

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Alison Davis, Planning & Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: April 6, 2021
RE: 21-0667CA; 90 Ethan Allen Parkway

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 Ward: 7N

Owner/Applicant: Rolf Danielson

Request: Construct four detached hotel/motel-room-rental structures, relocate existing garage, construct fencing, and expand the existing driveway and resurface with gravel.

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking)

Overview:

90 Ethan Allen Parkway received zoning permit approval in February, 2020 to convert the existing single family residence to a hotel/motel use. There are four bedrooms in the existing structure that, according to the applicant, can sleep up to 8 guests. The applicant now proposes to construct 4 detached hotel/motel-room structures in the rear half of the property and expand the existing driveway to accommodate parking demand. Each of the proposed structures will have living, sleeping, cooking, and bathroom space. Additional site improvements include new fencing and relocating an existing garage to make room for the expanded driveway/parking area.

The layout of each proposed hotel/motel structure fits the definition of a 'dwelling unit', and what would be considered single-family residences – which are not allowed in the NAC zoning district. However, the proposed structures and use also fit within the definition of 'hotel, inn or motel' – as they will be required to limit guest stays to less than 30 days. Additionally, nothing in the hotel/motel definition requires that a hotel/motel use be within a single structure.

The application was heard by the Design Advisory Board on March 9, 2021. The DAB voted 4-1 to recommend approval of the application to the Development Review Board, with the following motion:

Based on the premise that the submitted project at 90 Ethan Allen Parkway is compliant with the preapproved hotel/motel use as defined in Section 13, the DAB moves to approve the project as submitted with the following recommendations:

1. Add landscape lighting to illuminate the walkway from the street to the guest units.
2. Reduce the amount of interior fencing to allow for better sightlines within the property and minimize unsafe spaces.
3. An effective barrier be added to prevent cars from parking on the front lawn, such as curbing, low landscaping or fencing.

The applicant has revised the plans to reflect the recommendations of the DAB. The revisions include:

1. changing the interior fencing to a 4' picket fence to allow for a more open feel;
2. adding outdoor lighting to illuminate the walkway;
3. updating the garage door to a carriage door to fit in more with the period of the buildings;
4. adding a 3' picket fence to the front yard to prevent it from being used for parking; and
5. adding some privacy screens to the pergolas.

Previous zoning actions for this property are noted below.

- 2/10/20, change single family home to hotel/motel, rebuild rear porch with a covered stairwell and widen driveway, and replacement windows.
- 3/3/20, install fence.

Recommendation: Certificate of Appropriateness Approval as per the following findings:

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in any new non-residential buildings square footage are subject to impact fees.

Impact fees shall be calculated based on the total gross square footage of the new hotel/motel structures. Per the submitted plans, an estimate of the fees is:

SF of Project 512

Department	Residential	
	Rate	Fee
Traffic	0.751	384.51
Fire	0.203	103.94
Police	0.358	183.30
Parks	0.428	219.14
Library	0.000	0.00
Schools	0.000	0.00
Total	1.740	\$ 890.89

The applicant shall submit a final calculation of gross square footage to make final an Impact Fee assessment. **Affirmative finding as conditioned.**

Section 3.3.8 Time and Place of Payment

Impact fees must be paid to the city’s chief administrative officer / city treasurer according to the following schedule:

- a) *New buildings: Impact fees must be paid at least seven days prior to occupancy of a new building or any portion thereof.*

Affirmative finding as conditioned.

Article 4: Zoning Maps and Districts

Sec. 4.4.2, Neighborhood Mixed Use Districts:

(a) Purpose

(1) Neighborhood Activity Center (NAC)

The Neighborhood Activity Center zone is intended primarily to provide convenient neighborhood and city wide oriented goods and services and employment opportunities within walking or biking distance of many of the city’s residential areas. The property is within a section of NAC zoned properties located on the north side of the North Avenue/Ethan Allen Pkwy intersection.

Surrounding the property on each side are multi-family residential developments. A mixture of commercial uses are within walking and biking distance. The proposed expansion of the existing hotel/motel use of the property fits within the mixed use context of the NAC zone. **Affirmative finding.**

(b) Dimensional Standards & 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 4.4.2 -1 Dimensional Standards and Density

Districts	Max. Intensity <i>(floor area ratio¹)</i>	Max. Lot Coverage	Minimum Building Setbacks (feet)			Building Height (feet)
			<i>Front³</i>	<i>Side</i>	<i>Rear</i>	
NAC	2.0 FAR	80% ⁴	0	0 ²	0 ²	<i>Min: 22’, 2 stories Max: 35</i>
90 Ethan Allen Pkwy	< 2.0 FAR	43.4%	N/A	7 ft	7 ft	13 ft to roof peak (see below)

1. *Floor area ratio is described in Sec. 5.2.7. Measurement of and exceptions to height limits are found in Sec 5.2.6. Bonuses for additional FAR and height where available are described in section (d)3 below, and additional height, FAR and lot coverage is afforded by-right for inclusionary housing projects under Sec. 9.1.12. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.*

2. Structures shall be setback a minimum of 15-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by neighborhood mixed use and residential zones are exempt from this district boundary setback.
3. Structures shall be setback a minimum of 12-feet from the curb on a public street.
4. Exceptions to maximum lot coverage are provided in (d)2.
5. Notwithstanding footnote 4, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.
6. Side and rear yard setbacks are applicable only to the periphery of the NAC-CR district and not to individual parcels within the district.
7. Front yard setbacks for buildings fronting on North Avenue shall be 20' min and 30' max.

The subject property does not border a residential zoning district, and is therefore not subject to 15 ft minimum side or rear yard setbacks. Regarding the minimum 22 ft (2 story) height requirement, it is staff's interpretation that the four proposed structures in the rear are accessory 'rooms' to the 22'+ tall primary hotel/motel structure at the front of the property and are not subject to this minimum height requirement. Requiring such a minimum height for accessory structures, like sheds or garages associated with a principal structure for example, is in staff's interpretation above and beyond the intent of this height requirement. **Affirmative finding if the DRB agrees.**

(c) Permitted & Conditional Uses

'Hotel, Motel' is a permitted use in the NAC zone. **Affirmative finding.**

(d) District Specific Regulations

1. Ground Floor Residential Uses Prohibited

Not applicable.

2. Exception to Maximum Lot Coverage in NAC District

Not applicable.

3. Development Bonuses/Additional Allowances

Not applicable.

Article 5: Citywide General Standards

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.2-1, above. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

The parcel is not greater than 2 acres, nor residentially zoned. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.2-1, above. **Affirmative finding.**

Section 5.2.6 Building Height Limits

See Table 4.4.2-1, above. **Affirmative finding.**

Section 5.2.7 Density and Intensity of Development Calculations

See Table 4.4.2-1, above. **Affirmative finding.**

Section 5.4.9 Brownfield Remediation

Not applicable.

Section 5.5.1 Nuisance Regulations

None identified. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

The applicant has submitted exterior light spec sheets which meet these standards, and the elevation drawings show their locations. **Affirmative finding.**

Section 5.5.3 Stormwater and Erosion Control

An Erosion Prevention and Sediment Control plan has been prepared and submitted. While review and approval is still pending, a pre-release condition of this permit will require its approval by the Stormwater Program Manager. **Affirmative finding as conditioned.**

Section 5.5.4 Tree Removal

The application does not make note of any trees to be removed. The development area appears to be void of trees. Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No land division is proposed. Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

There are no important natural features at this location. **Affirmative finding.**

(b) Topographical Alterations:

There are no topographical alterations proposed. There is a very gentle downslope moving toward the rear of the property. **Affirmative finding.**

(c) Protection of Important Public Views:

Not applicable. There are no important public views on and around the property.

(d) Protection of Important Cultural Resources:

Not applicable. The property contains no historic features.

(e) Supporting the Use of Renewable Energy Resources:

No part of the application will preclude the use of wind, water, solar, geothermal or other renewable energy resource. The applicant has noted that he may install rooftop solar panels on each of the new structures sometime in the future. **Affirmative finding.**

(f) Brownfield Sites:

Not applicable. The property is not listed as a Brownfield Site.

(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.

The applicant has submitted Erosion Prevention and Sediment Control, and stormwater plans, to the Stormwater Program Manager for review and approval.

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.

Each proposed structure will have a covered front porch and entry to protect guests from inclement weather. Pergolas are proposed at the side doors of 3 of the 4 new structures and will provide additional protection from the elements. There is ample room on-site for the storage of snow.

Affirmative finding.

(h) Building Location and Orientation:

No changes are proposed to the existing structure at the front of the property. The four proposed hotel/motel structures will locate in the rear half of the property. With the installation of interior fencing, the new structures will be somewhat isolated from the rest of the property. **Affirmative finding.**

(i) Vehicular Access:

The proposal includes expanding the existing driveway to approximately 18' x 130' in order to accommodate access and parking demand. No change to the driveway access off Ethan Allen Pkwy is proposed. The property is within the Multi Modal Mixed Use parking district – which eliminates parking requirements for all uses within. Technically, on-site parking is not required. However, the proposal includes six parking spaces on one side of the driveway. Due to the six space parking limitation as outlined below in Article 8, the garage as identified on the site plan will need to be re-labeled as a storage building. **Affirmative finding as conditioned.**

(j) Pedestrian Access:

No change to pedestrian access to the existing structure at the front of the property is proposed. A walkway is identified along the driveway that is intended to provide guest access to the new structures. However, portions of this walkway along the identified driveway area appear to be located within the minimum required 7.5' aisle width for vehicles. Unless the applicant can demonstrate that this is not the case, the plans will need to be revised to remove any portion of walkway located within the 7.5' minimum driveway aisle width. **Affirmative finding as conditioned.**

(k) Accessibility for the Handicapped:

The building inspector has jurisdiction over ADA requirements, and the proposal must comply with the Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(l) Parking and Circulation:

The Multi Modal Mixed Use parking district eliminates the minimum on-site parking requirements of Sec. 8.1.8 CDO. The site plan identifies a 130' x 18' (approx.) driveway that is intended to accommodate vehicular access and parking. Technically, with regard to parking, all on-site spaces

could be eliminated from the plans and compliance could be met. However, on-site parking will be made available to guests within one side of the driveway. The Multi Modal Mixed Use parking district also sets a maximum parking space requirement of 100% of the minimum number of spaces required for the Shared Parking District for any given use. In this case, hotel/motel uses in the Shared Parking District require 0.75 parking spaces per room. With 4 rooms already approved in the principal hotel/motel structure up front and the 4 guest room structures in the rear, the property will have a total of 8 guest rooms, which results in a max allowance of 6 on-site parking spaces. As a result, the development at 90 Ethan Allen Pkwy can have no more than 6 on-site parking spaces. The plans show 6 parking spaces along one-half of the driveway width. And as noted above, the existing garage will be utilized as storage, not for parking. **Affirmative finding.**

(m) Landscaping and Fences

A solid screen fence was recently permitted under ZP21-0713FC that runs along the property lines. The plans indicate new 4' tall picket fencing within the new development in the rear, and a 3' tall picket fence in the front of the property to prevent vehicles from parking in the front yard. The proposal identifies a mix of new landscaping (trees and shrubs) within the property, particularly around the new structures at the rear and the relocated garage. **Affirmative finding.**

(n) Public Plazas and Open Space:

Within the area of the 4 new guest structures, the applicant proposes a shared open space. The property also provides additional open space (grassy areas) that guests can utilize. **Affirmative finding.**

(o) Outdoor Lighting:

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

The proposal includes 'Jelly Jar' exterior light fixtures at front and side doors for each guest structure, bistro lights under the pergolas, wall packet lights on the side and rear building elevations, solar path lights along the walkway, and a barn light on the storage structure (former garage). These fixtures comply with the lighting standards of Section 5.5.2 CDO. **Affirmative finding.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

Each unit will be heated/cooled with heat pumps – exterior units will be located on the rear walls. The plans indicate water, gas and electric connections for each structure. The applicant has indicated that the new structures will not be individually metered, so there are no meters indicated on the plans. Garbage/recycling storage be located within the storage structure (former garage). While not noted specifically on the plans, all utility lines (water, gas, sewer, electric) will need to be located underground. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards
Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. *Massing, Height and Scale:*

The proposed one-story tall structures, located in the rear half of the property and surrounded by 2-story multi-family structures on adjacent properties, will not exceed the massing, height and scale of nearby development. **Affirmative finding.**

2. *Roofs and Rooflines.*

The new structures will each have gable, standing seam metal roofs. Most structures along this stretch of Ethan Allen Pkwy are gable-roofed. **Affirmative finding.**

3. *Building Openings*

Each new structure will have a front and side door. Double hung windows will be installed on the fronts and on one side of each structure. On the other side of each structure, one fixed window will be installed, as well as vents for water heaters, fireplaces, and dryers. And each structure will have skylights on one side of the gable roof to allow additional sunlight in. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

Not applicable. This proposal is for four new structures and the relocation of an existing garage. And although the existing structure on the property is not historic, no changes are proposed.

(c) Protection of Important Public Views:

Not applicable. There are no important public views on and around the property.

(d) Provide an active and inviting street edge:

Not applicable. The proposal takes place in the back half of the property. No changes within the front of the property are proposed.

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

Each new structure will have wood clapboard siding, pine trim, and metal standing seam roofing. The front porches and attached pergolas will be constructed with pressure-treated materials. All

windows will be vinyl, and the doors will be wooden with door-lite inserts. These materials are common in new construction and are durable. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction is required to meet the Guidelines for Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. The proposal includes use of heat pumps for heating and cooling in each guest unit. Additionally, while not included in the plans, the applicant intends to install rooftop solar panels on each unit sometime in the future. **Affirmative finding.**

(g) Make advertising features complementary to the site:

Any signs will require separate permitting. **Affirmative finding as conditioned.**

(h) Integrate infrastructure into the building design:

See Section 6.2.2 (p), above. **Affirmative finding.**

(i) Make spaces secure and safe:

Spaces shall be designed to facilitate building evacuation, accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces. Building entrances/entry points shall be visible and adequately lit.

New construction shall conform to all building and life safety code as defined by the building inspector and the fire marshal. **Affirmative finding.**

Article 8: Parking

The property is located within the Multi-Modal Mixed Use Parking District. This recently created district removes minimum parking standards for all uses within. Therefore, the proposal triggers no additional parking requirement.

There is, however, an applicable maximum parking limitation per Section 8.1.9 CDO. The Multi-Modal Mixed Use Parking District limits parking to a maximum of '100% of the minimum number of spaces required for the Shared Parking District for any given use as required in Table 8.1.8-1' Per Table 8.1.8-1, 'Hotel/Motel (per room)' has a minimum parking requirement of 0.75 spaces per room in the Shared Parking District. The proposed development will result in a total of 8 rooms. As a result, a maximum of 6 onsite parking spaces are allowed. The plans indicate 6 parking spaces along the driveway. Of note, the garage will be utilized for storage, not parking. **Affirmative finding.**

I. Conditions of Approval

1. **At least 7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the City Treasurer's Office or Planning and Zoning office impact fees as calculated by staff based on the net new square footage of the proposed development. The applicant shall submit a final calculation of gross square footage to make final an Impact Fee assessment. As submitted, estimated Impact fees are:

SF of Project 512

Department	Residential	
	Rate	Fee
Traffic	0.751	384.51
Fire	0.203	103.94
Police	0.358	183.30
Parks	0.428	219.14
Library	0.000	0.00
Schools	0.000	0.00
Total	1.740	\$ 890.89

2. The hotel/motel structures are permitted on a short term rental basis. Guest stays of more than 30 consecutive days are strictly prohibited. Rooms and meals taxes are applicable.
3. **Prior to the release of the zoning permit**, the associate Erosion Prevention and Sediment Control plan shall be reviewed and approved by the Stormwater Program Manager.
4. **Prior to the release of the zoning permit**, the applicant shall obtain a letter from the Dept. of Public Works confirming adequate water and sewer capacity.
5. **Prior to the release of the zoning permit**, the garage identified on the site plan shall be re-labeled as a storage structure.
6. **Prior to the release of the zoning permit**, the plans shall be revised to remove any portion of walkway within the 7.5 ft wide travel aisle within the driveway.
7. Any proposed signage shall be reviewed under a separate sign permit application.
8. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
9. Hours of construction are limited to Monday-Friday 7:00 am to 5:30 pm; Saturday construction hours are limited to interior work unless specific allowances are granted by the DRB. Construction is not permitted on Sundays.
10. New utility lines must be buried.
11. The proposed building must comply with all building and life safety code as defined by the building inspector and fire marshal.
12. A State of Vermont wastewater permit is required.
13. Standard Permit Conditions 1-15.