DRAFT MINUTES

DEVELOPMENT REVIEW BOARD

4 AUGUST 2026

The South Burlington Development Review Board held a regular meeting on Tuesday, 4 August 2026, at 7:00 p.m. in the Auditorium, City Hall, 180 Market Street, and via Go to Meeting interactive technology.

MEMBERS PRESENT: Q. Mann, Chair; M. Behr, F. Kochman, J. Lesko, T. Lenski, C. Johnston

ALSO PRESENT: M. Keene, Development Review Planner; A. Levin, Planning Department; P. Conner, Director of Planning & Zoning; S. Kershner, B. Currier, J. Mathieson, M. Williams, F. VonTurkovich, E. Janis, B. Avery, F. MacDonald

1. **Instructions on exiting the building in case of an emergency:**

Ms. Mann provided instructions on emergency exit from the building.

2. **Additions, deletions, or changes in order of agenda items:**

No changes were made to the agenda.

3. **Comments and questions from the public not related to the Agenda:**

No issues were raised.

4. **Announcements:**

Ms. Keene reported that the City is still looking for applicants to fill the empty seat on the DRB.

5. **Continued Site Plan application # PZ-SITE-2026-19 of the City of South Burlington to amend a previously approved plan for a 68-acre multi-use recreation park and athletic facility. The amendment consists of converting an existing field to turf, expanding an existing parking lot, and constructing a 3,000-sf storage and maintenance building 600 Swift Street:**

Ms. Mann noted there were 3 outstanding items for the applicant to address:

a. Reconfiguration of the parking lot: Ms. Mann noted this has been received
b. Coordination with a landscape professional regarding the landscape plan: Ms. Kershner said the City Arborist has re-selected and submitted the list
c. Stormwater management plan: Ms. Mann said there is a new plan which staff says meets the criteria

Mr. Levin noted the applicant did not post the appropriate public notices to abutters, so the application will have to be continued.

Public comment was then solicited. There was no public comment.

Ms. Lesko moved to continue PZ-SITE-2026-19 until 1 September 2026. Mr. Johnston seconded. Motion passed 6-0.

6. **Continued Site Plan application #SP-SITE-2026-011 of JB Development Group, LLC, dba Peregrine Design Build for a new 5,040 sf footprint building on an existing undeveloped 3.05 acre lot, 69 Randall Street:**

Ms. Mann noted the Board heard the application at its last meeting. Ms. Keene noted staff received a request for continuation this morning. It is up to the Board as to whether to grant the request.

Ms. Lesko moved to continue SP-SITE-2026-011 until 15 September. Mr. Behr seconded. Motion passed 6-0

DRAFT

7. **Continued Site Plan application #SP-26-07 of Green Mountain Habitat for Humanity to develop a newly subdivided 2.0 acre lot with three 4-family homes and associated road and infrastructure, 1720 Spear Street:**

Ms. Mann noted this lot has not yet been created because the DRB denied the subdivision application.

Ms. Keene advised that the City Council has warned a special meeting on 10 August to begin to address the situation. She read the Warning. The City is seeking to acquire the right-of-way by eminent domain while continuing to negotiate with the landowner in parallel discussions. The site plan must wait until a decision is reached by the City Council. Mr. Currier said he felt there would be an agreement with the property owner within 60 days and suggested a check-in at about that time.

Mr. Johnston then moved to continue SP-26-07 to 3 November 2026. Ms. Lesko seconded. Motion passed 6-0.

8. **Appeal #PZ-APPEAL-2026-01 of Jaime Mathieson (Maplewood Drive South Burlington) appealing the decision of the Acting Administrative Officer to approve Final Plat Application #PZ-FINAL-2026-3, 170 White Street:**

The Board first determined those persons seeking "interested party" status as follows:

a. Jaime Mathieson who owns the property at 1 Maplewood Drive
b. Mark Williams who lives across the street from 170 White Street (at 186 White Street)
c. Bryan Currier representing the owner of 170 White Street

Mr. Kochman said he didn't see how Ms. Mathieson was impacted and asked about the physical or environmental impact. Mr. Mathieson said she was impacted by traffic, illegal drug activity at the 2 created units, and water being pumped onto her property from the 170 White Street property. Mr. Kochman said Ms. Mathieson may have a valid claim regarding the "misuse" of the property.

Ms. Keene said the second was built as an ADU. The property was subdivided so the owner would not have to live on the property as would be the case if it remained one lot. The ADU is a 2-bedroom home which is listed as a 3-bedroom

DRAFT

unit. It is on a small lot, either 0.030 or 0.031 acres. Ms. Mann confirmed that the subdivision allowed both units to be rented.

Mr. Behr asked if the regulations have been changed since ADUs were initiated. Ms. Keene said they have, and this was state-wide.

Ms. Mathieson said she now cannot use her backyard because of a lack of privacy. Also, because the other property owner had not located the corner post, Ms. Mathieson had to have her property surveyed. She said she wants to be sure the structure is compliant with the setbacks, particularly the corner of the building.

Ms. Mann noted that a physical impact would be reason to believe she qualifies as an interested person. She added that the Board would take testimony from the administrator, property owner/representative, and the appellant.

All interested parties were then sworn in, and testimony was heard as follows:

Alex Levin (Acting Administrative Officer):

He reviewed the background and reviewed the existing permits. He noted that the approved subdivision permit created 2 lots. Mr. Levin said he measured each lot to be sure he figures were accurate and that the lots were of legal size. He did not find a subdivision issue. He showed a plan of the lots with the 2 structures and noted the setbacks which he described as permissible. The closest structure is 13.5 feet away.

Mr. Kochman asked about the driveway. Mr. Levin said the driveway was approved prior to the subdivision. Mr. Kochman asked if the driveway counts when considering setbacks. Ms. Keene said it does not.

Ms. Mathieson (Appellant):

The Plat did not have the driveway or structure on the back of the property and showed a photo. She asked if the structures are placed where they were approved. Ms. Keene showed the Site Plan that was used in the final decision. It has a table of dimensions. Ms. Mathieson said there is a walkout structure attached to the structure which is not shown on the plan. Ms. Mann said staff has indicated the Board can view this as a non-permitted structure. It should be represented and would change some of the dimensions.

DRAFT

Mr. Kochman noted that the claimant feels that because the property is not in compliance with existing zoning laws, it is not entitled to a subdivision permit. Ms. Keene noted that Statutes prohibited withholding a permit because of an issue with another permit.

Ms. Mathieson said the ADU property is addressed as 172 White Street when Mr. Levin had said it would be 25 Maplewood Drive. Ms. Keene said that is not related to this issue and needs to be addressed by State regulations. She added that the City Council is looking into options because of a lack of number available for addressing. As a temporary fix, staff is addressing streets when possible. This will be done if the Board upholds the administrator's decision.

Mr. Currier (representing the property owner):

He has sent a revised plat which was shown. He noted the "irregular bump out" as it exists today.

This ended testimony by parties of interest.

Ms. Mann asked for public comment which was received as follows:

Mr. Williams: He noted that with 2 separate lots, each of the structures could have its own ADU. Ms. Mann said such units would have to comply with zoning regulations. Ms. Keene added this includes dimensions standards. Mr. Levin added that one of the units would have to owner-occupied. Mr. Williams said they could build a second floor as an ADU. Ms. Mann said that is an interesting question but it is not relevant to this appeal. Mr. Williams said when you subdivide a lot into 2 lots, you are now empowering 4 units instead of 2. Mr. Kochman stresses that nothing in this application empowers 4 units. Ms. Keene said the State would allow 4 units on a 5,000 square foot lot. There then could not be an ADU. Mr. Williams said that on this lot you are now allowing 8 units, and the State has said would have to allow that, which is an impact on neighbors.

Ms. Mann said what the Board would be looking at here is whether there was an error made in the original decision. She acknowledged that the appellant and Mr. Williams have raised good issues for future discussion. She stressed that any future development on this lot would have its own process and appeal process. Mr. Kochman said it looks like a subdivision permit is a way to evade the ADU issue. Ms. Keene acknowledged this is true, though there are short-term rental

DRAFT

regulations. Mr. Currier said it is very expensive to go from an ADU to a full structure. Ms. Keene estimated about $15,000.

Ms. Lesko then moved to close the appeal. Mr. Johnston seconded. The motion passed 6-0.

Ms. Keene then explained the process and also noted that if the Board needed additional information, they could re-open the Appeal. She felt a decision would likely be issued the first or second week in September.

9. **Appeal PZ-APPEAL-2026-2 of Frank von Turkovich appealing the decision of the Administrative Officer that Zoning Permit #24-436 had expired, 600 Spear Street:**

Mr. Kochman recused himself due to a potential conflict of interest.

The interested party was identified as Frank von Turkovich acting for the 2 limited liability companies who hold the permit). Ben Avery was also identified as Project Manager for the project.

Mr. von Turkovich noted that the project is now on hold because of this issue. He then said over the past few days they have had input from Counsel regarding State Laws 24.VSA44003 and 24VSA4449 which say that 2 years must be allowed before a permit expires. They have also communicated with the South Burlington City Attorney (Colin McNeil). Mr. von Turkovich said their attorneys feel it is clear that the City's ordinance needs to be updated. He then asked for a continuance so the City can consider this as they believe they have met all deadlines.

Mr. Conner said the decision on how to proceed belongs to the Board. He then read the provided Statute references. He noted that the City Attorney can provide guidance, but the DRB is the decision maker.

Mr. Johnston asked whether the decision would stand if the DRB took no action. Mr. Conner said that assuming it is right for appeal, the DRB must take an action. Mr. Johnston asked whether that action could be based on the City's regulations or State law. Mr. Conner said the City Attorney can provide guidance on that. Any decision the Board makes can be challenged. The Board now needs to decide whether to proceed with testimony or delay for additional testimony.

DRAFT

Ms. Keene noted the Board has the authority to get advice from the City Attorney. She encouraged members to review the language of the State law being cited by the appellant. She said it relates to a Site Plan or Conditional Use. She said the Site Plan is not what is being appealed; it is the Zoning Permit. Mr. Behr asked if the site plan is within the 2-year period. Ms. Keene said it is not.

Members then agreed to take testimony. Interested parties were sworn in, and testimony was taken as follows:

Zoning Administrator:

Ms. Keene showed the Land Development Regulation which says that a Zoning Permit expires in one year unless the applicant shows continued good faith intent. It was her decision that the work done did not meet this criterion. She stated the only work done was roof repair which was not covered by the zoning permit. Any other work that was done was done after the expiration of the zoning permit.

Appellant:

Mr. von Turkovich said it is correct to describe the permit expiration in 2025, but there is nothing in the permit or in the regulations as to when a project has to be completed. He felt they meet the requirements of Section 17.05A because they invested work time and expenditures which shows an intent to continue.
Mr. von Turkovich then reviewed the nature of the project as 32 units in 8 buildings with a neighborhood concept including 2 new City streets. The existing steel building is an important component, and they began work on that building in 2025 (the roof). Mr. von Turkovich noted that the City Council also had to approve the project because the City was in Interim Zoning at the time. In 2023, they got approval with a list of things that needed to be resolved before they could apply for Act 250. In September, 2023, they requested an extension and got a Zoning Permit with an extension to December, 2025.

Mr. von Turkovich then noted that Act 181 made major revisions to Act 250, and he was waiting for them to activate those changes as it is very expensive and time consuming to go to Act 250. They then realized the possibility that they could be exempt from going to Act 250 and applied for this which was granted in November of 2025. They then began to work on the project. Work included a silt fence and the stockpiling of materials for the road (cost $12,000). They then got hit with hard weather, and paused work till after the holidays. Mr. von Turkovich

DRAFT

stressed that Act 181 was such a positive thing for them that they found it was good to wait. They were still paying for engineering, etc.

Ms. Mann asked the purpose of the December 2025 excavating. Mr. von Turkovich said they had to make a utility connection, so they installed the silt fence which would be required.

Mr. von Turkovich stressed that all they have to show in "intent."

Mr. Behr asked Mr. Avery when he came on board. Mr. Avery said he was brought on in January. He needed to evaluate the buildout program, new pricing from contracting with local vendors, etc. They were to start the project in May. Mr. Behr then asked if the appellant is ready to start the project now and is being held up by this appeal. Mr. von Turkovich said yet to both parts of the question. He added this process "froze" them and threw the project into disarray. Mr. Avery said 6 months is not long enough to complete a State process.

Mr. von Turkovich also noted they have written a $40,000 check to the City. When they began, interest rates were at 3%; they are now at 6%, and construction costs are up 200%. He also stressed that they did not want to pay Act 250 $80,000 if they did not have to and added that if they had put in the silt fencing and brought in excavators without an Act 250 permit, they would have been in trouble. He also stressed that Act 250 considers silt fencing and stockpiling as "commencing."

Mr. von Turkovich said they are also having a challenge as they are looking at modular building. They will come back to the Board with this. They were looking into this during the period in question. He also said it is a great project in a great location that addresses a need.
Ms. Mann asked if there was a reason they didn't look into the project exemption earlier. Mr. von Turkovich said his recollection is that the maps were just being brought out, and they needed to proceed slowly. They were also worried the answer would be "no" because when he talked with the State specialist he didn't feel they would get the exemption.

Mr. Lenski asked if they knew they were running into this issue why they didn't show some activity. Mr. von Turkovich said they believed the Ordinance required them to "commence."

DRAFT

Mr. Johnston asked Ms. Keene if staff felt the started work was "artificial." Ms. Keene said the work they did does not qualify as "demonstrated intent." She did acknowledge there were discussions with the appellant.

Mr. Johnston asked Mr. von Turkovich what other work was to be done. Mr. von Turkevich said they were going to do the water tap, but they were told it was too cold to do that. He also noted the change in contractor. Mr. Avery noted the time to accomplish this.

Ms. Keene said nothing she has heard so far would have changed her decision.

Mr. Johnston asked if the appellant could commence digging a foundation now. Mr. von Turkovich said "absolutely." Mr. Avery said what they did, silt fence, etc., is what you do at the beginning of a project. It is not artificial.

Ms. Mann asked if there is any other evidence the Board would want. Ms. Keene said "evidence" could have included asking for a pause, etc., and there is no such evidence. Mr. Johnston noted there are invoices from 2 December. Ms. Keene said she felt that was not a "good faith intent to continue the project."

Mr. Lenski said it would be helpful if the Board could see all the work they were doing (e.g., invoices, etc.). He asked if they were ready to go on 18 December if the weather had not interfered. Mr. von Turkovich said nothing in the regulations says they have to provide a day-by-day accounting to show intent. Ms. Mann said the Board needs evidence, not verbal presentation. Mr. von Turkovich said it never occurred to him that everything they were doing would not be considered "intent to build." Ms. Mann said "evidence" could include invoices, before/after photos, etc.

Mr. Johnston proposed a continuation since the applicant has engaged a new contractor. He asked Mr. Avery if he is under contract for site work. Mr. von Turkovich said "no" because they shut everything down when they heard from the City. Mr. Avery said he was retained in January and bills Mr. von Turkovich every month.

Members agreed they were comfortable with closing but wanted to consult with the City Attorney.

Public comment was then solicited. There was no public comment.

DRAFT

Ms. Lesko moved to close PZ-APPEAL-2026-2. Mr. Behr seconded. Motion passed 5-0.

Mr. Conner said the Board will issue a decision within 45 days.

Mr. Kochman rejoined the Board.

10. **Sketch Plan Application #PZ-SKETCH-2026-5 of Eric Jarvis to subdivide an existing 0.73 acre lot developed with a 3-family home into three lots of 0.33 acres (Lot 1), 0.23 acres (Lot 2), and 0.17 acres (lot 3) for the purposes of developing a small residential building on each of Lots 2 and 3 and retaining the 3-family home on Lot 1, 190 White Street:**

Mr. Jarvis said he is the owner of 190 White Street. They are asking for a 3-lot subdivision. He said they did their best with the driveways.

Staff comments were addressed as follows:

#1. Staff asked for a timeline for removal of the existing driveway and construction of a new driveway relative to the final plat application. Mr. Jarvis said 60 days.

#2. Staff asked the applicant to provide a description of phasing. Mr. Jarvis said it will be done in one phase. Once it is phased they will be adding a second curb cut/driveway.

#3. Staff recommends maximizing connection to other parcels. Ms. Keene said she is not sure this is needed. Mr. Johnston said the easement provides the best connection to the community. Members agreed.

#4. Staff asked whether the Board would allow creation of the new driveway under 15.A.01(B). Ms. Keene said this is about minimizing curb cuts. Where you can have a shared drive, there should be one. She noted that what is proposed continues the existing spacing.

#5. Staff asked whether to require a draft access easement as part of preliminary or final plat stage. Members were OK with final plat.

DRAFT

#6. Regarding dimensional standards, staff noted the information is not correct and needs to be updated. Mr. Jarvis said they will be within the requirements. He will provide that information.

#7. Staff said the applicant needs to provide a survey of the existing structures. Mr. Jarvis said this will be done.

Regarding combining preliminary and final plats, members said they would be OK with this.

Public comment was then solicited. There was no public comment.

11. Minutes

No minutes were presented for approval.

12. Other Business:

Ms. Keene advised that the City Council approved amendments to the LDRs effective 24 August. They also approved new impact fees and approval for the City to apply for Tier 1A status.

As there was no further business to come before the Board, the meeting was adjourned by common consent at 10:01 p.m.

These minutes were approved by Common Consent on _____.

DRAFT