

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Principal Planner

Date: March 8, 2017

RE: 30-32 Howard / 400 Pine Street ZP17-0643CA/MA / ZP17-0644CA

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.

File: ZP17-0643CA/MA / ZP17-0644CA

Location: 30-32 Howard Street, 400 Pine Street

Zone: ELM **Ward:** 5S

Date application accepted: December 8, 2016

1st DRB Hearing: January 31, 2017

Applicant/ Owner: GVV Architects / Unsworth Properties

Request: Demolition of 30-32 Howard Street duplex and 2 industrial buildings at 400 Pine Street; construction of mixed use building with office/art studios, replacement of two residential units.



Recommendation: If Board finds adequate the applicant's submission material relative to Section 5.4.8 (b) and (d), Major Impact and Certificate of Appropriateness **Approval** per the following findings and conditions:

Background:

30-32 Howard Street

- **Sketch Plan Review 17-0432SP**; Demolition of 30-32 Howard Street duplex and 2 industrial buildings at 400 Pine Street; construction of mixed use building with office/art studios, replacement of two residential units. November 2016.
- **Zoning Permit 09-523CA**; Fifteen new double hung clad wood windows in existing duplex. January 2009.
- **Zoning Permit 99-252**; Demolish deteriorated shed in rear yard of the existing duplex. Attached patio area to remain with the former foundation area returned to green space. November 1998.

400 Pine Street (Sometimes identified as 2 or 4 Howard Street)

- **Sketch Plan Review 17-0432SP**; Demolition of 30-32 Howard Street duplex and 2 industrial buildings at 400 Pine Street; construction of mixed use building with office/art studios, replacement of two residential units. November 2016.
- (Identified as 4 Howard Street) **Non-applicability of Zoning Permit Requirements 16-1082NA**; Changing tenants of existing artist studio. April 2016.
- **Zoning Permit 16-0944CA**; remove and replace two lower windows with larger windows. March 2016.
- **Zoning Permit 15-1226CA**; construction of permanent handicap accessible ramp at Speeder and Earl's. June 2015.
- **Non-Applicability of Zoning Permit Requirements 15-1225CA**; temporary permit, handicap ramp. May 2015.
- **Zoning Permit 14-0274CA**; change of use to woodworking shop in tenant spaces C 1, 2, &4. September 2013.
- **Zoning Permit 13-1187SN**; installation of 3 parallel signs for the Burlington Music Dojo. No illumination included. June 2013.
- **Zoning Permit 13-0828CA**; change of use to include art gallery and performing arts studio. Food processing to remain, and café to be reduced from 18 seats to 14 seats. Add rear entry, revise and add second front entry, replace existing entry ramp, and other associated modifications. March 2013.
- **Zoning Permit 12-0330CA**; placement of exhaust fan on clerestory area of roof for glass blowing furnace. September 2011.
- **Zoning Permit 11-0208SN**; replace existing sign with Davis Studio sign. No illumination. September 2010.
- **Zoning Permit 11-0077SN**; replace two existing signs. One parallel window sign and one projecting sign. August 2010.
- **Zoning Permit 10-0768CA**; replace 2700 sq ft of half lap roofing with new galvanized corrugated metal roofing. April 2010.
- **Zoning Permit 08-103CA**; exterior lighting to be installed on door/stairs and sign for Speeder and Earl's Coffee. August 2007.

- **Zoning Permit 06-384SN**; three signs for Pine Street Art Works. November 2005.
- **Zoning Permit 06-383CA**; change garage style overhead door to swinging doors with half-light windows. Same door location in rear alley of building. New light fixture over front entrance. November 2005.
- **Zoning Permit 06-198CA**; change from Burlington Futon Fabrics to retail art with accessory retail production space of 152 sf. September 2005.
- **Zoning Permit 01-507**; remove loading dock extension on the existing warehouse within the existing commercial complex. Area to be paved for additional parking and circulation areas. No change in use or other exterior changes included. June 2001.
- **Zoning Permit 00-097 / COA 099-006A**; Installation of two externally illuminated signs for the existing retail space (one parallel and one projecting.) August 1999.
- **Zoning Permit 99-045 / COA 099-006**; change of use from service (stained glass) to retail (fabric.) No exterior changes included. July 1998.
- **Zoning Permit 95-497**; installation of four awnings with lettering and illumination, two externally illuminated parallel signs and the relocation of the existing handicapped access ramp to the south entrance. The north entrance will then be made a large window with a planter in front of it. Use remains the Cheese Factory Outlet. June 1995.
- **Zoning Permit 91-277; COA 091 – 057**; installation of two parallel signs on front façade of building, store emblem over an announcement board. No illumination. March 1991.
- **Zoning Permit 85-494**; erect 2 parallel wood, non-illuminated signs, one on Howard Street and one on Pine Street side of extension in building. October 1985.
- **Zoning Permit 85-400**; remove dust collector, raise roof 3' to accommodate one overhead door to interior service yard. October 1985.
- **Zoning Permit 81-178**; replace metal roof, siding and floor. September 1980.
- **Zoning Permit 79-688**; to be used as work space consisting of ornamental iron work fabrication. Also to install two chimneys on the interior. December 1979.
- **Zoning Permit 79-653**; tear down existing stairs and replace exterior stairway. Emergency case. November 1979.
- **Zoning Permit 78-429**; the erection of a 28' x 29' two sided addition on the buildings in the rear. November 1977.
- **Zoning Permit** to use 6 Howard Street for a woodworking shop. Erect an overhanging sign. October 1977.
- **Zoning Permit** issued for a pole sign for Shelburne Spinners. January 1977.
- **Zoning Permit** to erect an overhanging sign within the property lines for Vermont Folk Furnishings. September 1975.
- **Zoning Permit** to remove one window and install one overhead door at 6 Howard Street. March 1974.

- **ZBA review**; to use the premises at 6 Howard Street for the sale and wholesaling of paint and building supplies. July 1972.
- **Zoning Permit** to use the premises for the storage and distribution of spaghetti products. Approved April 1972.
- **ZBA review**: Seeking a special exception under Title 27, Chapter 1, Section 6512-15A to use the masonry portion of the premises at 400 Pine Street for an auto repair garaged. Approved February 1972.
- **ZBA review**: Seeking a special exception under Title 27, Chapter 1, Section 6512-15B to use the premises at 400 Pine Street for the wholesaling and distribution of auto accessories. Approved November 1971.
- **ZBA review** to change a non-conforming use for a furniture stripping business. November 1971.

Overview:

400 Pine Street and 30-32 Howard Street are on different parcels; but both within the E-LM zoning district and under the same ownership. 400 Pine Street has a collection of buildings on the site. The project entails demolition of three buildings (one duplex, two industrial buildings), extinguishment of interior property lines between 30-32 Howard Street and 400 Pine, and construction of a 3 storey 8494 sf footprint mixed use building (offices, art studios) with underground parking. The two existing residential units are proposed to be replaced within the structure. The new overall square footage is estimated to be 20,403, excluding the parking deck.

The Design Advisory Board reviewed the project at their January 10, 2017 meeting. That board voted unanimously to recommend approval of the application with the following conditions:

1. Submission to the DRB shall include the conditions assessment of buildings proposed for demolition, and narrative relative to the asserted public benefit of redevelopment.
2. To support the applicant’s intent to request a waiver from parking requirements across the site, this board recommends providing covered bicycle parking.

The **Development Review Board** reviewed the application and supporting materials January 31, 2017, and moved to continue the hearing to March 8, 2017.

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit (As approved by City Council 12.19.2016.)

The administrative officer is authorized to deny all zoning permits or certificates of occupancy for any property with an uncorrected zoning violation (i.e. notice of zoning violation and/or municipal complaint ticket has been issued and is not under appeal). The administrative officer is also authorized to deny all zoning permits for any property with an expired zoning permit without a final certificate of occupancy.

Instead of withholding or denying a zoning permit, the administrative officer may grant such permit subject to the condition that the uncorrected zoning violation is corrected or the expired zoning permit is closed out with a final certificate of occupancy. Such action(s) shall take place before the issuance of a final certificate of occupancy on the new permit.

Any outstanding zoning violation(s) associated with either property shall be corrected, and any zoning permit(s) issued after July 13, 1989 shall be closed out and have received a Certificate of Occupancy prior to issuance of a Certificate of Occupancy for this project. **Affirmative finding as conditioned.**

Article 3: Applications, Permits and Project Reviews

Part 2: Applications and Permits

Section 3.2.1 Pre-application Conferences

- (a) *Administrative Conference*
- (b) *Technical Review Committee*
- (c) *Sketch Plan Review*
- (d) *Pre-application Neighborhood Meeting*

As a Major Impact project, review under all these categories is required (although Administrative Conference may be waived by the Administrative Officer if the project’s potential impact is insignificant.)

Technical Review occurred November 10, 2016.

Sketch Plan Review was on the November 1, 2016 agenda with the DRB.

The applicant has demonstrated that the project was presented at a Neighborhood Planning Assembly November 17, 2016. A notarized confirmation of NPA attendance was provided January 27, 2017. **Affirmative finding.**

Part 3: Impact Fees

Section 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in any new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Section 3.3.4.

Impact Fees will be applicable for new square footage, with credit given for the existing area. Area defined by the applicant:

See attached area breakdown and credit for existing warehouse structures. There is no impact fee assessment for residential, as the new units are replacement.

Allocation by department:

Enter Total Fee: \$29,496.56

Department	Offices & Other	
	Rate	Fee
Traffic	0.658	12138.05
Fire	0.193	3560.25
Police	0.341	6290.39

Parks	0.407	7507.88
Library	0.000	0.00
Schools	0.000	0.00
Total	1.599	\$ 29,496.57

Affirmative finding as conditioned.

Section 3.3.8 Time and Place of Payment

Impact fees must be paid to the city’s chief administrative officer/city treasurer according to the following schedule:

(a) New Buildings: Impact fees must be paid at least seven days prior to occupancy of a new building or any portion thereof.

Affirmative finding as conditioned.

Part 4: Site Plan and Design Review

See Section 3.5.6, below and Article 6.

Part 5: Conditional Use and Major Impact Review

As the proposal includes the construction of fifteen thousand sf or more of gross floor area of nonresidential development, Major Impact and Conditional Use review applies.

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards (as adopted by City Council 8.10.2015)

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.*

A letter of capacity for water and sewer has been issued by the Department of Public Works. A traffic study was requested by DPW after Technical Review November 1, 2016. A February 14, 2017 communication from DPW confirms no concern with the traffic study for this project.

Affirmative finding.

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 South End has garnered a reputation as a creative nucleus for artists, makers, and innovators. The addition of art studio spaces will increase similar opportunity. From the Municipal Development Plan:

- *Support sustainable development activities in target areas of the city including the Enterprise Community...”*
- *Strengthen the City’s role as a cultural and arts center...* [MDP, Built Environment, Page III-2.]
- *Encourage new land uses and housing designs that serve changing demographics and benefit from new technologies where appropriate.* [MDP, Built Environment, Page III-1.]

However, some conflict is present:

- *Identify areas within the south end Enterprise Zoning District that remain viable for continued commercial-industrial use, and assess the fiscal impact to the tax base and ratepayers of any proposed conversion away from commercial-industrial uses. [MDP, Land Use Plan, Page I-30.]*
- *Retain and enhance Burlington’s historic buildings and architectural features. [MDP, Built Environment, Page III-1.]*
- *Conserve the existing elements and design characteristics of its neighborhoods, and maintain neighborhood proportions of scale and mass. [MDP, Built Environment, Page III-1.]*

The application proposes the conversion of industrial warehouse to office/rental studio space. The Design Advisory Board’s motion indicated persuasion of building demolition for the benefit of new development. The applicant has presented the new building with material reference to the surrounding industrial area. The project applicant has provided a supplemental narrative of community benefit attained from the project, including increased tax revenue from higher property value, and stormwater improvements.

Affirmative finding if DRB similarly accepts building demolition and supporting narrative of community benefit.

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 400 Pine Street parcel has a commercial/industrial character; the introduction of offices and studios should offer no incongruent impacts normally associated with the manufacturing character of the area. Identifying associated impacts may hinge on the type of manufacturing/art studios introduced, as some makers utilize furnaces (glass works) or mechanical equipment that may produce heat, noise and dust. Others are likely to offer no noticeable impacts.
30-32 Howard Street, while still within the E-LM district, is first among a string of residential structures. Its loss and replacement with a much larger building in close proximity to the activities of Pine Street will introduce impacts much closer and atypical for the adjacent residential district. The development has been designed, however, to bring the residential use (accessory driveway/parking) between it and the abutting neighbor. **Affirmative finding.**
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;*
The parcel(s) are within the network of existing highway, streets and pedestrian paths. The GMT (formerly CCTA) Pine Street and Link bus routes are immediately available. Bike parking is provided on-site. The traffic engineer has signaled no concern over the submitted traffic study. **Affirmative finding.**
and
5. *The utilization of renewable energy resources;*
There is nothing within the application to deter the utilization of renewable energy resources. **Affirmative finding.**
and
6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*

The applicant is responsible to securing all local and state permits, including a state wastewater permit. Zoning amendment ZP17-03 will require that all violations on involved properties be resolved and all expired zoning permits closed out prior to issuance of a Certificate of Occupancy for this project. The applicant is encouraged to begin that process immediately. **Affirmative finding as conditioned.**

(b) Major Impact Review Standards

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

The introduction of air, water or noise pollution may largely depend upon the type of art or materials created on site. The offices and residential uses should not generate any undue impacts noted. **Affirmative finding.**

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

A capacity letter has been provided from the Department of Public Works that there is sufficient reserve for the proposed uses. **Affirmative finding.**

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

As proposed, there is no anticipation that the city's water supply or distribution would be threatened by the proposed development. **Affirmative finding.**

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;*

The applicants have prepared Stormwater Management Plan to be reviewed by the Stormwater Engineering team for compliance with Section 5.5.3 and Chapter 26. An email from the Stormwater Program Manager 12/30/2016 has confirmed approval of that plan. **Affirmative finding.**

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 study has been provided; no concern has been raised by traffic engineers at DPW. **Affirmative finding.**

6. *Not cause an unreasonable burden on the city's ability to provide educational services;*

The project proposes to replace the two dwelling units lost with the demolition of 30-32 Howard Street. As no increase in the number of residential units is proposed, and the replacement units are relatively small, no increased demand on educational services is anticipated. **Affirmative finding.**

7. *Not place an unreasonable burden on the city's ability to provide municipal services;*

These are existing developed sites within the Enterprise zone. Redevelopment should not tax the existing infrastructure to a greater degree than what exists. Impact fees should ameliorate any new municipal demand. **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;*

The area is not identified as a significant natural area or one of scenic or natural beauty. 30-32 Howard Street is listed on the Vermont State Register of Historic Resources; and the buildings at 400 Pine Street are contributing resources within a nomination to the National Register as part of the Pine Street Historic District. That nomination has been accepted by the Vermont Division for Historic Preservation and is queued for a hearing by the Advisory Council for Historic Preservation in April. See Section 5.4.8, below for further discussion.

A report from a preservation consultant confirms the adverse effect on the involved historic structures, but submits that the replacement building mitigates the loss. Supplemental narrative from the consultant was received February 15, 2017, which includes the opinion that the development project mitigates the loss of historic structures through compatible design and merging the residential use (at 30-32 Howard St., historically associated with the brush factory) with the lot to which it was previously attached. **Affirmative finding** only if DRB concurs.

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;*

This is an existing, developed area. The project is not anticipated to have a deleterious effect on Burlington's future growth patterns or fiscal ability to accommodate such growth. **Affirmative finding.**

10. *Be in substantial conformance with the city's municipal development plan and all incorporated plans;*

See Section 3.5.6 (a) 2., above for evaluation with the Municipal Development Plan.

Plan BTV South End, while as yet unadopted, offers a different perspective and set of ideals for the Pine Street corridor area. Among them, and specific to this corner of Pine and Howard Street:

- *Prioritize retention/expansion of existing buildings to support small artist/maker enterprises.* [Plan BTV South End; Page. 63.]

The project does not propose the retention and reuse of the characteristic industrial buildings, but replacement with new construction. The intended uses, however, are consistent with the artist/maker enterprises, and the building is located in a manner to help physically define the street. **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 development includes the replacement of 2 housing units with the loss of 30-32 Howard Street. Residential uses are not permitted within the Enterprise Zoning District, but the replacement of existing housing units will accommodate the required housing replacement and acceptable as restoring the non-conformity to the same extent as existing. **Affirmative finding.**

and/or

12. *Not have an undue adverse impact on the present or projected park and recreation needs of the city.*

No adverse impact is anticipated; any effect is likely to be counterweighed with the payment of 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;*
None identified.
2. *Time limits for construction.*
Unless a phasing schedule is requested, the zoning permit is valid for 2 years.
3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*
Typically approved hours for construction are Monday-Friday 7:00 am – 6:00 pm. Saturday hours may be limited to interior work if nearby residential structures may be impacted by outdoor construction activities. No construction is permitted on Sundays. **Affirmative finding as conditioned.**
4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*
The proposed offices and artist’s studios are permitted uses in the E-LM Zoning District. Although residential uses are not, the proposal may include the replacement of 2 existing (non-conforming) residential uses. Any other enlargement or alteration of use will be evaluated under the regulations in effect at the time. **Affirmative finding as conditioned.**
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.*
This is at the discretion of the DRB.

Article 4: Zoning Maps and Districts

Section 4.4.3 Enterprise Districts

(a) Purpose

*The **Light Manufacturing** (E-LM) district is the primary commercial/industrial center of Burlington, and is intended primarily to accommodate enterprises engaged in the manufacturing, processing, distribution, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment without potential conflicts from interspersed residential uses. Other accessory commercial uses are allowed to support a wide range of services and employment opportunities. This district is intended to ensure that sufficient land area is appropriately designated within the city to provide an adequate and diversified economic base that will facilitate high-density job creation and retention. This district is primarily intended to provide for industrial uses suitable for location in areas of proximity to residential development. Development is intended to respect interspersed historic industrial buildings, and*

reflect the industrial aesthetic of the district’s past. Parking is intended to be hidden within, behind, or to the side of structures.

The project does intend to support the enterprises noted: creating, renovating, painting, assembling of goods, etc. The inclusion of residential units (2) is specifically to replace the (non-conforming) units to be lost at 30-32 Howard Street.

Whether demolition of 3 historic buildings *respect[s] the interspersed historic industrial buildings* is a matter for consideration. Materials and design suggest an industrial aesthetic albeit with a loss of historic fabric and authenticity. The DAB found the proposed building demolition acceptable within the balance of benefit/loss afforded in Section 5.4.8 (d).

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.3 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio ¹)	Max. Lot Coverage ¹	Minimum Building Setbacks ¹ (feet)			Max. Height ¹ (feet)
			Front	Side	Rear ³	
Light Manufacturing	2.0 FAR	80%	5 min	0 ²	10% ²	45’
Proposed at 400 Pine / 30-32 Howard	Existing FAR .85 Proposed FAR 1.02	Existing: 88.06% Proposed: 87.06% including absorption of 30-32 Howard Street.	5’ minimum from Howard Street	25’ on east (abuts residential district)	Not applicable. The parcel has 2 fronts, multiple sides.	39’, south (front) façade.

1 – Floor area ratio is further described in Art 5. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.

2 – Structures shall be setback a minimum of 25-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by enterprise and residential zones are exempt from this district boundary setback.

3 – Percentage of the lot depth.

Affirmative finding.

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Enterprise districts shall be as defined in Appendix A – Use Table.

Offices and art studios are both permitted uses in the E-LM zoning district per Appendix A. Residential uses are not permitted; however, the 2 units proposed for demolition at 30-32

Howard may be retained as non-conforming uses. See **Article 5, Non-Conformities** and **Article 9, Inclusionary and Replacement Housing**. **Affirmative finding.**

Article 5: Citywide General Regulations

Section 5.2.2 Required Frontage or Access

Access can be made from Howard Street; alternately there are vehicular access points from Pine Street. The driveway at 30-32 Howard Street will be relocated as part of the overall development. A curb cut permit will be required from DPW. **Affirmative finding as conditioned.**

Section 5.2.3 Lot Coverage Requirements

The existing coverage is 88.06%, and will reduce to 87.06% appending the 30-32 Howard Street property. Although still in excess of the coverage limitation for the zoning district, the percentage drops with the development. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

The property is not within the RCO, WRM, RM, WRL, or RL zoning district where this standard applies. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.3-1, above.

Section 5.2.6 Building Height Limits

Plan A2.1 illustrates a building height measured from the street front (south elevation) of 39'.

An amendment to the exceptions for height limits now exempts elevator shafts and enclosed stair towers. Exposed mechanical equipment may encroach beyond the maximum building height by no more than 15 feet provided that portion exceeding the height limit does not exceed 20% of the roof area. Exposed mechanical equipment must be fully screened on all sides to the full height of the equipment and positioned on the roof to be unseen from view at the street level. Refer to Zoning Amendment ZA16-14. The applicant has proposed screening of rooftop equipment.

Affirmative finding.

Section 5.2.7 Density and Intensity of Development Calculations

(b) Floor Area Ratio

See Table 4.4.3-1, above. **Affirmative finding.**

Part 3: Non-Conformities

Section 5.3.3 Continuation

Except as otherwise specified in this Article, any nonconformity which lawfully existed at the time of passage of this or any prior ordinance or any amendment thereto may be continued subject to the provisions of this part.

The two residential units at 30-32 Howard Street are an existing non-conforming use which may be continued per this standard. They are proposed to be replaced within the new development. Similarly, the non-conformity of parking for the residential use (2 required per unit, only 2 provided in total) may continue. **Affirmative finding.**

Section 5.3.4 Nonconforming Uses

(a) Changes and Modifications:

2. Nonconforming Residential Use

A change or expansion of a non-conforming residential use may be allowed subject to conditional use approval pursuant to the provisions of Article 3, Part 5 by the DRB provided:

A. Such an expansion does not add any additional dwelling units except as may be permitted for adaptive reuse or residential conversion bonuses approved per the provisions of Sec. 4.4.5(d)(7);

Two units exist at 30-32 Howard; 2 units are proposed in the new development.

B. Such an expansion does not increase the degree of non-conformity of any non-conforming structure;

The structure at 30-32 Howard Street is not non-conforming; it is the residential use. There is no expansion in the degree of non-conformity.

and,

C. In such cases where the non-conforming residential use is located in a zoning district where residential uses are generally permitted, expansion of a non-conforming residential use into an existing and previously uninhabited attic or basement within the principle structure may be permitted subject to administrative review provided no additional dwelling units are created.

Residential uses are not generally permitted in the E-LM Zoning District. This standard is not applicable.

Affirmative finding.

Section 5.4.8 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.

30-32 Howard Street is listed on the Vermont State Register of Historic Places. 400 Pine Street is within a draft nomination to the National Register of Historic Places within the Pine Street Historic District, currently under review at the Vermont Division for Historic Preservation. Within that nomination, buildings 20a and 20b are both listed as contributing resources to the overall Pine Street Historic District as accessory structures related to the historic industrial use of the site. 30-32 Howard Street is a residential duplex. All three are proposed for demolition. See attached documents for further information.

The DAB found the proposed development provided a benefit to the community greater than the existing historic structures. Their decision included the cost/benefit analysis provided by the owner. Only if the DRB concurs with that assessment can an **Affirmative finding** be made for the following standards:

(b) Standards and Guidelines:

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 two buildings at 400 Pine Street (20a and 20b) as well as 30-32 Howard Street are proposed for demolition, which is contrary to this standard.

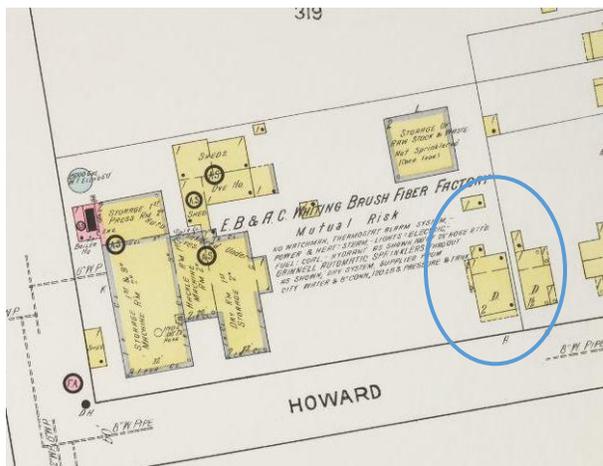
2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

Demolition is contrary to all parts of this standard. Utilization of similar materials (metal siding, brick veneer) on new construction may be compatible but not a substitute for existing and authentic historic character of a property.

3. *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.*

30-32 Howard Street has an historic connection to 400 Pine Street; mapping demonstrating that this property was originally associated with the industrial activities of 400 Pine Street.

Its demolition, with the two warehouses at 400 Pine Street is contrary to this standard.



Sanborn Fire Insurance Map of Burlington, 1912, detail.

Note 30-32 Howard Street within the property boundaries of the E.b. & A. C. Whiting Brush Fiber Factory parcel.

“D” signifies “dwelling.”

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

The buildings were constructed at different times; the brick warehouse fronting Howard Street postdates the interior warehouse and duplex, yet remains an important part of the E.B. and A. C. Whiting Brush Fiber story.

Proposed building demolition is in conflict with this standard.

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

Proposed building demolition is in conflict with this standard. The applicant suggests use of similar materials and a design aesthetic to perpetuate the industrial character of the buildings intended for demolition; that is not synonymous with preservation and reuse.

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.*

Proposed building demolition is in conflict with this standard.

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.*

Not applicable.

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

The historic industrial activities of the 400 Pine address, and by relationship 30-32 Howard Street create the historic sensitivity of the site(s). No archaeological resources have been specifically identified here, although the activities and their association with the early manufacturing and the railroad present the potential for discovery. **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 redevelopment will alter features, spatial relationships, and materials that characterize the property, in conflict with this standard.

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.*

In the demolition of the buildings identified, the proposed alterations may be considered irreversible on their effects on historic resources. The proposed new building, insofar that it is detached from other historic structures, may conceivably be removed in the future. The loss of the other buildings, however, renders the site impaired.

The originally submitted report from a preservation consultant determines that the duplex is only marginally eligible for retaining its listing on the Vermont Register of Historic Places. Staff has been advised that only the Vermont Advisory Council for Historic Preservation can issue determinations of eligibility, not consultants. Her assertion is contrary to direction provided by

the Vermont Division for Historic Preservation which asserts continuing eligibility until the Advisory Council recommends otherwise. Simply put, the consultant is not in a position to determine eligibility of an already-listed property, which retains its designation.

The applicant has provided a cost/benefit analysis to support the contention that it would be logistically and financially prohibitive to re-use the existing historic buildings. See attached document.

The consultant declares that 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” by virtue of a design aesthetic that relates to the industrial character of the overall historic district. While utilization of sympathetic materials and colors may reference context, it is never a substitute for true historic integrity of existing resources. A subsequent supplement from the consultant was received February 15, 2017 to further define the compatibility of the proposed building and the greater community benefit of development.

As noted, The DAB found the proposed development provided a benefit to the community greater than the existing historic structures. Their decision included the cost/benefit analysis provided by the owner. The building owner has subsequently provided a narrative relative to positive community benefits of the proposal. If the DRB concurs, Affirmative finding.

(c) Demolition by Neglect:

No owner of a historic building, or lessee who is obligated by lease to maintain and repair such a structure (other than the interior), shall allow, cause, or permit the structure to suffer or experience demolition by neglect. Examples of such disrepair and deterioration include, but are not limited to, the following:

- 1. Deterioration of walls or other vertical supports; walls, partitions or vertical supports that split, lean, list, or buckle, thus jeopardizing structural integrity;*
- 2. Deterioration or inadequate foundations that jeopardize structural integrity;*
- 3. Deterioration of roofs, ceilings, or other horizontal members;*
- 4. Deterioration of fireplaces or chimneys;*
- 5. Deterioration or crumbling exterior stucco or mortar;*
- 6. Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;*
- 7. Lack of weather protection that jeopardizes the structural integrity of walls, roofs, plumbing, electricity, or overall structural integrity, including lack of paint, lack of adequate heating, and lack of adequate ventilation;*
- 8. Vandalism caused by lack of reasonable security precautions; and/or*
- 9. Deterioration of any feature so as to create a hazardous condition that could require demolition for public safety.*

There has been no assertion of neglect or structural instability with any or all of the buildings. The 2 industrial buildings (c. 1900 and 1915) retain their gritty industrial nature. The last rental /

minimum housing inspection of 30-32 Howard Street found the building to be in compliance.
Affirmative finding.

(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;*
A conditions assessment was prepared by GVV Architects, and provided at the Design Advisory Board hearing.
- B. A statement addressing compliance with each applicable review standard for demolition;*
See attached submission addendum.
- 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; and,*
 - (ii) the feasibility of rehabilitation or reuse of the structure proposed for demolition or partial demolition;*See submitted Financial Assessment Narrative.

- C. 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;*

This application is for redevelopment for the site. A subsequent analysis provided by B. Tonn, Preservation Consultant opines that “the removal of just two former storage structures within the factory complex means that a majority of the industrial buildings associated with the former Whiting Brush Company factory will be retained. ..because a majority of the factory will remain intact, the proposed new building will not adversely affect the historical significance of the factory complex.”.

The supplemental January 30, 2017 consultant report asserts limited impact on the integrity of the industrial site as the Pine Street Historic District's National Register nomination is solely based upon National Register Criterion A (Associated with events that have made a significant contribution to the broad patterns of our history.) This is factually incorrect: The PSHD has been deemed eligible for the National Register under Criteria A, C (Distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction) and D (have yielded, or may be likely to yield information important in prehistory or history.)

Reference is made to that report.

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 are submitted as part of the application.

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;*

While the owner references "crumbling buildings", the conditions assessment defines building settlement, material failure and water penetration that has been ongoing. The argument centers mainly on the expense and unsuitability for rehabilitation rather than structural instability. A supplemental narrative was provided February 15, 2017.

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;*

The owner has submitted a Financial Assessment Narrative which address the "economically beneficial" standard.

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 DAB has offered their support based on this standard. The property owner has submitted a supplemental narrative relative to this standard (February 15, 2017.)

The DRB will be required to analyze the weight of a substantial community wide benefit, required to consider demolition and new construction.

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;*

A preservation consultant has provided a supplemental narrative on how the project mitigates to the greatest extent practical impact to the importance of the other structures on the property. The new building is designed to front Howard Street. The other buildings on the 400 Pine parcel are proposed to remain.

- 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 buildings may not rise to the importance of recording under the very strict standards of HABS, but merit photo documentation if approved for demolition. They have been documented through the Pine Street Historic District nomination for purposes of Advisory Council Review and National Park Service evaluation.
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;*

(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; and,

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

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 application is a development proposal which, if approved, will be conditioned for project commencement within one year of building demolition.

No deed restriction for open space or recreational uses is necessary or part of this development.

Affirmative finding under these standards if the DRB accepts *Financial Analysis* and Conditions assessments, and owner narrative relative to public benefit toward the proposed demolition of three buildings.

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.

Affirmative finding as conditioned.

Section 5.4.9 Brownfield Remediation

The sites are not defined on the state Brownfield or Haz Sites list. As a former manufacturing facility, it would not be unexpected to find site conditions meriting investigation. If examination has not been previously made, a Phase I analysis is recommended prior to any ground disturbance. The applicant may then properly plan for any environmental impacts that might be encountered during the project. If there is evidence of a release (i.e., contamination found during environmental investigation or construction), state law requires that the Agency of Natural Resources be notified. **Affirmative finding as conditioned.**

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

Any application for a zoning permit is required to demonstrate compliance with applicable nuisance regulations and performance standards identified in the Burlington Code of Ordinances. Standards are required to be met as measured at the property line. The construction of a three story building that will, in great part, have industrial/maker spaces in close proximity to a residential district has the potential to introduce some conflict. If it can be determined that the artists' studios / maker spaces will not introduce noise, vibration, dust, or similar impact to abutting residential properties (units are self-contained and are not releasing heat/dust/smoke/vapor) an **Affirmative finding** may be made.

Part 5.5.2 Outdoor Lighting

A revised landscape plan with photometric was submitted 2/15/2017. LED downlights are acceptable. Light levels are above acceptable limits within the garage entry and at the residential entrance on Howard. With adjustment, the lighting plan may be acceptable. **Affirmative finding as conditioned.**

Section 5.5.3 Stormwater and Erosion Control

Written approval of the EPSC and Stormwater plans have been approved by the Stormwater program. The Chapter 26 approval has operation and maintenance plans as part of their conditions. **Affirmative finding as conditioned.**

Section 5.5.4 Tree Removal

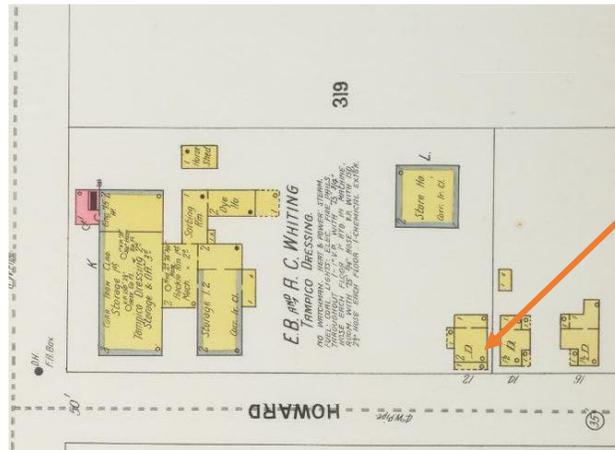
If removal involving six or more trees, each of 10" in caliper or removal of 10 or more trees each of which is 3" or greater in caliper will require review under this section. It does not appear that this benchmark is triggered for the privately owned parcels; the applicant is working with the city arborist for treatment or removal of trees within the greenbelt. **Affirmative finding as conditioned.**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

The proposal does not include the division of land; rather the lots are intended to be merged and internal lot lines between 400 Pine Street and 30-32 Howard Street to be extinguished. The applicant is required to provide appropriate application fees to merge the lots (\$100 per lot plus \$10 filing fee) and the required survey (see Article 10.) **Affirmative finding as conditioned.**

(Anecdotally, the residential structure was originally part of the 400 Pine Street collection of buildings, and supported the activities there. See images from Sanborn Maps, below.)



Sanborn Map of Burlington, 1900. 30-32 Howard Street is illustrated, right of center.



Sanborn Map of Burlington, 1919. Buildings 20a and 20b are on site; 30-32 Howard to the east.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

There are no identified important natural features within the project area. Not applicable.

(b) Topographical Alterations:

As the grade increases going east, there are some grade changes that will provide some design opportunities within the development. As underground parking is proposed, excavation and grade alteration are anticipated. See plans C1.1, or LS1 for contours. **Affirmative finding.**

(c) Protection of Important Public Views:

There are no protected important public views from or through the site. **Affirmative finding.**

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

Although the application does not include the use of solar, wind, water, geothermal or other renewable energy resources, the development does not preclude the eventual inclusion of any. **Affirmative finding.**

(f) Brownfield Sites:

A search of the state Haz Sites and Brownfields did not turn up these addresses. The Vermont Agency of Natural Resources advises that any owner/developer/applicant should perform proper due diligence before performing any re-development of a property. Given the history of this area, proper due diligence means performing a Phase 1 assessment per ASTM E1527-13 and performing any additional investigation, if needed, to determine if contamination is present on the property.

The submitted narrative includes "soils analysis will be complete prior to issuance of a permit." This is cart before the horse; the soils analysis should be completed and appropriate corrective response determined prior to permit release. it is much easier to address contamination before a project begins instead of finding contamination during the development of a property.

Affirmative finding as conditioned.

(g) Provide for nature's events:

A Stormwater Management Plan as well as a Small Project Sediment and Erosion Plan have been provided to satisfy Section 5.5.3 and Chapter 26. DPW Stormwater program has given preliminary approval both, contingent upon an operation and maintenance schedule. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

The proposed replacement building is oriented north/south and fronting Howard Street, helping to strengthen the street edge. The garage entry is on the north elevation. Residential access is

from the south (street front); access to the studios and office space is proposed from the westerly elevation. **Affirmative finding.**

(i) Vehicular Access:

There are paved paths within the complex of buildings that may lead to the proposed parking level entry. Alternately, an access drive lies west of the proposed structure, with a 20' wide access from Howard Street. That drive narrows at the northwestern corner of the building but retains a 20' clearance under the 2nd floor roof canopy, prior to garage ramp entry ramp. The application defines revision to the stairs/loading dock on the westerly building to minimize the point of constriction. Although fairly tight, the fire marshal has deemed the access acceptable for his department's requirements.

The applicant requests relocation of the curb cut along Howard Street, approximately 25' to the east to allow access to the new parking area for the residential units. The relocated driveway will cause the loss of 2 street trees, which the applicant must make restitution to the city arborist for their loss. **Affirmative finding as conditioned.**

(j) Pedestrian Access:

Access doors are provided on the west, south and east of the building. The southerly access/stairs are dedicated to serve the two residential units. **Affirmative finding.**

(k) Accessibility for the Handicapped:

The parking level has identified one handicapped (h/c) parking space with loading area. An exterior ramp is illustrated on the westerly side of the building, terminating at the entrance door. An elevator will serve all three floors and the parking garage. **Affirmative finding.**

(l) Parking and Circulation:

The parking level has 25 parking spaces, one of those h/c accessible and adjacent to the garage entry.

(See inconsistency in plans, below.)

Parking spaces are smaller than required; illustrated dividers are 18' in length while 20' is the defined standard. Required minimum backup length is 24' per Table 8.1.11-1. With two 20' long parking corridors, there remains only 20' backup space. These standards are a requirement except in situations where a lesser standard is deemed necessary by the DRB due to site topography, location of existing or proposed structures, lot configuration, and/or the need to preserve existing trees and mature vegetation. See Section 8.1.11 and Table 8.1.11-1.

The Board has, on occasion, approved diminished vehicular parking spaces within garages.

There are four spaces (two, each in tandem) for the 2 residential units, located east of the building.

Revised Plan LS1 shows 25 parking spaces within the parking deck; plan A1.1 has 24. The handicap parking space is located in different locations in each plan. The attached narrative defines 20 spaces within the parking deck (See Exhibit B, page 2.) Plans must be consistent and accurate for development proposed.

The parking analysis made as part of the submission references the Parking Management Plan and approved parking waiver under ZP16-0784CU. That decision included the following:

ZP16-0784CU Issued 3/5/2016	Total parking required 169	Total parking on site 92	Waiver (46%) 77
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See calculation of new parking requirement made by staff under Article 8.

A plan for snow removal and/or storage is included on revised drawings (C1.1.)

Affirmative finding, if DRB accepts diminished parking space lengths within garage deck, parking count defined and consistent.

(m) Landscaping and Fences:

A landscaping plan has been submitted (Plan LS1.) Two 24” caliber trees are proposed to be removed, as well as a cedar hedge. Extensive plantings proposed along the easterly boundary abutting a residential district. Headlamp spill should not impact those easterly properties as the grade changes entering the garage.

The picket fence proposed for the southeasterly border has been adjusted to comply with the Clear Site Triangle provisions of the ordinance. Within 25’ of any driveway, any fence or landscaping must be less than 3’ in height within 15’ of the property line.

Affirmative finding.

(m) Public Plazas and Open Space:

No public plazas or dedicated open space is included within the application. **Affirmative finding.**

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

Recessed LED fixtures are proposed for most exterior lights. Wall sconces are provided on the north elevation.

Garage light levels are extraordinarily high (see Plan LS1, as revised.) Parking garage lighting is regulated by by the CDO with reference to *IESNA RP-20-98*; guidance for light levels required here.

If the garage/parking deck is entirely enclosed (mechanical ventilation and automatic closing door), then lighting may remain as proposed.

Light levels at the easterly elevation and at the southerly residential entrances exceed allowable limits for building entrance (5 fc) and must be adjusted accordingly. **Affirmative finding as conditioned.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

Trash and recycling for all uses will be provided in the westerly building, see Plan C1.1. There shall be no exterior totes for the residential use.

Plans note that electrical service will be undergrounded. Water, sewer and electrical connections are identified within the parking garage deck.

If any mechanical equipment is proposed, either roof or ground mounted, it must be shown on plans to assess auditory and visual impact. Rooftop equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level.

A central location for mailboxes needs to be identified; presumably this might be on the interior of the building but should be identified in application documents.

Affirmative finding as conditioned.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

Three stories over a parking level are proposed. A plan illustrating street context, with a site section has been provided. The two warehouse buildings proposed for demolition are both one storey (although the northerly one is a greater volume, as intended for commercial storage.) The duplex to be demolished is two stories.

The applicants have provided a streetscape illustration to depict the proposed new building within the context of existing structures. See Exhibit A, *Section looking North from Howard Street*. The proposed building's height is somewhat ameliorated by its set-back 3rd floor, strong 2nd floor cornice line and the changing grade. **Affirmative finding.**

2. Roofs and Rooflines.

A flat roof is proposed. Many of the buildings within the complex and associated with industrial uses on Pine Street have flat roofs, as does 30-32 Howard Street. **Affirmative finding.**

3. Building Openings

Pedestrian doors are located on the south (for the residential units), east and west facades. East façade doors are indicated as exit only. Windows surrounding all elevations are regularly spaced and symmetrically arranged, adding variety interest. Windows are proportioned to appear more vertical than horizontal. A series of large window lights which will operate as overhead garage-doors punctuate the first floor on the west elevation, intended to provide greater ceiling height for the intended artist use. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings.

See Section 5.4.8.

(c) Protection of Important Public Views:

There are no protected or important public views from this site. Not applicable.

(d) Provide an active and inviting street edge:

The Howard Street entrance is specifically for the two replacement residential units. The bifurcated entrance steps and parallel doors define individual identities for these units, which are clearly discernable. The second floor has a small street front balcony to serve the residents.

Entrance for the studios and office space will occur from the access alley between buildings, on the west building elevation. **Affirmative finding.**

(e) Quality of materials:

The narrative defines a palette of brick, metal and glass on a concrete base, intended to be both durable and low maintenance. Windows are fiberglass. **Affirmative finding.**

(f) Reduce energy utilization:

New construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirement of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

Any proposed signage will require a separate sign permit. Elevations include a depiction of “20 Howard” on the west elevation. Parallel signs are limited to 2 sf. per each linear foot of building **frontage** allocated to the establishment. The narrower building frontage measurement on Howard Street will predictably limit the sign area for the overall building. (62’ building frontage, allowable parallel signage = 124 sq. ft. total.)

Given the mix of uses proposed, the applicant may consider a Master Sign Plan for greatest flexibility. See Section 7.3.2 of the CDO.

The narrative includes installation of two exterior screens for the display of artists’ work. Visual displays may not have flashing or moving parts so as to create a nuisance, be distracting to neighbors, surrounding properties or to motorists. **Affirmative finding as conditioned.**

(h) Integrate infrastructure into the building design:

Exterior machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory features shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties.

Rooftop mechanicals, including heating and cooling devices and elevator equipment, should be incorporated into the structure’s design, and shall be arranged to minimize their visibility from the street level. Such features, in excess of one foot in height, shall be either enclosed within the roof structure, outer building walls, or parapets, or designed so that they are integrated into the overall design and materials of the building. See Section 6.2.2. (p), above.

(i) Make spaces secure and safe:

All building and life safety code, as defined by the Building Inspector and Fire Marshal, shall be implemented. Appropriate lighting at entryways and within the parking garage shall be provided, meeting the specific requirements of Section 5.5.2, and provide for adequate and safe use.

Intercom systems are recommended when possible to maximize personal safety.

Affirmative finding as conditioned.

Article 8: Parking

Staff calculation stands alongside the parking management plan previously approved (ZP16-0784CU) and assume continued conformance with the conditions of that permit.

For this project, staff recalculates:

Assuming non-conforming parking for residential use continued:

Use	Requirement	Provided
Residential (replacement)	2/unit (existing 1/unit, non-conforming)	2
Office	13,182sf / 1000 = 13 x 2	26
Studio	5004sf / 1000 = 5 x 1	5
Total new parking	35 (33 if non-conformity continued)	29 (parking deck with 25 spaces)

Shortfall – 4 spaces

Demolition of 2 warehouses	10,393 sf / 1000 = 10 x .35	-4 spaces
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Affirmative finding for vehicular parking.

Section 8.2.5 Bicycle Parking (Table based on 8.2.5-1)

Long Term Spaces	Residential Use, 1 per 4 units, 0	Office use 1/5000sf, or 3 spaces	Studio/Manufacturing 1/20,000, or 0	Total long term spaces based on use and area = 3
<u>Short Term Spaces</u>	<u>Residential use, 1 per 10 units, or 0</u>	<u>Office use 1 per 10,000 sf, or 1 space</u>	<u>Studio/Manufacturing 1/50,000, or 0</u>	<u>Total short term spaces based on use and area = 1</u>

Although the total calculation comes to 3 Long Term Bicycle Parking Spaces and 1 Short Term Bicycle Parking Space, the nature of the activities and the location in the South End suggest a higher than average bicycle use rate. The applicant is encouraged to provide secure bicycle parking, both within and outside the building.

A bike rack is illustrated just north of the building, adjacent to a walkway under cover as recommended by the Design Advisory Board. See original Plan LS1. The submitted narrative provides 12 bikes will be accommodated. **Affirmative finding as conditioned.**

Article 9: Inclusionary and Replacement Housing

The loss of the two residential units will be replaced with two new residential units within the development. See Section 5.3.4 for a discussion of the continuation of Nonconforming uses. **Affirmative finding.**

Article 10: Subdivision Review

Section 10.1.5 Lot Line Adjustments

The intent of this section is to provide for an abbreviated review and approval process for the realignment of lot boundary lines between existing adjacent lots, including the merger of lots, where no additional lots are being created. A lot line adjustment shall not constitute a subdivision.

The proposed merger of 400 Pine Street and 30-32 Howard Street can be incorporated within this project review.

The following are the submission requirements for consideration of the extinguishment of the interior property line:

(a) Lot Line Adjustment Submission Requirements:

An applicant requesting review of a lot line adjustment shall submit the following documentation to the administrative officer:

- (1) A complete application form pursuant to the provisions of Art. 3 and signed by the property owner;*
- (2) A letter requesting review and approval of a lot line adjustment, giving the names and address of property owners;*
- (3) **The applicable application fee;** and,*
- (4) Two (2) copies of a lot line adjustment plat which shall include the following:
The plat shall be prepared by a **Vermont licensed land surveyor** and indicate all lots that are proposed to be modified as a result of the proposed lot line adjustment. The survey shall be sufficient to clearly indicate the area, metes, bounds, and ties of each of the affected lots.*

The survey shall include all structures and site improvements and delineate all building/structure setbacks, lot coverage, parking spaces and any other details as may be specified by the Administrative Officer.

The following additional language shall be printed on the plat:

“Approval of this lot line adjustment plat does not constitute the creation of a separate parcel or lot. It adjusts the physical location of the common boundary of the adjoining parcels or lots. This lot line adjustment has been approved by:”

 City of Burlington Administrative Officer/ Assistant Administrative Officer

Date: _____ Zoning Permit # _____

Originally the applicant suggesting separating the lot merger from the overall development application. The applicant has now confirmed the desire to complete the merger as part of this review. A survey prepared by a licensed land surveyor with the noted language included is required, with the additional application fee of \$100/lot.

Affirmative finding as conditioned.

Section 10.1.11 Recording of Final Plat

(b) Recording within 180 days

The final plat...shall be recorded in the office of the chief administrative officer within 180 days of the DRB’s approval. Failure to file all such materials within 180 days of the decision shall render the final plat approval void. **Affirmative finding as conditioned.**

II. Conditions of Approval:

1. Based on submitted area and with credit for the existing warehouses, the following Impact Fees shall be required: (Area to be confirmed by applicant.)

Allocation by department:

Enter Total Fee: \$29,496.56

Department	Offices & Other	
	Rate	Fee
Traffic	0.658	12138.05
Fire	0.193	3560.25
Police	0.341	6290.39
Parks	0.407	7507.88
Library	0.000	0.00
Schools	0.000	0.00
Total	1.599	\$ 29,496.57

2. Impact Fees must be paid at least seven days prior to occupancy of a new building or any portion thereof.
3. Hours of construction are limited M-F 7:00 am to 6:00 pm. Saturday hours are reserved for interior work only unless otherwise authorized by the DRB. No construction activities shall occur on Sundays.
4. Exposed mechanical equipment may encroach beyond the maximum building height by no more than 15 feet provided that portion exceeding the height limit does not exceed 20% of the roof area. Exposed mechanical equipment must be fully screened on all sides to the full height of the equipment and positioned on the roof to be unseen from view at the street level.
5. If any archaeological resources are discovered during construction, appropriate authorities will be notified for guidance on handling, treatment, or disposition.
6. The applicant is encouraged to sell or reclaim a structure and all historic building materials, or permit others to salvage them (if this can be done without exposing the public to danger and construction activity) and to provide an opportunity for others to purchase or reclaim the building or its materials for future use. It is recommended that the applicant advertise the availability of the structures and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition. All materials shall be disposed of in a safe and legal manner.
7. Given the industrial use of the site, a Phase 1 assessment per ASTM E1527-13 is recommended to determine if contamination is present on the property **prior to redevelopment**. The results of such investigation shall be forwarded to the City (and to the Department of Environmental Conservation) to determine whether further action or remediation is warranted prior to development.
8. A revised photometric will be required **prior to release of the zoning permit** illustrating diminished light levels at the garage entry per recommended IESNA standards; and at easterly and southerly residential entrances not exceed 5 footcandles.
9. Approval of this project will merge lots and extinguishment of an internal property line. Standards of Article 10 shall apply as appropriate. Additional fees will be required for lot merger (\$100/lot) and submission of a survey by a Vermont licensed land surveyor with appropriate language as defined by Section 10.1.5 (a).
10. The final plat of the merged lots shall be recorded in the office of the chief administrative officer (land records) within 180 days of the approval of the merger. Failure to file all such materials within 180 days of the decision shall render the final plat approval void.
11. If the Silver Maple and crabapple tree in the greenbelt along Howard Street must be removed due to the driveway relocation, restitution to be determined by the City arborist will be required.
12. **Prior to release of the zoning permit**, the location of mailboxes will be identified on plans for staff review and approval.
13. No signage is included within this permit. Given the number of uses proposed, a Master Sign Plan is recommended for the entire building. See Article 7, Part 3.
14. Exterior visual displays may not have flashing or moving parts so as to create a nuisance, be distracting to neighbors, surrounding properties or to motorists.

15. **Prior to release of the zoning permit**, a plan for bike rack shall be submitted for staff review and approval. It shall be consistent with the City of Burlington Bicycle Parking Guidelines.
16. Parking spaces within the parking deck are undersized based on Table 8.1.11-1. If adjusted to meet the standards of this table, required back-up length is deficient. **Any deviation from these standards is subject to review and approval by the DRB.**
17. Any work in the right-of-way will require separate permitting from the Department of Public Works. This may include but is not limited to relocation of a curb cut on Howard Street.
18. The location of the pad mount transformer shall be included on plans.
19. Zoning amendment ZP17-03 will require that all violations on involved properties be resolved and all expired zoning permits closed out **prior to issuance of a Certificate of Occupancy** for this project.
20. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.