

Town of East Montpelier

ZONING PERMIT

NOTICE

[To Be Displayed on the Property in Full View of the Public Right-of-Way]

Date Issued: December 9, 2021

Effective Date: December 24, 2021

Location: 1528 US Rte. 2

Owner: R & T East Montpelier LLC

For: Construction of 2 18' x 40' Additions to Existing Building; Expansion of Green Mountain Day Spa Business Use; Plus Associated Site Improvements

Application # 21-032

Approved by: C. Bruce Johnson, ZA

Do not start project or commence use prior to the Effective Date. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any state or local appeal process. This application is available for inspection at the Town Office. This poster must be displayed on the property in full public view for 15 days.

APPEALS TO DRB: A notice of appeal, including the \$150 fee, must be filed with the East Montpelier Town Clerk or Zoning Administrator at the Town Office by the listed Effective Date.

WARNING: State permits may be required for this project. Contact the state Permit Specialist, at (802) 505-5367, before beginning any construction.

TOWN of EAST MONTPELIER

P.O. Box 157
East Montpelier, VT
05651-0157

C. Bruce Johnson, ZA
manager@eastmontpeliervt.org
(802) 223-3313 ext. 204

December 9, 2021

R & J East Montpelier LLC
Josh, Ashley & Randy Demers
1528 US Rte. 2
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #21-032

Dear Mr., Ms. & Mr. Demers:

Please find enclosed the written decision of the East Montpelier Development Review Board approving the building addition, day spa use expansion and associated site improvements at the 1528 US Rte. 2 property as requested in your East Montpelier Zoning Application #21-032, subject to the following conditions:

- The hours of operation for Demers Auto shall be from 8:00 a.m. to 5:00 p.m., Monday through Saturday; and,
- The hours of operation for the Green Mountain Day Spa shall be from 8:00 a.m. to 8:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday.

You have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

Based on the above-referenced DRB approval I have issued East Montpelier Zoning Permit #21-032 for the requested building addition, day spa use expansion and associated site improvements at the 1528 US Rte. 2 property. This permit is an amendment to East Montpelier Conditional Use Permit 10-025, previously amended by Permit 16-038.

Please feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson
East Montpelier Zoning Administrator

**TOWN OF EAST MONTPELIER
DEVELOPMENT REVIEW BOARD**

FINDINGS & DECISION

In the matter of: R & J East Montpelier LLC
 1528 US Rte. 2
 Parcel # 10-018.000 Tax Map # 12-01-30.000

East Montpelier Zoning Application #21-032

INTRODUCTION & PROCEDURAL HISTORY

1. On May 19, 2021, Randy Demers, on behalf of R & J East Montpelier LLC, submitted an application with the Town of East Montpelier for a zoning permit to construct two 18' x 40' additions to the existing structure, expand the existing Green Mountain Day Spa business use and make associated site improvements to the mixed use commercial property located at 1528 US Rte. 2.
2. The property in question is located in the Industrial District – Zone B and in the Special Flood Hazard Area. East Montpelier Land Use & Development Regulations Section 4.11 guides permitting of mixed use properties, which require DRB conditional use review.
3. A public notice was duly published in the Times Argus on June 19, 2021 for a hearing, which was conducted remotely utilizing Zoom conferencing on July 6, 2021. At the time of the hearing the applicant had not yet received the required letter of intent to issue an access permit from the VT Agency of Transportation. The DRB continued the hearing to July 20, 2021. The same issue occurred on that date, so the hearing was continued to September 7, 2021.
4. A new public notice was duly published in the Times Argus on August 20, 2021 for a hearing, which was conducted utilizing Zoom conferencing on September 7, 2021. Once again, the required LOI had not been issued, so the DRB continued the hearing to a series of dates, dependent on when the LOI was issued. VTrans bypassed the LOI step and issued an access permit for the proposal on October 14, 2021.
5. A final public notice was duly published in the Times Argus on November 20, 2021 for a hearing, which was conducted utilizing Zoom conferencing on December 7, 2021.
6. Owner representatives Randy Demers, John Rahill & Paul Boisvert, and Zoning Administrator Bruce Johnson appeared and participated in the December 7, 2021 hearing. There was no additional public comment.
7. The Board members who voted on this issue at the December 7, 2021 hearing were Kappel, Cueto, Watson, Hill, Weyant, Justis, and Cutler.

FINDINGS OF FACT

1. Applicant requests approval to construct two 18' x 40' wing additions to the front section of the existing structure, expand the existing Green Mountain Day Spa business use and make associated site improvements. The intent is to utilize the new north wing and both stories of the front section of the existing building for the spa and relocate the Demers Auto office space to the new south wing.
2. The property is located in Zone B – the Industrial District. As a LUDR Section 4.11 mixed use property, all permitting is subject to conditional use review by the DRB. Zone B has 25-foot side setbacks. The new north wing will be 31 feet from the north line, slightly closer to the line than the existing structure. The south wing will match the existing structure's 36 feet at closest point to the south line. The proposal's front and rear building setback distances are essentially the same as the existing building and are well above the minimums.
3. A portion of the parcel and the existing structure are in the Special Flood Hazard Area. The estimated cost of the building improvements is \$75,900. Zoning Administrator Bruce Johnson determined that the renovations do not reach the regulatory "substantial improvement" level. Applicant proposes to construct the two additions to meet or exceed the expectations of LUDR Section 9.6(B). Floodproofing improvements will also be made to the existing building. Applicant understands that the underlying flood data is from 1977 and that data may no longer be accurate given the changing climate, with increased likelihood of more frequent and larger storms leading to greater flooding potential.
4. The proposal includes significant site work, including the removal of the existing mound system at the front of the property, with a new mound system to be established toward the rear of the parcel in accordance with state water/wastewater permit WW-5-8169. A paved parking lot will be added to the front of the property, increasing the number of parking spaces and improving traffic flow through the site. 16-foot light fixtures with down-facing LED lights will be added at the front of the parcel. The front end of the building will be improved with down-facing building-mounted LED light fixtures. The submitted lighting plan meets the condition included in Permit 10-025 regarding a lighting plan.
5. Hours of operation for the spa use will change to Monday-Friday 8:00 a.m. until 8:00 p.m. and Saturday 8:00 a.m. until 5:00 p.m., a slight increase in hours from those approved in Permit 16-038. The motor vehicle business hours will remain as approved under Permit 10-025, 8:00 a.m. until 5:00 p.m. Monday through Saturday. The employee and use hours limitation for the spa use imposed by Permit 16-038 will no longer be in force upon issuance of Permit 21-032.
6. On October 14, 2021, the Vermont Agency of Transportation issued an access permit onto US Rte. 2 for the property development as proposed in this application.

CONCLUSIONS

The standards for the issuance of a conditional use permit are set forth in Section 5.5 of the East Montpelier Land Use & Development Regulations. It is found that the five general standards in Section 5.5 (C) have been reviewed, and the proposed use will not adversely affect any of them. It is further found that the specific standards in Section 5.5 (E) are not applicable to the project. As part of conditional use review Section 5.4 (C) site plan standards have been evaluated and incorporated into this decision.

The standards for issuance of a zoning permit for a parcel located in the Special Flood Hazard Area are set forth in Article 9 of the East Montpelier Land Use & Development Regulations. It is found that the project as presented does not constitute a “substantial improvement” as defined in Section 9.13. It is further found that the proposed improvements meet or exceed the Section 9.6(B) development standards for improvements to existing structures located in the Special Flood Hazard Area.

DECISION

By unanimous vote, the DRB approves Conditional Use Permit #21-032, as an amendment to existing permit 10-025, previously amended by permit 16-038, to approve the requested building addition, day spa use expansion and associated site improvements at the 1528 US Rte. 2 property subject to the following conditions:

- The hours of operation for Demers Auto shall be from 8:00 a.m. to 5:00 p.m., Monday through Saturday; and,
- The hours of operation for the Green Mountain Day Spa shall be from 8:00 a.m. to 8:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday.

Warning: State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to the state Permit Specialist before beginning any construction.

Dated this 9th day of December 2021.



Steve Kappel – Chair
East Montpelier Development Review Board

Notice: The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the East Montpelier Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Permit # 21-032

ZONING PERMIT APPLICATION

Date Received: 05/19/21Zoning District 3

TOWN OF EAST MONTPELIER

Parcel # 10-018.000Overlays SFHA

PO Box 157, East Montpelier, VT 05651

Tax Map # 12-01-30.000

- A. 1. Name of Landowner... R+J East Montpelier LLC Phone No. 802-229-6262
 2. Address of Landowner... Po Box 10 East Montpelier VT 05651
 3. Applicant (other than owner)..... Phone No.....
 4. Address of Applicant.....
 5. Location of Property... 1528 US Rt 2 East Montpelier VT 05651

B: Application is made (check appropriate boxes):

- | | | |
|--|---|--|
| To: | For: | For: |
| <input type="checkbox"/> Construct | <input type="checkbox"/> One <input type="checkbox"/> Two-family dwelling | <input type="checkbox"/> Subdivision of land |
| <input type="checkbox"/> Repair | <input type="checkbox"/> Multi-family dwelling | <input type="checkbox"/> Boundary adjustment |
| <input type="checkbox"/> Alter | <input type="checkbox"/> Accessory Structure | <input type="checkbox"/> Extraction of earth resources |
| <input checked="" type="checkbox"/> Extend | <input checked="" type="checkbox"/> Commercial / Business | <input type="checkbox"/> Ground water withdrawal |
| <input type="checkbox"/> Remove | <input type="checkbox"/> Light Industrial | <input type="checkbox"/> Landfilling |
| <input type="checkbox"/> Change use | <input type="checkbox"/> Industrial | <input type="checkbox"/> Other |

Describe work to be performed... Adding two 18'x40' out wings
to existing building (refer to drawings), plus
expansion of Green Mountain Day Spa use along
with associated site work

C. Lot description:

- | | |
|------------------------------------|---|
| 1. acreage <u>3.15</u> | 4. depth side yards <u>30</u> Ft. <u>36 S</u> Ft. |
| 2. road frontage <u>150</u> Ft. | (building to lot lines) |
| 3. depth front yard <u>125</u> Ft. | 5. depth rear yard <u>545</u> Ft. <u>570'</u> |
| (Road centerline to building) | (building to lot line) |

Important - Submit site location map which describes the property on which the proposed land development is to occur. The map should indicate the length in feet of each boundary, the location and dimensions in feet of the development within the property, the distance from that development to all adjacent property lines and the distance to the public road centerline. Each parcel created by land development should be clearly described.

READ BELOW CAREFULLY AND SEE SECTION D ON PAGE 2 OF APPLICATION:

In accordance with 24 V.S.A. §4446, no development or subdivision of land may begin in the Town of East Montpelier until all applicable municipal land use permits and approvals have been issued. The undersigned requests a zoning permit as described above, understanding that the permit will be voided and penalties imposed, if the land development is not completed as described. The permit will be voided if development is not substantially commenced within one year from date of issue. The undersigned hereby applies on the basis of the representations contained herein, and to the best of his/her knowledge believes them to be true. The undersigned acknowledges the Section D notices on page 2 of this application.

Landowner Manda Jeanes Date 5-17-21

Applicant _____ Date _____

Zoning Permit Fee: \$ 250.00 Cash _____ Check #6903 Date 5/20/21 Rec'd by DS.

DRB Hearing Fee: \$ _____ Cash _____ Check _____ Date _____ Rec'd by _____

Make checks payable to the "Town of East Montpelier"

D. Warning: State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to Peter Kopsco, our region's state permit specialist, before beginning any construction.

Notice: Your project may be subject to the state's residential or commercial energy code. For more information contact the Energy Code Assistance Center at 855-887-0673 or see the following web pages:
Residential Building Energy Standards: http://publicservice.vermont.gov/energy_efficiency/rbes
Commercial Building Energy Standards: http://publicservice.vermont.gov/energy_efficiency/cbes

E. Action by Zoning Administrator:

1. ☒ Granted ☐ Denied Date Reason.....

2. Appealed to Development Review Board By
Date

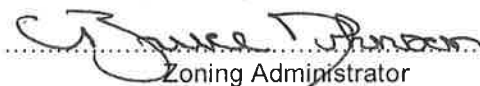
Notice: Appeal from a decision or act of the Zoning Administrator must be made in writing to the Development Review Board &/or Town Clerk within 15 days of the decision or act. The appeal fee is \$150.00.

3. Final Action: Permit # 21-032 Date Issued 12/09/21 Effective Date 12/24/21

DO NOT start this project prior to the effective date, as the statutes require a 15-day appeal period. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any appeal process.

4. Permittee is required to submit a Certificate of Compliance form to the Zoning Administrator in accordance with East Montpelier Land Use & Development Regulations Section 7.4:

☒ Yes (form included with permit) ☐ No


Zoning Administrator

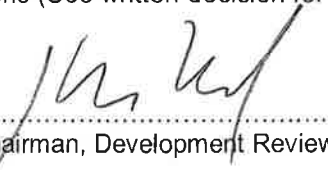
F. Action by Development Review Board:

1. Public Notice Date 06/19/21; 11/20/21; 08/20/21

2. Date(s) of Hearing 07/06/21; 07/20/21; 09/07/21; 12/07/21

3. ☒ Granted ☐ Without conditions ☒ With conditions (See written decision for conditions)

4. ☐ Denied (See written decision for reasoning)


Chairman, Development Review Board

The DRB's written decision was issued on: December 9, 2021

The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

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**DEMERS AUTOBODY AND
SALON**
East Montpelier, Vermont

REVISIONS

#1 STORMWATER

Site Plan

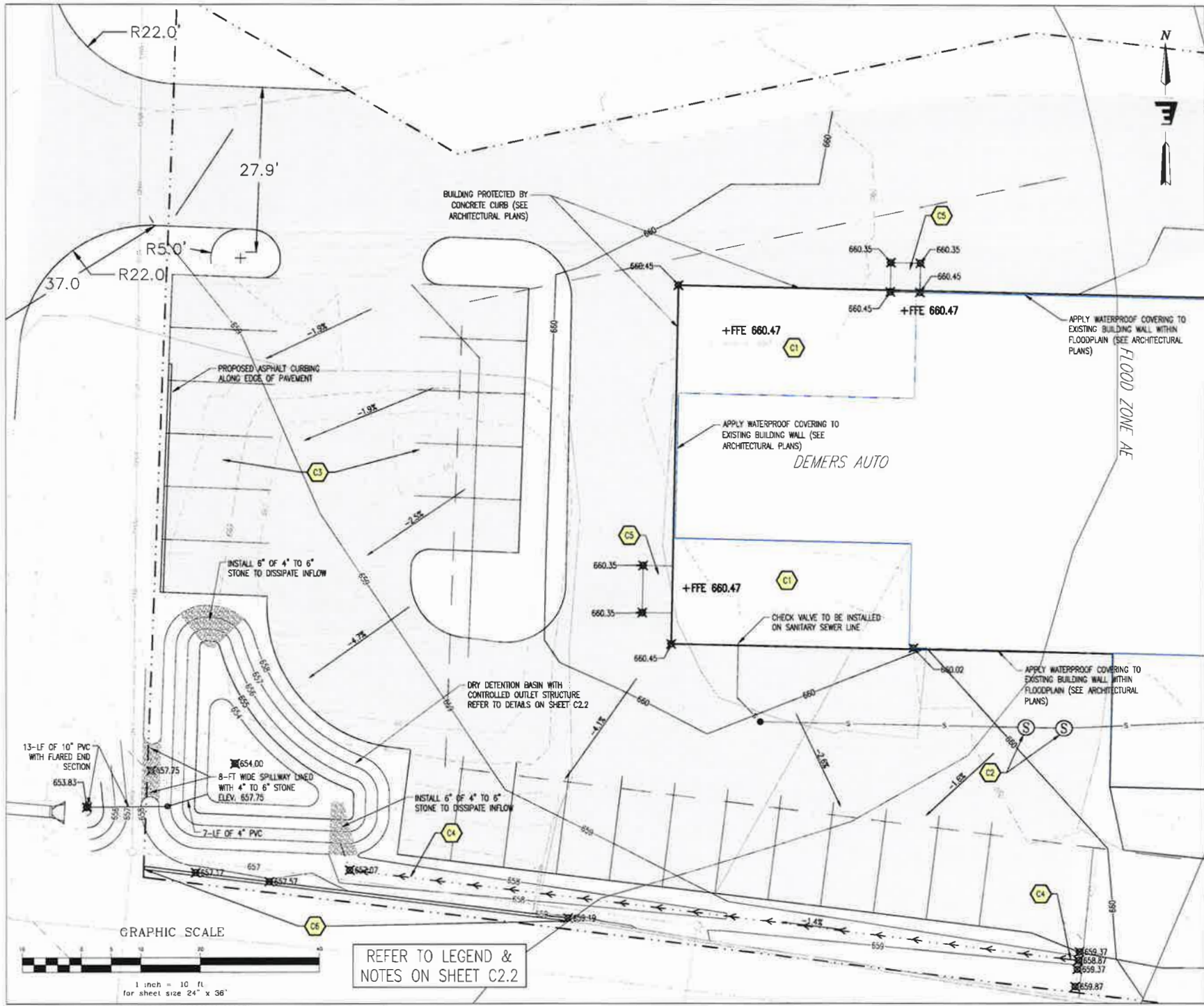
SCALE
1" = 10'

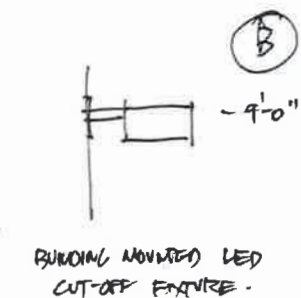
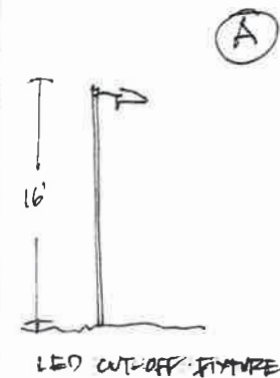
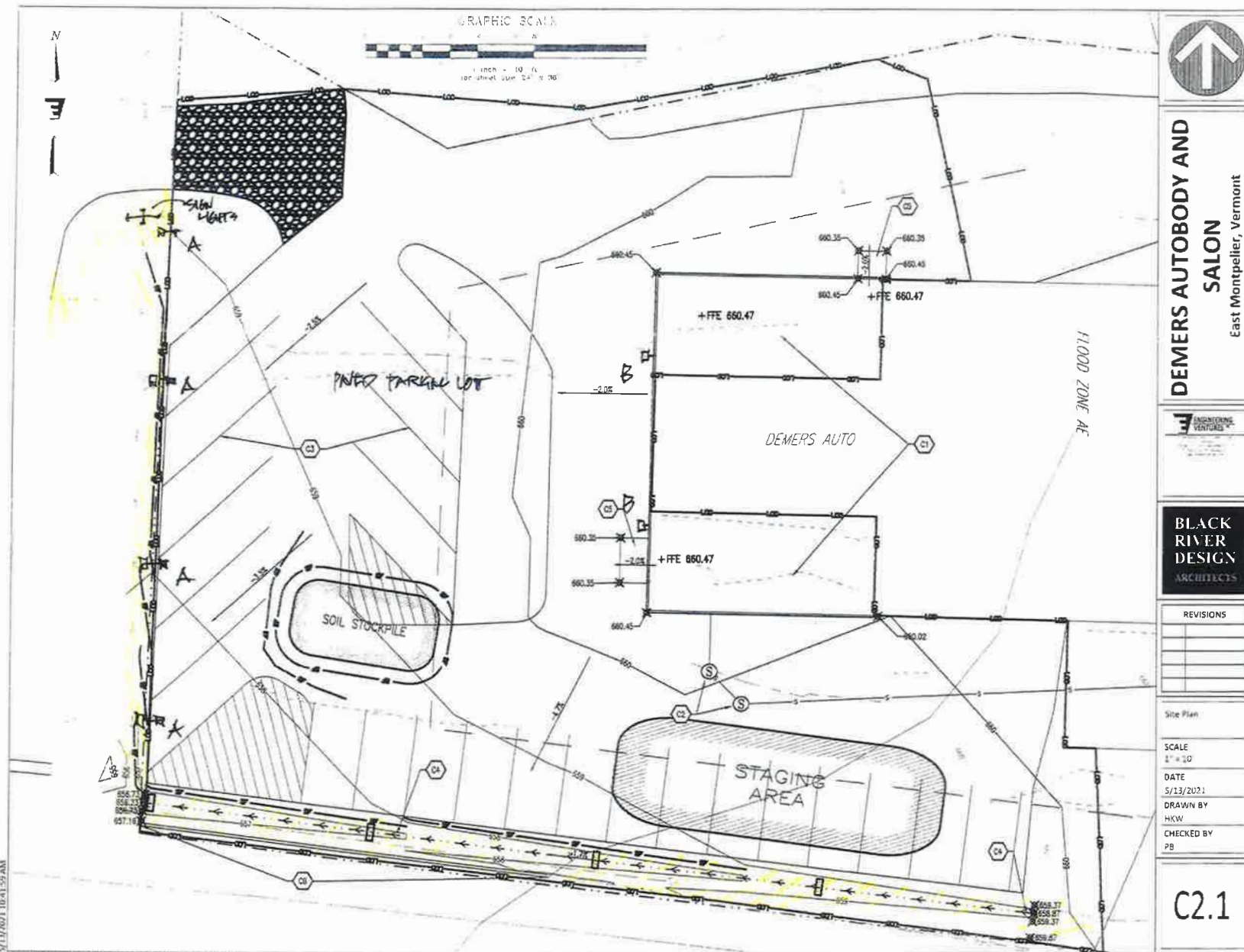
DATE
08/31/2021

DRAWN BY
HKW

CHECKED BY
PB

C2.1





LANDSCAPE/SITE LIGHTING

