

## Department of Planning and Zoning

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### MEMORANDUM

To: Development Review Board  
From: Ryan Morrison, Associate Planner  
Date: March 20, 2018  
RE: 18-0682CU; 81 Dunder 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:** ZP18-0682CU

**Location:** 81 Dunder Road

**Zone:** RL-W **Ward:** 5S

**Date application accepted:** February 13, 2018

**Applicant/ Owner:** Jonathan Heller

**Parking District:** Neighborhood

**Request:** To permit a bed and breakfast use in one bedroom in the existing single family residence.



#### **Applicable Regulations:**

Appendix A (Use Table – All Zoning Districts), Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, and Project Reviews), Article 8 (Parking)

## Background:

- **Zoning Permit 94-013**; construction of a front entry and a gable over garage. Approved July 13, 1993.
- **Zoning Permit 06-208CA**; convert porch to living space. Approved September 16, 2005.
- **Zoning Permit 13-0310CU**; change use of single family house to boarding house. Denied November 20, 2012.

## Overview:

The applicant proposes to convert one bedroom within the existing single family dwelling to a bed and breakfast rental. The 4-bedroom home was constructed in 1968.

**Recommendation: Consent 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 RL-W 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 1 bedroom within the 4-bedroom home as a bed and breakfast use. The owner currently resides on the property. **Affirmative finding.**

#### Article 2: Administrative Mechanisms

##### **Sec. 2.7.8 Withhold Permit**

Per this standard, the applicant is required to close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits. **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;*

The proposal will have minimal impact on public utilities, facilities and services. It is possible that a state wastewater permit will be required, 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 (RL-W) zoning district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. B&Bs have the potential for up to 3 rooms in the underlying zoning district. The proposal should result in little to no change in traffic and circulation impacts. The B&B is accessory to the single family home, which is consistent with the intent of the zoning district.

A letter of opposition was received on March 12, 2018 from the South Cove Association, with concerns over guests of the B&B accessing the private beach without the accompaniment of an association member. This potential situation represents a private matter that is not addressed under the zoning code. **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 on Dunder Road, a quiet, dead-end road. The driveway has adequate room to accommodate the 3 required parking spaces. It is expected that the B&B use will generate one additional vehicle to the property when occupied. There are no transit stops in the surrounding neighborhood. A sidewalk lines the westside of Dunder Road, and Oakledge Park is within walking distance. The proposal is not expected to entail adverse impacts on the existing transportation system. **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. Specific to the proposed use, the applicant will have to ensure compliance with state regulations regarding short-term B&B 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.*  
Not applicable. There is no construction proposed.
3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*  
It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances. **Affirmative finding as conditioned.**
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. However, should the applicant wish to add an additional B&B room(s), the change 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 8: Parking**

### **Table 8.1.8-1 Minimum Off-Street Parking Requirements**

In the Neighborhood Parking District, single family uses require 2 parking spaces per unit. Bed and Breakfasts require 1 parking space per room. The existing parking layout will provide for the 3 required spaces. The driveway/garage combination contributes to 2 tandem parking spaces, and the driveway is wide enough (23 ft) to fit the third required space. **Affirmative finding.**

## **II. Conditions of Approval**

1. Per **Section 2.7.8, Withhold Permit**, all zoning permits issued after July 13, 1989 shall be closed out (issued a Certificate of Occupancy) prior to issuance of a Final Certificate of Occupancy for this permit. See attached permit list. Upon expiration of this new zoning permit, no additional zoning permits may be issued until it, and all prior zoning permits, have been closed out with final certificate(s) of occupancy. It is recommended that certificates of occupancy for the old zoning permits be sought prior to seeking a certificate of occupancy for the new zoning permit.
2. This approval is for a 1-room Bed and Breakfast use, in association with the single family dwelling. 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.

3. The subject property must be, and remain, owner occupied as long as the B&B use remains in operation.
4. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
5. All guest parking shall be on-site and off-street.
6. The applicant will have to ensure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes.
7. Any additional B&B 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.

