

BASELINE DOCUMENTATION REPORT



311 North Avenue Park

Burlington, Vermont
VHCB Project # 2016-079
July 10, 2019

Prepared by:
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Vermont Housing and Conservation Board: Conservation and Stewardship Program

Established by the Vermont State Legislature in May 1987 under 10 V.S.A. Chapter 15, the Vermont Housing and Conservation Board (VHCB) was created for the dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont's agricultural land, historic properties, important natural areas and recreational lands. Acting as an independent entity of the state, VHCB is charged by the state with administering the Vermont Housing and Conservation Fund. Awards are given to nonprofit organizations, municipalities and qualifying state agencies for the purpose of supporting projects that serve one or both of VHCB's dual goals.

As a conservation organization, VHCB has protected numerous properties through the use of perpetual conservation easements. Critical to the success of a conservation program is the stewardship and monitoring of these conservation easements. Integral to a successful Conservation Stewardship Program are the following responsibilities: maintaining land related documents, tracking changes in land ownership, monitoring conserved properties at least once a year, periodically photo-documenting land uses, performing landowner outreach, approving permitted activities, and correcting easement violations through voluntary compliance, or, if necessary, legal proceedings.

In order to facilitate the stewardship process, VHCB has created a Baseline Documentation Report (BDR) for each of its sole-held conservation easements. The BDR provides a description of the property at the time of acquisition that then serves as; 1) a reference point for future monitoring efforts and easement enforcement actions (if necessary); and 2) a summary of the permitted and restricted uses to help the landowner manage the property in accordance with the conservation restrictions.

This Report Contains the Following Information:

- Signature pages
- Introduction and description of the current uses of the property
- Outstanding Natural Resources
- Grant Purpose
- Summary of Grantor's and Grantee's Rights
- Location map with directions to the property
- Topographic map depicting the approximate boundaries of the property
- Orthophotograph depicting the approximate boundaries of the property
- Description of photograph points
- Photopoint map
- Photographs of the property

Copies of this report have been provided to the City of Burlington Parks, Recreation and Waterfront and the Vermont Housing and Conservation Board.

I, **Cindi Wight, Duly Authorized Agent of the City of Burlington**, have signed this Baseline Documentation Report with the understanding and agreement that this Report will be used for, but not limited to, monitoring the property depicted and described in this Report for compliance with the Grant of Development Rights and Conservation Restrictions (“the Grant”) dated February 12, 2019. I have read this Report and understand it. I agree that this Report, including the maps and photographs, accurately describes and depicts the physical features, relevant site conditions, and current structures and land uses on our property conserved by the Grant. I affirm that there are no activities ongoing on our property that are inconsistent with the Grant.

City of Burlington Parks, Recreation and Waterfront

Witness

Cindi Wight
Duly Authorized Agent of City of Burlington

Date

**STATE OF VERMONT
CHITTENDEN COUNTY, SS**

At _____, this _____ day of _____, 2019, _____, **Duly Authorized Agent of the City of Burlington**, personally appeared and acknowledged this instrument, by him sealed and subscribed, to be his free act and deed.

Before me, _____
Notary Public
My Commission Expires:

I, **Mark Martin**, Duly Authorized Agent of the Vermont Housing and Conservation Board, have signed and prepared this Baseline Documentation Report with the understanding and agreement that this Report will be used for, but not limited to, monitoring the property depicted and described in this Report for compliance with the Grant of Development Rights and Conservation Restrictions ("the Grant") dated February 12, 2019. I affirm that this Report including the maps and photographs accurately describes and depicts the physical features, relevant site conditions, and current structures and land uses on the property conserved by the Grant and that I visited this property personally.

VERMONT HOUSING AND CONSERVATION BOARD


Witness


Mark Martin

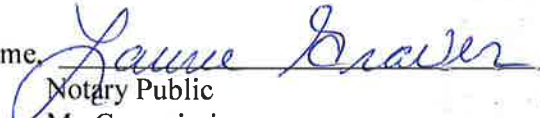
Duly Authorized Agent of VHCB

7/30/2019

Date

**STATE OF VERMONT
WASHINGTON COUNTY, SS**

At Montpelier, this 30th day of July, 2019, **Mark Martin**, Duly Authorized Agent of the **Vermont Housing and Conservation Board** personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and to be the free act and deed of the **VERMONT HOUSING AND CONSERVATION BOARD**.

Before me, 
Notary Public
My Commission
Expires: 1-31-2021

311 North Avenue Park Property Burlington, Vermont

Introduction

The purpose of the enclosed information is to describe the physical features and current land uses of the 11.7 acre former Burlington College Property on which the development rights were conveyed to the Vermont Housing and Conservation Board, February 12, 2019 and recorded in the Burlington Land Records. The parcel was conveyed to the City of Burlington by the BC Community Housing, LLC and the Vermont Land Trust, Inc.

This report is based, in part, on a documentation visit by Mark Martin for the Vermont Housing and Conservation Board (VHCB) on November 7, 2019. The report is also based on information provided by Dan Cahill, Land Steward with the Burlington Parks and Recreation and Waterfront Department.

Description and Current Use

In February 2016, the City of Burlington and the Vermont Land Trust purchased 11.7 acres of woodland and open meadow from BC Community Housing, LLC on land formerly owned by Burlington College. The College used the land as open space and a structure on the parcel (the Stone Cottage) was used as a dormitory. The property was acquired to add to the City's Urban Wilds park properties. These properties are designed to preserve land as habitat for rare and endangered plants and animal communities, wetlands and riparian systems, flood plains, unique geological and hydrological features, important wildlife habitat and travel corridors, areas important for scientific research and education, scenic vistas, trails, passive and active recreation, sustainable forest communities and cultural features. The property connects the Urban Reserve and Burlington Waterfront Park to the south with Lakeview Cemetery and North Beach to the north, and provides access to the Burlington Greenway through the Old North End neighborhood by an unofficial access point. This path had been informally created by the public over the decades and shows a clear need for alternative pedestrian access points to the lake shore. The new park will include open fields and woodland along the sandy bluffs of Lake Champlain that will be managed to bring back species native to this uncommon ecological setting in Vermont. The property currently hosts 24 community garden sites and also includes a scenic, 900 ft. long sand beach known locally as Texaco Beach. The City intends to expand the number of community garden sites. The property was purchased from the former Burlington College by BC Community Housing, LLC, as part of a 27 acre parcel that would be developed to create 146 new housing units. At closing the property was transferred to the City of Burlington and a sole-held conservation easement was acquired by VHCB.

The City of Burlington purchased the property with dual goals of increasing public recreation opportunities for residents of the Old North End while protecting natural resources and stabilizing the fragile, highly erodible sand bluffs on the lake side of the property. In the past a portion of the property was used for sand extraction, resulting in the current "open meadow" area. City Parks, Recreation and Waterfront staff have developed an interim management plan. A final management plan for the parcel is currently under development and will include significant public input. The

interim plan allows for developing additional trail configurations, expansion of public garden areas, constructing a pedestrian stair case from the meadow area to the beach, managing the forest to reduce black locust and promote native species, upgrade and possibly expand the existing parking area and upgrade the garage to repurpose it as a maintenance area for park employees.

Pre-existing legal agreements with the former owner allow the developer to construct an underground storm water management system, which includes grading a portion of the hillside on the east side of the park. The developer has also retained the right to construct an ADA accessible recreation path (that may be paved) from the housing project to the Burlington Greenway.

The Redstone Cottage, an historic property built in 1906 by Dr. Walter D. Berry, was listed on the State Register of Historic Places in November, 1993, and is potentially eligible for nomination to the National Register of Historic Places under Criteria A. There is a modern two story addition to the Cottage. The historic cottage is preserved under a separate, historic easement that is co-held between VHCB and Preservation Trust, Vermont.

Outstanding Natural Resources

- The parcel is an 11.7 acre undeveloped area of forest and open meadow in a highly developed urban neighborhood adjacent to Lake Champlain. There is evidence the original natural community was a Pine-Oak-Heath Sandplain Forest, a rare and threatened natural community.
- Contains a zone of sandy bluffs overlooking Lake Champlain. These fragile, highly erosive formations are remnant sand dune/river delta and provide scenic lake views from the property.
- The meadow area provides habitat for songbirds, including Chestnut sided and Yellow Warblers. Two uncommon plant species, Indian grass (*Sorghastrum nutans*) and short fescue sedge (*Carex brevior*) were located on the property during a 2017 survey conducted by Arrowwood Environmental, LLC of Huntington, VT.
- There is approximately 900 feet of lake sand beach at the bottom of the sandy bluffs that has been identified as a rare resource by the Vermont Natural Heritage Inventory.

The Purposes of the Grant

- To protect the public outdoor recreation, scenic, cultural and open space resources of the protected property and to prevent the use or development of the Protected Property for any purpose or in any manner that would adversely affect these resources.
- To provide opportunities for educational activities, and permit the construction and maintenance of public trails and structures incidental to appropriate public recreational use and to conserve wildlife habitats and forestry values associated with the protected property for present and future generations.

- To insure that the Protected Property will be owned in perpetuity by a public entity approved by the U.S. Department of Interior, National Park Service and VHCB.
- To require that management of the Protected Property be guided by a public management planning process.

Inventory of Existing Buildings and Structures

The protected property has the following buildings/structures: a parking lot, a free standing, single story, cinder block three bay garage and two free standing garden sheds. There are fenced community gardens with numerous raised beds immediately behind the Redstone Cottage.

Exclusions and Reserved Rights

There are no exclusions on the protected property.

A Memorandum of Agreement between the City of Burlington and BC Community Housing, LLC, predates the conservation easement and allows for the following:

- 1) a non-exclusive storm water management easement to install, operate, maintain, repair and replace storm water and/or erosion control related improvements. This includes non-exclusive easements for grading along the shared property line to accommodate slopes and grades and to install, use and maintain a waste water pump station and associated structures.
- 2) Temporary construction easements. These easements shall be accompanied by engineering plans and a written description of the duration, purpose, erosion control and post –construction remediation plans associated with any disturbance.

Management Plans

The management of the 311 North Park falls under the Burlington Parks, Recreation and Waterfront Department within the City of Burlington. The City will develop a comprehensive management plan after appropriate public input from the general public. The plan shall include provisions required in Section I. Part B of the Grant which include the following:

- a) Provide for the permitted uses as set forth in Section III of the Grant, including identifying and addressing the management needs of any recreational uses that may need special or more intensive management focus.
- b) Provide for public access and meaningful recreational links to private and public lands,
- c) Provide a plan for road, sign, trail and sanitary facility use that has minimal impact on water, ecological, cultural and historic resources.

- d) Provide for the identification and protection of natural and ecological communities and areas.
- e) Provide for use by educational programs.
- f) Provide for the construction and use of minor recreational structures and other structures permitted under the Grant
- g) Provide for any proposed use of the Bluff Buffer Zone consistent with Section V of the Grant.

Summary of Grantor's Reserved Rights

Conservation restrictions allow the property to be used for public outdoor recreation, scenic, cultural, open space and educational purposes. The following restricted and permitted uses have been granted.

Restricted Uses of the Property

The following are limitations on the landowner's use of the property:

- 1. General:** The Protected Property shall be used for public outdoor recreation, scenic, cultural, open space and educational purposes in perpetuity. No residential, commercial, industrial, or mining activities shall be permitted, and no building or structure associated with such activities shall be permitted on the Protected Property, except as specifically permitted under this Grant.
- 2. Rights of Way and Easements:** No rights of way, easements of ingress or egress, driveways, roads or utility lines shall be constructed, developed, or maintained into, on, over, under, or across the Protected Property, unless such action is consistent with the Purposes of the Grant.
- 3. Signs:** Except as allowed under Section III of the Grant, there shall be no signs, billboards, or outdoor advertising of any kind erected or displayed; provided, however, that the Grantor may erect and maintain reasonable signs including boundary markers, directional signs, memorial plaques, informational and interpretive signs, and signs limiting access or use. Grantee may erect and maintain signs designating the Protected Property as land under the protection of Grantee, with prior written permission of the Grantor.
- 4. Trash:** The placement, collection or storage of trash, human waste or any other unsightly or offensive material on the property is prohibited unless Grantee provides written approval of such storage in advance. No permission is required for temporary trash storage.
- 5. Excavation:** Except as permitted by the Grant or as may reasonably be necessary to carry out the uses permitted by this Grant, there shall be no disturbance of the surface of the Protected Property including, but not limited to, filling, excavation, removal of topsoil, sand, gravel, rocks or minerals, or change of topography of the land in any

manner. In no case shall surface mining or subsurface oil, gas or other mineral extraction be permitted.

6. **Riparian/wetlands:** There shall be no manipulation or alteration of natural watercourses, lakeshores, wetlands, water levels and/or flow or other waterbodies except as may be provided for in the Management Plans and as set forth in the Memorandum of Agreement between the City of Burlington and the BC Community Housing, LLC, recorded in the City of Burlington Land Records.
7. **Consistency Clause:** No use shall be made of the Protected Property, and no activity thereon shall be permitted which, in the reasonable opinion of the Grantee, is or is likely to become inconsistent with the Purposes of this Grant. Grantee may, in its sole discretion, determine if proposed uses or improvements or alterations of existing uses or structures are consistent with the Purposes of the Grant.

Permitted Uses of the Property

The following are permitted activities on and uses of the conserved property:

1. **Recreation:** The right to use the Protected Property for all types of non-commercial, non-motorized recreational purposes, including but not limited to bird watching, cross country skiing, sledding, hiking, snowshoeing, swimming, walking and wildlife observation, consistent with the Purposes of the Grant and the Management Plans. Use of the Protected Property for non-motorized, mechanical recreation such as biking and by animals capable of transporting humans, such as horses, may be permitted if regulated by the Management Plan and are not inconsistent with the Purposes of the Grant.
2. **Forest Management:** Forest management and timber harvesting is permitted, provided it is carried out in accordance with all applicable local, State, Federal and other governmental laws and regulations and to the extent reasonably practicable, in accordance with current best management practices for the site, soils, and terrain of the Protected Property. These activities must conform to a written forest management plan, prepared by a professional forester and approved by the Grantee. A forest management plan will not be required for 1) conducting maple sugaring activities, 2) cutting trees for the construction of roads, parking areas, recreation paths, and other recreational activities and structures in the management plans, 3) removal of trees posing an imminent hazard to the health and safety of persons or 4) the removal of invasive species. Grantor shall acquire Grantee's prior approval to clear cut and area of more than one acre, except within the area identified as the "Forest Protection Zone" on the North Avenue Urban Wild Conservation Plan, where any area of cutting may be denied, conditioned, or granted by Grantee in its sole discretion.
3. **Trails:** The landowner may maintain, repair, improve and replace existing trails and may clear, construct, repair, improve maintain and replace new trails and recreation

paths, provided such actions are consistent with the purposes of the grant, including Section V, and the Management Plan.

4. **Events:** The landowner has the right to conduct temporary community and public entertainment events and competitions on the Protected Property, including concerts, fairs, and celebrations, together with the right to erect tents and other temporary structures for such events, and event sponsorship signage and banners, provided these actions with not result in the clearing of any forested areas and that such events are consistent with the purposes of the Grant and the Management Plan.
5. **Parking Lot:** The landowner has the right to construct, maintain, repair and use new paved parking lots on the protected property, including associated access drives and utilities together with the right to construct improvements normally associated with a parking lot. The landowner will first obtain permission for the location and size of a new parking lot.
6. **Public Access/Fees:** The landowner has the right to charge members of the public reasonable fees for admission to and use of the Protected Property (including but not limited to children's activities, competitions, concerts, fairs and celebrations), or such fees are reasonably necessary to support the landowner's management of the Protected Property. Fees shall not be based on residency. All fees shall be consistent with the Purposes of the Grant and shall be provided for in the Management Plan.
7. **Commercial Use:** The landowner has the right to authorize the temporary commercial or non-commercial use of the Protected Property for recreational (including competition events), community entertainment, educational, agricultural, forestry or research purposes, provided these actions do not interfere with public access and are not inconsistent with the Purposes of the Grant and are provided for in the Management Plan.
8. **General Use:** No use shall be made of the Protected Property and no activity shall be permitted which, in the reasonable opinion of the Grantee, is or may possess the potential to become inconsistent with the Purposes of the Grant.

Bluff Protection Zone

The bluff protection zone comprises an area of steep, erodible sand bluff and level sandplain on top of the bluff located along the southernmost property line of the Protected Property (see attached Conservation Plan). The boundaries of the plan may be changed from time to time by mutual agreement of Grantor and Grantee, as established by written agreement recorded in the Burlington Land Records and depicted on a new conservation plan signed by the Grantor and Grantee.

All management activities shall have the protection of the bluffs and sandplain, and restoration of native natural communities as the primary objective as defined in Sections V, II, III and IV of the Grant of Development Rights, Conservation Restrictions and Public Access Easement.

There will be no cutting or removal of vegetation shall occur except for the following permitted purposes: 1) trail maintenance and construction, 2) vegetation poses an immediate danger to the health or safety of persons, 3) removal or suppression of invasive, exotic or non-native species, 4) in order to enhance and/or restore rare, threatened or endangered natural communities.

Grantee's approval of a forest management plan shall not be unreasonably withheld or conditioned, provided the plan is consistent with the Purposes of the Grant and with the provisions of Section V, and has been approved by a professional forester.

In the context of acting under Section V, and in developing the Management Plan, landowner and Grantee may confer about what constitutes the best management practices to effect the goals set forth in V (2), provided that, in any disagreement with respect to management practices within the Bluff Protection Zone, the Grantee's interpretation of best management practices shall control.

This is a summary of the actual legal rights. For a more complete description of these rights, refer to the Grant of Development Rights and Conservation Restrictions.

Summary of Grantee's¹ Rights

The Grantee's primary intent is to conserve and protect the public outdoor recreational, scenic, cultural and open space resources of the Protected Property and to prevent the use or development of the Protected Property for any purpose or in any manner that would adversely affect these resources. Other goals in conserving this property include promoting educational activities, conserve wildlife habitats and forestry values for present and future generations, and to require that management of the Protected Property be guided by a public management planning process.

This is not a description of the actual legal rights. For a more complete description of these rights, refer to the Grant of Development Rights and Conservation Restrictions.

References

Grant of Development Rights, Conservation Restrictions and Public Access Easement, 2019
Grant of Historic Preservation Easement, 2019
Memorandum of Agreement, City of Burlington and Vermont Land Trust with Burlington College Community Housing and Champlain Housing Trust, 2016.
Stormwater Easement Deed, 2019

¹ Grantee refers to the Vermont Housing and Conservation Board, its successors and assigns.

**Directions to 311 North Avenue Park Property
Burlington, VT**

VERMONT ATLAS AND GAZETEER; MAP #39

From Interstate 89 take Exit 14 W on US 2 (Main St.) toward Burlington. Continue on Main St. to Battery Street, then turn right (north). Turn left onto North Avenue to 311 North Avenue. Public parking is in the parking area at the Redstone Cottage. The protected property begins behind the Cottage where the community gardens are located.

311 North Avenue Park: Burlington Vermont



Photo: 1 Facing W **Date:** 11/7/2018

Subject: Entrance and parking lot to conservation easement.

Photo: 2 Facing N **Date:** 11/7/2018

Subject: non-contributing building addition.



Photo: 3 Facing W **Date:** 11/7/2018

Subject: Garden and garden shed

Photo: 4 Facing SE **Date:** 11/7/2018

Subject: 3 bay garage

311 North Avenue Park: Burlington Vermont



Photo: 5 Facing S **Date:** 11/7/2018

Photo: 6 Facing E **Date:** 11/7/2018

Subject: Garden and garden shed

Subject: Path from North Avenue



Photo: 7 Facing NW **Date:** 11/7/2018

Photo: 8 Facing N **Date:** 11/7/2018

Subject: Path adjacent to meadow

Subject: Garden/orchard

311 North Avenue Park: Burlington Vermont

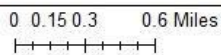
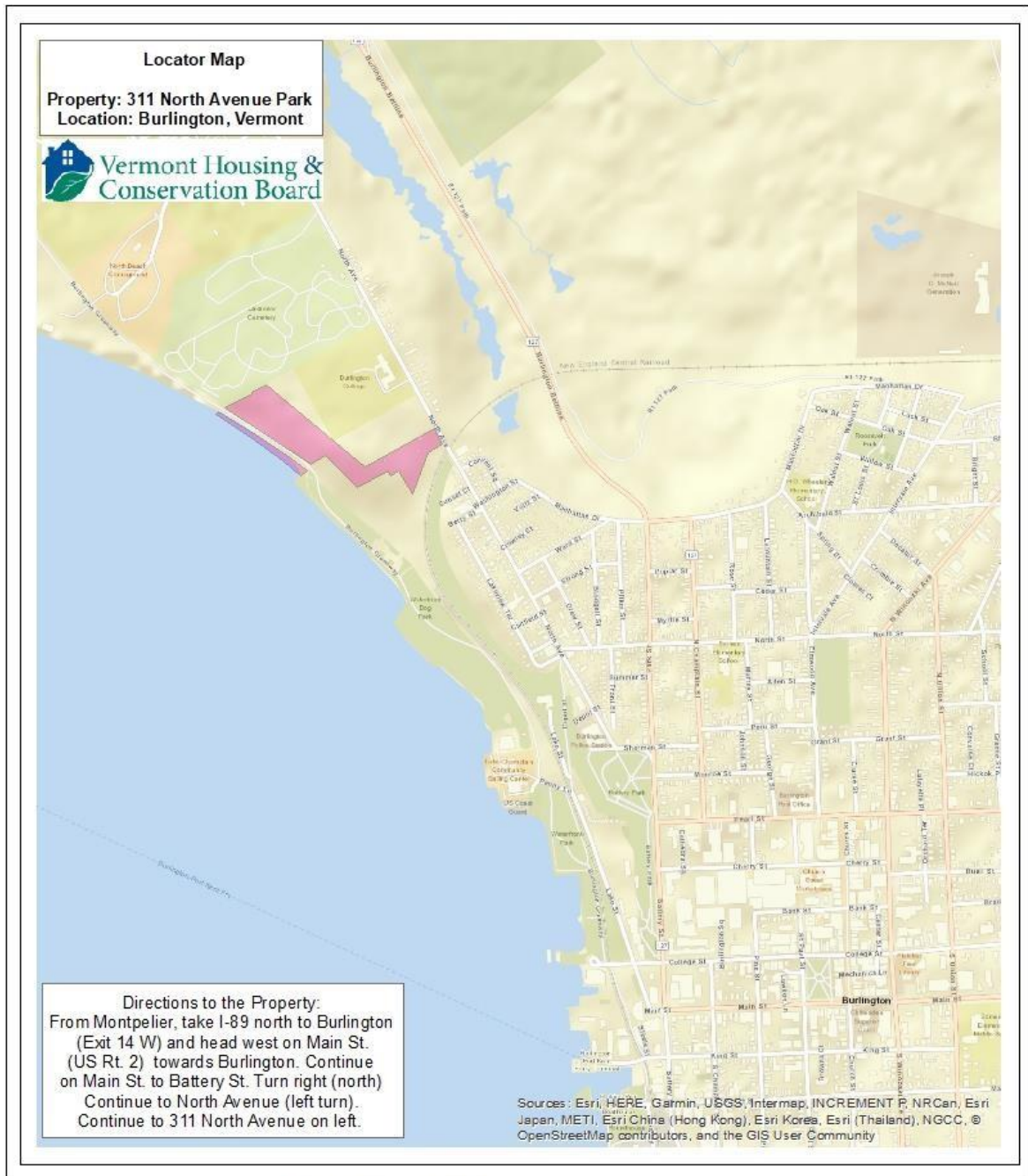


Photo:	9	Facing W	Date:	11/7/2018
Subject: Path leading to bike path and lake				

Photo:	10	Facing W	Date:	11/7/2018
Subject: Beach along Lake Champlain shoreline				

Description of Photograph Points
311 North Avenue Park, Burlington, Vermont
Taken on November 7, 2018 by Mark Martin

<u>Photo</u>	<u>Direction</u>	<u>Description</u>
1.	West	Looking at Redstone Cottage and parking lot
2.	North	Looking at non-contributing building addition
3.	West	Looking at garden and garden shed
4.	Southeast	Looking at 3 bay garage
5.	South	Looking at garden and garden shed
6.	East	Looking at path leading from North Avenue
7.	Northwest	Looking at path adjacent to meadow
8.	North	Looking at garden/orchard
9.	West	Looking at eroded path leading to lake
10.	West	Looking at beach along Lake Champlain



This map does not illustrate legal property boundaries and is not a legal document.

2016-079-001 Burlington College Conservation and Historic Preservation Easements



Legend

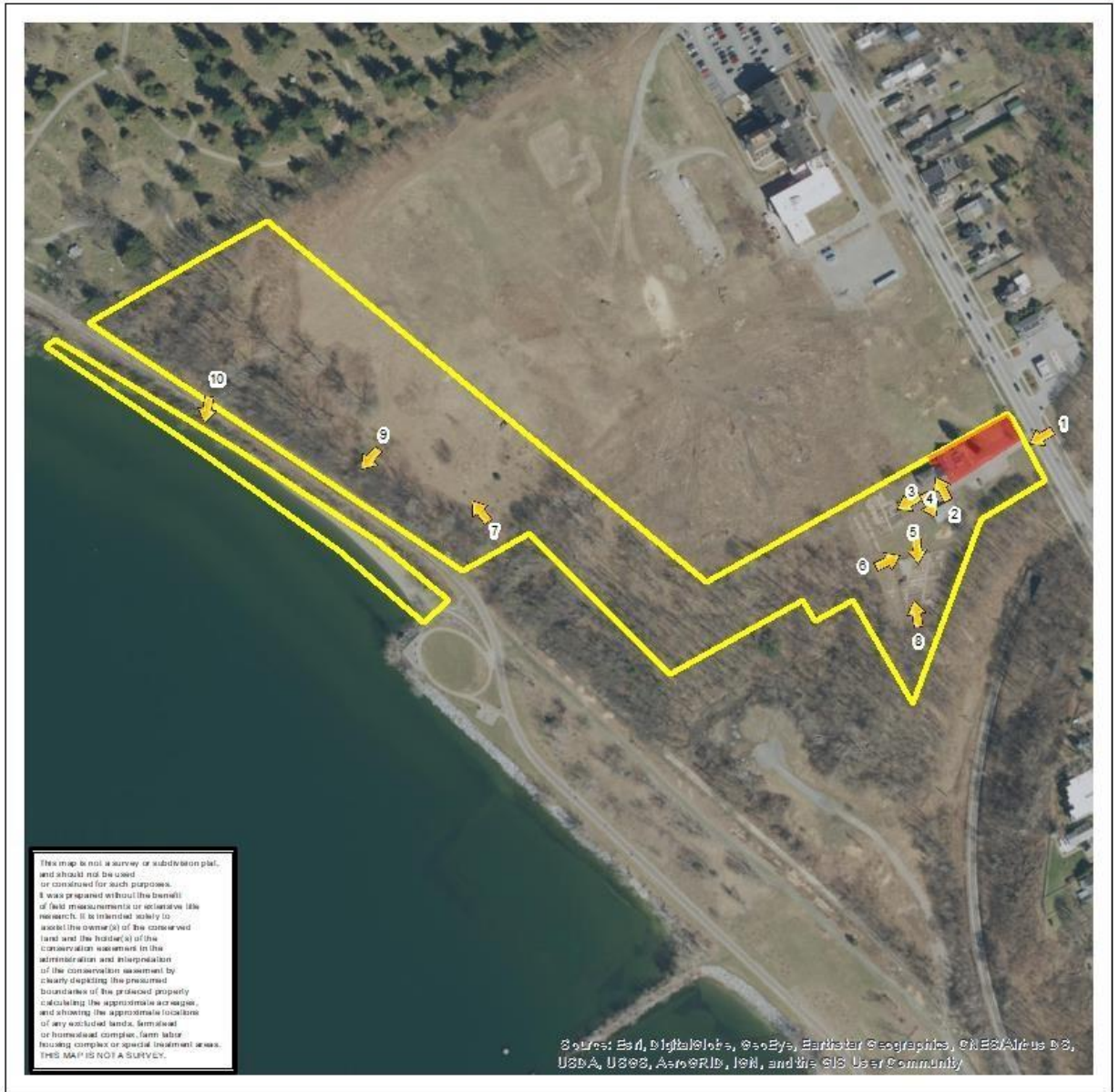
- Historic Easement
- Conservation Easement

0 0.0375 0.075 0.15 Miles



This map does not illustrate legal property boundaries and is not a legal document.

Photopoint Map
 Property: 311 North Avenue Park (City of Burlington)
 Location: City of Burlington



This map is not a survey or subdivision plat, and should not be used or construed for such purposes. It was prepared without the benefit of field measurements or relative title research. It is intended solely to assist the owner(s) of the conserved land and the holder(s) of the conservation easement in the administration and interpretation of the conservation easement by clearly depicting the presumed boundaries of the proposed property, calculating the approximate acreage, and showing the approximate locations of any wetland lands, farmstead or homestead complex, farm labor housing complex or special treatment areas. THIS MAP IS NOT A SURVEY.

Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

