

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, CFM, Associate Planner *RM*
Date: September 6, 2016
RE: 17-0133CU; 124 Sunset Cliff Road

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.

File: ZP17-0133CU

Location: 124 Sunset Cliff Road

Zone: RLW **Ward:** 4N

Date application accepted: August 2, 2016

Applicant/ Owner: Joseph Kroger

Parking District: Neighborhood

Request: Establish a one-room bed and breakfast within an existing single family dwelling.

Property also contains an accessory dwelling unit.



Applicable Regulations:

Appendix A (Use Table – All Zoning Districts), Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 8 (Parking), Article 13 (Definitions)

Background:

- **Zoning Permit 79-277;** Construct a 24' x 24' carport and a 17' x 28' porch. Approved June 5, 1979.
- **Zoning Permit 96-593;** Three season room, second story deck and reroofing of the carport for the existing single family home. Approved June 13, 1996.
- **Zoning Permit 97-539;** Pave existing driveway and parking area for the single family home. No change in coverage or use. Approved June 11, 1997.
- **Zoning Permit 15-0575CA;** Repair/replace stairs and railing to beach. Approved November 14, 2014.
- **Zoning Permit 16-0946CA;** Establish an accessory apartment within the existing single family dwelling. Approved March 21, 2016

Overview:

The applicant proposes to convert one bedroom to a bed and breakfast use (Airbnb). The home was originally constructed in 1929, and over the years saw various additions and repairs. The most recent activity was establishing an accessory dwelling unit in early 2016. There exists 4 parking spaces within the attached carport, 1 parking space within the detached garage, and room for at least 2 additional parking spaces in the driveway. A summer camp is located on the adjacent property to the southwest. Access to that property is via the shared driveway through the subject parcel.

Recommendation: Approval, per the following findings and conditions:

I. Findings

Appendix A: Use Table – All Zoning Districts

Bed and Breakfast is a Conditional Use in the RLW zoning district. Footnotes 4 & 6 of Appendix A apply to bed and breakfasts. Footnote #4 states: *“No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.”* Footnote #6 states: *“Must be owner-occupied.”* The applicant proposes to rent out only 1 bedroom as a bed and breakfast. The owner currently occupies the property. **Affirmative finding as conditioned.**

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities, or services are capable of supporting the proposed use in addition to the existing uses in the area;*

Converting an existing bedroom into a rental, bed and breakfast room will have minimal impact on public utilities, facilities and services. It is possible that the proposal will require a state wastewater permit, and if so, the applicant will be responsible for securing said permit. **Affirmative finding as conditioned.**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the Municipal Development Plan;*

The property is within an established residential neighborhood and a residential zoning district. The Waterfront Residential Low Density (RLW) zoning district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history. This district is distinguished from the RL district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff. The RLW zoning district has the potential to have up to 3 rental rooms. The conversion of one bedroom in a low density residential neighborhood to rental lodging, in addition to the existing single family residence and the accessory dwelling unit, may have some impact on traffic and circulation, but not noticeably greater than a family with multiple drivers. **Affirmative finding.**

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

No greater impacts are anticipated than other residential uses in the area. **Affirmative finding.**

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation, safety for all modes; and adequate transportation demand management strategies;*

This parcel is located at the end of Sunset Cliff Road, a private, dead-end road. The proposed rental of one bedroom would result in one more vehicle to the onsite parking demand, which already has a requirement for 2 spaces for the single family home, and 1 space for the accessory dwelling unit. The change of use will likely increase traffic and circulation from the present residential demand of this property, however not so noticeable as to affect the overall neighborhood. **Affirmative finding.**

5. *The utilization of renewable energy resources;*

Nothing within the application prevents the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**
and;

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.* The application and resultant change in use will be required to meet all bylaws and city and state ordinances in effect at the time of decision. Specific to the proposed use the applicant will have to ensure compliance with state regulations regarding short-term B&B/Airbnb type rentals, including but not limited to payment of required rooms and meals taxes. **Affirmative finding as conditioned.**

(c) Conditions of Approval

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;*
Not applicable. No changes to the site are proposed.
2. *Time limits for construction.*
There is no construction proposed.
3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*
Not applicable. Hours of operation do not apply to the proposed B&B/Airbnb rental room.
4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*
There are no enlargements or alterations proposed, as the B&B/Airbnb room will locate within an existing bedroom. However, should the applicant wish to add an additional B&B/Airbnb room(s), the change of use will require review and permitting under regulations in effect at that time. **Affirmative finding as conditioned.**
and
5. *Such additional reasonable performance standards, conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*
None identified.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose

1. *The Waterfront Residential Low Density (RLW) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history. This district is distinguished from the Residential Low Density district by its proximity to Lake*

Champlain, and a greater consideration needed for views from the lake and Stormwater runoff.

A bed and breakfast is proposed, and may be approved through the conditional use permit process.

Appendix A – Use Table, has 2 footnotes for Bed and Breakfast Use:

#4: *...no more than 3 rooms permitted to be let in the RL district.*

This is in a RL-W zone and application proposes one bedroom. **Affirmative finding as conditioned.**

#6: *Must be owner occupied.*

The applicant lives at the subject property. Further, in March, 2016, the property was approved to have a one bedroom accessory dwelling unit. Similar to bed & breakfasts, in order to have and maintain an accessory dwelling unit, Sec. 5.4.5 (a) CDO requires that the property owner reside on-site. **Affirmative finding as conditioned.**

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W.

Minimum lot frontage for RLW zoned properties is 60 feet. The property has approximately 130 feet of frontage. For minimum lot size requirements, RLW zoned properties are referred to Table 4.5.5-1. See below.

Table 4.4.5-2 Base Residential Density

The RLW district is limited to 7 dwelling units per acre. As per Sec. 5.4.5 (a) CDO, “*an accessory dwelling unit shall not be counted as a dwelling unit for the purposes of density calculations.*” Bed and Breakfasts are considered short-term lodging, and are therefore not considered as a dwelling unit. The property is currently considered to have one dwelling unit, and will continue to be considered as a one dwelling unit property should the B&B room be approved. **Affirmative finding.**

Table 4.4.5-3 Residential District Dimensional Standards

Not applicable. No new construction or alterations to existing site features are proposed.

(c) Permitted and Conditional Uses

An owner-occupied bed and breakfast use, up to 3 rooms in the RLW zoning district, is a conditional use per Appendix. A. See Above.

(d) District Specific Regulations

1. Setbacks

A. Encroachment for residential driveways

Not applicable.

B. Encroachment into the Waterfront Setback

Not applicable. No development is proposed.

2. *Height*
No change. Not applicable.
3. *Lot Coverage*
 - A. *Exceptions for Accessory Residential Features*
Not applicable.
4. *Accessory Residential Structures and Uses*
Not applicable.
5. *Residential Density*
Not applicable.
6. *Uses*
 - A. *Exception for Existing Neighborhood Commercial Uses*
Not applicable.
7. *Residential Development Bonuses*
No bonuses are sought. Not applicable.

Table 4.5.5-1 Residential Density, Minimum Lot Size and Frontage: RL Larger Lot Overlay

Properties in the RLW zoning district are required to have a minimum lot size of 9,900 sq ft. The existing property is 31,021 sq ft in size. **Affirmative finding.**

Article 5: Citywide General Regulations

Part 1: Uses and Structures

Section 5.1.1 Uses

(d) Conditional Uses

A conditional use is listed in any district where denoted by the letters “CU” in Appedix A – Use Table. Such uses may be permitted by the DRB only after review under the conditional use provisions provided in Article 3, Part 5, such further restrictions as the DRB may establish and such additional requirements as may be established by this ordinance such as but not limited to dimensional and intensity limitations, performance and design standards, and parking requirements.

A Bed and Breakfast is a Conditional Use in Appendix A, Use Table, for the RLW district. The project meets the two footnote requirements; see Sec. 4.4.5(c) above. **Affirmative finding.**

Section 5.1.2 Structures

Not applicable.

Part 2: Dimensional Requirements

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access
See Table 4.4.5-1 above. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements
See Table 4.4.5-3 above. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation
Not applicable.

Section 5.2.5 Setbacks
No change. Not applicable.

Section 5.2.6 Building Height Limits
No change. Not applicable.

Section 5.2.7 Density and Intensity of Development Calculations
See Table 4.4.5-2 above. Not applicable.

Part 4: Special Use Regulations
Not applicable.

Article 8: Parking

Table 8.1.8-1 Minimum Off-Street Parking Requirements

In the Neighborhood Parking District, single family uses require 2 parking spaces, and B&Bs require 1 space per room, in addition to the single family residence requirement. Section 5.4.5 (a) (4) requires 1 space for accessory dwelling units. In total, a minimum of 4 parking spaces will be required. The property currently has a 4-car carport and a 1-car garage. There is also room to fit another 2 parking spaces in the driveway, beside the carport, that will not block vehicle maneuvering space. **Affirmative finding.**

Article 13: Definitions

Bed and Breakfast: *An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.* The applicant has proposed 1 room to let in the bed and breakfast. **Affirmative finding as conditioned.**

Owner: *Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who alone, or jointly or severally with others hold(s) legal or equitable title to any real property.*

Per the ordinance, the owner (who must be listed on the deed) is required to be a resident of the bed and breakfast. **Affirmative finding as conditioned.**

Owner Occupied: *Where owner occupancy is required by this ordinance, owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year.*

As a bed and breakfast, an owner, whose name is on the title, is required to live on the premises at least 6 months of the year. **Affirmative finding as conditioned.**

II. Conditions of Approval

1. This approval is for a ONE bedroom Bed & Breakfast/Airbnb use. The applicant will allow Code Enforcement to periodically confirm that the use is limited to the one bedroom rental limitation. This may include review of web-based advertising, posted guest comments, or response to neighborhood complaint.
2. The subject property must be, and remain owner occupied as long as the Bed & Breakfast/Airbnb remains in operation.
3. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
4. All guest parking shall be on-site and off-street. Parking shall not be located within the shared portion of the driveway where it would block access to the neighboring property.
5. The applicant shall return to the DRB in one year after issuance of a certificate of occupancy for the Bed & Breakfast to report on any neighborhood concerns or complaints relative to the Bed & Breakfast use.
6. Regarding Standard Permit Condition #1 below, the applicant will have to ensure compliance with state regulations regarding short-term B&B/Airbnb type rentals, including but not limited to payment of required rooms and meals taxes.
7. Any additional Bed & Breakfast room, or physical alteration, will require a new zoning permit, subject to regulations in effect at the time of permit application submittal.
8. The applicant/property owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state as required.
9. The applicant/property owner shall secure a state wastewater permit, should one be required for the proposal.
10. Standard Permit Conditions 1-15.

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