

## Department of Planning and Zoning

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**TO:** Development Review Board  
**FROM:** Scott Gustin  
**DATE:** February 5, 2019  
**RE:** 19-0355CA; 441 Shelburne Street

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**Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.**

Zone: RM Ward: 5S

Owner/Applicant: Mitchel Richardson

**Request:** Convert existing boarding house and duplex to a 10-unit multifamily apartment building and related site improvements. Replaces expired zoning permit 17-0138CA for the same work.

### **Applicable Regulations:**

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking), Article 10 (Subdivision)

### **Background Information:**

The applicant is seeking approval for the proposed conversion of a duplex/boarding house to a 10-unit apartment building. Associated site work, primarily related to parking and circulation, is also included in the proposal. While the number of proposed units exceeds the 5-unit threshold for major impact review, the project qualifies for an exemption from major impact because the conversion will take place within the existing building. Inclusionary housing will be required.

Zoning permit 17-0138CA was approved October 4, 2016 for the same project. That permit expired on October 4, 2018. Despite being reminded to do so on September 12, 2018, the applicant failed to seek a permit extension prior to the expiration date. The project is not yet complete. Therefore, the applicant is seeking approval of the same project in order to finish it.

This application was initially scheduled for the Development Review Board on November 20, 2018. The applicant was not present, and the DRB deferred review of the project until December 18, 2018. The DRB reviewed the project on December 18 and closed the hearing. On January 4, 2019, the applicant requested that the DRB re-open the hearing to afford him the opportunity to address concerns raised at the December meeting. At their January 8, 2019 deliberative meeting, the DRB acted to reopen the hearing and requested that the following items be addressed:

- Provide a specific construction schedule with timeline for completion of the project, particularly the exterior.
- Provide details as to exactly what will be provided to tenants to encourage use of alternative transportation per your proposed parking management plan.

The applicant has provided a memo to address these two items. They are, in turn, addressed in Sec.'s 3.2.9 (d) and 8.1.15 below. The remainder of these findings are unchanged.

Previous zoning actions for this property are noted below.

- 10/4/16, Approval to convert to 10-unit apartment building and related site work
- 2/2/16, Sketch plan review for conversion to 10-unit apartment building
- 6/10/15, Non-applicability of zoning permit requirement issued for partial reconstruction of structure in-kind
- 4/29/15, Non-applicability of zoning permit requirement issued for in-kind siding replacement
- 11/30/07, Approval to modify onsite parking
- 8/7/03, Approval for stair and window replacement
- 8/12/82, Approval to establish convalescent home
- 7/22/82, Denial of requested convalescent home
- 7/16/82, Approval to demolish catwalk between structures
- 10/6/81, Denial to connect two buildings on adjacent lots
- 11/11/80, Approval to install garage doors
- 11/20/73, Denial to allow canoe rental business as home occupation
- 9/5/72, Approval to a 20-child daycare center

**Recommendation: Certificate of appropriateness approval** as per, and subject to, the following findings and conditions:

## **I. Findings**

### **Article 3: Applications, Permits, & Project Reviews**

#### ***Sec. 3.2.9, Zoning Permits:***

##### ***(d) Time Limits on Zoning Permits***

At the time this project received a zoning permit in October 2016, this section limited zoning permits to 2-years (1 year to start construction and a 2<sup>nd</sup> year to finish). Opportunity for 1-year extensions was also provided.

This section has been amended (effective November 13, 2018) to increase zoning permit duration to 3 years (1 year to start construction and 2 more to finish). Up to two 1-year time extensions may be granted.

The applicant proposes to commence siding work within 2 or 3 months. Following that, interior work would resume. The project would be complete within 2 years. This proposed timeline is within the parameters set by this section. The Development Review Board may set a shorter timeline. Given the 2+ years this project has been underway, a 2-year timeline (rather than 3) is warranted. It bears noting that if the building is vacant for a prolonged period of time, the city's vacant building ordinance will come into play. **(Affirmative finding as conditioned)**

### **Article 4: Maps & Districts**

#### ***Sec. 4.4.5, Residential Districts:***

##### ***(a) Purpose***

***(3) Residential Medium Density (RM)***

The subject property is located in the RM zone. This zone is primarily intended for medium density residential development in the form of single-detached dwellings and attached multi-family apartment buildings. The proposed conversion to a 10-unit apartment building is consistent with this intent. **(Affirmative finding)**

***(b) Dimensional Standards & Density***

Two parcels and an adjacent vestigial alley are to be combined resulting in a 0.44 acre parcel. The proposed 10 dwelling units are within the maximum permissible 25 units/acre (with inclusionary units) allowed within the RM zone.

As proposed, standard lot coverage will total 47.9%. Per Table 9.1.13-2, *Lot Coverage Allowance Table*, (for provision of inclusionary housing) 48% lot coverage is allowed within the RM zone. There will be an additional 8.8% “accessory” coverage as allowed under Sec. 4.4.5 (d) 3 for walkways, patios, and the like.

Except for the removal and installation of some small accessory components, building setbacks will remain unchanged. Some existing encroachment of the driveway in the vestigial alley will remain. Other encroachment appears to be reduced. The proposed parking area will comply with the minimum required 5’ side yard setback. It will be about 10’ from the north side yard. It is set back 13’ from the Lyman Avenue front property boundary. This setback is the average of the two neighboring properties to the west, +/- 5. In this case, the average is about 16.’ The 13’ setback proposed is within the +/- 5’ allowed. As a corner lot, there is no rear yard.

Building height will remain unchanged. **(Affirmative finding)**

***(c) Permitted & Conditional Uses***

The proposed multi-family housing is a permitted use in the RM zone. **(Affirmative finding)**

***(d) District Specific Regulations***

***1. Setbacks***

No setback encroachment is sought under this criterion.

***2. Height***

No height exceptions are sought.

***3. Lot Coverage***

As noted above, 8.8% of the total lot coverage consists of accessory features like open porches and walkways. This 8.8% is within the 10% afforded to such features. **(Affirmative finding)**

***4. Accessory Residential Structures and Uses***

No new accessory residential structures or uses are included in this proposal.

***5. Residential Density***

All of the proposed residential units are subject to occupancy by a family as defined in the CDO. **(Affirmative finding as conditioned)**

***6. Uses***

Not applicable.

### ***7. Residential Development Bonuses***

None are sought except for by-right bonuses associated with required inclusionary housing.

### **Article 5: Citywide General Regulations**

#### ***Sec. 5.2.3, Lot Coverage Requirements***

See Sec. 4.4.5 (b) above.

#### ***Sec. 5.2.4, Buildable Area Calculation***

Not applicable.

#### ***Sec. 5.2.5, Setbacks***

See Sec. 4.4.5 (b) above.

#### ***Sec. 5.2.6, Building Height Limits***

See Sec. 4.4.5 (b) above.

#### ***Sec. 5.2.7, Density and Intensity of Development Calculations***

See Sec. 4.5.5 (b) above.

#### ***Sec. 5.5.1, Nuisance Regulations***

Nothing in the proposal appears to constitute a nuisance under this criterion. **(Affirmative finding)**

#### ***Sec. 5.5.2, Outdoor Lighting***

A photometric plan and associated lighting fixture cut sheets have been provided. Illumination levels are acceptable for all environments – walkways, entries, and the under-building parking. No lighting of the surface parking is proposed, although, adjacent walkways will be illuminated. Proposed light fixtures are acceptable and include cutoff and/or low level illumination fixtures. **(Affirmative finding)**

#### ***Sec. 5.5.3, Stormwater and Erosion Control***

The proposed stormwater management plan emphasizes infiltration. Two underground infiltration chambers and a rain garden are proposed. Captured stormwater will be directed into these facilities for onsite filtration. The stormwater management plan was approved by the Stormwater Administrator as part of the 2016 zoning permit review. **(Affirmative finding)**

### **Article 6: Development Review Standards:**

#### ***Part 1: Land Division Design Standards***

##### ***Sec. 6.1.2 Review Standards***

No subdivision is proposed. A merger of existing parcels is proposed. See Article 10 below.

#### ***Part 2, Site Plan Design Standards***

##### ***Sec. 6.2.2, Review Standards***

###### ***(a) Protection of important natural features***

The site contains no significant natural areas as identified in the Open Space Protection Plan. It appears that all but one of the existing trees will be retained. **(Affirmative finding)**

*(b) Topographical alterations*

The property is essentially flat and will remain so. The only grading work of note is associated with the proposed ramps for handicap access into the residence. Existing under-building parking spaces along the building's Lyman Avenue frontage will be retained. **(Affirmative finding)**

*(c) Protection of important public views*

There are no significant public views from or through the subject property. **(Affirmative finding)**

*(d) Protection of important cultural resources*

The building is not included on an historic register, nor is it eligible for inclusion. The proposed conversion to multi-family housing will have no adverse impact on historic or cultural resources. **(Affirmative finding)**

*(e) Supporting the use of alternative energy*

Nothing within the project plans contemplate utilization of alternative energy resources. Present energy efficiency codes of the city and state will apply to the renovations. **(Affirmative finding as conditioned)**

*(f) Brownfield sites*

The site is not included on the Vermont DEC Hazardous Site List. **(Affirmative finding)**

*(g) Provide for nature's events*

See Sec. 5.5.3 for stormwater management. Space is available on either side of the parking spaces for seasonal snow storage. **(Affirmative finding)**

*(h) Building location and orientation*

Existing building location and orientation will not change. The L-shaped building is set to the street corner and has entries facing Shelburne Street and Lyman Avenue. **(Affirmative finding)**

*(i) Vehicular access*

Vehicular access from Lyman Avenue will be retained, but parking will be reconfigured and formalized as noted in criterion (l) below. **(Affirmative finding)**

*(j) Pedestrian access*

Walkways will connect the front entries to the public sidewalks. New walkways behind the building will provide access into the building from the parking area. As recommended at sketch plan review, a walkway will provide a connection between the parking area and these interior walkways and associated ramps leading into the building. **(Affirmative finding)**

*(k) Accessibility for the handicapped*

ADA parking and related ramps are depicted on the site plan. It is the applicant's responsibility to comply with all applicable ADA requirements as administered through the building code. **(Affirmative finding as conditioned)**

*(l) Parking and circulation*

The reconfigured parking area will be located behind the building as perceived from Shelburne Street and to the side of the building as perceived from Lyman Avenue. New landscaping will be

installed to screen the parking from Lyman Avenue. See Article 8 for dimensional details as to parking spaces and circulation. **(Affirmative finding)**

*(m) Landscaping, fences, and retaining walls*

A detailed landscaping plan has been provided. New landscaping will accentuate the central front entry facing Shelburne Street and enhance the grounds generally. As noted above, landscaping will be installed to screen the surface parking from Lyman Avenue and to provide a border along the access drive. The proposed rain garden will also be vegetated with a variety of wet-tolerant species. **(Affirmative finding)**

*(n) Public plazas and open space*

No public plazas or open space are included in this proposal.

*(o) Outdoor lighting*

See Sec. 5.5.2.

*(p) Integrate infrastructure into the design*

No new outdoor mechanical equipment is apparent in the site plan. No dumpster is depicted on the project plans. There is a trash enclosure area tucked behind the building and below grade. The application contains a proposal from Casella Waste Systems that articulates how trash and recycling will be handled. Trash totes will be stored in the noted trash enclosure area. They will be handled by the waste service company – moved, emptied, and returned. Recycling will be handled by the Department of Public Works. Any new utility lines must be buried. **(Affirmative finding)**

**Part 3, Architectural Design Standards**

**Sec. 6.3.2, Review Standards**

*(a) Relate development to its environment*

*1. Massing, Height, and Scale*

Massing, height, and scale of the building remain essentially unchanged. Proposed cladding changes and differentiation among materials reduces perceived mass of the overall building. **(Affirmative finding)**

*2. Roofs and Rooflines*

The gable roofs of the two original structures remain essentially unchanged. The middle connecting structure will receive a new flat roof. This alteration further serves to reduce the overall perceived mass of the building. **(Affirmative finding)**

*3. Building Openings*

Windows will be replaced throughout the building. A number of additional windows will be installed too. The resultant fenestration pattern is consistent and appropriate for a residential structure. **(Affirmative finding)**

*(b) Protection of important architectural resources*

The subject building is not historically significant, nor is it eligible for listing on an historic register. Alterations to it have no adverse effect on Burlington's diversity of historic resources. **(Affirmative finding)**

*(c) Protection of important public views*  
See 6.2.2 (c) above.

*(d) Provide an active and inviting street edge*

The building's street presence along Shelburne Street will be strengthened with the introduction of two additional entries, including a well-defined central entry. New landscaping and walkways will enhance the connectivity between the residence and the street. A secondary entrance will continue to face Lyman Avenue along with an associated walkway and patio area. **(Affirmative finding)**

*(e) Quality of materials*

Rather than replace exterior siding in-kind as previously approved, new composite wooden clapboard siding will be installed in sections of 4" and 8" reveal on the two original structures. The connecting structure will be clad mostly in ribbed metal siding. Vinyl windows will be installed throughout. Composite decking is proposed on the porches and exterior stairs. Ramps will be wooden with steel cable and rail systems. Asphalt shingle roofing will be installed on the gable roofs with membrane on the flat roof portion. These materials are of acceptable quality. **(Affirmative finding)**

*(f) Reduce energy utilization*

Few energy details are included in the application plans. The new building must comply with the current energy efficiency requirements of the city and state. **(Affirmative finding as conditioned)**

*(g) Make advertising features complimentary to the site*  
Not applicable.

*(h) Integrate infrastructure into the building design*

No exterior mechanical equipment, rooftop or otherwise, is evident in the project plans. Any rooftop equipment, if proposed, must be screened from public view as perceived from the street. Mailboxes will be contained within the foyer of the primary building entry. **(Affirmative finding as conditioned)**

*(i) Make spaces safe and secure*

The project underwent technical review on April 14, 2016. The fire marshal provided written comment to the applicants based on that review. Building accessibility by emergency service vehicles appears to be adequate. **(Affirmative finding)**

## **Article 8: Parking**

### ***Sec. 8.1.8, Minimum Off-Street Parking Requirements***

The subject property is located in the neighborhood parking district. As a result, each of the 10 dwelling units requires 2 parking spaces – a total of 20 parking spaces in this case. As proposed, 10 parking spaces will be provided for the residences. A 10-space parking waiver is sought. The required parking management plan has been provided. See Sec. 8.1.15 below relative to the merits of the parking management plan. **(Affirmative finding)**

### ***Sec. 8.1.9, Maximum Parking Spaces***

This section limits surface parking to 125% of the Neighborhood Parking District minimum parking requirement. As noted above, 20 spaces are required, and 10 are proposed. As a 50%

parking waiver is sought, parking is obviously nowhere near the maximum parking limitation. **(Affirmative finding)**

***Sec. 8.1.10, Off-Street Loading Requirements***

Not applicable.

***Sec. 8.1.11, Parking Dimensional Requirements***

The two parking spaces under the building are compliant with the standard 9' X 20' size. These two spaces exist presently and back up into Lyman Avenue. The 7 of the 8 surface parking spaces measure 9' X 18.' The 1 handicap space, including the striped landing area, is wider. These spaces are acceptable under the compact car standards of Table 8.1.11-1, *Minimum Parking Dimensions*. Back-up length is 20' as required per Table 8.1.11-1. A circulation diagram has been provided that demonstrates sufficiency of circulation space for vehicles to enter and exit the site forward (rather than having to back into or out of the site). **(Affirmative finding)**

***Sec. 8.1.12, Limitations, Location, Use of Facilities***

*(a) Offsite parking facilities*

**(Not applicable)**

*(b) Downtown street level setback*

**(Not applicable)**

*(c) Front yard parking restricted*

As noted in Sec. 4.4.5 (b), proposed parking is set behind the front yard setback.

**(Affirmative finding)**

*(d) Shared parking in the Neighborhood Parking Districts*

**(Not applicable)**

*(e) Single story structures in Shared Use Districts*

**(Not applicable)**

*(f) Joint use of facilities*

**(Not applicable)**

*(g) Availability of facilities*

None of the proposed parking will be used for the storage or display of vehicles or materials by offsite users. Parking will be for residents only. **(Affirmative finding)**

*(h) Compact car parking*

As noted above, 8 of the parking spaces qualify as "compact." The 15% limitation associated with this criterion applies only to structured parking. **(Affirmative finding)**

***Sec. 8.1.13, Parking for Disabled Persons***

The site plans depict one handicap parking space in close proximity to a walkway connecting to a building entrance. Associated striping is also shown. ADA compliance is administered via the city's building permit process. **(Affirmative finding as conditioned)**



**Sec. 8.1.14, Stacked and Tandem Parking Restrictions  
(Not applicable)**

**Sec. 8.1.15, Waivers from Parking Requirements/Parking Management Plans**

The applicant is seeking a 50% parking waiver for the residences. This percentage is the maximum possible. A parking management plan was included with the original application. The applicant has more recently provided a supplement in response to the DRB's January 8, 2019 request.

The project contains eight 1-bedroom and studio apartments, one 2-bedroom apartment, and one 3-bedroom apartment. Each apartment will be allocated 1 parking space and will be reflected in each unit's lease. The property is located within 800 feet of three GMT bus stops with local and regional service. It is walkable to the Price Chopper and Shaw's strip malls – both about ¼ mile away. There is a CarShare Vermont pod just over ½ mile away on Flynn Avenue. Tenant membership within CarShare Vermont will be paid for by the property owner and referenced in tenant leases. Usage fees will be the tenants' responsibility. As required, 20 onsite bike parking spaces for residents will be provided.

The parking management plan asserts that tenants will be provided GMT (previously CCTA) bus passes, but details are not yet provided, nor is this provision noted in the applicant's January 24, 2019 supplement. In order to be effective, this provision must be included and available to tenants on an ongoing basis.

Bus passes and Carshare memberships *could* support reduced vehicle ownership by tenants, depending on details such as ongoing bus pass availability and sustained Carshare memberships. The January 24, 2019 supplement clarifies Carshare benefits but does not address GMT bus passes. A minimum monthly allocation for bus passes should be provided for the benefit of tenants. Details are needed.

The parking management plan posits that anticipated demographics of residents, particularly within the inclusionary units, suggest lower than average vehicle ownership and cites a Champlain Housing Trust tenant vehicle ownership rate of 0.7 vehicles per unit and a national statistic of just under 1 vehicle for every American. The applicant asserts that the combination of mostly 1-bedroom/studio dwelling units and inclusionary housing will result in reduced personal vehicle ownership.

The project's close proximity to nearby shopping and active bus routes along with the majority of 1-bedroom or studio units are most likely to reduce vehicle ownership below the 2 spaces per unit standard. The applicant should be prepared to report to the Department of Planning and Zoning actual parking demand numbers each year for 3 years from the date of approval. **(Affirmative finding as conditioned)**

**Sec. 8.2.5, Bicycle Parking Requirements**

The 10 apartments will require at least 2 long term bike parking spaces (such as lockers) and 1 short term space. As proposed, each unit will be provided with 1 long term and 1 short term space. **(Affirmative finding)**

**Article 9: Inclusionary and Replacement Housing**

### ***Sec. 9.1.5, Applicability***

As the proposed development includes more than 5 new dwelling units, it is subject to the inclusionary housing provisions of this Article. Fifteen percent of the total unit count must be inclusionary (15% of 10 is 2 dwelling units) in this zone. The project plans note that two of the units will be inclusionary. A certificate of compliance from the manager of the city's Housing Trust Fund was provided following the 2016 zoning permit approval. **(Affirmative finding)**

## **Article 10: Subdivision**

### ***Sec. 10.1.5, Lot Line Adjustments***

Merger to two adjacent lots and a vestigial alley is included in this proposal. Merger is handled by way of lot line adjustment. As required, a lot line adjustment survey plan has been provided. The mylar was filed in the city's land records following the 2016 zoning permit approval. **(Affirmative finding)**

## **II. Conditions of Approval**

1. Exterior siding work shall commence by April 2019 and shall be complete by September 2019. The entire project shall be complete within 2 years of this approval.
2. If any rooftop mechanical equipment is proposed, it must be screened from view as perceived from the street. Mechanicals and screening shall be subject to staff review and approval.
3. This approval includes a 10-space parking waiver. The provisions of the parking management plan, including CarShare Vermont membership and GMT bus passes for tenants paid for by the applicant, are included. A minimum monthly allocation for bus passes shall be provided for the benefit of tenants. Details must be provided, **subject to staff review and approval**. The applicant shall report back to the Department of Planning & Zoning every year for 3 years following construction with a written summary of actual parking demands.
4. This approval incorporates the trash removal proposal by Casella Waste Systems dated 9.6.16. While the waste service provider may change, the plan for handling trash and recycling must remain.
5. Any encroachments into the public street right-of-way (permanent or temporary and including underground structure such as footings) will require an encumbrance permit via the Department of Public Works.
6. Given the complexity of project design and integration of its various elements, any changes to the project plans must be reviewed and approved by Planning & Zoning staff.
7. Occupancy of each dwelling unit is limited to "family" as defined in Article 13: Definitions of the Comprehensive Development Ordinance.
8. All new utility lines shall be buried.
9. It is the applicant's responsibility to comply with all applicable ADA requirements.
10. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
11. Any signage will require a separate sign permit.
12. Standard Conditions 1-15 except that permit timeline is shortened to 2 years.