



Vermont Department of Environmental Conservation
Commissioner's Office
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Agency of Natural Resources

MEMORANDUM

To: Peter Shumlin, Governor
From: Alyssa Schuren, Commissioner, Department of Environmental Conservation *AS*
Through: Deb Markowitz, Secretary, Agency of Natural Resources
Date: December 22, 2015
Subject: Easement Acquisition Approval – Former Bushey's Auto, 256-262 North Winooski Avenue, Burlington

Pursuant to Title 10, Section 6615 and 10 V.S.A. Chapter 155, your approval is requested for the acceptance of the easement acquisition referenced below. Natural Resources Land Acquisition Committee approval is not required for this acquisition. Joint Fiscal approval is not required for this acquisition. The easement is as follows:

- Grant of Environmental Restrictions, Right of Access, and Easement on Former Bushey's Auto property in Burlington, Vermont.

Description:

The site consists of two parcels that together total 0.494 acres in size, and was redeveloped to include two mixed-use residential structures totaling approximately 20,850 ft², including 22 residential units and 1,526 ft² of retail space. Prior to redevelopment, the site included a residential duplex and two single-family residences all greater than 100 years old, as well as the Bushey's Auto service and sales garage which was constructed in the mid-1980's. A smaller, private auto garage was constructed on the property sometime between 1942 and 1950, and was subsequently demolished prior to the construction of the Bushey's Auto building. The site is currently owned by WR Vilas, LLC, and is currently being utilized for residential living and commercial retail space. Remediation activities included the demolition of four on-site buildings, the removal of two fuel oil Aboveground Storage Tanks (ASTs), the removal of two hydraulic lift cylinders and disposal of the resulting hydraulic oil, the excavation and disposal of approximately 130 yds³ of Tetrachloroethene (PCE) contaminated soil and subsequent re-grading and installation of a paved parking area, and the installation and testing of vapor barriers and sub-slab depressurization systems (SSDs) for each of the two new on-site buildings. The SSDs and paved areas are intended to mitigate the effects of residual PCE concentrations in soil and soil gas.

This easement has been acquired by the Agency of Natural Resources as part of the cleanup at the site.

Ownership and Management

The parcels were purchased by WR Vilas, LLC on January 27, 2014. The primary responsibility of ensuring compliance with the easement rests with the responsible party. The State of Vermont has oversight and enforcement authority over these restrictions and the responsible party.

Budget and Funding

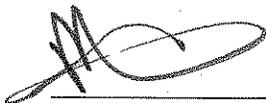
Funding for the continuing obligation for the monitoring and maintenance for this project is funded by the current property owner.

APPROVAL FOR LAND ACQUISITION

We, the undersigned, hereby approve the acquisition by the State of Vermont, Agency of Natural Resources, Department of Environmental Conservation, of the Grant of Environmental Restrictions, Right of Access, and Easement on the property consisting of 0.494 acres, more or less, located at 256-262 North Winooski Avenue, Burlington, in Chittenden County, Vermont to be owned and maintained by WR Vilas, LLC.

This approval is pursuant to Title 10 §§ 6615 and 10 V.S.A. Chapter 155.

1/15/16
Date


Peter Shumlin, Governor
State of Vermont

1/11/16
Date


Deb Markowitz, Secretary
Agency of Natural Resources

1/7/16
Date


Alyssa Schuren, Commissioner
Dept. of Environmental Conservation

GRANT OF ENVIRONMENTAL RESTRICTIONS, RIGHT OF ACCESS, AND EASEMENT

THIS GRANT OF ENVIRONMENTAL RESTRICTIONS, RIGHT OF ACCESS, AND EASEMENT ("Grant") is made this _____ day of _____, _____, by WR Vilas LLC, a Vermont limited liability company with its principal place of business located in Burlington, Vermont, its successors and assigns ("Grantor"), for the benefit of the State of Vermont, Agency of Natural Resources, and any successor agencies ("Agency of Natural Resources") ("Grantee").

WITNESSETH:

WHEREAS, Grantor owns the lands and premises known as and numbered 258 & 260 North Winooski Avenue in the City of Burlington, in Chittenden County, Vermont (the "Parcel"), consisting of 0.494 acres, more or less, as more particularly described in Exhibit A attached hereto and made a part hereof; and

WHEREAS, the Parcel was formerly used for a mixture of residential and commercial purposes, and the Parcel has been issued SMS Site #2012-4337 by the Agency of Natural Resources as a result of the presence of tetrachloroethene (PCE) in subsurface soil and soil vapor on the Parcel, as well as the presence of Polycyclic Aromatic Hydrocarbons (PAHs) in soil on the Parcel; and

WHEREAS, the Grantor has re-developed the Parcel for residential and commercial uses; and

WHEREAS, the Grantor and its predecessor in title have cooperated with the Agency of Natural Resources to study and evaluate conditions on the Parcel associated with the prior commercial uses of the Parcel and of lands and premises that adjoin the Parcel, and Grantor has performed certain activities on the Parcel and constructed certain improvements to the Parcel (the "Corrective Actions") with the prior written approval of the Agency of Natural Resources (as indicated by Notice of Approved Corrective Action dated October 29, 2013, as modified by Updated Notice of Approved Corrective Action dated December 31, 2013) and with the expectation that the Agency of Natural Resources would issue a Certificate of Completion for the Parcel upon the completion thereof (as indicated by Brownfields Reuse and Liability Limitation Act Determination of Eligibility dated December 23, 2013); and

WHEREAS, the Corrective Actions consist of the excavation of two building foundations each measuring $\pm 3,500$ sq. ft., the installation of vapor barriers and active sub-slab depressurization systems beneath the two building foundations, and the removal of PCE contaminated soils from an area measuring $\pm 2,200$ sq. ft. prior to the construction of a parking lot, all as summarized on the plan entitled "Corrective Action Site Plan", prepared by Waite – Heindel Environmental Management dated January 28, 2015, a copy of which is attached hereto as Exhibit B and made a part hereof, which also indicates the portion of the Parcel on which the Corrective Actions were performed; and

WHEREAS, it is the purpose of this instrument to convey certain real property rights to the Grantee, being the easements, rights of access, obligations, covenants and use restrictions set forth below, which will run with the Parcel in perpetuity, which are necessary with respect to those portions of the Parcel on which the Corrective Actions were performed to ensure that the Corrective Actions remain in effect and to ensure that future activities on the Parcel do not interfere with the Corrective Actions, or in any way increase the ecological, human, or environmental risks at the Parcel; and

WHEREAS, these environmental restrictions, rights of access and easement are required under the terms of the Certificate of Completion entered into between Grantor and Grantee with respect to the Parcel,

dated _____, 2015, a true and correct copy of which is attached hereto as Exhibit C and made a part hereof; and

WHEREAS, the Grantor agrees that these environmental restrictions, right of access and easement, will run with the Parcel in perpetuity.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and in the Certificate of Completion, and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the Grantor and Grantee, the Grantor, by these presents does hereby GIVE, GRANT, BARGAIN, SELL, CONVEY AND CONFIRM unto the Grantee, the State of Vermont, Agency of Natural Resources and its authorized representatives, successors and assigns, and with WARRANTY, COVENANTS forever, the following easements, rights of access, obligations, covenants and use restrictions with respect to the Parcel:

1. Easement Rights of Access.

a. Subject to the terms and conditions of Section 1(b), Grantor grants to Grantee the perpetual right and easement and right of access in, on, upon, to, through, over and under the Parcel for the following purposes:

- i. monitoring and oversight of all aspects of the Corrective Actions;
- ii. verifying any data or information submitted by Grantor or its agents to the Agency of Natural Resources;
- iii. assessing the need for, planning, or implementing additional response actions at the Parcel;
- iv. determining whether the Parcel is being used in a manner that is prohibited or restricted by this Grant;
- v. enforcing the rights of Grantee to the Parcel and the covenants of the Grantor set forth herein;
- vi. all other activities necessary to implement, construct, operate or maintain the Corrective Actions.

b. By its acceptance of this Grant, Grantee acknowledges that the Parcel has been developed with two buildings that include both residential dwelling units and commercial spaces, and agrees that (i) except in the event of an emergency, including the existence of an actual or potential threat to human health or the environment, Grantee shall not exercise its rights hereunder in a manner that will or may be disruptive to the residents or tenants of the Parcel without first providing Grantor with at least ten (10) calendar days prior written notice of the actions that it desires or intends to take, (ii) in exercising its rights hereunder, Grantee will not unreasonably interfere with the rights, use and enjoyment of the Parcel by Grantor and the residents or tenants of the Parcel, (iii) Grantee will repair and restore any damage to the Parcel caused by the exercise of its rights hereunder to the condition that existed prior to Grantee's exercise of its rights hereunder, and (iv) Grantee will indemnify and hold Grantor and the residents or tenants of the Parcel harmless from and against loss or damage from property damage or personal injury

to the extent caused directly by the acts of Grantee or its agents in the exercise of Grantee's rights hereunder.

2. Restricted Uses and Activities. By its acceptance of this Grant, Grantee approves the use of the Parcel for the construction and operation of two buildings that include both residential dwelling units and commercial spaces that may be used, subject to the terms of this Grant, for restaurant, office or retail uses. Subject to the foregoing approval, Grantor makes the following covenants and agrees to permanent use restrictions and obligations on behalf of Grantor, its successors and assigns, for the benefit of Grantee, its authorized representatives, successors and assigns, which covenants, restrictions and obligations shall run with and bind the Parcel in perpetuity:

- a. Grantor shall comply with all federal, state, and local laws and regulations regarding the handling and disposal of hazardous substances, pollutants or contaminants on or from the Parcel;
- b. Grantor shall not use the Parcel, conduct any activities on the Parcel, or allow uses or activities to be conducted on the Parcel that would:
 - i. unreasonably interfere with any investigations of the environmental conditions at the Parcel;
 - ii. cause or exacerbate contamination of the Parcel or contamination of off-site properties; or
 - iii. pose or present any risk to the implementation, construction, operation, or maintenance of the Corrective Actions.
- c. Grantor shall not take or authorize any of the following activities or actions on the Parcel without the prior express written consent from the Grantee:
 - i. Construction, substantial improvement, or stabilization of buildings or any work on the foundations of buildings;
 - ii. Plowing, tilling, ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials;
 - iii. Construction activities which will materially change hydrogeologic conditions or will likely cause migration of contaminated groundwater;
 - iv. Any other use that may impact or adversely affect the implementation, construction, operation, and maintenance of the Corrective Actions.

3. Enforcement.

- a. The Grantee shall be entitled to enforce the terms of this Grant by resort to specific performance or other legal process, including enforcement in the courts of the State of Vermont.

- b. The Grantor agrees that a material violation of this Grant will constitute irreparable harm and entitle Grantee to injunctive relief.
 - c. All reasonable costs and expenses of Grantee, including, but not limited to, reasonable attorneys' fees, incurred in any enforcement action shall be borne by the Grantor or its successors in interest or assigns if Grantee prevails in any such action.
 - d. All remedies available hereunder shall be in addition to any and all remedies at law or in equity, including but not limited to federal and state hazardous waste management statutes. Nothing in this Grant shall be construed to limit or otherwise affect the Agency of Natural Resources' rights of entry and access provided by law or regulation.
 - e. Enforcement of the terms of this Grant shall be at the discretion of the Grantee, and any forbearance, delay or omission to exercise its rights under this Grant shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this Grant.
 - f. Grantee shall be entitled to recover monetary damages for violations of the terms of this Grant, or for any injury to the response actions.
 - g. Grantee shall be entitled to recover damages for injury to the public health and welfare or to the environment protected by this Grant.
4. Severability. The provisions of this Grant are severable. If any provision of this Grant is invalid, or if any application of this Grant to any circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
5. Provisions to Run With the Land in Perpetuity. The environmental restrictions, rights of access, easements, obligations and covenants, granted in this Grant shall run with the land, and any portion thereof, in perpetuity, and shall be binding on the Grantor, the Grantor's successors and assigns, and shall inure to the benefit of the Grantee and its authorized representatives, successors and assigns.
6. Incorporation into Leases. Grantor hereby agrees to incorporate the terms and provisions of this Grant, in full or by reference, into all leases, licenses, occupancy agreements, or any other instrument of transfer by which a right to use the Parcel, or any portion thereof, is conveyed.
7. Termination.
- a. This Grant may be modified, or terminated in whole or in part only upon written agreement between the Grantor, its successors or assigns, and the Grantee, signed by the Grantee and recorded in the land records in the City of Burlington.
 - b. The Grantee may terminate this Grant, in whole or in part, at such time or times, if ever, when the Grantee, in its sole reasonable discretion, determines that termination is necessary or that the purposes for which this Grant was granted have been achieved.
8. Miscellaneous Rights and Obligations.

- a. Nothing contained herein shall give or grant to the public a right to enter upon or to use the Parcel or any portion thereof where no such right existed in the public immediately prior to the execution of this Grant.
- b. If Grantor or its successors and assigns become delinquent in payment of property taxes or assessments such that a lien against the Parcel is created, the Grantee shall have the right to take actions as may be necessary to protect the Grantee's interest in the Parcel and to assure the continued enforceability of the rights granted herein.
- c. Grantor does further covenant and represent that the Grantor is seized of the Parcel in fee simple and warrants that it has good right and title to grant and convey the interests granted herein, and that the Parcel is free and clear of any and all encumbrances except as set forth on Exhibit D attached hereto and made a part hereof, that Grantor shall warrant, defend, and indemnify against all lawful claims whatever, and that Grantee and its successors and assigns shall have the use of and enjoyment all of the benefits derived from and arising out of this Grant.
- d. Grantee shall be entitled to record this Grant, or to record a notice making reference to the existence of this Grant, in the Land Records for the City of Burlington as may be necessary to satisfy the requirements of the Record Marketable Title Act, 27 V.S.A. Chapter 5, Subchapter 7, including 27 V.S.A. §§ 603 and 605.
- e. The parties hereto recognize and agree that the benefits of the environmental restrictions, easement, and right of access granted and imposed herein are in gross and are assignable by Grantee, subject to notice to Grantor and recording of the assignment in the Land Records for the City of Burlington.

TO HAVE AND TO HOLD the easements, rights of access, obligations, covenants and use restrictions set forth above unto the said Grantee, Vermont Agency of Natural Resources, its authorized representatives, successors and assigns forever. Grantor, WR Vilas LLC, for itself and its successors and assigns, does covenant with the Grantee and its successors and assigns that until the ensealing of these presents, it is the sole owner of the Parcel, and has good right and title to convey the easements, rights of access, obligations, covenants and use restrictions set forth above in manner aforesaid; and it hereby engages to WARRANT AND DEFEND the same against all lawful claims whatever.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed and sealed below the day and year first above written.

WR Vilas LLC

Witness

By: _____
Erik J. Hoekstra, Manager

STATE OF VERMONT
COUNTY OF CHITTENDEN, ss.

At Burlington this ___ day of _____, _____, Erik J. Hoekstra, Manager of WR Vilas LLC, personally appeared and acknowledged this Grant by him sealed and subscribed to be his own free act and deed and the free act and deed of WR Vilas LLC.

Before me: _____
Notary Public
Commission expires: _____

**FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM
FOR
SILVERSMITH COMMONS**

This First Amendment to Declaration of Condominium for Silversmith Commons ("Amendment") is dated _____, 2016 and is made by **WR Vilas LLC**, a Vermont limited liability company ("Declarant").

RECITALS

A. The Silversmith Commons common interest community (the "Condominium") was created by Declaration of Condominium for Silversmith Commons dated February 9, 2015 and recorded in Volume 1268 at Page 582 of the City of Burlington Land Records (the "Declaration").

B. Declarant, pursuant to the rights granted by Article 15 of the Declaration, pursuant to the rights granted by the Vermont Common Interest Ownership Act and by virtue of being the owner of all of the Units, has the right to amend the Declaration, and Declarant desires to amend the Declaration in the manner set forth below.

Now, Therefore, in consideration of the foregoing and other good and valuable consideration, and meaning and intending to be bound hereby, the Declarant hereby amends the Declaration as follows:

1. Exhibit A of the Declaration is hereby amended to add the following additional encumbrance to Declarant's title to the Property: Grant of Environmental Restrictions, Right of Access, and Easement made by WR Vilas LLC for the benefit of the State of Vermont, Agency of Natural Resources, and any successor agencies, dated on or about the date hereof and recorded contemporaneously herewith in the City of Burlington Land Records.
2. Except as set forth herein, the Declaration remains unmodified and in full force and effect.

Executed this ____ day of _____, 2016.

WR Vilas LLC

By: _____
Erik J. Hoekstra, Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

At Burlington, Vermont, this ____ day of _____, 2016, Erik J. Hoekstra, authorized agent of WR Vilas LLC, personally appeared, and he executed this instrument and acknowledged this instrument to be his free act and deed and the free act and deed of WR Vilas LLC.

Before me _____
Notary Public
My Commission Expires. 2.10.19

MSK

MURPHY
SULLIVAN
KRONK

ATTORNEY'S REPORT ON RECORD TITLE

RECORD OWNER:

256-262 N. Winooski, LLC subject, however, to the provisions of 32 V.S.A. § 5263, as more particularly discussed in Exhibit C, Section 5(d) to this Report.

PROPERTY DESCRIPTION:

Land and premises known as and numbered 256-258 North Winooski Ave., and 260-262 North Winooski Ave., both in Burlington, Vermont and more particularly described on Exhibit A attached hereto and made a part hereof.

The following report on the record title of the Record Owner to the above-described Property is based on an examination of the appropriate records of the City of Burlington, Vermont. This examination was conducted at the request of WR Vilas, LLC, a Vermont limited liability company, in connection with the purchase of the Property for \$570,000.00 and its grant of a senior mortgage to TD Bank, N.A. to secure an acquisition and construction loan in the amount of \$3,487,500.00 and the grant of a junior mortgage to Vermont Community Loan Fund to secure a construction loan in the amount of \$450,000.00. This report is for the sole use of WR Vilas, LLC, TD Bank, N.A., Vermont Community Loan Fund and Old Republic National Title Insurance Company. This report is for the sole use of the aforementioned parties and is not transferable and is not for use in connection with any transaction other than described above. This report is addressed solely to matters affecting record title to the Property. In providing it, we have assumed that at the time of our examination of title, all documents theretofore delivered to the municipal clerk had been correctly and completely indexed in the general indices, that all oral statements made to us by governmental officials with respect to the status and content of public records were correct and complete for the period searched.

The Property is described in Exhibit A and is subject to those matters disclosed in Exhibits B, C and D, and subject to the limitations set forth in Exhibit E.

This Report refers to and applies only so far back as the dates referenced in Exhibit C, Section 5(e) to this Report, and is effective down to January 16, 2014 at 8:00 a.m.

DATED at Burlington, in the County of Chittenden, and State of Vermont, this 16th day of January, 2014.

MURPHY SULLIVAN KRONK

By:


Jeremy Farkas, Esq.
275 College Street
Burlington, VT 05401
(802) 861-7000

EXHIBIT A

PROPERTY DESCRIPTION, EASEMENTS AND
COVENANTS BENEFITING THE PROPERTY

256-258 North Winooski Ave.

Being all and the same lands and premises conveyed to 256-262 N. Winooski, LLC by Warranty Deed of Opportunities Credit Union dated November 19, 2012 and recorded in Volume 1196 at Page 417 of the City of Burlington Land Records, and being all and the same lands and premises conveyed to 256-262 N. Winooski, LLC by Quit Claim Deed from Leo W. Bushey, Jr. and Larry J. Bushey dated September 17, 2013 and recorded in Volume 1233 at Page 227 of the City of Burlington Land Records, and being described more particularly therein in both instruments as follows:

Being all and the same lands and premises conveyed to Opportunities Credit Union by Deed of Collector of Delinquent Taxes City of Burlington of Scott Schrader duly appointed Collector of Delinquent Taxes for the City of Burlington, dated December 1, 2011 and recorded December 15, 2011 in Volume 1155, Page 488 of the City of Burlington Land Records, and being more particularly described therein as follows:

Being the property conveyed by Quit Claim Deed of Leo W. Bushey, Sr., and Joanne T. Bushey to Leo W. Bushey, Jr. and Larry J. Bushey, dated August 10, 1995, and recorded in Volume 680, Page 478 of the Burlington Land Records and described as "Being land and premises commonly known and designated as 256 North Winooski Ave., Burlington, VT".

And being the same lands and premises conveyed to Leo W. Bushey, Sr., and Joanne T. Bushey by Warranty Deed of Earl W. Bushey (widower), dated February 10, 1976, and recorded in Volume 235 at Page 242 in the Land Records of the City of Burlington.

Reference is made to the deed referenced above and to the deeds and records therein mentioned, including without limitation to the Collector of Delinquent Taxes Report, City of Burlington, Vermont, dated December 10, 2010 and recorded on December 15, 2010 in Volume 1123 at Page 673 of the City of Burlington Land Records, in aid of this description.

260-262 North Winooski Ave.

Being all and the same lands and premises conveyed to 256-262 N. Winooski, LLC by Warranty Deed of Opportunities Credit Union dated November 19, 2012 and recorded in Volume 1196 at Page 419 of the City of Burlington Land Records, and being all and the same lands and premises conveyed to 256-262 N. Winooski, LLC by Quit Claim Deed from Bushey Property Holdings, LLP, Leo W. Bushey (a/k/a Leo W. Bushey, Jr.) and Larry J. Bushey dated September 17, 2013 and recorded in Volume 1233 at Page 228 of the City of Burlington Land Records, and being described more particularly therein in both instruments as follows:

Being all and the same lands and premises conveyed to Opportunities Credit Union by Deed of Collector of Delinquent Taxes City of Burlington of Scott Schrader duly appointed Collector of Delinquent Taxes for the City of Burlington, dated December 1, 2011 and recorded December 15, 2011 in Volume 1155, Page 487 of the City of Burlington Land Records, and being more particularly described therein as follows:

Being the property conveyed by Quit Claim Deed of Larry J. Bushey and Leo W. Bushey to Bushey Property Holdings, LLP, dated March 6, 2002, and recorded in Volume 813, Page 231

256-258 North Winooski Ave., Burlington
260-262 North Winooski Ave., Burlington

of the Burlington Land Records and described as "Being land and premises commonly known and designated as 260-262 North Winooski Ave., Burlington, VT".

And being the same lands and premises conveyed to Larry J. Bushey and Leo W. Bushey by Warranty Deed of Albert Kao, dated January 30, 2002, and recorded in Volume 720 at Page 42 in the Land Records of the City of Burlington.

Reference is made to the deed referenced above and to the deeds and records therein mentioned, including without limitation to the Collector of Delinquent Taxes Report, City of Burlington, Vermont, dated December 10, 2010 and recorded on December 15, 2010 in Volume 1123 at Page 671 of the City of Burlington Land Records, in aid of this description.

EXHIBIT B

EASEMENTS AND COVENANTS
AFFECTING THE PROPERTY

The Property is or may be benefited and/or burdened by the following easements, agreements and rights-of-way:

1. Construction, Maintenance and Access Easement by and between 256-262 N. Winooski, LLC and Champlain Housing Trust, Inc. dated June 11, 2013 and recorded in Volume 1221 at Page 517 of the City of Burlington, Land Records. This easement provides for the construction and maintenance of a "Two Lane Shared Drive" to provide access to both the subject premises and 264 N. Winooski Ave., owned by Champlain Housing Trust, Inc.

EXHIBIT C

ENCUMBRANCES TO BE DISCHARGED/REMARKS

1. MUNICIPAL CHARGES:

a. Assessed Valuation:

256-258 North Winooski Ave. Assessed Value: \$211,400.00. The Property is identified by the City of Burlington as Parcel No. 044-3-151.000, SPAN No. 114-035-15133

260-262 North Winooski Ave. Assessed Value: \$214,100.00. The Property is identified by the City of Burlington as Parcel No. 039-4-001.000, SPAN No. 114-035-13826

b. Taxes:

256-258 North Winooski Ave. Taxes for the tax year running from July 1, 2013 through June 30, 2014 are \$5,168.08, payable in four equal installments of \$1,292.02 due on August 12, 2013, November 12, 2013, March 12, 2014 and June 12, 2014. All installments due on or before the date of this report have been paid.

256 North Winooski Ave. Taxes for the tax year running from July 1, 2013 through June 30, 2014 are \$5,061.08, payable in four equal installments of \$1,265.27 due on August 12, 2013, November 12, 2013, March 12, 2014 and June 12, 2014. All installments due on or before the date of this report have been paid.

c. Delinquent Taxes: None.

d. Water & Sewer Assessments: None.

e. Electricity liens:

256 North Winooski Ave. Notice of Lien – Delinquent Electric Bills filed by the City of Burlington dated September 6, 2011 and recorded in Volume 54 at Page 419 of the City of Burlington Land Records, in the amount of \$1,511.17. **This lien was extinguished by the tax sale of the property accomplished in 2010, subject to the provisions of 32 V.S.A. § 5263.**

260-262 North Winooski Ave. None of Record.

f. Other Municipal Liens or Assessments: None of Record.

2. MORTGAGES AND RELATED DOCUMENTS: The Property is subject to the following undischarged mortgages and security interests of record:

256-258 North Winooski Ave.

a. Commercial Mortgage from Leo W. Bushey, Jr. and Larry J. Bushy to Leo W. Bushey, Sr.

and Joanne T. Bush dated August 10, 1995 and recorded May 18, 2001 in Volume 680 at Page 480 of the City of Burlington Land Records. Said mortgage is in the original principal amount of \$180,000. **This mortgage was extinguished by the tax sale of the property accomplished in 2010, subject to the provisions of 32 V.S.A. § 5263.**

- b. Mortgage from Larry J. Bushy and Leo W. Bushey to Opportunities Credit Union dated October 10, 2006 and recorded October 18, 2006 in Volume 977 at Page 613 of the City of Burlington Land Records. Said mortgage is in the original principal amount of \$70,000. **This mortgage was extinguished by the tax sale of the property accomplished in 2010, subject to the provisions of 32 V.S.A. § 5263.**

260-262 North Winooski Ave.

- c. Mortgage from Bushey Property Holdings, LLP to Catherine E. Clark recorded on January 7, 2009 in Volume 1051 at Page 603 of the City of Burlington Land Records. **This mortgage was extinguished by the tax sale of the property accomplished in 2010, subject to the provisions of 32 V.S.A. § 5263.**

3. ATTACHMENTS and LIENS: Except as otherwise set forth above, the Property is not subject to any unexpired liens of record.

4. LEASE LAND RENT: None of record.

5. REMARKS/COMMENTS:

- a. The addressees should become familiar with the terms and conditions of the documents referenced herein.
- b. **256-258 North Winooski Ave.** Reference is made to a Statement of Levy for Collection and Description of Land to be Sold for Taxes dated February 29, 2008 and recorded in Volume 1027 at Page 1 of the City of Burlington Land Records. Said Statement notices a public auction of the subject premises to be held on April 3, 2008 for unpaid 2007 real estate taxes; however, the actual tax sale by which this parcel was conveyed to Opportunities Credit Union did not occur until November 16, 2010 for real estate taxes due for the years 2007-2010.
- c. **256-258 North Winooski Ave.** We note that a Notice of Lien was filed by the Champlain Valley Weatherization Service dated April 11, 2001 and recorded in Volume 43 at Page 17 of the City of Burlington Land Records to secure payment of \$2,129.31, but that such lien expired by its terms on June 29, 2003.
- d. The Record Owner's title to the Property is subject the terms of 32 V.S.A. Chapter 133, including without limitation 32 V.S.A. § 5263, which provides as follows: "An action for the recovery of lands, or the possession thereof, shall not be maintained against the grantee of such lands in a tax collector's deed, duly recorded, or his or her heirs or assigns, when said grantee, his or her heirs or assigns have been in continuous and open possession of the land conveyed in such deed and have paid the taxes thereon, unless commenced within three years after the cause of action first accrues to the

plaintiff or those under whom he or she claims." **We understand that this statute of limitation will expire on December 15, 2014.**

- e. We have assumed that marketable record title to the Property was conveyed by the following:
 - i. **256-258 North Winooski Ave.** Warranty Deed from Edward B. Saltus and Edith H. Saltus to Earl W. Bushey and Pearl C. Bushey dated September 24, 1952 and recorded in Volume 142, Page 373 of the Burlington Land Records.
 - ii. **260-262 North Winooski Ave.** Warranty Deed from Royal R. Palin and Carol A. Palin to Malcolm F. Severance and Albert S. Whitney dated December 23, 1971 and recorded in Volume 208 at Page 769 of the Burlington Land Records.

EXHIBIT D

LAND USE MATTERS

Except as specifically set forth below, we have not determined whether all necessary regulatory permits and approvals for the current or proposed use of the Property have been issued, or whether the current or proposed use of the Property is in violation of any issued permits or approvals. Further, we have not determined if there is an absence of a permit or a violation of a permit, whether such absence or violation may be subject to an enforcement action or whether such enforcement action would be subject to the statute of limitations set forth in Act 46, codified in 24 V.S.A. §4454.

Subject to the assumptions, qualifications and explanation of methodology and scope set forth below, including without limitation the disclaimer set forth below, we conclude the following.

1. Current Use of the Property:

256-58 North Winooski Ave.: We understand that this parcel is improved with one commercial building containing an auto sales/service business and with a three-unit residential building.

260-262 North Winooski Ave.: We understand that this parcel is improved with a two-family residential building.

As noted below, we understand that the existing improvements on the Property are to be demolished and replaced with new structures; accordingly, we have not examined the Land Records, the records maintained by the Department of Planning & Zoning or the records maintained by the Department of Public Works regarding whether there are any open zoning permits, work permits or other permit-related notices that relate to the existing improvements on the Property.

2. Municipal Zoning And Subdivision: The Property is subject to the terms and conditions Zoning Permit / Certificate of Appropriateness, Permit No. 13-1262CA/MA dated August 7, 2013 which approved the demolition of existing structures and the construction of a new three story mixed use building with 22 residential units and one commercial unit on a combined lot, and which also approved the widening of the driveway to accommodate shared two-way traffic with 264 No. Winooski Ave.

3. State Subdivision & Wastewater System and Potable Water Supply Permits: The Property is subject to the terms and conditions of State of Vermont Wastewater System and Potable Water Supply Permit No. WW-4-4072 dated August 5, 2013 and recorded in Volume 1228 at Page 412 of the City of Burlington Land Records, which approved the construction of a twenty-one seat café and twenty three residential units. We note that any modification to the approved design or use of the buildings to be constructed on the Property may necessitate obtaining a new permit or permit amendment prior to the commencement of construction.

4. Act 250: The Property is subject to the terms and conditions of State of Vermont Land Use Permit 4C1261 dated October 11, 2013 and recorded in Volume 1235 at Page 5 of the City of Burlington Land Records, which "specifically authorizes the demolition of three existing houses and an auto-garage on two existing lots and the redevelopment of these lots into a 22-unit apartment complex with a 1,526 s.f. commercial space fronting North Winooski Avenue. The Project will share an existing

two-way driveway with the northeastern neighbor, Vermont Legal Aid and the Champlain Housing Trust and the Project includes the construction of 25 new vehicle parking spaces.”

ASSUMPTIONS, QUALIFICATIONS AND EXPLANATION OF METHODOLOGY AND SCOPE

In *Hunter Broadcasting, Inc. v. City of Burlington*, 164 Vt. 391 (1995), the Vermont Supreme Court held that an absence of a state subdivision permit was an encumbrance on title to real estate. Further, the Vermont Supreme Court in *Bianchi v. Lorenz*, 166 Vt. 555 (1997) held that an encumbrance on title exists when it can be determined from the municipal records that a property is in violation of local zoning laws at the time of the conveyance and the violation substantially impairs the purchaser's use and enjoyment of the property.

However, in Act 46 of the Acts of the 1999 Vermont Legislature (the *Bianchi II Act*) effective May 26, 1999, the majority decision of the *Bianchi* case was overruled to the limited extent that the absence of a zoning or similar permit or a certificate of occupancy or similar certificate for land development prior to April 27, 1998 would not be an encumbrance on title and would not affect the marketability of title. Further Act 46 provides for a statute of limitations on certain municipal land use violations and if the municipality is prevented from enforcing a violation then such violation will not be an encumbrance on title and will not affect marketability of title. Further, Act 46 provides for a limited amnesty for violations of the State subdivision permit requirements under certain circumstances, which amnesty minimizes the effect of the *Hunter* decision.

Although Section 8 of Act 46, now codified in 27 V.S.A. § 612, provides that an absence of a municipal land use permit does not create an encumbrance on title or affect the marketability of title, we note the absence or violation of a municipal land use permit may subject the owner of a property to an enforcement action unless such enforcement action is subject to a statute of limitations as established in Section 7 of Act 46, now codified in 24 V.S.A. § 4454.

Further, we note that it has not been determined whether an encumbrance on title may be created by the absence or violation of permits other than a municipal land use permit or a state subdivision permit.

We note that the violation of municipal land use regulations exposes one to an enforcement action under 24 V.S.A. § 4451, including the loss of the right to use the property and fines of up to \$100 per day. Additionally, violations of most state land use regulations are subject to the Uniform Environmental Law Enforcement provisions codified at 10 V.S.A. chapters 201 and 211. Specifically, 10 V.S.A. § 8001 et seq. and 8221 provides for enforcement of permits relating to Act 250, Air Quality, Stormwater, Water Quality, Public Water Supply, Dams, Stream Alterations, Underground Storage Tanks, Solid Waste, and others. Under these provisions, ANR or the Environmental Court may enjoin use of the property, mandate remedies, and/or impose fines up to \$50,000 per day per violation.

This report does not address whether the absence or violation of any permit creates an encumbrance on title which may affect the use of the Property or may subject the owner to an enforcement action. For your informational purposes only, we note that we found the permits (if any) and reached the conclusions set forth above, which may affect the Property. We further note that to the extent that we reached conclusions as to whether any permits or approvals are or were required for the Property, we relied upon the methodologies described below in reaching those conclusions.

1. STATE SUBDIVISION/WASTEWATER PERMITS

We have reviewed the Land Records for evidence that the Property's potable water supply and/or

wastewater system has "failed" since January 1, 2007, as such term is understood with reference to Sections 1-201 (24) and (25) of the Vermont Environmental Protection Rules, effective September 29, 2007 (the "EPR"). Upon discovery of evidence of any such failure, we have made inquiry of and, to the extent available, examined the records indexed in the Land Records, in the office of the applicable Vermont Agency of Natural Resources Regional Engineer, and/or on the website maintained by the Vermont Agency of Natural Resources, Department of Environmental Conservation, Wastewater Management Division (collectively, the "Filing Locations"), to determine whether such permit(s) were in fact issued, and if so, whether there is evidence of compliance with any conditions of such permit(s) that establish ongoing reporting requirements or require that certificates of inspection or other written certifications be filed to establish compliance with the terms of such permit(s).

We have reviewed the Land Records for evidence of whether an action was taken with respect to the Property after January 1, 2007 for which permit is required under Section 1-303 of the EPR. Upon discovery of evidence that one or more of such permits were required, we have made inquiry of and, to the extent available, examined the records indexed in the Filing Locations to determine whether such permit(s) were in fact issued, and if so, whether there is evidence of compliance with any conditions of such permit(s) that establish ongoing reporting requirements or require that certificates of inspection or other written certifications be filed to establish compliance with the terms of such permit(s).

We have reviewed the Land Records for evidence of whether the Property is subject to an existing permit issued under the EPR or under a predecessor regulatory scheme, and if so, whether such permit or permits contain conditions that establish ongoing reporting requirements. Upon discovery of any existing permit applicable to the Property, we have made inquiry of and, to the extent available, examined the records indexed in the Filing Locations, to determine whether there is evidence of compliance since January 1, 2007 with any conditions of such permit(s) that establish ongoing reporting requirements.

2. ACT 250 PERMITS

We have reviewed the land records for evidence that the Property is a part of a "development," as that term is defined in 10 V.S.A. §6001(3) or a "subdivision" as that term is defined in 10 V.S.A. §6001(19), subject to the limitation that we have not reviewed the Land Records of other towns with respect to development activities outside the boundaries of the town or city where the Property is located, and we have not reviewed the Land Records for development activities by any "person," as that term is defined in 10 V.S.A. §6001(14) other than the specific persons whose names appear in the chain of title to the Property after 1968, with respect to the following limited matters:

- a. Whether the Property is now or was required to have a permit pursuant to 10 V.S.A. Chap. 151 (State Land Use and Development Law) ("Act 250");
- b. If an Act 250 permit was required, whether such Act 250 permit was issued;
- c. If an Act 250 permit was issued, whether the terms of the permit required written certifications or other documents to be filed with the district commission; and
- d. Whether there are notices of violations in the District Environmental Office file.

3. STORMWATER

We have reviewed the land records for evidence that a Stormwater Permit pursuant to 10 V.S.A. Ch. 47 and the Stormwater Management Rule was required.

4. MUNICIPAL LAND USE MATTERS

The City of Burlington has adopted zoning and subdivision regulations, and requires Certificates of Occupancy.

5. FLOOD HAZARD MAP

We have not performed any investigation as to whether the Property is located within a flood zone.

DISCLAIMER: In rendering the foregoing reports we are relying upon the matters contained in the land records or the other municipal or state records which we have researched and the documents provided to us, such as purchase and sale agreements. Except to the extent specifically identified above, the undersigned has not undertaken any investigation whatsoever with respect to whether the Property and each component thereof as originally constructed or subsequently modified, with or without permits, was in compliance with or continues to be in compliance with the provisions of the permits identified above or the applicable laws, rules and regulations, ordinance and orders. The permits identified above include numerous findings of fact, conclusions of law, exhibits, plans and other documents related to and referenced in the permits and the permits contain technical requirements to be satisfied prior to, during and after construction, many of such matters can only be determined by a physical inspection of the Property. The undersigned did not conduct such a physical inspection, nor is such inspection part of the title examiner's obligation. A full review of all those matters requires knowledge and skills in engineering, architecture and other professions outside of the legal profession. The undersigned states no opinion and makes no report or certification with respect to such matters. If you require additional information regarding the permits, or the status of the Property regarding compliance with the permits, you should contact the undersigned or your own counsel to discuss additional procedures and investigations which may be available at extra cost.

EXHIBIT E

EXCEPT TO THE EXTENT OTHERWISE SPECIFICALLY SET FORTH IN THE REPORT ON RECORD TITLE, **NO REPORT IS PROVIDED AS TO:**

1. Any instrument recorded prior or subsequent to the period of examination specified in this Report on Record Title.
2. Rights or claims of parties in possession not shown of record.
3. Mechanics' or Materialmen's, or state, federal, or other liens not recorded.
4. The application or effect of any laws, ordinances, bylaws, rules, regulations or plans of the United States, the State of Vermont or any subdivisions, agencies or departments thereof relating to zoning, land use (including Act 250), building restrictions, or environmental matters, including any matters which would lead to an action, injunction or other enforcement proceeding to abate or remove a hazard to human health or public safety or to abate or remove an undue environmental impact.
5. The status of lease land rents.
6. Whether the property contains or is located within an area designated as a federal flood hazard zone, a wetland, or public waters.
7. Matters which would be disclosed by a physical examination, environmental audit, or an accurate survey of the property, including in particular, but without limitation: public highway easements, easements appurtenant to adjacent lands arising from any subdivision of lands without provision for adequate access thereto, the availability or adequacy of public or private utilities and services; the description or physical location of the boundaries of and improvements on the property, and the acreage of the property; rights, easements, rights of way, encroachments and other rights enjoyed by nature of use, permission or otherwise which rights have not been created by instruments properly recorded in deed records of town clerk.
8. Special assessments or liens, if any, not shown of record.
9. Defects in title resulting from any untrue, inaccurate, misleading or ambiguous statements contained or referred to in any recorded documents or public records, the public records indices, the Vermont Property Transfer Tax Returns, or Act 250 Disclosure Statements.
10. Matters contained in records of the town clerk which are not deed records, including the records relating to the laying out of highways; records of probate, bankruptcy or other courts; the records of births, marriages, divorces or deaths; or the records of the formation, existence, registration or status of any entity which is a party to any document affecting title to the property.
11. The existence of any lien for Federal Estate or Will Taxes for which no record notice is required.
12. Any right of claim, including but not limited to any right of possession or claim for damages relating to the land, whether or not of record, by or on behalf of any Indian, Indian Nation or Indian Tribe or other Aboriginal people.

13. No inquiry or investigation has been conducted, and no certification or representation is made, concerning any activities which could or might result in forfeiture of a right, title and interest in the premises to the United States of America for any violation under the Comprehensive Drug Abuse Prevention Control Act of 1970, as amended, or to any other party pursuant to bankruptcy, insolvency or fraudulent conveyances or similar laws.

SUBORDINATION OF SECURITY INSTRUMENTS

KNOW ALL PERSONS BY THESE PRESENTS THAT for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned duly authorized agent of TD Bank, N.A., does hereby SUBORDINATE to the operation of (1) the Commercial Mortgage from WR Vilas LLC to TD Bank, N.A. dated January 27, 2014 and recorded on January 29, 2014 in Volume 1242, Page 274 of the City of Burlington Land Records, as amended by Amendment to Commercial Mortgage dated July 31, 2015 and recorded in Volume 1289 at Page 405 of the City of Burlington Land Records and (2) the Collateral Assignment of Rents and Leases from WR Vilas LLC to TD Bank, N.A. dated January 27, 2014 and recorded on January 29, 2014 in Book 1242, Page 283 of the City of Burlington Land Records as amended by Amendment to Collateral Assignment of Rents and Leases dated July 31, 2015 and recorded in Volume 1289 at Page 409 of the City of Burlington Land Records (together, the "Security Instruments") ONLY the rights and easements granted or to be granted by Grant of Environmental Restrictions, Right of Access, and Easement made by WR Vilas LLC for the benefit of the State of Vermont, Agency of Natural Resources, and any successor agencies (the "Grant").

The subordination of the Security Instruments effected by this instrument is as if the Grant had been executed, delivered and recorded in the City of Burlington Land Records prior to the execution, delivery and recording of the Security Instruments. This instrument shall serve only to subordinate the lien of the Security Instruments to those rights contained in the Grant, but shall not otherwise impair, diminish or alter the provisions and rights held by the undersigned under the Security Instruments, all of which shall remain in full force and effect as security for the payment of all amounts secured by, and the performance of all obligations required under, the Security Instruments. In amplification of, but not by way of limitation, of the foregoing (i) in the event the undersigned, its successors or assigns should foreclose the Security Instruments, it or they will not name the grantees of the Grant, or their respective successors or assigns, as defendants or otherwise seek to terminate their rights under the Grant, and (b) in the event the undersigned, its successors or assigns should obtain title to the real property that is subject to the Security Instruments, whether by legal proceeding or voluntary transfer from the mortgagor, it or they will not disturb the grantees of the Grant, or their respective successors and assigns, in their exercise of their rights under the Grant. The subordination effected by this Subordination of Security Instruments shall be binding on the undersigned, its successors and assigns.

Signature Page to Follow

IN WITNESS WHEREOF, the undersigned has set its hand and seal this 23 day of November 2015.

TD Bank, N.A.

By: _____
Name: Robert Maynes
Title: Vice President, Commercial Lending

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS

At Burlington this 23 day of November 2015, Robert Maynes, Vice President, Commercial Lending of TD Bank, N.A. personally appeared, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of TD Bank, N.A.

Before me, Valley K. Murray
Notary Public
Commission Expires: February 10, 2019

SUBORDINATION OF MORTGAGE

KNOW ALL PERSONS BY THESE PRESENTS THAT for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned duly authorized agent of **Vermont Community Loan Fund, Inc.**, does hereby SUBORDINATE to the operation of the Second Mortgage Deed from WR Vilas LLC to Vermont Community Loan Fund, Inc. in the original amount of \$450,000.00 dated January 27, 2014 and recorded on January 29, 2014 in Volume 1242, Page 292 of the City of Burlington Land Records (the "Mortgage") ONLY the rights and easements granted or to be granted by Grant of Environmental Restrictions, Right of Access, and Easement made by WR Vilas LLC for the benefit of the State of Vermont, Agency of Natural Resources, and any successor agencies (the "Grant").

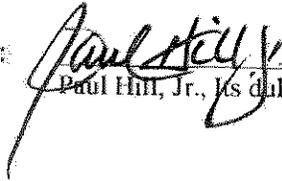
The subordination of the Mortgage effected by this instrument is as if the Grant had been executed, delivered and recorded in the City of Burlington Land Records prior to the execution, delivery and recording of the Mortgage. This instrument shall serve only to subordinate the lien of the Mortgage to those rights contained in the Grant, but shall not otherwise impair, diminish or alter the provisions and rights held by the undersigned under the Mortgage, all of which shall remain in full force and effect as security for the payment of all amounts secured by, and the performance of all obligations required under, the Mortgage. In amplification of, but not by way of limitation, of the foregoing (i) in the event the undersigned, its successors or assigns should foreclose the Mortgage, it or they will not name the grantees of the Grant, or their respective successors or assigns, as defendants or otherwise seek to terminate their rights under the Grant, and (b) in the event the undersigned, its successors or assigns should obtain title to the real property that is subject to the Mortgage, whether by legal proceeding or voluntary transfer from the mortgagor, it or they will not disturb the grantees of the Grant, or their respective successors and assigns, in their exercise of their rights under the Grant. The subordination effected by this Subordination of Mortgage shall be binding on the undersigned, its successors and assigns.

Signature Page to Follow

IN WITNESS WHEREOF, the undersigned has set its hand and seal this 20 day of November, 2015.

Vermont Community Loan Fund, Inc.

By:



Paul Hill, Jr., its duly authorized agent

STATE OF VERMONT
COUNTY OF WASHINGTON, SS

At Montpelier this 20 day of November, 2015, Paul Hill, Jr., duly authorized agent of Vermont Community Loan Fund, Inc. personally appeared, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of Vermont Community Loan Fund, Inc.

Before me,



Notary Public

Commission Expires: February 10, 2019

Exhibit A
Property Description

Being all and the same lands and premises conveyed by Warranty Deed from 256-262 N. Winooski, LLC to WR Vilas LLC dated January 27, 2014 and recorded on January 29, 2014 in Volume 1242, Page 267 of the City of Burlington Land Records, and by Warranty Deed from 256-262 N. Winooski, LLC to WR Vilas LLC dated January 27, 2014 and recorded on January 29, 2014 in Volume 1242, Page 268 of the City of Burlington Land Records, and being more particularly described in such deeds as follows:

260-262 North Winooski Ave., Burlington, VT

Being all and the same lands and premises conveyed to 256-262 N. Winooski, LLC by Warranty Deed from Opportunities Credit Union dated November 19, 2012 and recorded in Volume 1196, Page 419 of the City of Burlington Land Records and being all and the same lands and premises conveyed to 256-262 N. Winooski, LLC by Quit Claim Deed from Bushey Property Holdings, LLP, Leo W. Bushey (a/k/a Leo W. Bushey, Jr.) and Larry J. Bushey dated September 17, 2013 and recorded in Volume 1233 at Page 228 of the City of Burlington Land Records, and described therein in both instruments as follows:

“Being all and the same lands and premises conveyed to Opportunities Credit Union by Deed of Collector of Delinquent Taxes for the City of Burlington of Scott Schrader duly appointed Collector of Delinquent Taxes for the City of Burlington, dated December 1, 2011 and recorded December 15, 2011 in Volume 1155, Page 487 of the City of Burlington Land Records, and being more particularly described therein as follows:

‘Being the property conveyed by Quit Claim Deed of Larry J. Bushey and Leo W. Bushey to Bushey Property Holdings, LLP, dated March 6, 2002 and recorded in Volume 813, Page 231 of the Burlington Land Records and described as “Being lands and premises commonly known and designated as 260-262 North Winooski Ave., Burlington, VT.”

And being the same lands and premises conveyed to Larry J. Bushey and Leo W. Bushey by Warranty Deed of Albert Kao, dated January 30, 2002, and recorded in Volume 720 at Page 42 in the Land Records of the City of Burlington.”

Reference is hereby made to the aforementioned deeds and their records and to the deeds and the records therein contained in further aid of this description

256 North Winooski Ave., Burlington, VT

Being all and the same lands and premises conveyed to 256-262 N. Winooski, LLC by Warranty Deed from Opportunities Credit Union dated November 19, 2012 and recorded in Volume 1196, Page 417 of the City of Burlington Land Records, and being all and the same lands and premises conveyed to 256-262 N. Winooski, LLC by Quit Claim Deed from Leo W. Bushey, Jr. and Larry J. Bushey dated September 17, 2013 and recorded in Volume 1233 at Page 227 of the City of Burlington Land Records, and described therein in both instruments as follows:

“Being all and the same lands and premises conveyed to Opportunities Credit Union by Deed of Collector of Delinquent Taxes City of Burlington of Scott Schrader duly appointed Collector of Delinquent Taxes for

the City of Burlington, dated December 1, 2011 and recorded December 15, 2011 in Volume 1155, Page 488 of the City of Burlington Land Records, and being more particularly described therein as follows:

'Being the property conveyed by Quit Claim Deed of Leo W. Bushey, Sr. and Joanne T. Bushey to Leo W. Bushey, Jr and Larry J. Bushey, dated August 10, 1995 and recorded in Volume 680, Page 478 of the Burlington Land Records and described as "Being land and premises commonly known and designated as 256 North Winooski Ave., Burlington, VT".'

And being the same lands and premises conveyed to Leo W. Bushey, Sr. and Joanne T. Bushey by Warranty Deed of Earl W. Bushey (widower), dated February 10, 1976, and recorded in Volume 235 at Page 242 in the Land Records of the City of Burlington."

Reference is hereby made to the aforementioned deeds and their records and to the deeds and the records therein contained in further aid of this description.

Exhibit B

Plan entitled "Corrective Action Site Plan", prepared by Waite – Heindel Environmental Management dated January 28, 2015.

Attached

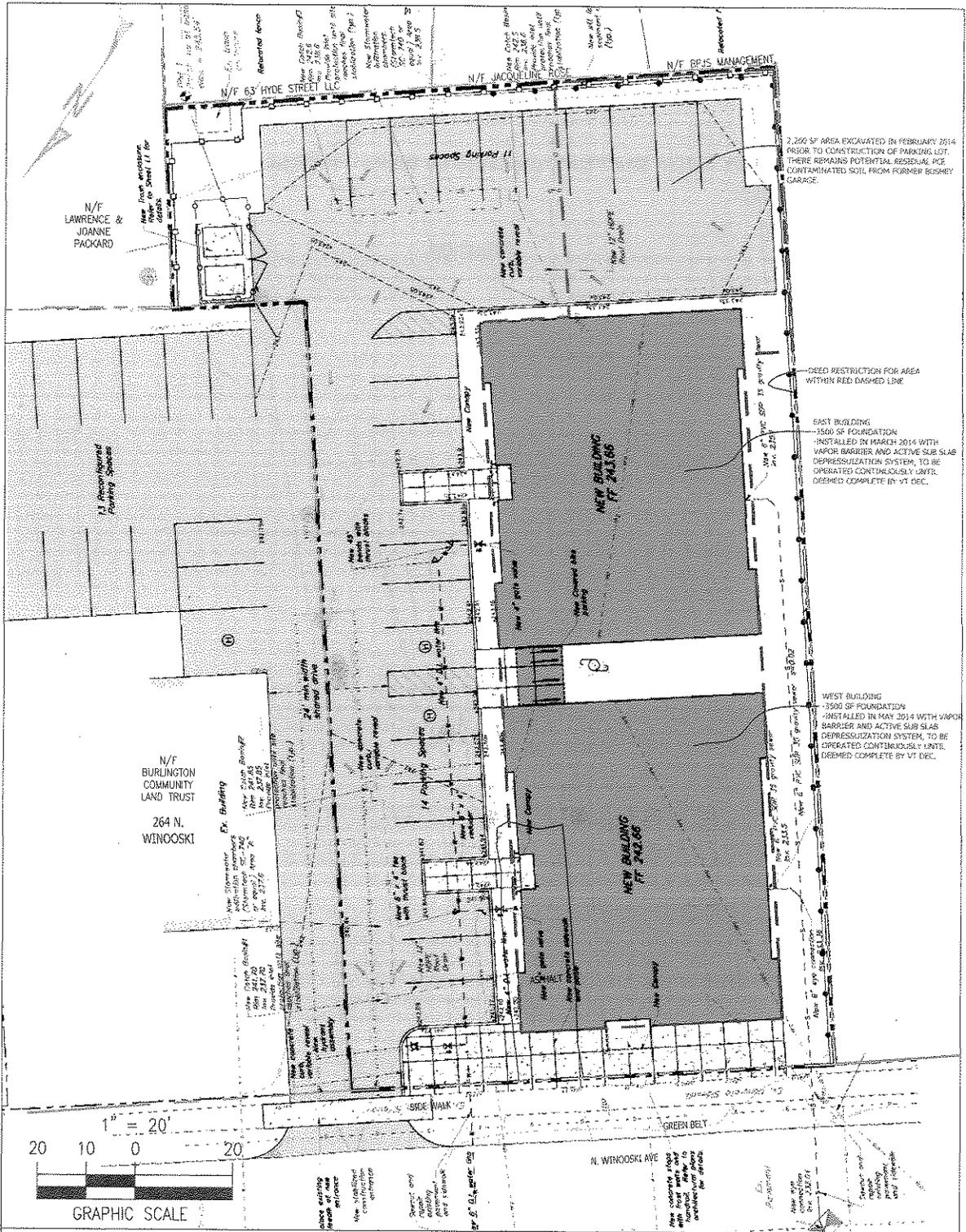


EXHIBIT: CORRECTIVE ACTION SITE PLAN

SILVERSMITH COMMONS / FORMER BUSHEY AUTO PROPERTY

258-260 N. WINOOSKI AVENUE

SMS SITE #2012-4337

Waite - Heindel
 Environmental Management



Hydrogeology • Environmental Services •
 • Water and Wastewater Design •
 Burlington, Vermont • (802) 860-9400

SCALE	1"=20'	DATE	1/28/15
PROJECT NO.	MW	PROJECT NO.	07121-61
PROJECT MANAGER	CP	APPROVED BY	MW
LAYOUT:	SITEPLAN	DRAFT	<input checked="" type="checkbox"/> FINAL
SHEET	1	OF	1

**Exhibit C
Certificate of Completion
Attached**

Exhibit D
Existing Encumbrances

1. Construction, Maintenance and Access Easement by and between 256-262 N. Winooski, LLC and Champlain Housing Trust, Inc. dated June 11, 2013 and recorded in Volume 1221 at Page 517 of the City of Burlington, Land Records.
2. City of Burlington Zoning Permit / Certificate of Appropriateness, Permit No. 13-1262CA/MA dated August 7, 2013.
3. State of Vermont Wastewater System and Potable Water Supply Permit No. WW-4-4072 dated August 5, 2013 and recorded in Volume 1228 at Page 412 of the City of Burlington Land Records, as amended by Wastewater System and Potable Water Supply Permit No. WW-4-4072-1 dated November 20, 2014 and recorded December 19, 2014 in Volume 1265 at Page 268 of the City of Burlington Land Records and as amended by Wastewater System and Potable Water Supply Permit No. WW-4-4072-2 dated April 22, 2015 and recorded May 1, 2015 in Volume 1274 at Page 692 of the City of Burlington Land Records.
4. State of Vermont Land Use Permit 4C1261 dated October 11, 2013 and recorded in Volume 1235 at Page 5 of the City of Burlington Land Records, as amended by State of Vermont Land Use Permit 4C1261-1 dated February 5, 2014 and recorded on February 6, 2014 in Volume 1242 at Page 624 of the City of Burlington Land Records.
5. Agreement Regarding Housing Replacement Ordinance Obligations For 181-185 Pearl Street, Burlington, Vermont dated April 1, 2014 and recorded on April 23, 2014 in Volume 1246 at Page 416 of the City of Burlington Land Records.
6. Notice of Lease between NYNEX Mobile Limited Partnership 1 d/b/a Verizon Wireless and WR Vilas LLC dated May 14, 2014 and recorded May 20, 2014 in Volume 1248 at Page 487 of the City of Burlington Land Records.
7. Housing Subsidy Covenant, 258 North Winooski Avenue (West Bldg) Unit #101 & 102, 260 North Winooski Ave (East Bldg) Unit #102, Burlington, Vermont 05401 by and between WR Vilas LLC and the City of Burlington dated July 28, 2014 and recorded July 28, 2014 in Volume 1254 at Page 312 of the City of Burlington Land Records.