

## Department of Planning and Zoning

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### MEMORANDUM

To: Development Review Board  
From: Mary O'Neil, AICP, Principal Planner *mmuel*  
Date: May 3, 2016  
RE: ZP16-0962CU; 36 Conger 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.**

**File:** ZP16-0962CU

**Location:** 36 Conger Avenue

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

**Date application accepted:** March 16, 2016 (additional material submitted March 24 and 29, 2016)

**Applicant/ Owner:** Sam Gardner

**Parking District:** Neighborhood

**Request:** Change of use from single family to duplex.



#### Background:

- Non-applicability of Zoning Permit Requirements 16-0871NA, repair siding and roofing, same shingle material, asphalt. Paint exterior. February 2016.

- Zoning Permit 05-277HO, home occupation for lapidary (making and repairing jewelry), December 2004.
- Zoning Permit 05-123CA; two story 16 ft x 20 ft addition to existing single family dwelling. New addition and previous addition approved in 1985 will be clad in vinyl siding. The original section of the home will not be vinyl sided. October 2004.
- Zoning Permit 85-095; construct a second story over the existing 24' x 22' one story back portion of the single family home. No additional lot coverage and no change in use. Install a roof window. March 1985.
- Zoning Permit 77-508; Earl Albright to erect a 16' x 20' addition on the end of house at 36 Conger Avenue. November, 1976.
- Zoning Permit 77-322; Earl Albright to erect a 6' x 60' stockade fence along the south property line at 36 Conger Avenue. September 1976.
- Zoning Permit; Jacqueline Albright to have a day care center as a home occupation. August 1976.

**Overview:**

The new owner of 36 Conger Avenue wishes to convert the existing single family home into a duplex. A very large northerly addition was approved in 1985/2004. No changes are proposed to the building or the site. There is existing parking to accommodate the parking requirement for two units, and the lot is of sufficient size to meet the requirements of the CDO.

**Recommendation: Consent Approval**, per the following findings and conditions:

**I. Findings**

**Appendix A:**

Duplex is a Conditional Use in the RL/RL-W zoning district. Footnote 2 notes: "Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007, and which meet the minimum lot size of 10,000 square feet."

36 Conger Avenue is a pre-existing lot prior to 2007, and the lot size of 13,289 sq. feet meets the minimum requirement. **Affirmative finding.**

**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** (as adopted by City Council 8.10.2015)

*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 addition of one new residential unit will have minimal impact on public utilities, facilities and services. A letter of confirmation from DPW will be required to assure adequate water and sewer capacity. **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 MDP provides the following support:

- *Support the development of additional housing opportunities within the city...* (MDP, Housing Plan, Page IX-1.
- *Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning.* (MDP, Housing Plan, Page IX-12.) **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 those 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 connected to Conger Avenue, within the established neighborhood grid of Lakeside and interconnected with sidewalks and roadways to Lakeside Avenue and Pine Street. **Affirmative finding.**

*and*

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 applicant will be required to secure a state wastewater permit, and any associated trades permits for interior work. **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;*

No site changes or exterior alterations are proposed. Not applicable.

2. *Time limits for construction.*

Not applicable.

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

Not applicable.

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

There is no limitation on the size of the proposed new unit; however any physical alteration or change of use 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 4: Zoning Maps and Districts**

### **Section 4.4.5 Residential Districts**

#### **(a) Purpose**

2. *The Waterfront Residential Low Density (RL-W) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes.*

A duplex is proposed. **Affirmative finding.**

#### **Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W.**

**Duplex and above, WRL Minimum 60' frontage.** (*Footnote 1; the DRB may adjust frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots reflecting the existing neighborhood pattern on each respective street.*)

36 Conger Avenue is situated as a singular parcel at the end of a 15' x 115' right-of-way. This is an existing condition; No changes are proposed to the parcel or the site access. The southerly boundary of the parcel that fronts the ROW is approximately 50' (per City of Burlington Land Record of foreclosure, 1275:280). However, this is an existing condition on a lot that pre-exists January 2007. The DRB has the flexibility to adjust the frontage requirement per this standard. **Affirmative finding** if granted.

#### **Table 4.4.5-2 Base Residential Density**

*Lot Density: RL, RL-W, 7 units/acre.*

13m289 . 43569 (acre) = .305 acres.

2 units / .305 = 6.55 units; less than the 7 unit/acre limitation. **Affirmative finding.**

#### **Table 4.4.5-2 Base District Dimensional Standards**

No changes are proposed to the existing building, driveway or lot. Not applicable.

#### *c) Permitted and Conditional Uses*

A duplex is a conditional use per Appendix. A. See Above.

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

##### *1. Setbacks*

##### *A. Encroachment for residential driveways*

Not applicable.

*B. Encroachment into the Waterfront Setback*  
Not applicable.

2. *Height*  
No change. Not applicable.

3. *Lot Coverage*  
No change.

4. *Accessory Residential Structures and Uses*  
The applicant has applied for replacement of the existing shed under a separate zoning permit, to be addressed administratively. **Affirmative finding.**

5. *Residential Density*  
*A. Additional Unit to multi-family*  
Not applicable.

*B. Additions to Existing Residential Structures*  
No additions are proposed. Not applicable.

*C. Residential Occupancy Limits*  
*In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13.*  
The Functional Family provisions of the ordinance will apply to both residential units.  
**Affirmative finding as conditioned.**

6. *Uses*  
*A. Exception for Existing Heighborhood Commerical Uses*  
Not applicable.

7. Residential Development Bonuses  
No bonuses are sought. Not applicable.

## **Article 5: Citywide General Regulations**

### **Section 5.1.1 Uses**

See Appendix A, Use Table.

#### *(d) Conditional Uses*

See Section 3.5.6, above.

### **Section 5.1.2 Structures**

No changes are proposed to the existing residential structure. Not applicable.

### **Section 5.2.1 Existing Small Lots**

Not applicable.

**Section 5.2.2 Required Frontage or Access**

36 Conger Avenue is developed lot in existence prior to January 1, 2007 with a permanent right-of-way to Conger Avenue. No further land development is proposed. The existing access will serve the proposed new unit as well as the existing single family residence.

**Affirmative finding.**

**Section 5.2.3 Lot Coverage Requirements**

No change to coverage is proposed. The site plan defines existing coverage as 22.5%. **Affirmative finding.**

**Section 5.2.4 Buildable Area Calculation**

Not applicable.

**Section 5.2.5 Setbacks**

No change. Not applicable.

**Section 5.2.6 Building Height Limits**

No change. Not applicable.

**Section 5.2.7 Density and Intensity of Development Calculations**

*(a) Dwelling units per acre*

For a lot size of 13,290.16 sf. the calculation is as follows:

$13,290.16 / 43560 = .305$  (lot size in acres.)

$2 \text{ units (proposed)} / .305 \text{ (lot size in acres)} = 6.55$ . The maximum units per acre in RL-W is 7, so the proposal falls under the density limitation for the zoning district. **Affirmative finding.**

**Section 5.4.8 Historic Buildings and Sites**

36 Conger Avenue is within the Lakeside Historic District, on the National Register of Historic Places; listed prior to the large rear addition.

No exterior changes are proposed as part of this application. Not applicable.

**Section 5.4.9 Brownfield Remediation**

Not applicable

**Section 5.5.1 Nuisance Regulations**

Nothing within the application suggests non-compliance with applicable nuisance regulations and performance standards per the requirement of the Burlington Code of Ordinances.

**Affirmative finding.**



**Section 5.5.2 Outdoor Lighting**

No changes proposed.

**Section 5.5.3 Stormwater and Erosion Control**

Not applicable.

**Section 5.5.4 Tree Removal**

Not applicable.

**Article 6: Development Review Standards**

No changes to the site or building are proposed. Not applicable.

**Article 8: Parking**

**Table 8.1.8-1** requires 2 parking spaces per unit in the Neighborhood Parking District. There are four parking spaces (paired tandem) to the west of the existing structure. If the area is improved, it is recommended that the current 21' width be diminished to 18'.

A vehicular turn-around area exists in front of the dwelling. As submitted, the parking standards for a duplex are met.

**Affirmative finding.**

**II. Conditions of Approval**

1. The occupancy of both dwelling units is limited to members of a family as defined in Article 13. Not more than four unrelated adults may occupy either dwelling unit.
2. Any physical alteration or further change of use will require review and permitting under regulations in effect at that time.
3. The applicant shall secure a letter of adequate capacity from DPW for water and sewer services **prior to release of the zoning permit.**
4. A state wastewater permit will be required, and is the responsibility of the applicant to secure.
5. If the existing gravel parking area is improved, it is recommended to be minimized to a 18' maximum width.
6. Standard Permit Conditions 1-15.

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