

## Department of Permitting and Inspections

Zoning Division

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## MEMORANDUM

To: Development Review Board  
From: Mary O'Neil, AICP, Principal Planner  
Date: April 20, 2021  
RE: ZP21-0775CA 8 Brown's Court

**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 Number:** ZP21-0775CA

**Zone:** RH **Ward:** 6S

**Date application accepted:** March 15, 2021

**Applicant/ Owner:** White & Burke / Champlain College

**Request:** Demolish fire-damaged duplex; replace with pocket park.

### **Background:**

- **Zoning Permit 18-0770CA;** replace windows, door, bulkhead door; extend porch. June 2018.
- **ZP18-0611NA;** Non-Applicability of Zoning Permit Requirements; interior renovation. January 2018.
- **Zoning Permit 05-507CA;** reconstruct and slightly enlarge existing front porch. April, 2005.
- **Zoning Permit 01-282;** Determination of pre-existing duplex. December 2000.



**Overview:** In August of 2018, 8 Brown's Ct was significantly damaged by fire. The existing duplex, owned by Champlain College, is now proposed to be demolished and the parcel redeveloped as a landscaped green space.

As the property is owned by an educational institution, municipal review is limited by statute.

### **§ 4413. Limitations on municipal bylaws**

*(a)(1) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:*

(A) State- or community-owned and operated institutions and facilities.

(B) **Public and private schools and other educational institutions certified by the Agency of Education.**

(C) Churches and other places of worship, convents, and parish houses.

(D) Public and private hospitals.

(E) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.

(F) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

**Recommended motion: Certificate of Appropriateness Consent approval**, per the following findings and conditions:

**I. Findings**

**Article 2: Administrative Mechanisms**

**Section 2.7.8 Withhold Permit**

**Per this standard**, the applicant is required to remedy all violations and 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/violations. **Affirmative finding as conditioned.**

**Article 3: Applications, Permits and Project Reviews**

**Part 5: Conditional Use Review**

**Section 3.5.3 Exemptions**

(e) Projects where the scope and authority of municipal regulation is limited by statute pursuant to 24 VSA 4413.

Per state statute, municipal review is limited. Conditional Use does not apply. Not applicable.

**Article 4: Zoning Maps and Districts**

**Sec. 4.4.5 Residential Districts**

(a) *Purpose:*

*The Residential Districts are intended to control development in residential districts in order to create a safe, livable, and pedestrian friendly environment. They are also intended to create an inviting streetscape for residents and visitors. Development that places emphasis on architectural details and form is encouraged, where primary buildings and entrances are oriented to the sidewalk, and historic development patterns are reinforced.*

*5. The Residential High Density (RH) district is intended primarily for high density attached multi-family residential development. Development is intended to be intense with high lot coverage, large buildings, and buildings placed close together. Parking is intended to be hidden either behind or underneath structures.*

The application chooses to install a small green space rather than redevelop into new housing. The unintended structural loss creates an opportunity to provide greenspace and enhance Brown’s Court with a particular amenity; *an inviting streetscape for residents and visitors*. The proposed park will particularly benefit the high intensity use of the Champlain College apartments immediately west of this site. **Affirmative finding.**

**(b) Dimensional Standards and Density**

*The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:*

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

*High Density: RH 40 units/acre*

The application proposes no residential units. **Affirmative finding.**

**Table 4.4.5-3: Residential District Dimensional Standards**

RH Zoning District	Max Coverage	Setbacks				Max. Height
	80%	<b>Front</b> Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	<b>Side</b> Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides  Max required: 20-feet	<b>Rear</b> Min: 25% of lot depth but in no event less than 20’  Max required: 75-feet	<b>Waterfront</b> N/A	35’
8 Brown’s Ct.	41.7% proposed (stonedust, seating)	There is an existing easement area between Brown’s Ct. and this parcel. See WagnerHodgson plan. The structure at 8 Brown’s Ct was partially within that easement. Seating on the westerly section of the parcel is within the existing building footprint.	Seating is > 10% lot width from boundaries.	Meets 5’ minimum for accessory structures	N/A	Three levels of 18” high seating < 35’ maximum

**Affirmative finding.**

**(c) Permitted and Conditional Uses:**

*The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Residential districts shall be as defined in Appendix A – Use Table.*

A determination of use is precluded by §4413, limited municipal review. Not applicable.

**(d) District Specific Regulations:**

*The following regulations are district-specific exceptions, bonuses, and standards unique to the residential districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above.*

**1. Setbacks**

**A. Encroachment for Residential Driveways**

Not applicable.

**B. Encroachment into the Waterfront Setback.**

Not applicable.

**2. Lot Coverage**

**A. Exceptions for Accessory Residential Features.**

This is not within the RL, RM, RL-W or RM-W zoning districts. Not applicable.

**3. Accessory Residential Structures, Buildings, and Uses**

*An accessory structure, building, and/or use as defined in Article 13 and provided under Sec. 5.1.1 and 5.1.2 customarily incidental and subordinate to a principal residential structure, building and/or use, including but not limited to private garages, carriage houses, barns, storage sheds, tennis courts, swimming pools, cabanas for swimming pools and detached fireplaces may be permitted as follows:*

*A. Accessory structures or buildings shall meet the dimensional requirement set forth in the district in which they are located pursuant to Sec. 4.4.5(b) of this Article and related requirements in Art 5, Part 2;*

The proposed stadium seating meets the minimum 5' setback from any property line.

**Affirmative finding.**

*B. Any accessory structure or building that is seventy-five percent (75%) or greater of the ground floor area of the principal structure or building shall be subject to the site plan and design review provisions of Art. 3, Part 4 and the applicable standards of Art 6;*

The parcel and use, as a whole, are accessory to the residential apartment building immediately west on Brown's Ct. The only structures on the site are seating. **Affirmative finding.**

*C. Private garages shall be limited to as many stalls as there are bedrooms in the dwelling to which it is accessory, provided that the ground floor area is less than seventy-five percent (75%) of the ground floor area of the principal structure or building;*

Not applicable.

*and*

*D. The outdoor overnight storage of commercial vehicles not otherwise associated with an approved home occupation or made available for the exclusive use of the residential occupants, or the outdoor storage of more than one unregistered*

*vehicle, shall be prohibited. Any and all vehicles shall be stored in an approved parking space.*

Not applicable.

#### **4. Residential Density**

Not applicable.

#### **5. Uses**

##### **A. Exception for Existing Neighborhood Commercial Uses.**

Not applicable.

#### **6. Residential Development Bonuses.**

Not applicable.

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

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

This is an existing, developed lot. **Affirmative finding.**

#### **Section 5.2.2 Required Frontage or Access**

The parcel is immediately accessible from Brown's Ct, a City-owned Right-of-Way.

**Affirmative finding.**

#### **Section 5.2.3 Lot Coverage Requirements**

See Table 4.4.5-3, above.

#### **Section 5.2.4 Buildable Area Calculation**

8 Brown's Ct. is not within the RCO, WRM, RM, WRL or RL zoning districts, nor does it exceed 2 acres. Not applicable.

#### **Section 5.2.5 Setbacks**

See Table 4.4.5-3, above.

#### **Section 5.2.6 Building Height Limits**

See Table 4.4.5-3, above.

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

See Table 4.4.5-2, above.

### **Part 3: Non Conformities**

Not applicable.

#### **Sec. 5.4.8 Historic Buildings and Sites**

Although the fire-damaged building at 8 Brown's Ct. is listed within the **Battery St./ King Street Historic District** on the National Register of Historic Places, municipal review is limited by §4413. Not applicable.

**Article 6: Development Review Standards**

**Part 1: Land Division Design Standards**

**Part 2: Site Plan Design Standards**

**Sec. 6.2.2 Review Standards**

**(a) Protection of Important Natural Features:**

This is a very small parcel (1,198 sf) that has no notable or important natural features. Invasive species at the east of the lot will be removed. **Affirmative finding.**

**(b) Topographical Alterations:**

The topography of the site (higher elevation on the east side) will be utilized to inset some seating into the grade. **Affirmative finding.**

**(c) Protection of Important Public Views:**

There are no important public views from or through this site. **Affirmative finding.**

**(d) Protection of Important Cultural Resources:**

*Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).*

Limited municipal review per §4413. Not applicable.

**(e) Supporting the Use of Renewable Energy Resources:**

No part of this application precludes the use of wind, water, solar, geothermal, or other renewable energy resource. **Affirmative finding.**

**(f) Brownfield Sites:**

This parcel is not identified on the Vermont Agency of Natural Resources GIS-open data as a brownfield site. **Affirmative finding.**

**(g) Provide for nature's events:**

*Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.*

*Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.*

An EPSC plan has been submitted and forwarded to the Stormwater Coordinator for review. Approval of that plan will be a condition of approval.

Champlain College has a campus-wide plan for snow removal, although as a green space, there is likely limited need for that function.

**Affirmative finding as conditioned.**

**(h) Building Location and Orientation:**

Not applicable.

**(i) Vehicular Access:**

As existing. **Affirmative finding.**

**(j) Pedestrian Access:**

The stonedust courtyard is immediately accessible to the public sidewalk on Brown's Court. **Affirmative finding.**

**(k) Accessibility for the Handicapped:**

ADA compliance is under the jurisdiction of the building inspector.

**(l) Parking and Circulation:**

Not applicable.

**(m) Landscaping and Fences:**

A robust landscaping plan has been provided, prepared by WagnerHodgson Landscape Architecture. **Affirmative finding.**

**(n) Public Plazas and Open Space:**

The creation of a green open amenity space is equivalent to a plaza or open space for the enjoyment of immediate residents. **Affirmative finding.**

**(o) Outdoor Lighting:**

*Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.*

Suspended luminaires from cables are proposed within the setting; crossing diagonally at a lower pedestrian height to reinforce safety while providing modest evening lighting. **Affirmative finding.**

**(p) Integrate infrastructure into the design:**

No mechanical equipment is proposed. Only seating and lighting are to be installed within the largely sod green space. **Affirmative finding.**

**Part 3: Architectural Design Standards**  
**Sec. 6.3.2 Review Standards**

Not applicable.

**Article 8: Parking**

Not applicable.

**Article 9: Inclusionary and Replacement Housing**

**Part 2: Housing Preservation and Replacement/Demolition and Conversion**

Municipal review is limited by §4413. Not applicable

**II. Conditions of Approval**

1. Written approval of the EPSC by the Stormwater Coordinator shall be received **prior to release of the zoning permit.**
2. All construction materials shall be disposed of in a safe and legal manner.
3. Standard Permit Conditions 1-15.

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