



# Allen Brook Development



September 9, 2020

Town of Essex Community Development Department  
Attn: Sharon Kelley  
81 Main Street  
Essex Jct. VT 05452

Subject: Zoning Permit Application  
21 Pinecrest Drive  
Final Plan Amendment Approval #PC: 2020-3

Dear Sharon:

Attached please find a Zoning Permit application to raze the existing single family home and two garage buildings located at 21 Pinecrest Drive. This site has received all local and state permits for a 24-unit congregate housing building; a Zoning Permit application for that work will be submitted separately.

In the meantime we would like to apply to demolish the existing buildings and clear all trees which will not be kept, to get the site ready for construction. The existing buildings have been unoccupied since August 2019 and have recently been broken into and vandalized. No construction will occur until the full zoning permit for the 24-unit Congregate Housing building has been approved.

Attached please find a complete Zoning Permit application with an application fee of \$65.00 (\$50.00 base fee+ \$15.00 recording fee), copy of Act 250 LUP 4C1204-1, and an aerial photo with the three buildings to be removed highlighted in blue. Should you have any questions, or require any additional information please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Bertsch", is written over a faint, illegible typed name.

Brian J. Bertsch, P.E.

cc: A. Senecal

Enc:

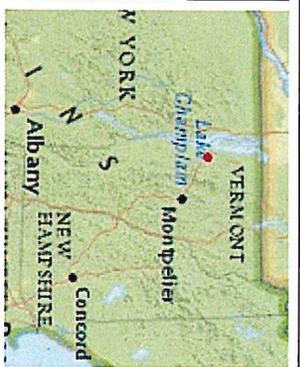
Signed Zoning Permit Application w/ fee  
LUP 4C1204-1  
Aerial Photo



1 : 2,986  
September 9, 2020

152.0 Meters  
0 76.00 152.0 Meters  
1" = 249 Ft. 1cm = 30 Meters  
WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Vermont Agency of Natural Resources  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.



- ### LEGEND
- Parcels (standardized)
  - Parcels (non-standardized)

### NOTES

Map created using ANR's Natural Resources Atlas



State of Vermont

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## LAND USE PERMIT AMENDMENT

**CASE NO:** 4C1204-1  
Allen Brook Development, Inc.  
31 Commerce Avenue  
South Burlington, VT 05403

**LAWS/REGULATIONS INVOLVED**  
10 V.S.A. §§ 6001 - 6093 (Act 250)

The District 4 Environmental Commission hereby issues Land Use Permit Amendment #4C1204-1, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6093. This permit amendment applies to the lands identified in Book 909, Pages 1056-1058, of the land records of Essex, Vermont, as the subject of a deed to Allen Brook Development, Inc.

**This permit specifically authorizes the construction of 24 units of congregate housing in a single building with a footprint of 8,556 square feet on a 1.65 acre parcel of land. The Project includes construction of a new pump station and forcemain on a 0.19 acre easement. The Project is located at 21 Pinecrest Drive in Essex, 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 Permittee, and its assigns and successors in interest, is obligated by this permit to complete, operate and maintain the project as approved by the District 4 Environmental Commission (the "Commission") in accordance with the following conditions.
2. The Project shall be completed, operated and maintained in accordance with the conditions of this permit and the permit application, plans, and exhibits on file with the Commission and other material representations.

The approved plans are:

Sheet 1 - "Overall Plan," dated August 31, 2006, last revision August 26, 2020 (Exhibit #004a);

Sheet 2 - "Final Site Plan," dated August 31, 2006, last revision August 26, 2020 (Exhibit #005a);

Sheet 3 - "Landscape Plan," dated August 31, 2006, last revision December 16, 2019 (Exhibit #006);

Sheet 4 - "Lighting Plan," dated August 31, 2006, last revision December 16, 2019 (Exhibit #007);

Sheet 5 - "Roads, Sanitary & Landscaping - Details & Specifications," dated August 31, 2006, last revision December 19, 2019 (Exhibit #008);

Sheet 6 - "Water - Details & Specifications," dated August 31, 2006, last revision September 23, 2019 (Exhibit #009);

Sheet 7 - "Plan & Profile," dated July 29, 2019, last revision December 19, 2019 (Exhibit #010);

Sheet 8 - "Pump Station Details," dated May 17, 2019, last revision December 19, 2019 (Exhibit #011);

Sheet 9 - "Sewer - Details & Specifications," dated December 19, 2019 (Exhibit #012);

Sheet E1 - "Stormwater & Erosion Control Plan," dated August 31, 2006, last revision December 16, 2019 (Exhibit #013);

"Garage Floor Plan," dated February 16, 2007 (Exhibit #014);

Sheet A1.1 - "First Floor Plan," dated February 16, 2007 (Exhibit #015);

Sheet A1.2 - "Second Floor Plan," dated February 16, 2007 (Exhibit #016);

Sheet A1.3 - "Third Floor Plan," dated February 16, 2007 (Exhibit #017); and

Sheet A2.1 - "Elevation," dated February 27, 2007 (Exhibit #018).

3. All conditions of Land Use Permit #4C1204 are in full force and effect except as further amended herein.
4. The Permittee shall comply with all of the conditions of the following Agency of Natural Resources Permits:
  - a. Wastewater System and Potable Water Supply Permit #WW-4-3278-1 issued on September 24, 2019 by the ANR Drinking Water and Groundwater Protection Division; and
  - b. Authorization of Notice of Intent #4212-9020.3 under Construction General Permit 3-9020 issued on April 24, 2020 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 Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
9. Pursuant to 10 V.S.A. § 8005(c), the 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.
10. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittee and their successors and assigns.
11. Construction hours shall be limited to Monday through Friday from 7:00AM to 6:00PM and Saturdays from 8:00AM to 5:00PM. There shall be no construction on Sundays or federal holidays.

12. The Permittee 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.
13. A stabilized construction entrance must be installed and maintained as shown on Exhibit #013 (Stormwater & Erosion Control Plan) at the intersection of Pinecrest Drive and the Project driveway. At a minimum, this entrance must be constructed and maintained in accordance with the specifications as described in the Vermont Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (February 2020). No further clearing or construction may occur until the stabilized construction entrance is complete.
14. The building approved herein is not approved for any manufacturing use or the on-site disposal of any process wastes. The Permittee shall apply and receive amended approval from the District Commission for any change in the use of the buildings which involves the storage or handling of any regulated substances or the generation of hazardous wastes.
15. No floor drains shall be installed without first obtaining a permit or submitting other necessary documentation, as required by the Vermont Department of Environmental Conservation.
16. The Permittee and all subsequent owners or lessees shall install and maintain only low-flow plumbing fixtures in any buildings. Any failed water conservation measures shall be promptly replaced with products of equal or better performance.
17. The Permittee shall be obligated to implement the Construction Site Waste Reduction Plan approved by the Agency of Natural Resources Solid Waste Management Program and included as Exhibit #044.
18. At a minimum, the Permittee shall comply with the Vermont Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (February 2020).
19. The Permittee shall comply with Exhibits #001a and 013 (Schedule B; and Stormwater & Erosion Control Plan) for erosion prevention and sediment control. The Permittee 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.
20. 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.
21. 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 workday. 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).

22. 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 15. 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 Vermont Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (February 2020).
23. In addition to conformance with all erosion prevention and sediment control conditions, the Permittee 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 Permittee from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.
24. Any extracted stumps shall be disposed of on-site above the seasonal high water table and not in any wetland, or at a state-certified stump and inert waste disposal facility, so as to prevent groundwater pollution.
25. The Permittee and all assigns and successors in interest shall continually maintain the landscaping as approved in Exhibits #006 and 008 (Landscape Plan; and Roads and Landscaping Details) by replacing any dead or diseased plantings within the season or as soon as possible after the ground thaws, whichever is sooner.
26. Prior to any site work, the Permittee shall install and maintain temporary fencing along the tree line and around trees to be retained as depicted on Exhibit #006 (Landscape Plan).
27. The Permittee shall comply with the following conditions relating to Criterion 8(A):
  - a. Except for activities to control non-native invasive plant species (NNIS), the Permittee shall leave undisturbed the area within the 20-foot buffer boundary, indicated on Exhibit #004a, surrounding Bicknell's frostweed (*Crocanthemum bicknellii*) plant populations and others in the genus *Crocanthemum*.
  - b. Prior to site preparation and construction, the Permittee shall install a visible barrier outside that buffer boundary to remain for the duration of construction.
  - c. For three years from construction completion, the Permittee shall monitor the area within the buffer boundary and shall remove by hand all species included on the Vermont Agency of Agriculture's *Noxious Weed List* and the Agency of Natural Resources' *Invasive Watch List*.
28. The installation of exterior light fixtures is limited to those approved in Exhibit #007 (Lighting Plan) and shall be mounted no higher than 20 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.
29. The installation of exterior signage is limited to that approved in Exhibit #026 (Project Sign Detail). The Permittee shall not erect additional exterior signage without prior written approval from the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules. Signage includes banners, flags, and other advertising displays, excepting temporary real estate marketing signs and temporary Grand Opening signs.

30. Pursuant to 30 V.S.A. Section 51(e), the Permittee and/or subsequent lot owner, at a minimum, shall construct the multi-family home three stories or less in accordance with Vermont's Residential Building Energy Standards (RBES-Stretch Code) effective at the time of construction.
31. The Permittee shall install infrastructure and pre-wiring for electric vehicle charging stations pursuant to C708.1 (Commercial Stretch Code Guidelines) as depicted on Exhibit #005a (Final Site Plan).
32. The installation and/or use of electric resistance space heat is specifically prohibited without prior written approval from the District Environmental Commission.
33. The Permittee, upon completion of the construction of each residential building and prior to use or occupancy, shall submit to the District Commission a copy of the certification submitted to the Public Service Department as described under 30 V.S.A. § 51(f).
34. The Permittee shall provide each prospective purchaser of any interest in this Project a copy of the Land Use Permit Amendment before any written contract of sale is entered into.
35. 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 Permittee has not commenced construction and made substantial progress toward completion within the three-year period in accordance with 10 V.S.A. § 6091(b).
36. All site work and construction shall be completed in accordance with the approved plans by **October 1, 2023**, 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 a public hearing.
37. The Permittee 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. 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 Permittee 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, 10 Baldwin Street, Montpelier, VT 05633-3201; Attention: Certification.
38. Failure to comply with any condition herein may be grounds for permit revocation pursuant to 10 V.S.A. sec. 6027(g).

Dated at Essex Junction, Vermont, this 4<sup>th</sup> day of September, 2020.

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

Members participating in this decision:  
James McNamara  
Scott Baldwin

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. The appellant must file with the Notice of Appeal the relevant entry fee required by 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, 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, including appeals from Administrative Amendments and interlocutory appeals. See 10 V.S.A. § 8504(k), 3 V.S.A. § 815, and Vermont Rule of Appellate Procedure 5.

For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 951-1740. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2<sup>nd</sup> Floor, Suite 303, Burlington, VT 05401.

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