


Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin 
DATE: April 18, 2017
RE: 17-0853CA; 329-375 North Avenue

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: NAC-CR Ward: 4N

Owner/Applicant: BCCH, LLC & 375 North Ave, LLC / Eric Farrell

Request: Request for amendment of zoning permit 17-0623CA/MA; Condition of approval #13 limiting construction days and times and Condition #3 addressing performance bond for construction.

Applicable Regulations:

Article 3 (Applications and Reviews), Article 10 (Subdivision)

Background Information:

The applicant is seeking approval to amend conditions of approval related to the recently approved Cambrian Rise project. Specifically, the applicant is requesting modification of the permitted days and hours of construction and changes to the financial surety required for public improvements. No physical changes to the proposed development are requested.

Previous zoning actions for this property are noted below.

- Zoning Permit 17-0623CA/MA; Construct development consisting of 11 buildings containing 739 residential units, approximately 45,000 sq. ft. of non-residential support/amenity space, approximately 40,000 sq. ft. of neighborhood commercial spaces and 1,092 parking spaces. Approved March 8, 2017.
- Zoning Permit 16-022CA; Remove slate roof and install copper. Approved January 2016.
- Zoning Permit 16-1077MP; Tree maintenance plan. Approved November 2015.
- Zoning Permit 16-007CA/MA; Convert orphanage to 63 residential units. Approved September 2015. Amended February 2016 to increase to 65 residential units and minor exterior alterations.
- Zoning Permit 15-0702LL; Lot line adjustment with 329 North Avenue. Approved December 2014. [Plat recorded 1/16/2015; Plat file 509C.]
- Zoning Permit 14-1286CA; Installation of CCTA bus shelter on Burlington College property. Approved June 2014.

- Zoning Permit 12-0706SN; replace existing non-conforming freestanding sign with new freestanding sign for Burlington College – Main Campus. Approved March, 2012.
- Zoning Permit 12-0121CA; Install rooftop air handler, five ac units, bike racks, and remove walls from garage. Approved August 11, 2011.
- Zoning Permit 11-0282CU; convert existing institutional office use and group home use to post-secondary school. No site or exterior building changes proposed. Approved November 2010.
- Zoning Permit 09-526CA; Demolish single car garage. Approved February 2009.
- Non-applicability of zoning permit requirements; continued use of existing group home. June 1998.
- Zoning Permit 92-096 / COA 092-016; Removal of existing wooden cross with installation of fiberglass statuary of St. Mary on top of Diocese building. Overall height to be 104' with exterior illumination to surround statue. Approved September 1991.
- Notice of selective landscape removal on west. No change in grade of site or drainage of runoff water. December 1991.
- Zoning Permit 79-352; install septic tank and seepage bed. July 1979.
- Zoning Permit 77-03; renovation of existing structure “St. Josephs Child Center” into office space and three apartments for Bishop and two priests. Approved January 1977.
- Zoning Permit 77-628; Convert St. Joseph’s Child Center into office building, three apartments and three guests’ rooms. Remove some windows and brick up openings. Install new windows. Erect 28’6” x 30’ addition and 32’ x 66’ addition. December 1976.

Recommendation: Certificate of Appropriateness approval as per, and subject to, the following findings and conditions:

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards

(a) & (b) 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.

(Not applicable)

2. Time limits for construction.

(Not applicable)

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

With the exception of post-secondary school, all of the specific uses articulated in the application are permitted within the NAC-CR zone and are not subject to limitations on days or hours of operation. A typical post-secondary school is operative 24/7 year round with intermittent breaks. No changes are included in this amendment request.

The applicant originally proposed days and hours of construction Monday – Sunday, 7:00 AM-9:00 PM. The DRB approved construction days and hours Monday-Friday 7:00 AM – 6:00 PM, with Saturday hours limited to interior work. No construction was allowed on Sundays.

The applicant is requesting that permitted days and hours of construction be changed to Monday – Saturday, 7:00 AM – 6:00 PM and Sunday interior construction only. During federal holidays, exterior work would be precluded on buildings fronting North Avenue.

Abutting properties to the south, west, and north are green space. Residential properties to the east lie on the opposite side of North Avenue. Construction related impacts will be concentrated within the development. The requested days and hours of construction are consistent with other mid to large size projects approved by the DRB. **(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.

To be addressed in conditions of approval.

Article 10: Subdivision

Subdivision of the properties is under separate application (17-0267SD). Preliminary plat approval was granted October 19, 2016. Final plat application has been filed. No changes are included in this amendment request.

Sec. 10.1.10 Performance Bond and Guarantee of Completion

As new public improvements (city streets and related infrastructure) are included in this project, a performance guarantee is needed. Per this criterion, a covenant acceptable to the city attorney, running with the land, committing the applicant to complete the public improvements is required. A related financial surety (bond, letter or credit, or escrow) shall secure the covenant. The applicant may submit separate financial suret(ies) for the public improvements in each approved phase prior to the commencement of each phase.

The applicant notes that bonding cannot be done for future work but can be done by phase (as noted above). The applicant goes on to assert that bonding is not necessary in any event to guarantee completion of the public improvements.

The necessity for a financial surety for completion of public improvements by private developers is commonplace among municipalities and is a requirement of Burlington's Comprehensive Development Ordinance. While this criterion refers to bonding, other sureties, subject to acceptance by the City Attorney, may be used. The financial sureties may be phase-by-phase. Simply avoiding execution of a surety is unacceptable. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. Days and hours of construction are limited to Monday – Saturday, 7:00 AM – 6:00 PM and Sunday interior construction only. During federal holidays, exterior work shall be precluded on buildings fronting North Avenue.
2. The financial surety required per Section 10.1.10, *Performance Bond and Guarantee of Completion*, shall remain a requirement as approved March 8, 2017 in zoning permit 17-0623CA/MA.
3. Standard Conditions 1-15.