

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin *SG*
DATE: March 20, 2018
RE: 18-0679CU; 94 Caroline Street

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: RL Ward: 5S

Owner/Applicant: Dori Weigand

Request: Establish short term rental (bed & breakfast) in existing residence. No site or exterior building changes.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, & Project Reviews), Article 8 (Parking)

Background Information:

The subject property contains two detached residential structures – a single family home in front and a duplex in back. The property owner occupies the single family dwelling and rents the two units in the duplex. At least one of those two duplex units has become a short term rental (bed & breakfast) without a zoning permit. The Code Enforcement Office issued a notice of zoning violation for the unpermitted use February 6, 2018. The applicant is now seeking approval of the use. The Comprehensive Development Ordinance does not yet specifically address short term rentals. They are presently reviewed under the standards for bed and breakfasts per Sec. 5.1.1, *Uses, (e) Uses Not Permitted*, which enables the administrative officer to apply the standards of substantially similar defined uses to as yet undefined uses.

No site or exterior building changes are included in this application. Bed and breakfast is a conditional use in the RL zone wherein the subject property is located. Approval is contingent on owner occupancy of the property. Up to 3 rooms may be let as part of a bed and breakfast in the RL zone. As noted above, the property is owner occupied. The applicant wishes to obtain approval for short term rental of both duplex units. Doing so would exceed the 3-room limitation in this zoning district. Together, the two duplex units contain eight rooms. It may be possible to permit use of just one of the duplex units for short term rental.

Previous zoning actions for this property are noted below:

- 3/17/17, Approval to replace roofs on both residential structures
- 2/9/17, Approval to replace windows in apartment A
- 9/1/11, Approval to replace window with sliding patio doors

- 4/7/94, Approval for façade renovations to the duplex
- 1/13/94, Approval for patio, fence, and stone wall
- 10/27/92, Approval to reconfigure units onsite – 2 in back building and 1 in front building

Recommendation: Denial as per, and subject to, the following findings.

I. Findings

Article 2: Administrative Mechanisms

Part 7: Enforcement

Sec. 2.7.8, Withhold Permit

A number of zoning permits have been approved for the subject property. Following issuance of the notice of zoning violation, certificates of occupancy for all of them have been sought. This criterion requires that these older zoning permits be closed out with final certificates of occupancy prior to issuance of a certificate of occupancy for this new zoning permit. **(Affirmative finding as conditioned)**

Sec. 2.7.9, Processing Fee

This permit application was filed February 12, 2018 following issuance of a notice of violation on February 6, 2018. As such, the application fee is doubled. To date, only the standard application fee has been paid (\$150). The additional half (\$150) remains due. **(Affirmative finding as conditioned)**

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (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;*

The property is served by municipal utilities. Sufficient water and sewer service are available. Little change in demand is anticipated as part of this change in use. The applicant is advised to inquire with the Vermont Department of Environmental Conservation as to whether a state wastewater permit is needed for this change in use. **(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 located within an established residential neighborhood in the low density residential zoning (RL) district. The RL 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. The proposal to use the entire duplex for short term rental exceeds the intensity of a typical bed and breakfast use accessory to a single family home and is inconsistent with the intent of this zone. **(Adverse 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;*

The bed and breakfast is not expected to generate nuisance impacts from noise, odor, dust, and the like that may be more typically associated with industrial uses. **(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;*

No traffic analysis has been provided or is required for this application. The proposed bed and breakfast is expected to generate modest additional traffic, primarily associated with guest turn-over. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

No renewable energy utilization is included in this proposal. Future incorporation is not precluded by the use. **(Affirmative finding)**

and,

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances;*

With the change in use to a bed and breakfast, rooms and meals tax will likely be required. As noted above, bed and breakfasts are limited to 3 rooms within the RL zoning district. The proposal to use the entire duplex clearly exceeds this standard. **(Adverse finding)**

(b) Major Impact Review Standards
Not applicable.

(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.*

The proposed bed and breakfast is not expected to produce offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

2. *Time limits for construction.*

No construction timeline or phasing are included in this proposal. The standard 2-year timeframe for zoning permits will apply. **(Affirmative finding)**

3. *Hours of operation and/or construction to reduce the impacts on surrounding properties.*

Hours of operation need not apply to the proposed use. As a bed and breakfast, guests will stay overnight.

No construction is associated with this proposal. (**Affirmative finding**)

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

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.

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The three residential units required a total of 6 parking spaces (2 per unit). The “L” shaped driveway is sufficient to contain 4 parking spaces (2 pairs of 2 tandem spaces). Tandem spaces are allowed for single family homes and duplexes. Note that the parking layout depicted on the site plan is not acceptable – revision to tandem layout is required for the present uses.

The conversion of two residential units to two bed and breakfast units requires up to 8 parking spaces. Note that the parking requirement for bed and breakfast use is 1 space per room. This standard is based on the traditional bed and breakfast configuration – letting some bedrooms in a home for guests. In this case, the applicant is seeking to make two entire units available for a total of 8 rooms but just 2 bedrooms. At best, the total onsite parking requirement may fall to just 4 parking spaces (2 for the single family home and 2 for the 2 bed and breakfast units). That said, the tandem configuration ceases to be acceptable with the change to bed and breakfast use. There is insufficient room in the driveway to provide 2 independently accessible parking spaces for the bed and breakfast units. (**Adverse finding**)

II. Reasons for Denial

1. Per the adverse findings in Sec. 3.5.6 (a) and 8.1.8 above.