that were recently developed. *Id.* at 12–13.

Like the City’s traffic study in *Champlain Pkwy*, the traffic study before the Board is based on modeling that already incorporates background growth rates. Requiring the Applicant to account for specific projects that have yet to even be approved, let alone developed, is unnecessary, unrealistic and improper.

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Therefore, the Board should not consider the proposed City Market potential traffic in its consideration of the evidence presented in regard to the Project (or vice versa).

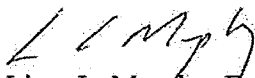
Moreover, as you will hear from the Applicant's traffic expert, City Market's traffic study already addressed the combined effects of the Project with a finding:

Given that the change to peak hour traffic volumes from the proposed Pine & Flynn Project is minimal (i.e. one additional trip during the PM peak hour), the congestion results presented in the July 27, 2016 City Market TIS are not expected to change in any way that is significant to overall traffic conditions.

*Review of the Proposed Pine & Flynn Project's Traffic Impacts on City Market Traffic* prepared by VHB dated August 10, 2016.

Therefore, even if the Board decides to consider the potential City Market traffic, the Board should find that the two projects together will not create an undue adverse impact on traffic at the Pine and Flynn intersection or on the surrounding streets.

Very truly yours,



Liam L. Murphy, Esq  
[Lmurphy@mskvt.com](mailto:Lmurphy@mskvt.com)

c: Kimberlee Sturtevant, Esq

MSK | MURPHY  
SULLIVAN  
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DEPARTMENT OF  
PLANNING & ZONING



August 1, 2016

To whom it may concern:

I am writing to express Local Motion's support for the development concept proposed by Redstone for the Pine Street Deli property at Pine and Flynn in Burlington. Local Motion has been following the project closely, and it is our assessment that a project of this kind is consistent with Local Motion's goal of a more walkable, bikeable community.

In particular, we offer our enthusiastic support the following elements of the project:

1. The short setback and ground-floor commercial uses, both of which encourage pedestrian traffic in a location where there is well-developed existing pedestrian infrastructure and walk-friendly densities
2. The provision of ample and conveniently located short-term outdoor bike parking, which encourages customers and visitors to bike to the site
3. The provision of long-term indoor bike storage, which makes it easier for residents and employees to make biking a regular part of their transportation routine
4. The inclusion of a variety of housing unit types with an emphasis on smaller units, which will cater to young professionals who are likely to walk and bike but who may not otherwise be able to find an affordable place to live in Burlington
5. The reduction in overall amount of parking provided and the sharing of parking across uses, which is consistent with current national trends in parking management that use carefully calibrated (rather than overabundant) parking to encourage multiple modes of transportation

Note that we are not experts on architectural design, and offer no judgment on the building facade, massing, or related issues.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Van Driesche", written in a cursive style.

Jason Van Driesche  
Deputy Director, Local Motion  
[jason@localmotion.org](mailto:jason@localmotion.org)  
802-735-7271



## **Burlington Development Review Board**

149 Church Street, City Hall  
Burlington, VT 05401  
www.burlingtonvt.gov/PZ/Boards/Development-Review-Board  
Phone: (802) 865-7188  
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*Austin Hart  
Brad Rabinowitz  
Israel Smith  
AJ LaRosa  
Alexandra Zipparo  
Geoffrey Hand  
Wayne Senville  
Jim Drummond (Alt.)*



## **Burlington Development Review Board**

### **Minutes/Findings of Fact DRB Deliberation September 12, 2016**

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**In RE:** 16-1507CA/MA; 316-322 Flynn Ave (Ward 5S, NMU) (Tax Lot No. 057-4-066-000)

**Owner/Applicant:** G&C Properties / 316 Flynn, LLC

**Request:** Demolish existing buildings. Construct mixed use building with 30 residential units and 2 commercial spaces and associated site improvements.

**Members Present:**

Austin Hart  
Brad Rabinowitz  
Israel Smith  
Wayne Senville

**Motion: Austin Hart**

I move that the Board reopen the public hearing for limited consideration of traffic impacts, including consideration of the City Market traffic study.

**Seconded: Wayne Senville**

**Vote: 4-0-0, motion carried**

