

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin
DATE: August 21, 2018
RE: 18-0937CU; 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 rentals (bed & breakfasts) in existing duplex.

Applicable Regulations:

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

Background Information:

The applicant is seeking approval to establish short term rental use of the two units in the rear duplex (the front of the property contains the owner's single family home). Short term rentals are presently regulated as bed & breakfasts or hotels, depending on the location and property details.

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. The two duplex units have become short term rentals (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.

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. The total room count is 8; however, there are only 2 bedrooms.

A similar application was filed and denied in March 2018. This new application was to be filed with revision to the parking layout and management plan per discussions between the applicant and zoning staff. The applicant has since decided to leave the parking largely as is. The only apparent difference between this application and the one that was denied is the applicant's assertion that an attendant will be available to move cars if need be.

Previous zoning actions for this property are noted below:

- 3/27/18, Denial to establish bed & breakfast (short term rental) in rear duplex units
- 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 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 if 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 turnover. **(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.

(Affirmative finding if conditioned)

(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.

The conversion of two residential units to two bed and breakfast units changes the total onsite parking requirement to 4 spaces. While the parking requirement for bed and breakfasts in Table 8.1.8-1 is per room (8 rooms in this case), the intent is per bedroom, given the definition and traditional configuration of bed and breakfasts.

The parking arrangement depicted in the site plan includes 5 parking spaces in stacked configuration at differing angles. Alluding to Sec. 8.1.14, *Stacked and Tandem Parking Restrictions*, the application notes that an attendant will be available to move vehicles if necessary. No further details are provided. No changes to the configuration have been made since the prior application denial – only this assertion that an attendant will be present.

The applicant has oft cited the tandem parking arrangement approved for the bed and breakfast at 53 Lakeview Terrace. That approval is included for reference. In that case, there were indeed 2 pairs of tandem spaces. The applicant in that case provided a written statement specifying who would be present to move vehicles if needed. The parking arrangement in that case was also simply tandem rather than stacked as depicted in the subject application. The tandem arrangement entails need to move fewer vehicles when and if necessary.

The driveway in the present application could be modified to enable a tandem parking arrangement or even an arrangement wherein no vehicles need to be moved to enable access to/from the bed and breakfast spaces. The applicant has chosen not to make any changes. All of the vehicles will be stacked at the bottom. The assertion that an attendant will be present is vague and does not indicate who it will be (i.e. the owner, neighbor, etc.). The applicant has had since April 2018 to provide a workable, acceptable parking arrangement. The proposed parking arrangement; however, remains unacceptable. (**Adverse finding**)

II. Reasons for Denial

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