

Department of Permitting & Inspections

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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: May 3, 2022
RE: ZP-22-146; 275-277 Flynn 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: RL Ward: 5S

Owner/Applicant: 275 Flynn Avenue Properties, LLC / Kurt Schueler

Request: Convert an existing duplex into 2 bed & breakfast (short term rental) units, with the option to continue to occupy as long term rentals.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 8 (Parking)

Background Information:

The applicant is requesting approval to convert the existing duplex into two bed & breakfast (short term rental) units. The property owner resides in the first floor unit and proposes to rent out 2 bedrooms on a short term basis during periods when he is away. The second floor, 1-bedroom unit, will be utilized as both a short and long term rental.

Previous zoning actions for this property:

- **Zoning Permit 98-163;** re-side exterior porch. Approved September 1997.
- **Zoning Permit 85-456;** install chain link fence. Approved September 1985.

Recommendation: Consent Approval as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications, Permits, and Project Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (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 conversion of each unit within the duplex into bed and breakfast rental units (Unit 1 - owner occupied / 2 short term bedrooms; Unit 2 – 1 bedroom) has no appreciable impacts on existing or planned public utilities, services, or facilities. **(Affirmative finding)**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal development plan;*

The property is located within the Residential Low Density (RL) zone. The surrounding neighborhood consists of a mix of single-family and duplex residential properties. The subject bed and breakfast units within the existing duplex will serve as a place for people to stay, except that it will serve occupants on a short term basis rather than long term. The applicant also requests the option to utilize the upstairs unit as a long term rental when in demand. **(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;*

As noted above, the bed and breakfast rental units within the existing duplex will serve as a place for people to stay within the neighborhood, albeit on a short term basis. It is not expected to generate nuisance impacts from noise, odor, dust, and the like. **(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;*

Little change in traffic is expected. Occasional short term guest traffic visiting the units could be compared to that of long term renters of each unit. In addition, short term guests will arrive and depart within established timeframes. **(Affirmative finding)**

5. *The utilization of renewable energy resources;*

No part of this application would prevent the use of wind, water, solar, or other renewable energy resources. **(Affirmative finding)**

6. *Any standards set forth in existing City bylaws and city and state ordinances;*

The bed and breakfast use must adhere to the life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont. **(Affirmative finding as conditioned)**

(b) Major Impact Review Standards

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.*

The bed and breakfast units are not expected to produce adverse effects in need of mitigation. **(Affirmative finding)**

2. Time limits for construction.

No construction timeline or phasing are included in this proposal. **(Affirmative finding)**

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

The bed and breakfast units within the existing duplex will be offered year-round. It is recommended that guest check-ins 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; and,

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time. **(Affirmative finding as conditioned)**

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.

Not applicable.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history.

The existing duplex is consistent with this intent. Use of the units as bed and breakfast short term rentals remains consistent with the intent of the zone. **(Affirmative finding)**

(b) Dimensional Standards and Density

Not applicable.

(c) Permitted and Conditional Uses

The “bed and breakfast” (short term rental) use is conditional in the RL zone. Owner occupancy is required, and up to 3 rooms may be let. In this case, the owner lives in Unit 1 and proposes to rent out 2 bedrooms in his unit on a short term basis, and rent out the 1-bedroom Unit 2 on both a short and long term rental, as demand dictates. In total, the property will see no more than 3 bed and breakfast rental rooms. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Duplex uses in the Neighborhood Parking District require 2 parking spaces per unit. “Bed & Breakfast” uses require 1 parking space per rental room. In this case, the existing duplex requires

4 parking spaces. The proposal involves a total of three bed and breakfast rental rooms – which requires a total of 3 parking spaces. The property currently has 4 parking spaces – 2 in the garage and 2 in the driveway. The owner has confirmed that he will short term rent his unit only when he is away. **(Affirmative finding)**

II. Conditions of Approval

1. The subject property must be, and remain, owner occupied as long as the bed and breakfast (short term rental) rooms remain in operation.
2. It is recommended that guest check-ins be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
3. All guest parking shall be on-site and off-street.
4. A state wastewater permit may be required. It is the applicant's responsibility to inquire with VT DEC as to whether such permit is necessary.
5. 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.
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 and compliance with Division of Fire Safety standards and Health Department standards.
7. 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.
8. Standard permit conditions 1-15.