



State of Vermont

## LAND USE PERMIT AMENDMENT

**CASE NO:** 4C0438-17

City of Burlington  
Attn: David Allerton  
645 Pine Street  
Burlington, VT 05401

and

State of Vermont Agency of Transportation  
attn: Wayne Davis  
One National Life Drive  
Montpelier, VT05633-5001

**LAWS/REGULATIONS INVOLVED**

10 V.S.A. §§ 6001 - 6093 (Act 250)

District Environmental Commission #4 hereby issues Land Use Permit Amendment #4C0438-17, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6093. This permit amendment applies to the lands identified in Book 444, Pages 062-064; and Book 736, Pages 062-064; of the land records of the City of Burlington and Book 552, Pages 448-450; and Book 552, Pages 446-447 of the land records of the City of South Burlington, Vermont, as the subject of deeds to the City of Burlington and the Vermont Agency of Transportation.

This permit specifically authorizes the completion and construction of the Champlain Parkway connecting Interstate 189 to a new roadway extending to Lakeside Avenue, reconstruction and repaving of Lakeside Avenue, and resurfacing and certain other improvements to Pine Street between Lakeside Avenue and Main Street. The Project is located on I-189, Lakeside Avenue and Pine Street in Burlington, Vermont.

Jurisdiction attaches because the Project constitutes a material change to a permitted development or subdivision, and thus requires a permit amendment pursuant to Act 250 Rule 34.

1. The Permittees, and its assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Commission in accordance with the following conditions.
2. The project shall be completed, operated and maintained in accordance with: (a) the conditions of this permit; (b) Findings of Fact and Conclusions of Law #4C0438-17 and #4C0438-17A; and (c) the permit application, plans, and exhibits on file with the District Environmental Commission and other material representations.

The approved plans are:

Sheet 3 - "Interchange to Home Avenue Overview, Champlain Parkway" dated 4/11/2011 (Exhibit #53);

Sheet 4 - "Proposed Typical Section Route 7 Interchange to Home Avenue, Champlain Parkway" dated 4/11/2011 (Exhibit #54);

Sheet 5 - "New and Existing Shared-Use paths from Interchange to Home Avenue, Champlain Parkway" dated 4/11/2011 (Exhibit #55);

Sheet 6 - "Pine Street Cul-de-Sac & Existing Noise Barriers, Champlain Parkway" dated 4/11/2011 (Exhibit #56);

Sheet 7 - "Proposed Typical Section Home Avenue to Lakeside Avenue, Champlain Parkway" dated 4/11/2011 (Exhibit #57);

Sheet 8 - "Home Avenue Intersection Improvements, Champlain Parkway" dated 4/11/2011 (Exhibit #58);

Sheet 9 - "Pedestrian Connections to Shared-Use Path Lyman Ave. and Ferguson Ave, Champlain Parkway" dated 4/11/2011 (Exhibit #59);

Sheet 10 - "Flynn Ave to Sears Lane Improvements, Champlain Parkway" dated 4/11/2011 (Exhibit #60);

Sheet 11 - "Sears Lane to Lakeside Avenue Improvements, Champlain Parkway" dated 4/11/2011 (Exhibit #61);

Sheet 12 - "Lakeside Ave & Pine Street Intersection Improvements, Champlain Parkway" dated 4/11/2011 (Exhibit #62);

Sheet 13 - "Proposed Typical Section Lakeside Avenue, Champlain Parkway" dated 4/11/2011 (Exhibit #63);

Sheet 14 - "Pine Street Improvements between Locust Street and Kilburn Street, Champlain Parkway" dated 4/11/2011, last revision 3/21/2012 (Exhibit #64);

Sheet 15 - "Proposed Typical Section Pine Street between Lakeside Avenue and Kilburn Street, Champlain Parkway" dated 4/11/2011 (Exhibit #65);

Sheet 16 - "Pine Street Improvements between Maple Street and Main Street, Champlain Parkway" dated 4/11/2011 (Exhibit #66);

Sheet 17 - "Proposed Typical Section Pine Street North of Kilburn Street, Champlain Parkway" dated 4/11/2011 (Exhibit #67);

Sheet 18A - "Sub Watershed Boundaries Interchange to Lakeside Avenue, Champlain Parkway" dated 4/11/2011 (Exhibit #68);

Sheet 18B - "Sub Watershed Boundaries Lakeside Avenue to Main Street, Champlain Parkway" dated 4/11/2011 (Exhibit #69);

Sheet 19B - "Potash Brook Construction Limits, Champlain Parkway" dated 4/11/2011 (Exhibit #70);

Sheet 19C - "Potash Brook Construction Limits, Champlain Parkway" dated 4/11/2011 (Exhibit #71);

Sheet 19D - "Potash Brook Construction Limits, Champlain Parkway" dated 4/11/2011 (Exhibit #72);

Sheet 19E - "Potash Brook Construction Limits, Champlain Parkway" dated 4/11/2011 (Exhibit #73);

- Sheet 19F - "Potash Brook Construction Limits, Champlain Parkway" dated 4/11/2011 (Exhibit #74);
- Sheet 19G - "Potash Brook Construction Limits, Champlain Parkway" dated 4/11/2011 (Exhibit #75);
- Sheet 19H - "Potash Brook Construction Limits, Champlain Parkway" dated 4/11/2011 (Exhibit #76);
- Sheet 20A - "Englesby Brook Construction Limits, Champlain Parkway" dated 4/11/2011 (Exhibit #77);
- Sheet 20B - "Englesby Brook Culvert, Champlain Parkway" dated 4/11/2011 (Exhibit #78);
- Sheet 20C - "Englesby Brook Culvert, Champlain Parkway" dated 4/11/2011 (Exhibit #79);
- Sheet 21 - "Project Delineated Wetlands, Champlain Parkway" dated 4/11/2011 (Exhibit #80);
- Sheet 22 - "Champlain Parkway Wetland N Impact, Champlain Parkway" dated 4/11/2011 (Exhibit #81);
- Sheet 23 - "Champlain Parkway Wetland H/I Impact, Champlain Parkway" dated 4/11/2011 (Exhibit #82);
- Sheet 24 - "Champlain Parkway Wetland A Impact, Champlain Parkway" dated 4/11/2011 (Exhibit #83);
- Sheet 25 - "Stormwater Treatment Overview, Champlain Parkway" dated 4/11/2011 (Exhibit #84);
- Sheet 26A - "Landscaping Legend, Champlain Parkway" dated 4/11/2011 (Exhibit #84a);
- Sheet 26B - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #85);
- Sheet 26C - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #86);
- Sheet 26D - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #87);
- Sheet 26E - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #88);
- Sheet 26F - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #89);
- Sheet 26G - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #90);
- Sheet 26H - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #91);
- Sheet 26I - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #92);
- Sheet 26J - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #93);
- Sheet 26K - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #94);
- Sheet 26L - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #95);
- Sheet 26M - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #96);
- Sheet 26N - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #97);

Sheet 26O - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #98);

Sheet 26P - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #99);

Sheet 26Q - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #100);

Sheet 26R - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #101);

Sheet 26S - "Landscaping Plan, Champlain Parkway" dated 4/13/2011 (Exhibit #102)

Sheets 1- 8 - "Photometric Sheet, Southern Connector / Champlain Parkway" dated 4-12-2011 (Exhibit #26);

Sheet 19 - "Erosion Control General Notes Sheet #1, Champlain Parkway" dated 1-24-2014 (Exhibit #234);

Sheet 20 - "Erosion Control General Notes Sheet #2, Champlain Parkway" dated 1-24-2014 (Exhibit #235);

Sheet 21 - "Erosion Control General Notes Sheet #3, Champlain Parkway" dated 1-24-2014 (Exhibit #236);

Sheet 31 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #237);

Sheet 32 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #238);

Sheet 33 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #239);

Sheet 34 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #240);

Sheet 35 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #241);

Sheet 36 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #242);

Sheet 37 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #243);

Sheet 38 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #244);

Sheet 39 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #245);

Sheet 40 - "Erosion Control Plan Detail Phase 1, Champlain Parkway" dated 1-24-2014 (Exhibit #246);

Sheet 42 - "Erosion Control Plan Detail Phase 2A, Champlain Parkway" dated 1-24-2014 (Exhibit #247);

Sheet 43 - "Erosion Control Plan Detail Phase 2A, Champlain Parkway" dated 1-24-2014 (Exhibit #248);

Sheet 44 - "Erosion Control Plan Detail Phase 2A, Champlain Parkway" dated 1-24-2014 (Exhibit #249);

Sheet 46 - "Erosion Control Plan Detail Phase 2B, Champlain Parkway" dated 1-24-2014 (Exhibit #250);

Sheet 47 - "Erosion Control Plan Detail Phase 2B, Champlain Parkway" dated 1-24-2014 (Exhibit #251);

Sheet 48 - "Erosion Control Plan Detail Phase 2B, Champlain Parkway" dated 1-24-2014 (Exhibit #252);

Sheet 49 - "Erosion Control Plan Detail Phase 2B, Champlain Parkway" dated 1-24-2014 (Exhibit #253);

Sheet 52 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #254);

Sheet 53 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #255);

Sheet 54 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #256);

Sheet 55 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #257);

Sheet 56 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #258);

Sheet 57 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #259);

Sheet 58 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #260);

Sheet 59 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #261);

Sheet 60 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #262);

Sheet 61 - "Erosion Control Plan Detail Phase 3, Champlain Parkway" dated 1-24-2014 (Exhibit #263);

Sheet 63 - "Erosion Control Plan Detail Phase 4, Champlain Parkway" dated 1-24-2014 (Exhibit #264);

Sheet 64 - "Erosion Control Plan Detail Phase 4, Champlain Parkway" dated 1-24-2014 (Exhibit #265);

Sheet 65 - "Erosion Control Plan Detail Phase 4, Champlain Parkway" dated 1-24-2014 (Exhibit #266);

Sheet 67 - "Erosion Control Plan Detail Phase 5, Champlain Parkway" dated 1-24-2014 (Exhibit #267);

Sheet 68 - "Erosion Control Plan Detail Phase 5, Champlain Parkway" dated 1-24-2014 (Exhibit #268);

Sheet 69 - "Erosion Control Plan Detail Phase 5, Champlain Parkway" dated 1-24-2014 (Exhibit #269);

Sheet 70 - "Erosion Control Plan Detail Phase 5, Champlain Parkway" dated 1-24-2014 (Exhibit #270);

Sheet 72 - "Erosion Control Plan Detail Phase 6, Champlain Parkway" dated 1-24-2014 (Exhibit #271);

Sheet 73 - "Erosion Control Plan Detail Phase 6, Champlain Parkway" dated 1-24-2014 (Exhibit #272);

Sheet 74 - "Erosion Control Plan Detail Phase 6, Champlain Parkway" dated 1-24-2014 (Exhibit #273);

Sheet 76 - "Erosion Control Plan Detail Phase 7, Champlain Parkway" dated 1-24-2014 (Exhibit #274);

Sheet 77 - "Erosion Control Plan Detail Phase 7, Champlain Parkway" dated 1-24-2014 (Exhibit #275);

Sheet 78 - "Erosion Control Plan Detail Phase 7, Champlain Parkway" dated 1-24-2014 (Exhibit #276);

Sheet 80 - "Erosion Control Plan Detail Phase 8, Champlain Parkway" dated 1-24-2014 (Exhibit #277);

Sheet 81 - "Erosion Control Plan Detail Phase 8, Champlain Parkway" dated 1-24-2014 (Exhibit #278);

Sheet 82 - "Erosion Control Plan Detail Phase 8, Champlain Parkway" dated 1-24-2014 (Exhibit #279);

Sheet 89 - "Erosion Control Details Sheet #1, Champlain Parkway" dated 1-24-2014 (Exhibit #280);

Sheet 90 - "Erosion Control Details Sheet #2, Champlain Parkway" dated 1-24-2014 (Exhibit #281);

Sheet 91 - "Erosion Control Details Sheet #3, Champlain Parkway" dated 1-24-2014 (Exhibit #282); and

Sheet 91A - "Erosion Control Details Sheet #4, Champlain Parkway" dated 1-24-2014 (Exhibit #283).

3. All conditions of Land Use Permit #4C0438 and amendments are in full force and effect except as further amended herein.
4. The Permittees shall comply with all of the conditions of the following Agency of Natural Resources Permits:
  - a. Wastewater System and Potable Water Supply Permit #ww-4-3595 issued on September 9, 2010 by the ANR Wastewater Management Division;

- b. Individual Discharge Permit #3368-INDC issued on April 15, 2014 for the construction phase of the project by the ANR Watershed Management Division; and
  - c. Individual Stormwater Discharge Permit #3368-INDS.RA issued on October 11, 2012 for the operational phase of the project by the ANR Watershed Management Division.
5. Any nonmaterial changes to the permits listed in the preceding condition shall be automatically incorporated herein upon issuance by the Agency of Natural Resources.
6. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
7. A copy of this permit and plans shall be on the site at all times throughout the construction process.
8. No change shall be made to the design, operation or use of this project without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
9. No further subdivision, alteration, and/or development on the tract/tracts of land approved herein shall be permitted without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
10. Pursuant to 10 V.S.A. § 8005(c), the District Commission may at any time require that the permit holder file an affidavit certifying that the project is in compliance with the terms of this permit.
11. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittees and their successors and assigns.
12. No later than 10 days prior to commencement of building demolition/construction, the Permittee shall submit a Construction Waste Reduction Plan, to <http://www.anr.state.vt.us/wastediv/recycling/pubs/ACT250template.doc> to be approved by the Agency of Natural Resources Solid Waste Management Program. The contractor shall be obligated to implement the Plan.
13. In the vicinity of residential neighborhoods, construction activity is limited to 7:00 AM to 7:00 PM Monday through Friday and 8:00 AM to 5:00 PM on Saturday. For all other neighborhoods construction hours shall adhere to the City of Burlington regulations.
14. The Permittees shall apply and maintain water and/or other agents approved by the Watershed Management Division in the Project's Erosion Prevention and Control Plan on all roadways or disturbed areas within the project during construction and until pavement and/or vegetation is fully established to control dust.
15. Immediately upon initial roadway clearing, stabilized construction entrances must be installed and maintained as shown on Sheets 42, 46, 48, 49, 61, 67, 70, 74 and 91

(Exhibits #247, #250, #252, #253, #263, #267, #270, #274 and #282). At a minimum, this entrance must be constructed and maintained in accordance with the specifications as described in the Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (2006). No further clearing or construction beyond the stabilized construction entrances may occur until the stabilized construction entrances are complete.

16. The Permittees shall comply with Exhibits #234 - #283 (Sheets 19-21, 31-40, 42-44, 46-49, 52-65, 67-70, 72-74, 76-78, 80-82, 89-91A) for erosion prevention and sediment control. The Permittees shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion prevention and sediment control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas.
17. All mulch, siltation dams, water bars and other temporary devices shall be installed immediately upon grading and shall be maintained until all roads are permanently surfaced and all permanent vegetation is established on all slopes and disturbed areas. Topsoil stockpiles shall have the exposed earth completely mulched and have siltation checks around the base.
18. All areas of disturbance must have temporary or permanent stabilization within 14 days of the initial disturbance. After this time, any disturbance in the area must be stabilized at the end of each work day. The following exceptions apply: i) Stabilization is not required if work is to continue in the area within the next 24 hours and there is no precipitation forecast for the next 24 hours. ii) Stabilization is not required if the work is occurring in a self-contained excavation (i.e. no outlet) with a depth of 2 feet or greater (e.g. house foundation excavation, utility trenches).
19. All disturbed areas of the site shall be stabilized, seeded and mulched immediately upon completion of final grading. All disturbed areas not involved in winter construction shall be mulched and seeded before October 1. Between the periods of October 15 to April 15, all earth disturbing work shall conform with the "Requirements for Winter Construction" standards and specifications of the Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (2006).
20. The Commission reserves the right to review erosion prevention and sediment control and to evaluate and impose additional conditions with respect to erosion prevention and sediment control as it deems necessary.
21. In addition to conformance with all erosion prevention and sediment control conditions, the Permittees shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the Permittees from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.
22. The Permittees shall maintain an undisturbed, naturally vegetated, unmowed 50-foot buffer from the edge of wetlands and any disturbed areas. Snowplowing or storage of materials within this buffer is prohibited.



23. The Permittees shall perform traffic monitoring studies to ascertain whether excessive congestion, has occurred at the Locust Avenue and Howard Street intersections The initial traffic monitoring study shall be completed six months to one year after construction is substantially completed and five years after. The monitoring studies shall include conducting turning movement counts at these intersections an analyzing the results for turn lane warrants, Level-of-Service, delay, queue lengths and the need for a traffic signal. The studies shall be submitted to the District Coordinator and VTrans Traffic Research Unit for review.
24. The Permittees shall perform traffic studies and signal warrant analysis to monitor traffic congestion and safety issues relating to automobile and pedestrian and bicycle traffic at the following intersections with the Parkway:
  - a. Lakeside Avenue;
  - b. the eastern driveway entering and exiting the Fortieth Burlington, LLC property;
  - c. the western driveway entering and exiting the Fortieth Burlington, LLC property;
  - d. the intersection of Lakeside avenue and Champlain Parkway; and
  - e. the intersection of Lakeside Avenue and Pine Street.

Monitoring shall be conducted semi- annually during the first year that the Parkway is in use and annually for years 2 and 3 of Parkway use.

Within 30 days of each study/monitoring episode, Permittees shall finalize a written report detailing he monitoring efforts and the results.

The studies shall be submitted to the District Commission and Fortieth Burlington, LLC within 5 days of the deadline noted above.

The Permittees and Fortieth Burlington, LLC are directed by the Environmental Court to work in good faith to resolve any traffic congestion and safety issues.

If Resolution is not obtained through the best efforts of the Permittees and Fortieth Burlington, LLC., an individual or entity retaining party status in this matter may timely petition the Commission to reopen its consideration of the application, limited to the Statement of Questions considered in the Superior Court Environmental Division's (Docket No. 68-5-12 Vtec) decision.

25. Road pavement shall be striped and "Don't Block the Driveway" signs shall be installed on Locust Avenue at the Jackson Terrace Apartment entrance.
26. The Permittees shall perform a pedestrian safety analysis for use of HAWK or RRFB signals at the pedestrian crossings on Pine Street. The studies shall be submitted to the District Coordinator and VTrans Traffic Research Unit for review.
27. Permittees shall perform a sound level monitoring study six months to one year after construction is substantially completed and again five years after on Arthur Court. The studies shall be submitted to the District Commission for review and determination of whether excessive sound levels exist, and whether a noise barrier to abate sound levels will be required.
28. The Permittees shall install truck traffic signs to indicate that the preferred route to use is Main Street and Pine Street and not Maple or King Streets.

29. No invasive or disease prone plantings shall be used.
30. If railroad spurs cannot be removed, the Permittees shall apply for a permit amendment to use railroad crossing gates if required by other applicable laws and regulations.
31. The Permittees and all assigns and successors in interest shall continually maintain the landscaping as approved in Exhibits #84a, #85 - #101 and #198 (Sheets 26A - 26S, and 4) by replacing any dead or diseased plantings within the season or as soon as possible after the ground thaws, whichever is sooner.
32. The installation of exterior light fixtures is limited to those approved in Exhibits #26 and #27 (Photometric plans and lighting cut sheets), and shall be mounted no higher than 30 feet above grade level. All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.
33. All signage will adhere to Manual of Uniform Traffic Control Devices (MUTCD) standards. The Permittees shall not erect additional exterior signage, other than what is shown in Exhibit #29 and Condition #25, without prior written approval from the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules.
34. The Commission reserves the right to evaluate and impose additional conditions with respect to Criteria 5, 8 and 9K as indicated in Conditions #23, #24 and #27, above. The Commission reserves the right for a period of time commencing with the issuance of this permit and expiring five years after completion of construction.
35. The Permittees shall reference the requirements and conditions imposed by Land Use Permit #4C0438-17 in all deeds of conveyance and leases.
36. Pursuant to 10 V.S.A. § 6090(b)(1) this permit amendment is hereby issued for an indefinite term, as long as there is compliance with the conditions herein. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the Permittees have not commenced construction and made substantial progress toward completion within the three year period in accordance with 10 V.S.A. § 6091(b).
37. All site work and construction shall be completed in accordance with the approved plans by **October 31, 2019**, unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without public hearing.
38. The Permittees shall file a Certificate of Actual Construction Costs, on forms available from the Natural Resources Board, pursuant to 10 V.S.A. § 6083a(g) within one month after construction has been substantially completed or two years from the date of this permit, whichever shall occur first. Application for extension of time for good cause shown may be made to the District Commission. If actual construction costs exceed the original estimate, a supplemental fee based on actual construction costs must be paid at the time of certification in accordance with the fee schedule in effect at the time of application. Upon request, the Permittees shall provide all documents or other information necessary to substantiate the certification. Pursuant to existing law, failure to file the certification or pay any supplemental fee due constitutes grounds for permit

revocation. The certificate of actual construction costs and any supplemental fee (by check payable to the "State of Vermont") shall be mailed to: Natural Resources Board, National Life Records Center Building, National Life Drive, Montpelier, VT 05620-3201; Attention: Certification.

39. Failure to comply with all of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A. § 6027(g).

Dated at Essex Junction, Vermont, this 25<sup>th</sup> day of August, 2014.

By /s/Thomas A. Little, Chair  
Thomas A. Little, Chair  
District #4 Commission

Members participating in  
this decision:

Marcy Harding  
Parker Riehle

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A).

Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 and the 5% surcharge required by 32 V.S.A. § 1434a(a), which is \$262.50 as of January 2011.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Center Building, Montpelier, VT 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8504(k).

For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 828-1660. The Court's mailing address is: Superior Court, Environmental Division, 2418 Airport Road, Suite 1, Barre, VT 05641-8701.

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State of Vermont  
NATURAL RESOURCES BOARD  
DISTRICT 4 ENVIRONMENTAL COMMISSION  
111 West Street • Essex Junction • Vermont 05452

**RE:** City of Burlington  
attn: David Allerton  
645 Pine Street  
Burlington, VT 05401

Application #4C0438-17  
**Findings of Fact,  
Conclusions of Law and Order**  
10 V.S.A. §§ 6001-6092 (Act 250)

and

State of Vermont Agency of  
Transportation  
attn: Wayne Davis  
One National Life Drive  
Montpelier, VT 05633-5001

## **I. INTRODUCTION**

On April 15, 2011, the City of Burlington ("City") and State of Vermont Agency of Transportation ("VTrans"), collectively referred to as "Applicants," filed an application for an Act 250 permit for a Project generally described as the completion and construction of the Champlain Parkway ("Parkway") connecting Interstate 189 to a new roadway extending to Lakeside Avenue, reconstruction and repaving of Lakeside Avenue, and resurfacing and certain other improvements to Pine Street between Lakeside Avenue and Main Street. The Project includes a new shared use path connecting Shelburne Street to Pine Street along the new roadway and along portions of Lakeside Avenue and Pine Street. The City's legal interest is ownership in fee simple described in deeds recorded on January 7, 1992; May 29, 2002 and May 24, 2002 in the land records of the City of Burlington and on May 24, 2002 in the City of South Burlington, Vermont.

The application was deemed complete on April 15, 2011.

The Commission issued Findings of Fact, Conclusions of Law, and Order #4C0438-17 on April 27, 2012 and the decision was appealed on issues related to Criterion 5. The decision on appeal stated that the Project could not comply with Criteria 1(B) and 4 until all necessary stormwater permits were received. The applicants filed those permits on June 5, 2014. On July 31, 2014, the Superior Court, Environmental Division, remanded jurisdiction back to the District Commission to issue a Land Use Permit.

Pursuant to Act 250 Rule 19(C), the Commission notified all persons with party status on Criteria 1(B) and 4 that the State stormwater permits had been issued and are available for review. No person with party status on Criteria 1(B) or 4 requested a hearing.

As set forth below, with the necessary stormwater permits, the Project now complies with all criteria of Act 250.

## **II. PARTY STATUS**

There have been no changes to the Party Status determinations as listed in Findings of Fact, Conclusions of Law, and Order #4C0438-17.

## **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Findings of Fact set forth below pertain only to Criteria 1(B) – Waste Disposal and 4 – Erosion.

**Criterion 1(B) - Waste Disposal:**

Findings of Fact

1. All relevant Findings from Findings of Fact, Conclusions of Law and Order #4C0438-17, as modified by the Superior Court, Environmental Division in *Re: Champlain Parkway*, No. 68-5-12 Vtec (Jul. 31, 2014), are included and incorporated herein.
2. The ANR Department of Environmental Conservation has issued coverage under Individual Discharge Permit #3368-INDC on April 15, 2014 for the construction phase of the Project. Exhibit #230.
3. The ANR Department of Environmental Conservation has issued coverage under Individual Stormwater Discharge Permit #3368-INDS.RA on October 11, 2012 for the operational phase of the project. Exhibit #229.

Conclusions of Law

The Applicants have the burden of proof of meeting Criterion 1(B). 10 V.S.A. § 6088(a); *Re: Steven L. Reynolds and Harold and Eleanor Cadreact*, #4C1117-EB, Findings of Fact, Conclusions of Law and Order at 4 (Vt. Env. Bd. May 27, 2004).

The ANR permits create a presumption pursuant to Act 250 Rule 19 that the disposal of wastes through the installation of wastewater and waste collection, treatment and disposal systems authorized by the permit will not result in undue water pollution. Technical determinations made by ANR in issuing the permit are entitled to substantial deference. 10 V.S.A. § 6086(d). No evidence was provided to rebut the presumption or challenge the technical determinations ANR made in issuing this approval.

The Commission concludes that the Project will meet all applicable Department of Environmental Conservation (DEC) regulations on waste disposal, and will not involve the injection of waste materials or any harmful or toxic substances into groundwater or wells.

The Project complies with Criterion 1(B).

**Criterion 4 - Soil Erosion:**

Findings of Fact

4. All relevant Findings from Findings of Fact, Conclusions of Law and Order #4C0438-17, as modified by the Superior Court, Environmental Division in *Re: Champlain Parkway*, No. 68-5-12 Vtec (Jul. 31, 2014), and above are included and incorporated herein.

Conclusions of Law

The burden of proof is on the Applicants under Criterion 4. 10 V.S.A. § 6088(a); *Re: Times and Seasons, LLC and Hubert K. Benoit*, #3W0839-2-EB (Altered), Findings of Fact, Conclusions of Law and Order at 35 (Vt. Env. Bd. November 4, 2005).

The ANR stormwater permits – individual construction discharge permit or approval under construction general permit – create a presumption under Rule 19(E)(6) that stormwater runoff during construction authorized by the permit will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water. In addition, technical determinations entitled to substantial deference. No evidence was presented to rebut the presumption or challenge the technical determinations made by ANR.

The Commission concludes that the construction of the Project will not cause unreasonable soil erosion or

a reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.  
The Project complies with Criterion 4.

## **VII. SUMMARY CONCLUSIONS OF LAW**

This is a complex and large project, with potential negative and positive impacts across a large swath of Burlington and a portion of South Burlington. In deliberating on this Application, the Commission reviewed the Application, the Exhibits, the legal memoranda and proposed findings of fact filed by the parties, the decision from the Environmental Division, and carefully considered the parties' testimony from each of the five hearings, The Commission studied Act 250 and the applicable Rules and the court and Environmental Board decisions that have interpreted and applied Act 250 and the Rules. Based upon those deliberations as expressed in the foregoing Findings of Fact and Conclusions of Law, it is the judgment of this District Environmental Commission that the Project described in the Application, if completed and maintained as represented in the application and other representations of the Applicant, and in accordance with in the findings and conclusions of this decision and the conditions of Land Use Permit #4C0438-17, will comply with Act 250

## **VIII. ORDER**

Based upon the Court's decision of July 31, 2014 and the foregoing Findings of Fact and Conclusions of Law, Land Use Permit #4C0438-17 is hereby issued.

Dated at Essex Junction, Vermont, this 25<sup>th</sup> day of August, 2014

By /s/Thomas A. Little, Chair  
Thomas A. Little, Chair  
District #4 Environmental Commission

Commissioners participating in this decision:  
Marcy Harding, Vice Chair  
Parker Riehle

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Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Board Rule 31(A). Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220.

Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 and the 5% surcharge required by 32 V.S.A. § 1434a(a), which is \$262.50 as of January 2011.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Center Building, Montpelier, VT 05 620-3201, and on other parties in accordance with Rule 5(b)(4)(B ) of the Vermont Rules for Environmental Court Proceedings.

E X H I B I T  N O.	DATE	E N T E R D  B Y	<b>A = Applicant</b> <b>T = Town</b> <b>O = Opponent</b> <b>RPC = Regional Planning Commission</b> <b>ANR = Agency of Natural Resources</b> <b>VTRANS = Vt. Agency of Transportation</b> <b>DPS = Department of Public Services</b> <b>M = Municipality</b> <b>DHP = Division for Historic Preservation</b> <b>WMD = Wastewater Management Division</b> <b>L = Landowner</b>
<b>Nature of Exhibit and Date Entered</b>			

1	4/15/11	A	Cover Letter by Brian Dunkiel, Dunkiel & Saunders (4/15/11)
2	"	"	Act 250 Land Use Permit Application Cover Sheets
3	"	"	Schedule A - Fee Information
4	"	"	Schedule E - Adjoiner Information
5	"	"	Schedule F - Certificate of Service
6	"	"	Schedule G
7	"	"	Location Map
8	"	"	Schedule B - Act 250 Narrative
9	"	"	Vt. Agency of Transportation 2006 Standard Specifications for Construction [Appl. Exh. #1]
10	"	"	Wastewater System & Potable Water Supply Permit WW-4-3595 Issued September 9, 2010 [Appl. Exh. #2]
11	"	"	Stormwater Discharge Permit No. 3368-INDS.R - EJ96-0401 Issued 4/26/10 [Appl. Exh. #3]
12	"	"	National Flood Insurance Rate Map (revised January 16, 1987) [Appl. Exh. #4]
13	"	"	State of Vermont 2008 303(d) List of Waters (Impaired Waters) (10/08) [Appl. Exh. #5]
14	"	"	Letter by Dale Gozalkowski, PE, Clough Harbour Associates re Construction Stormwater Permit (3/15/11) [Appl. Exh. #6]
15	"	"	Significant Wetland Inventory Maps (3/14/11) [Appl. Exh. #7]
16	"	"	Conditional Use Determination (wetlands permit) #2010-125 Issued 1/14/11 [Appl. Exh. #8]
17	"	"	Email by Marty Abair, Army Corps of Engineers re Federal Wetlands Jurisdiction (4/5/11) [Appl. Exh. #9]

18	“	”	US Army of Engineers Vt. General Permit NAE-2010-1705 (12/13/10) [Appl. Exh. #10]
19	“	”	Email by Alan Quackenbush, ANR Water Quality re Section 401 Water Quality Certification (3/8/10) [Appl. Exh. #11]
20	“	”	Email by Chris Brunelle, Stream Alteration Engineer, Water Quality re Stream Alteration Permit (3/8/11) [Appl. Exh. #12]
21	“	”	Letter by Eric Blatt, Chief, Engineering & Financial Services Section, Water Supply Division re Construction Permit Application (3/25/11) [Appl. Exh. #13]
22	“	”	Champlain Parkway Traffic and Safety Analysis (2/18/11) [Appl. Exh. #14]
23	“	”	School Impact Questionnaire (3/18/11) [Appl. Exh. #15]
24	“	”	Municipal Impact Questionnaire (3/19/11) [Appl. Exh. #16]
25	“	”	Assessment of Aesthetic Impacts by Jean Vissering, Landscape Architects (3/11) [Appl. Exh. #17]
26	“	”	Lighting Exhibits - Photometric Study - Sheets 1-8 (4/12/11) [Appl. Exh. #18A]
27	“	”	Lighting Cut Sheets [Appl. Exh. #18B]
28	“	”	Noise Impact Study for the Champlain Parkway (3/11) [Appl. Exh. #19]
29	“	”	Sample Signage: Reduction Signs - Interchange to Home Avenue Sht. 20A & Typical Signing Between Lakeside Avenue and Main Street Sht. 20B [Appl. Exh. #20]
30	“	”	City of Burlington Underground Utilities Review Committee Findings and Conclusions Dated 12/2/10 [Appl. Exh. #21]
31	“	”	Miscellaneous Letters by VAOT re Cultural Resources Investigations Dated 1/29/02, 1/24/02, 1/29/03, 11/2/04 and 6/3/02 [Appl. Exh. #22]
32	“	”	2003 Summary of Cultural Resource Surveys Completed for the Southern Connector/Champlain Parkway (5/8/03) [Appl. Exh. #23A]
33	“	”	Excerpts from Final Supplemental Environmental Impact Statement Volume I re Historic and Archaeological Resources (9/09) [Appl. Exh. #23B]
34	“	”	Email by Jeannine Russell, VTrans Senior Archaeologist re Archaeology (12/22/05) [Appl. Exh. #24]
35	“	”	Memo by Polly Harris, Stantec re Rare and Irreplaceable Natural Areas (3/24/11) [Appl. Exh. #25A]
36	“	”	Rare, Threatened & Endangered Species and Rare and Irreplaceable Natural Areas from Vt. Agency of Natural Resources Environmental Interest Locator Map (3/18/11) [Appl. Exh. #25B]
37	“	”	Letter by Everett Marshall, ANR Fish & Wildlife Department re Rare, Threatened and Endangered Species and Significant Natural Communities (2/13/09) [Appl. Exh. #26A]



38	“	”	Letter by Thomas Chapman, United States Department of the Interior re Endangered and Threatened Species (1/5/09) [Appl. Exh. #26B]
39	“	”	Memo by Steve Goodkind, City of Burlington Director of Public Works re Working Draft of FY 2012 Street Capital Program Budget (3/21/11) [Appl. Exh. #27]
40	“	”	Letter by David White, City of Burlington Director of Planning & Zoning re Growth Impacts from Project (3/15/11) [Appl. Exh. #28]
41	“	”	Letter by Steve Goodkind, City of Burlington Director of Public Works re Growth Impacts from Project (3/14/11) [Appl. Exh. #29]
42	“	”	Map of Primary Agricultural Soils [Appl. Exh. #31]
43	“	”	Letter by Brendan O’Shea, Vt. Agency of Agriculture re Impacts from Project on Primary Agricultural Soils (7/6/10) [Appl. Exh. #32]
44	“	”	Excerpts from Final Supplemental Environmental Impact Statement Regarding Earth Resources Volume I [Appl. Exh. #33]
45	“	”	Letter by Steven Goodkind, City of Burlington Director of Public Works re Ability to Serve (3/14/11) [Appl. Exh. #34A]
46	“	”	Ability to Serve Letter by Burlington Electric (3/16/11) [Appl. Exh. #34B]
47	“	”	Memo to Burlington Police Department from Carol Weston, City of Burlington, Department of Public Works re Ability to Serve Letter (3/15/11) [Appl. Exh. #34C]
48	“	”	Memo to Burlington Fire Department by Carol Weston, City of Burlington, Department of Public Works re Ability to Serve Letter (3/15/11) [Appl. Exh. #34D]
49	“	”	Excerpts from City of Burlington 2006 Municipal Development Plan (Adopted May 22, 2006) [Appl. Exh. #35]
50	“	”	Excerpts from 2006 Chittenden County Regional Plan - Adopted August 28, 2006 [Appl. Exh. #36]
51	“	”	Photo Showing Adjoining Property Owners - Sht. 1, Sht. 2B, Sht. 2C, Sht. 2D. (4/11/11) and Sht. 2E (Rev. 3/21/12)
52	“	”	Listing of Adjoining Property Owners - Sht. 2A (4/6/11)
53	“	”	Orthophoto: Interchange to Home Avenue Overview - Sht. 3 (4/11/11)
54	“	”	Drawing: Proposed Typical Section Route 7 Interchange to Home Avenue - Sht. 4 (4/11/11)
55	“	”	Orthophoto: New and Existing Shared-Use Paths from Interchange to Home Ave. - Sht. 5 (4/11/11)
56	“	”	Orthophoto: Pine Street Cul-De-Sac & Existing Noise Barriers - Sht. 6 (4/11/11)
57	“	”	Drawing: Proposed Typical Section Home Avenue to Lakeside Avenue - Sht. 7 (4/11/11)

58	“	”	Orthophoto: Home Avenue Intersection Improvements - Sht. 8 (4/11/11)
59	“	”	Orthophoto: Pedestrian Connection to Shared-Use Path Lyman Ave. and Ferguson Ave. - Sht. 9 (4/11/11)
60	“	”	Orthophoto: Flynn Ave. to Sears Lane Improvements - Sht. 10 (4/11/11)
61	“	”	Orthophoto: Sears Lane to Lakeside Ave. Improvements - Sht. 11 (4/11/11)
62	“	”	Orthophoto: Lakeside Ave. & Pine Street Intersection Improvements - Sht. 12 (4/11/11)
63	“	”	Drawing: Proposed Typical Section Lakeside Avenue - Sht. 13 (4/11/11)
64	“	”	Orthophoto: Pine Street Improvements Between Locust Street and Kilburn Street - Sht. 14 (Rev. 3/21/12)
65	“	”	Drawing: Proposed Typical Section Pine Street Between Lakeside Ave. and Kilburn Street - Sht. 15 (4/11/11)
66	“	”	Orthophoto: Pine Street Improvements Between Maple Street and Main Street - Sht. 16 (4/11/11)
67	“	”	Drawing: Proposed Typical Section Pine Street North of Kilburn Street - Sht. 17 (4/11/11)
68	“	”	Plan: Sub Watershed Boundaries Interchange to Lakeside Ave. - Sht. 18A (4/11/11)
69	“	”	Plan: Sub Watershed Boundaries Lakeside Ave. to Main Street - Sht. 18B (4/11/11)
70	“	”	Plan: Potash Brook Construction Limits - Sht. 19B (4/11/11)
71	“	”	Plan: Potash Brook Construction Limits - Sht. 19C (4/11/11)
72	“	”	Plan: Potash Brook Construction Limits - Sht. 19D (4/11/11)
73	“	”	Plan: Potash Brook Construction Limits - Sht. 19E (4/11/11)
74	“	”	Plan: Potash Brook Construction Limits - Sht. 19F (4/11/11)
75	“	”	Plan: Potash Brook Construction Limits - Sht. 19G (4/11/11)
76	“	”	Plan: Potash Brook Construction Limits - Sht. 19H (4/11/11)
77	“	”	Plan: Englesby Brook Construction Limits - Sht. 20A (4/11/11)
78	“	”	Plan: Englesby Brook Culvert - Sht. 20B (4/11/11)
79	“	”	Plan: Englesby Brook Culvert - Sht. 20C (4/11/11)
80	“	”	Orthophoto: Project Delineated Wetlands - Sht. 21 (4/11/11)
81	“	”	Orthophoto: Champlain Parkway Wetland N Impact - Sht. 22 (4/11/11)
82	“	”	Orthophoto: Champlain Parkway Wetland H/1 Impact - Sht. 23 (4/11/11)
83	“	”	Orthophoto: Champlain Parkway Wetland A Impact - Sht. 24 (4/11/11)
84	“	”	Orthophoto: Stormwater Treatment Overview - Sht. 25 (4/11/11)
84a	“	”	Plan: Landscaping Legend Plan 26A - Sht. 1 (4/13/11)

85	"	"	Plan: Landscaping Plan 26B - Sht. 1 (4/13/11)
86	"	"	Plan: Landscaping Plan 26C - Sht. 2 (4/13/11)
87	"	"	Plan: Landscaping Plan 26D - Sht. 3 (4/13/11)
88	"	"	Plan: Landscaping Plan 26E - Sht. 4 (4/13/11)
89	"	"	Plan: Landscaping Plan 26F - Sht. 5 (4/13/11)
90	"	"	Plan: Landscaping Plan 26G - Sht. 6 (4/13/11)
91	"	"	Plan: Landscaping Plan 26H - Sht. 7 (4/13/11)
92	"	"	Plan: Landscaping Plan 26I - Sht. 8 (4/13/11)
93	"	"	Plan: Landscaping Plan 26J - Sht. 9 (4/13/11)
94	"	"	Plan: Landscaping Plan 26K - Sht. 10 (4/13/11)
95	"	"	Plan: Landscaping Plan 26L - Sht. 11 (4/13/11)
96	"	"	Plan: Landscaping Plan 26M - Sht. 12 (4/13/11)
97	"	"	Plan: Landscaping Plan 26N - Sht. 13 (4/13/11)
98	"	"	Plan: Landscaping Plan 26O - Sht. 14 (4/13/11)
99	"	"	Plan: Landscaping Plan 26P - Sht. 15 (4/13/11)
100	"	"	Plan: Landscaping Plan 26Q - Sht. 16 (4/13/11)
101	"	"	Plan: Landscaping Plan 26R - Sht. 17 (4/13/11)
102	"	"	Plan: Landscaping Plan 26S - Sht. 18 (4/13/11)
103	5/19/11	O	Letter by Chapin Spencer, Local Motion re Request for Friend of the Commission Status (5/19/11)
104	"	"	Request for Party Status by Katherine & Jeremy O'Neill (Undated)
105	"	"	Request for Party Status by Liam Murphy, Murphy Sullivan & Kronk Representing Fortieth Burlington (5/19/11)
106	"	"	Entry of Appearance Comments by VTrans re Traffic (5/11/11)
107	"	"	Request for Party Status by William Schroeder, Downs Rachlin & Martin Representing South Meadow Housing Associates (5/19/11)
108	"	"	Petition for Party Status by Franklin Kochman, F.L. Kochman Representing Allan Hunt (5/17/11)
108A	5/24/11	"	Email by Harry Clark re Southern Connector Comments and Letter
108B	"	"	Email by Ken Grillo re Request for Party Status (5/24/11)
108C	5/30/11	"	Email by Evzen Holas re Request for Party Status (5/30/11)
109	7/19/11	A	Prefiled Testimony of David White (7/18/11) [Appl. Exh. #38]
110	"	"	Prefiled Testimony of Jack Myers (7/18/11) [Appl. Exh. #39]
111	"	"	Public Water System Permit to Construct #C-2678-11.0 Issued 4/7/11 [Appl. Exh. #40]

112	"	"	Letter by Jennifer McCarthy, Dept. of the Army re Wetland A (4/20/11) [Appl. Exh. #41]
113	"	O	Letter by Chapin Spencer, Exec. Dir. of Local Motion re Criterion 10 (7/26/11)
114	7/26/11	"	Map of Enlargement of Fig. 3-12 of Exhibit 33 [Hunt Exh. #1]
115	"	A	Excerpts of City of Burlington 2006 Municipal Development Plan Adopted by the Burlington City Council May 22, 2006/Map of Major Recommended Transportation Improvements (8/06), and Map of Figure 6-2 Regional Core
116	7/28/11	"	Letter by Brian Dunkiel, Esq. re City of Burlington's Exhibits 42-44 (7/27/11)
117	"	"	City of Burlington 2006 Municipal Development Plan - Adopted by the Burlington City Council 22 May 2006 [Appl. Exh. #42]
118	"	"	Map - Major Recommended Transportation Improvements August 2006 [Appl. Exh. #43]
119	"	"	Map - Regional Core [Appl. Exh. #44]
120	8/1/11	O	Email by Carmen Bombardier re Unable to Attend July 26, 2011 Hearing Due to Family Emergency
121	8/15/11	"	Letter by Franklin Kochman, Esq., for Allan Hunt re Prefiled Direct Testimony of Roger Dickinson (8/15/11)
122	"	"	Prefiled Direct Testimony of Roger Dickinson, PE, PTOE on Behalf of Party Allan Hunt
123	"	"	Pine Street and Maple Street LOS and Avg Delays and Pine Street and King Street LOS and Avg. Delays [Hunt Exh. #2 & #3]
124	"	A	Letter by Brian Dunkiel re City of Burlington's Prefiled Testimony, Supplemental Exhibits and Partial Response to Recess Order (8/15/11)
125	"	"	Prefiled Direct Testimony of Jean Vissering (8/15/11) [Appl. Exh. #45]
126	"	"	Prefiled Direct Testimony of John Hinckley (8/15/11) [Appl. Exh. #47]
127	"	"	Prefiled Direct Testimony of Kenneth Kaliski (8/15/11) [Appl. Exh. #46]
128	"	"	Prefiled Direct Testimony of Scott Newman (8/15/11) [Appl. Exh. #48]
129	"	"	Prefiled Direct Testimony of Steven Goodkind (8/15/11)
130	"	"	Memo to Rob Sikora, FHWA re No Adverse Effect for Champlain Parkway/Southern Connector Project--Due to Significant Changes to Project Design Sign Original Review in 1996, this Section 106 Determination of Effect Letter Vitiates and Supersedes 1996 Adverse Effect Memo of Agreement and Amendments/Misc. Docs. (5/18/11) [Appl. Exh. #49]
131	"	"	United States Department of the Interior Director of National Park Service William J. Whalen re Battery Street Historic District Nominated to be on National Register of Historic Places [Appl. Exh. #49]
132	"	"	Transportation Plan for City of Burlington Adopted 28 March 2011 [Appl. Exh. #50]

132a	8/16/11	O	Email by Scott Rieley, Adjoining Property Owner re Party Status (8/16/11)
133	8/18/11	A	City of Burlington's Motion to Strike Prefiled Testimony of Roger Dickinson Relating to Historic Sites and to Hold Testimony in Abeyance until Hearing on Criterion 5 by Brian Dunkiel, Esq. (8/17/11)
134	"	O	Party Allan Hunt's Memorandum in Opposition to the Applicant's Motion to Strike and Hold in Abeyance Prefiled Testimony of Roger Dickinson by Franklin Kochman, Esq. for Party Alan Hunt (8/18/11)
135	"	"	Prefiled Direct Testimony of Roger Dickinson by Franklin Kochman, Esq. for Party Alan Hunt (8/22/11)
136	8/22/11	"	Letter by William Schroeder re South Meadow Housing Associates - Withdraw Request for Participation in Act 250 Hearings - South Meadow Has Resolved Issue - Shared Use Path with City of Burlington (8/19/11)
137	8/23/11	A	Letter by Brian Dunkiel re Prefiled Direct Testimony of J. Flynn and J. Segale (8/22/11)
138	"	"	Prefiled Direct Testimony of Joseph Flynn (8/22/11)
139	"	"	Prefiled Direct Testimony of Joseph Segale (8/22/11)
140	"	"	Resume of Joseph Segale [Appl. Exh. #51]
141	"	A/O	Fortieth Burlington, LLC and the City of Burlington's Joint Request to Hold Hearing Open on Criterion 5 Issued (8/22/11)
142	"	"	GP Burlington South, LLC and the City of Burlington's Joint Request to Hold Hearing Open on Criterion 5 Issue (8/22/11)
143	"	O	Letter by Ron Wanamaker, Chair, Burlington Historic Preservation Review Committee to Kenneth Sikora, FHA re Draft Supplemental EIS for Southern Connector/Champlain Parkway Submitted by Party Allan Hunt (10/28/08) [Hunt Exh. #5]
144	"	"	Photographs of Maple Street/Pine Intersection Submitted by Party Allan Hunt (8/23/11) [Hunt Exhs. #6 - #15]
145	"	"	Plan from Exhibit #33 Submitted by Party Allan Hunt
146	"	"	Email by Katherine Roos, Adjoining Property Owner re Unable to Present Evidence at Hearing Due to Family Emergency (8/23/11) [Hunt Exh. #4]
147	8/31/11	O	Letter by Party Harry Clark, Adjoining Property Owner re Southern Connector
148	"	"	Letter by Party Karen Unsworth, Howard Space Partnership re Traffic Congestion (8/31/11)
149	"	"	Memo by Local Motion Chapin Spencer, Exec. Dir., re Analysis of Conformance of the Proposed Champlain Parkway Design with Criterion 5 (8/31/11)
150	"	"	Photographs of Standing Water and Puddles at the Corner of Batchelder and Morse Place by Party Karen Spach (8/31/11)

151	"	A	Letter by Brian Dunkiel re Request for District Commission to Excuse the Appearance of City's Witness Joe Flynn from August 31, 2011 Act 250 Hearing (8/29/11)
152	09/09/11	"	City of Burlington's First Set of Subpoena Requests for Vermont Railway, Inc. ("VTR") (09/08/11)
153	09/15/11	"	Response to Karen Spach's Stormwater Concerns by Stantec Consulting Services (09/08/11)
154	10/18/11	O	Cover Letter by Eric Benson, Esq., for VTR re Submitted Exhibits (10/18/11)
155	"	"	Lease Between State of Vermont and Vermont Railway, Inc. (19/09/90) [VTR Exh. A]
156	"	"	Quit-Claim Deed from Rutland Railway Corporation, Grantor To State of Vermont, Grantee (01/01/64) [VTR Exh.B]
157	"	"	Agreement and Stipulation By and Among the City of Burlington and the State of Vermont re The I-189 Interchange/Burlington South Connector (03/24/81) [VTR Exh. C]
158	"	"	General Code of Operating Rules, Effective April 7, 2010, of the Railroads Listed [VTR Exh. D]
159	"	"	1869 Deed Reference Identifies the in-common Railroad ROW Along Pine Street (11/26/1869) [VTR Exh. E]
160	"	"	Map: Showing Property of Adsit Biglow Coal Yard and Shepard K. Morse Lumber Co. [VTR Exh. F]
161	"	"	Private Side Track Agreement Between Rutland Railway Corp, Holger C. Peterson, and Burlington Grocery Company (12/07/1953) [VTR Exh. G]
162	"	"	Private Side Track Agreement between William E. Nevin and Oscar Edlund, Trustees of Rutland Railroad Company and T.A. Haigh Lumber Company, Inc., Mrs. Alice B. Moore and Vermont Spool Bobbin Company, Inc. Collectively (10/20/1950) [VTR Exh. H]
163	"	"	Letters by Vermont Railway/Clarendon and Pittsford (12/21/87) re Cancel Paragraph 7 of the Attached Private Side Track Agreement Between Rutland Railway Corp and City of Burlington Street Department (06/10/1957) [VTR Exh. I]
164	"	"	Agreement Made 07/01/1956 between Rutland Railroad Company, Penick & Ford, Ltd. Inc, and E.B. & A.C. Whiting Company, Inc. With Letters by Vermont Railway/Clarendon and Pittsford re Side Track removed July 1993 - City of Burlington obtained releases from all concerned. [VTR Exh. J]
165	"	"	Private Side Track Agreement between William B. Navin and Wallace M. Fay, Trustees of Rutland Railroad Company and E/B. & A.C. Whiting Company, Inc. (02/26/1946) [VTR Exh. K]
166	"	"	Memorandum of Understanding by McNeil, Murray & Sorrell, Inc. re Amend Lease Agreement for Bike Path Agreement (10/28/87) [VTR Exh. L]

167	“	”	Letter by AOT to Vermont Railway (03/25/92) with Fully Executed Copy of the Burlington Southern Connector MEGC-M 5000 (1) c/2 Agreement (12/12/91) [VTR Exh. M]
168	“	”	Lease Agreement Between State of Vermont Agency of Transportation and the City of Burlington (06/18/85) [VTR Exh. N]
169	“	”	Amendment No. 1 to June 18, 1985 Lease Agreement between the State of Vermont Agency of Transportation, the Vermont Railway, Inc., and the City of Burlington (12/06/85) [VTR Exh. O]
170	“	”	Amendment No. 2 to June 18, 1985 Lease Agreement between the State of Vermont Agency of Transportation, the Vermont Railway, Inc., and the City of Burlington (10/17/96) [VTR Exh. P]
171	“	”	Recorded Copy of Agreement Between State of Vermont Agency of Transportation, Joined by Vermont Railway, Inc., and Edlund Company, Inc., Joined by The Howard Band, N.A. (01/07/00) Property at 189-209 Battery Street [VTR Exh. Q]
172	”	“	State of Vermont Agency of Transportation Division of Operations Letter RE: Burlington Southern Connector Replacement Trailer Parking Space (05/20/83) [VTR Exh. R]
173	“	”	U.S. Dept of Transportation Federal Highway Administration Letter Re: Relocation of Portions of VT Railway Yard (07/09/87) [VTR Exh. S]
174	“	”	City of Burlington, Dept of Public Works Letter (12/18/02) and DRAFT MOA Outlining Mitigation to VT Railway Facilities as a Result of the Souther Connector Project [VTR Exh. T]
175	“	”	Office of the Mayor, Burlington, VT Letter RE: Suggestions for Project to Proceed (08/26/05) [VTR Exh. U]
176	“	”	Right-of-Way and Maintenance Agreement Between City of Burlington, and State of Vermont and Vermont Railway, Inc. For Burlington-Southern Connector: Champlain Park Way MECG - M5000(1) [VTR Exh. V]
177	“	”	Letter by David Wulfson, President, Vermont Railway (11/22/05) [VTR Exh. W]
178	“	”	Emails re Passenger Rail Service Between Bennington, Rutland and Burlington (Various Dates) [VTR Exh. X-4]
179	“	”	Rail Traffic Count - RDBD - 1/1/08-9/27/11 [VTR Exh. Y]
180	“	”	Rail Traffic Count - BD2 - 1/1/08-9/27/11 [VTR Exh. Y-1]
181	“	”	Rail Traffic Count - Burlington Local - 11/09-9/27/11 [VTR Exh. Z]
182	“	”	Vt. Rail System - Train Consist - Shift List - Burlington Train Movements - October 2010 - October 2011 [VTR Exh. AA]
183	“	”	Traffic Congestion Photos [VTR Exh. BB]
184	“	”	Vt. Rail System - System Timetable - February 1, 2011 [VTR Exh. CC]

185	"	"	Vt. Railway, Inc. Response to the City of Burlington's First Set of Discovery Requests Dated October 7, 2011 by Eric Benson, Esq.
186	10/21/11	"	Party Allan Hunt's Comments Regarding Mitigation Dated October 19, 2011 by Franklin Kochman, Esq.
187	10/25/11	A	Letter by Brian Dunkiel re City of Burlington's Response to District Commission's Recess Order of September 12, 2011 (10/24/11)
188	"	"	Applicant the City of Burlington's Response to the District Commission's Recess Order of September 12, 2011 (Local Motion Concerns)
189	"	"	AM Peak Hour LOS Summary: ETC+20 Design Year [Appl. Exh. #52]
190	"	"	Memo by Kenneth Kaliski, RSG re Noise Abatement Specifications (10/21/11) [Appl. Exh. #53]
191	"	"	Memo by Jean Vissering, Jean Vissering Landscape Architecture re Analysis of Visual Effects of Noise Barrier Wall Alternatives (10/19/11) [Appl. Exh. #54]
192	"	"	King Street and Maple Street One-Way Scenarios (10/20/11) [Appl. Exh. #55]
193	"	"	Drawing: Trucking Signing (10/18/11) [Appl. Exh. #56]
194	"	"	Drawing: Adjoining Properties Sht. 2D (10/18/11)
195	"	"	Drawing: Sears Lane to Lakeside Avenue Improvements Sht. 11 (Rev. 10/18/11)
196	"	"	Drawing: Lakeside Avenue and Pine Street Intersection Improvements Sht. 12 (Rev. 10/18/11)
197	"	"	Drawing: Potash Brook Construction Limits Sht. 19F (Rev. 10/20/11)
198	"	"	Drawing: Landscaping Plan Sht. 4 (Rev. 10/21/11)
199	10/31/11	"	Prefiled Testimony of Joseph Segale (10/28/11)
199a	"	"	Applicants response to VTR letter of 10/18/11
200	11/2/11	O	Prefiled Testimony of Samuel Offei-Addo on Behalf of Party GP Burlington South / 40 <sup>th</sup> Burlington (11/1/11)
201	11/16/11	"	Excerpts from three Amtrak Applications [VTR Exh. #X-1,X-2 & X-3]
202	"	"	Diagnostic of Railroad Impacts - submitted by VTR
203	"	"	Photos of Pine Street Spur. & Grocery Spur [VTR Exh. #CCC]
204	"	"	Plan: Overall Site Plan Showing Properties of Gilbane submitted by GP Burlington / 40th Burlington (Rev. 10/2/11)
205	"	"	Drawings Showing PM Queue Lengths at GP Burlington / 40th Burlington properties
206	"	"	Memo by Local Motion re Response to City of Burlington's Memo Responding to Local Motion's Previous Submissions to District 4 Commission (11/16/11)



207	11/21/11	"	Letter by Liam Murphy for GP Burlington / 40th Burlington re Traffic (11/18/11)
208	12/1/11	A	City of Burlington's Response to Parties' Requests for Additional Information (11/30/11)
209	12/22/11	O	Party VTR <i>Proposed Findings of Fact and Conclusions of Law and Order</i>
210	12/23/11	"	Party Allan Hunt's <i>Memorandum in Opposition to Application</i> Dated 12/23/11
211	"	"	Party Allan Hunt's <i>Proposed Findings of Fact &amp; Conclusions of Law</i> Dated 12/23/11
212	"	A	The Applicant City of Burlington's <i>Motion to Deny Party Status and Memorandum of Law in Support of Motion to Deny Part Status</i> Dated 12/23/11
213	"	"	The Applicant City of Burlington's <i>Proposed Findings of Fact and Conclusions of Law</i> Dated 12/23/11
214	12/27/11	O	Fortieth Burlington, LLC <i>Proposed Findings of Fact and Conclusions of Law</i> Dated 12/23/11
215	"	"	GP Burlington South, LLC <i>Proposed Findings of Fact and Conclusions of Law</i> Dated 12/23/11
216	1/30/12	O	Party Allan Hunt's <i>Proposed Rebuttal Findings of Fact &amp; Conclusions of Law</i> Dated 1/31/12
217	1/31/12	"	Party VTR <i>Proposed Rebuttal Findings of Fact and Conclusions of Law and Order and Motion to Disallow Submission of Proposed Findings of Fact and Order and Motion to Deny Party Status by Applicants</i> 1/27/12
218	"	A	The Applicant City of Burlington's <i>Proposed Rebuttal Findings of Fact and Conclusions of Law</i> Dated 1/31/12
219	2/1/12	O	Fortieth Burlington, LLC <i>Proposed Rebuttal Findings of Fact and Conclusions of Law</i> Dated 1/31/12
220	"	"	GP Burlington South, LLC <i>Proposed Rebuttal Findings of Fact and Conclusions of Law</i> Dated 1/31/12
221	2/6/12	VTrans	Agency of Transportation concurrence with City of Burlington's <i>Proposed Findings of Fact and Conclusions of Law and Motion to Deny Party Status and Memorandum of Law in Support of Motion to Deny Part Status</i> Dated 2/2/12
222	2/13/12	A	The Applicant City of Burlington's <i>Reply to VTR and Alan Hunt's Motion to Disallow Submission of the City's Proposed Findings of Fact, Conclusions of Law and Responses to the City's Motion to Deny Party Status</i> Dated 2/13/12
223	2/15/12	O	Party Allan Hunt's <i>Rebuttal to the City's Filing</i> Dated February 14, 2012 Dated 1/31/12
224	3/22/12	A	The City of Burlington's <i>Motion to Alter and Memorandum of Law in Support of the Motion</i> Dated 3/22/12

225	3/23/12	"	The City of Burlington's Response to the District Commission's Decision and Order of March 7, 2012 Dated 3/23/12
226	3/26/12	O	Admitted Party, Vermont Railway, Inc., <i>Memorandum re Effect of Prior Stipulation of Applicant's and Opposition to Motion to Alter</i> Dated 3/23/12
227	4/9/12	A	The City of Burlington's <i>Reply to Vermont's Railway Inc.'s Memorandum Regarding the Effects of the Prior Stipulation</i> Dated 4/9/12
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228	6/5/14	A	City of Burlington's letter re; issuance of state stormwater permits (6/4/14)
229	"	"	Individual Construction Stormwater Discharge Permit #3368-INDC (4/15/14)
230	"	"	Discharge Permit #3368-INDS.RA (10/11/12)
231	"	"	Environmental Division of the Superior Court Order (Docket No. 68-5-12 Vtec) Order re: Stipulation and Joint Motion for Order memorializing Agreement to Settle and Dismiss Action (11/25/13)
232	6/31/14	"	Environmental Division of the Superior Court Order (Docket No. 68-5-12 Vtec) Judgment Order (7/30/14)
233	"	"	Environmental Division of the Superior Court Order (Docket No. 68-5-12 Vtec) Decision on the Merits (7/30/14)
234	8/19/14	"	Plan: Erosion Control General Notes Sheet #1 Sheet 19 (1/24/14)
235	"	"	Plan: Erosion Control General Notes Sheet #2 Sheet 20 (1/24/14)
236	"	"	Plan: Erosion Control General Notes Sheet #3 Sheet 21 (1/24/14)
237	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 31 (1/24/14)
238	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 32 (1/24/14)
239	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 33 (1/24/14)
240	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 34 (1/24/14)
241	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 35 (1/24/14)
242	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 36 (1/24/14)
243	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 37 (1/24/14)
244	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 38 (1/24/14)
245	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 39 (1/24/14)
246	"	"	Plan: Erosion Control Plan Detail Phase 1 Sheet 40 (1/24/14)
247	"	"	Plan: Erosion Control Plan Detail Phase 2A Sheet 42 (1/24/14)
248	"	"	Plan: Erosion Control Plan Detail Phase 2A Sheet 43 (1/24/14)
249	"	"	Plan: Erosion Control Plan Detail Phase 2A Sheet 44 (1/24/14)
250	"	"	Plan: Erosion Control Plan Detail Phase 2B Sheet 46 (1/24/14)
251	"	"	Plan: Erosion Control Plan Detail Phase 2B Sheet 47 (1/24/14)

252	“	“	Plan: Erosion Control Plan Detail Phase 2B Sheet 48 (1/24/14)
253	“	“	Plan: Erosion Control Plan Detail Phase 2B Sheet 49 (1/24/14)
254	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 52 (1/24/14)
255	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 53 (1/24/14)
256	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 54 (1/24/14)
257	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 55 (1/24/14)
258	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 56 (1/24/14)
259	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 57 (1/24/14)
260	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 58 (1/24/14)
261	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 59 (1/24/14)
262	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 60 (1/24/14)
263	“	“	Plan: Erosion Control Plan Detail Phase 3 Sheet 61 (1/24/14)
264	“	“	Plan: Erosion Control Plan Detail Phase 4 Sheet 63 (1/24/14)
265	“	“	Plan: Erosion Control Plan Detail Phase 4 Sheet 64 (1/24/14)
266	“	“	Plan: Erosion Control Plan Detail Phase 4 Sheet 65 (1/24/14)
267	“	“	Plan: Erosion Control Plan Detail Phase 5 Sheet 67 (1/24/14)
268	“	“	Plan: Erosion Control Plan Detail Phase 5 Sheet 68 (1/24/14)
269	“	“	Plan: Erosion Control Plan Detail Phase 5 Sheet 69 (1/24/14)
270	“	“	Plan: Erosion Control Plan Detail Phase 5 Sheet 70 (1/24/14)
271	“	“	Plan: Erosion Control Plan Detail Phase 6 Sheet 72 (1/24/14)
272	“	“	Plan: Erosion Control Plan Detail Phase 6 Sheet 73 (1/24/14)
273	“	“	Plan: Erosion Control Plan Detail Phase 6 Sheet 74 (1/24/14)
274	“	“	Plan: Erosion Control Plan Detail Phase 7 Sheet 76 (1/24/14)
275	“	“	Plan: Erosion Control Plan Detail Phase 7 Sheet 77 (1/24/14)
276	“	“	Plan: Erosion Control Plan Detail Phase 7 Sheet 78 (1/24/14)
277	“	“	Plan: Erosion Control Plan Detail Phase 8 Sheet 80 (1/24/14)
278	“	“	Plan: Erosion Control Plan Detail Phase 8 Sheet 81 (1/24/14)
279	“	“	Plan: Erosion Control Plan Detail Phase 8 Sheet 82 (1/24/14)
280	“	“	Plan: Erosion Control Details Sheet #1 Sheet 89 (1/24/14)
281	“	“	Plan: Erosion Control Details Sheet #2 Sheet 90 (1/24/14)
282	“	“	Plan: Erosion Control Details Sheet #3 Sheet 91 (1/24/14)
283	“	“	Plan: Erosion Control Details Sheet #4 Sheet 91A (1/24/14)

## CERTIFICATE OF SERVICE

I hereby certify on this 25<sup>th</sup> day of August, 2014, a copy of the foregoing ACT 250 LAND USE PERMIT AND FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER #4C0438-17, was sent by U.S. mail, postage prepaid to the following individuals without email addresses and by email to the individuals with email addresses listed.

Note: any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify our office of any email address changes. All email replies should be sent to [nrb-act250essex@state.vt.us](mailto:nrb-act250essex@state.vt.us). You can now fill out and submit the Act 250 survey online at: <http://permits.vermont.gov/act250-survey>.

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Dated at Essex Junction, Vermont, this 25<sup>th</sup> day of August, 2014.



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