

## Burlington Development Review Board

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[www.burlingtonvt.gov/PZ/Boards/Development-Review-Board](http://www.burlingtonvt.gov/PZ/Boards/Development-Review-Board)

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## Burlington Development Review Board

Minutes/Findings of Fact

August 28, 2014

**In RE:** 14-0747SD; 1891 North Ave. (Ward 4, RL) (Tax Lot Nos. 023-3-045-000 & 023-3-046-000)

**Owner/Representative:** Tom & Jill Mitchell

**Request:** Subdivide two lots into three lots, remove existing single family house, and construct two duplexes and one single family home

### Members Present:

Austin Hart  
Michael Long  
Brad Rabinowitz  
Israel Smith  
AJ LaRosa  
Alexandra Zipparo

### Evidence Presented:

The Board examined the materials submitted in support of this request.

## I. FINDINGS

### Background Information:

The applicant is seeking approval of a proposed 3-lot, 5-dwelling unit subdivision. Two existing adjacent lots would be subdivided and reconfigured into 3 lots. Two duplexes and one single family home would be constructed. An existing mobile home along North Avenue would be demolished and replaced with one of the two new duplexes. The end result is 4 net new dwelling units. This proposal amounts to a minor subdivision (i.e. less than 5 net new dwelling units or lots) and is reviewed as a combined preliminary/final plat application.

This application went through sketch plan review by the Development Review Board on July 17, 2012. The Design Advisory Board reviewed it February 25, 2014 DAB and, on a 4-1 vote, recommended approval subject to the following conditions:

1. Clarity of tree retention versus removal. What trees will be removed and what trees, if any, will remain? Are any of the existing trees "specimen trees?"
2. Front walkways that connect each new home to the public sidewalk or street network.
3. A more robust landscaping plan that defines spaces within the development and screens parking areas and utilities.

4. Outdoor lighting fixture locations, cut sheets, and illumination levels.
5. Window materials and cut sheets.
6. Utility meter locations and screening. Locations and screening of mechanical equipment, if any is proposed.

Revised application plans have been submitted to address the DAB's recommendation.

The Conservation Board reviewed the application March 10, 2014 and unanimously recommended approval subject to the standard stormwater management and erosion prevention and sediment control conditions.

### **Article 3: Applications and Reviews**

#### ***Part 5, Conditional Use & Major Impact Review:***

##### ***Sec. 3.5.6, Review Criteria***

###### **(a) Conditional Use Review Standards**

###### ***1. The capacity of existing or planned community facilities;***

The proposed development will be served by municipal water and sewer. Sufficient capacity is likely available; however, written confirmation from the Department of Public Works will be required. Any new lines to service the development will have to be installed by the applicant/owner. A state wastewater permit will also be needed prior to construction. Impact fees will be assessed based on the net new residential square footage to help offset what impacts there may be to other municipal services. **(Affirmative finding as conditioned)**

###### ***2. The character of the area affected;***

The proposed subdivision is located in the Residential Low Density zone. This zone is primarily intended for detached single family homes and duplexes. The surrounding neighborhood reflects this intent, consisting largely of detached single family homes to the south and east. The Northgate apartment complex includes a different development pattern and is located to the north and west. The proposed density and development pattern is similar to that along neighboring residential streets and reflects the intent of the RL zone. **(Affirmative finding)**

###### ***3. Traffic on roads and highways in the vicinity;***

No traffic analysis has been provided nor is required for a project of this small scope. Additional traffic generation associated with the new dwelling units can reasonably be expected to be minor. **(Affirmative finding)**

###### ***4. Bylaws then in effect;***

As conditioned, this subdivision proposal is consistent with all applicable bylaws. **(Affirmative finding)**

###### ***5. Utilization of renewable energy resources;***

Utilization of renewable energy resources is not included in this application. As proposed, the development will not preclude such utilization on the subject property or on neighboring properties in the future. **(Affirmative finding)**

###### ***6. Cumulative impacts of the proposed use;***

This criterion requires that cumulative impacts associated with residential development where it is permitted be deemed negligible. Single family homes and duplexes are allowed residential uses in the RL zone. **(Affirmative finding)**

*7. Functional family;*

Not applicable. The application contains no request to inhabit the new dwelling units with anything other than families.

*8. Vehicular access points;*

See Sec. 6.2.2 (i).

*9. Signs;*

No signage is included in this proposal.

*10. Mitigation measures;*

The proposed small scale residential development will not generate offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

*11. Time limits for construction;*

The application contains no request for extended construction. As a result, the standard 2-year time frame will apply. The applicant is advised to consider phasing construction of the dwelling units to that they may be occupied as they are completed one-by-one. Otherwise, occupancy would not be allowed until the entire development is complete. If phasing is sought, a phasing plan must be provided prior to review by the Development Review Board. **(Affirmative finding)**

*12. Hours of operation and construction;*

Hours of operation need not be specified for this residential development. No days or hours of construction have been proposed in a construction schedule. Consistency with other construction projects in the RL and WRL zones yields days and hours of construction of Monday – Saturday, 7:00 AM – 6:00 PM. **(Affirmative finding as conditioned)**

*13. Future enlargement or alterations;*

In the event of future enlargement or alteration, permits would be required and reviewed under the regulations then in effect.

*14. Performance standards;*

Performance standards relating to outdoor lighting and erosion control are addressed under Article 5 of these findings.

*15. Conditions and safeguards;*

Conditions of approval will ensure compliance with the standards of the Comprehensive Development Ordinance.

**Article 4: Maps & Districts**

**Sec. 4.4.5, Residential Districts:**

***(a) Purpose***

***(1) Residential Low Density (RL)***

The subject property is located in the RL zone, which is intended primarily for single family homes and duplexes. The proposed development consists exactly of that – two duplexes and a single family home. **(Affirmative finding as conditioned)**

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

The two duplex lots exceed the minimum duplex lot size of 10,000 sf, and the proposed single family home lot exceeds the minimum single family home lot size of 6,000 sf.

Proposed lot coverage will be 23.6%, 23.6%, and 20% on lots 1, 2, and 3, respectively. These coverages are below the 35% limit in the RL zone.

Front yard setbacks on lots 1 and 3 are based on the average front yard setback of neighboring properties. They are compliant with the applicable averages. Lot 2 is effectively an interior lot and may establish its own front yard setback. As proposed, the 22' front yard setback is similar to that of neighboring properties. Side and rear yard setbacks as 10% of lot width and 25% of lot depth, respectively, are compliant as well.

The two duplexes are about 21' tall to the midpoint of their roofs' rise. The single family home is shorter at just 14' to the midpoint of its roof rise. The height limit in this zone is 35'.

**(Affirmative finding)**

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

The subdivision is subject to conditional use review. Duplexes are allowed on existing lots in the RL zone, also subject to conditional use review. Insofar as the two proposed duplexes will be constructed on the existing lots with the single family home to be constructed on the newly created third lot, this requirement has been met. **(Affirmative finding)**

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

***1. Setbacks***

No setback encroachments are sought.

***2. Height***

No height exceptions are sought.

***3. Lot Coverage***

No lot coverage exceptions are sought.

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

No accessory structures are included in this proposal.

***5. Residential Density***

The proposed residential units are subject to the functional family provisions of the Comprehensive Development Ordinance. **(Affirmative finding as conditioned)**

*6. Uses*

Not applicable.

*7. Residential Development Bonuses*

No development bonuses are being sought.

**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 (d) above.

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

See Sec. 4.5.5 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*

Five types of outdoor lighting fixtures are proposed as options for the new homes (3 lantern type fixtures and 2 spotlight fixtures). All of them use low-wattage bulbs and are likely acceptable. No lumens information has been provided and must be in order to confirm their acceptability. Lumens may not exceed 2,000 to qualify as acceptable low-output lamps. Fixture locations are noted on the site plan but are not depicted on the building elevation drawings and must be. **(Affirmative finding as conditioned)**

*Sec. 5.5.3, Stormwater and Erosion Control*

The stormwater management plan has been reviewed and approved by the Stormwater Administrator. Proposed management is simple given the ample green space and very pervious soils. Rooftop runoff will be collected by gutters and dispersed by way of downspouts onto surrounding green space for infiltration into the ground. Driveways will be graded to direct runoff onto adjacent green space for infiltration. No stormwater runoff will be directed into the city system. The construction site erosion prevention and sediment control plan has also been reviewed and approved by the Stormwater Administrator.

The Conservation Board reviewed the proposed stormwater management plan and erosion prevention and sediment control plan on March 10, 2014 and recommended approval of them

subject to the standard stormwater and erosion control conditions. **(Affirmative finding as conditioned)**

**Article 6: Development Review Standards:**

**Part 1, Land Division Design Standards**

**Sec. 6.1.2, Review Standards**

*(a) Protection of important natural features*

The property contains no significant natural areas as defined in the Open Space Protection Plan or as depicted in any of the Natural Resource Protection Overlay District maps. A number of trees are present. The applicant has revised the site plan to better indicate which existing trees will be retained versus removed and which trees are to be newly planted. None of the trees qualify as specimen trees (i.e. 30" + caliper and/or more than 100 years old as determined by a certified arborist). **(Affirmative finding)**

*(b) Block size and arrangement*

Not applicable. No new blocks are proposed.

*(c) Arrangement of Lots*

Lot 3 will be regularly shaped. Lot 1 will be somewhat irregular to allow for an irregular lot 2. The irregular shape of lot 2 is proposed in order to meet the minimum lot frontage requirement of 60' along a public roadway. Such lots are discouraged and shall be allowed only where topography and existing block and lot arrangement allow no suitable alternative. If lot 2 is to be created, there is no other alternative for public road frontage. The Development Review Board reviewed this configuration at sketch plan and did not find it objectionable. The grading and utility plan depicts utility easements for lots 1 and 2 across lot 3 for services stemming from North Avenue. An access easement will be required for lot 2's driveway across lot 3.

**(Affirmative finding as conditioned)**

*(d) Connectivity of streets within the city street grid*

No new streets are proposed. New private driveways will access the existing street network.

**(Affirmative finding)**

*(e) Connectivity of sidewalks, trails, and natural systems*

The existing public sidewalk system will be unaffected by the proposed development. There are no nearby trail networks or contiguous lengths of green space. **(Affirmative finding)**

**Part 2, Site Plan Design Standards**

**Sec. 6.2.2, Review Standards**

*(a) Protection of important natural features*

See Sec. 6.1.2 (a) above.

*(b) Topographical alterations*

The property is essentially flat and will remain so. Some limited grading is proposed to direct stormwater runoff into surrounding green spaces. **(Affirmative finding)**

*(c) Protection of important public views*

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

*(d) Protection of important cultural resources*

The site has no known archaeological resources. **(Affirmative finding)**

*(e) Supporting the use of alternative energy*

No alternative energy resources are included in the project plans. Use of alternative energies on the subject, or neighboring properties, in the future is not precluded by this development.

**(Affirmative finding)**

*(f) Brownfield sites*

The property is not included on the Vermont DEC's Hazardous Sites List. **(Affirmative finding)**

*(g) Provide for nature's events*

See Sec. 5.5.3 for stormwater management.

There is ample room onsite for seasonal snow storage. Building entries are sheltered with overhangs to provide protection during inclement weather. **(Affirmative finding)**

*(h) Building location and orientation*

The two duplexes will be located along existing public streets and will be aligned with neighboring homes. Garage and driveway parking space will be provided for both duplexes. Both duplex structures appear to be identical. Each building is 59' wide, and each has a 22' wide garage. Per this criterion, garages facing the street shall not exceed 24' width or 50% of the entire structure width, whichever is less. As proposed, the 22' wide garages are under this limit at 37% of the structure width. The garage faces of both duplexes are recessed and are 25' set back from the front property lines as required. The new single family home will sit between the two duplexes and will have no discernible impact on the North Avenue or Northgate Road streetscapes. The single family home will have an attached garage, but it does not face the street. As a result the garage width limitations of this criterion do not apply. **(Affirmative finding)**

*(i) Vehicular access*

The existing curb cut along North Avenue will be used for the new single family home on lot 2. Two new curb cuts on North Avenue will serve the two driveways into the new duplex on Lot 3. A new curb cut will be established along Northgate Road. Department of Public Works approval will be required for the new curb cuts. The duplexes will have two 10' wide driveways for each unit, and the single family home will have a 10' wide driveway. These widths are within the acceptable range of 7' – 18' for residential driveways. **(Affirmative finding)**

*(j) Pedestrian access*

The revised site plan depicts walkways connecting the homes on lots 2 and 3 to the North Avenue sidewalk. Walkways will connect the duplex on lot 1 to Northgate Road. The walkways parallel the driveways and consist of stamped and painted asphalt. The walkway along the driveway for lot 2 also provides the 14' wide (10' driveway + 4' walkway) access required by the Fire Marshal to this center lot. **(Affirmative finding)**

*(k) Accessibility for the handicapped*

There is no indication that any of the dwelling units will be handicap accessible or that they need to be. **(Affirmative finding)**

*(l) Parking and circulation*

All of the proposed dwelling units will have associated parking. Both required spaces will be provided within the attached garage for the single family home. Each duplex unit will have one garage space and one driveway space. The parking and driveway arrangement for the single family home allows vehicles to enter and leave without backing out onto a city street. Both duplexes include short, straight driveways that require driving in forward and backing out. There was considerable discussion at the Design Advisory Board about this arrangement for lot 3 (on North Avenue) and whether it was acceptable. The Board ultimately approved it as is, primarily due to the prevalence of other such driveways in the neighborhood and the "collector street" designation of this northern section of North Avenue. **(Affirmative finding)**

*(m) Landscaping and fences*

As recommended by the DAB, some additional landscaping information has been provided. Tree retention and removal has been clarified. New plantings have been identified on the site plan and consist of new deciduous and coniferous trees and new shrubs. The new trees are proposed along property lines to help delineate the interior boundaries. A cluster of arborvitae are proposed to help screen a portion of the driveway serving the new single family home. While the proposed landscaping remains basic, it is adequate for a project of this small scope. **(Affirmative finding)**

*(n) Public plazas and open space*

Not applicable. 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*

All utility lines must be buried. Utility vaults for each home are depicted on the grading and utility plan; however, no screening is evident. While the vaults are located by the sides of the structures, screening, in the form of landscaping, is needed. There are no communal recycling or trash facilities. These items will be handled separately by each homeowner. **(Affirmative finding as conditioned)**

**Part 3, Architectural Design Standards**

**Sec. 6.3.2, Review Standards**

**(a) Relate development to its environment**

**1. Massing, Height, and Scale**

The subject property is sited between single family homes along Dewey Drive and the very large Northgate Apartments complex. The homes along Dewey Drive are relatively small as compared to the Northgate Apartments; however, the apartment buildings are sectionalized in components roughly approximate to the scale of the Dewey Drive homes. The new homes included in this proposal retain this consistent scale. The two duplexes (which are mirror



images of each other) read as individual dwelling units connected by way of a shared garage. This arrangement lessens perceived building bulk and provides a degree of separation of the living quarters. The proposed single family home is smaller than the duplexes and is comprised of several distinct components. Its massing and scale are consistent with neighboring single family homes. All three of the proposed buildings are well under the 35' height limit. The single family home is just a single story. The two duplexes are two stories. The proposed building heights are consistent with nearby homes. **(Affirmative finding)**

## *2. Roofs and Rooflines*

Pitched gable roofs with varying orientations are proposed. This roof form is common amongst neighborhood homes. **(Affirmative finding)**

## *3. Building Openings*

Fenestration amongst all of the proposed buildings is similar. It is evenly placed throughout each structure and consists of fairly basic one-over-one double-hung windows with some smaller awing windows interspersed on the side elevations. The double-hung units are more vertical than horizontal as required. Building entries are sheltered with entry porches. **(Affirmative finding)**

### *(b) Protection of important architectural resources*

An existing mobile home will be demolished as part of this proposal. It is not historically significant, nor are any neighboring structures historically significant. **(Affirmative finding)**

### *(c) Protection of important public views*

See 6.2.2 (c) above.

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

The proposed duplexes reinforce the existing street edge created by existing homes along North Avenue and Northgate Road. Both clearly face the street and have readily identifiable front entries within open porches. Walkways connect them to the public street. The single family home is situated between the two duplexes and, as such, does not have a street presence. **(Affirmative finding)**

### *(e) Quality of materials*

All of the homes will be clad in vinyl siding ("clapboards" and "shakes"). Fiber cement trim will be installed throughout. Asphalt shingles will be installed on the roofs. The single family home will utilize wooden railings for its porch. Vinyl windows are proposed. The proposed materials palate is one common to new construction and is of acceptable quality and durability. **(Affirmative finding)**

### *(f) Reduce energy utilization*

The proposed construction must comply with the city's current energy efficiency requirements. Nothing above and beyond the minimum requirements is noted in the project plans. **(Affirmative finding)**

### *(g) Make advertising features complimentary to the site*

Not applicable.

*(h) Integrate infrastructure into the building design*

Utility line locations are noted on the plans, but meter locations are not. They must be depicted and screened. No exterior mechanical equipment is included in the project plans. Trash should be stored inside the garages until curb side pick-up days. **(Affirmative finding as conditioned)**

*(i) Make spaces safe and secure*

The new buildings will be subject to current egress requirements. Building entries will be illuminated. **(Affirmative finding as conditioned)**

**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 one of the dwelling units requires a minimum of 2 parking spaces. The site plan depicts sufficient parking, including garage and surface spaces, for each of the units. **(Affirmative finding)**

***Sec. 8.2.5, Bicycle Parking Requirements***

No bicycle parking is required for the proposed single family and duplex dwelling units. **(Affirmative finding)**

**Article 10: Subdivision**

See Articles 3, 4, 5, and 6 of these findings.

**II. MINUTES**

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

**III. MOTION**

**Motion: Brad Rabinowitz**

I move that the Board grant combined preliminary and final plat approval to subdivide two lots into three lots, remove existing single family house, and construct two duplexes and one single family home for the properties at 1891 North Avenue in the RL zone in accordance with Articles 3, 4, 5, 6, 8, and 10. Approval is subject to the following conditions:

1. Within 180 days of the date of final approval, the subdivision plat mylar, with all applicable endorsement signatures, shall be filed with the City Clerk per Sec. 10.1.11 of the Comprehensive Development Ordinance. Failure to do so shall render void the final plat approval.
2. **Prior to release of the zoning permit**, revised plans shall be submitted subject to staff review and approval. Revised plans shall include:
  - a. Outdoor lighting fixture locations on building elevation drawings;
  - b. Lumens information for each proposed outdoor lighting fixture;
  - c. Access easement for lot 2 across lot 3;


- d. Screening for utility vaults; and,
- e. Locations and screening for utility meters.
3. This approval incorporates the July 17, 2014 approval by the Stormwater Administrator of the Erosion Prevention & Sediment Control Plan.
4. Days and hours of construction shall be limited to Monday – Saturday, 7:00 AM – 6:00 PM.
5. At least 7 days prior to the issuance of a certificate of occupancy, the applicant shall pay to the Treasurer's Office the impact fee as calculated by staff based on the net new square footage of the proposed development.
6. Each new residence included in this approval is subject to the functional family provisions of the Comprehensive Development Ordinance.
7. A State of Vermont wastewater permit is required. Written confirmation from the Department of Public Works as to adequate municipal sewer capacity is also required.
8. The proposed construction shall comply with Burlington's current energy efficiency standards and with Burlington's current egress requirements as established by Burlington Electric Department and Burlington Public Works, respectively.
9. Standard permit conditions 1 -15.

Seconded: AJ LaRosa

Vote: 6-0-0, motion carried

Dated at Burlington, Vermont, this 28<sup>th</sup> day of August 2014

Respectfully Submitted,

  
Austin D. Hart, Development Review Board Chair

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Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. (Zoning Ordinance Article 17, Section 17.1.7, Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. The appeal shall be taken in such a manner as the supreme court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3). The Court rules may require that such an appeal be commenced within Thirty (30) days of the Board's decision.

