

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: March 22, 2022
RE: ZP-21-857; 9-11 Germain Street

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: 1E

Owner/Applicant: Jacqueline Majoros & Robert Kiss / Jacqueline Majoros

Request: Establish a 3-bedroom bed & breakfast (short term rental) within 1 unit of the existing duplex. Requesting a 1 space parking waiver.

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 utilize one, 3-bedroom unit within the existing duplex as a dual long/short term rental use (bed and breakfast). The applicant/owner lives onsite in the other unit. No new development is included. A 1-space parking waiver is also requested.

Previous zoning actions for this property:

- **Zoning Permit 10-0246CA**; construct dormer. Approved September 15, 2009.
- **Zoning Permit 21-0779CA**; window replacement. Approved March 22, 2021.

Recommendation: Per an approved parking waiver, **Conditional Use 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 one, 3-bedroom unit within the existing duplex has no appreciable impacts on existing or planned public utilities, services, or facilities. The applicant is advised to check with VT DEC as to whether a state wastewater permit is needed. **(Affirmative finding as conditioned)**

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 short term rental unit 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. **(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 short term rental unit 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 unit could be compared to that of long term renters of the unit. The traffic pattern for the owner's unit should remain as existing. In addition, short term guests will arrive and depart within established timeframes. Also worth noting is that even though this application is for a 3-bedroom short term bed and breakfast rental, the likelihood of different parties renting out individual rooms within the unit would be extremely rare/virtually nil. **(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 short term rental 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 short term rental unit is 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 short term rental unit within the existing duplex is 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. Conversion of one of the two units to a three-bedroom short term rental 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 onsite and proposes to rent out the other three-bedroom unit. **(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. Three parking spaces exist on site – 2 tandem spaces on the south side, and 1 space on the north side. If the current proposal were for a 2 bedroom bed and breakfast use in the other unit, then the parking demand would not increase from the existing demand – 4 spaces total for the duplex. However, the request is to utilize 3 bedrooms in the other unit for the bed and breakfast use, which increases the parking demand by one space (5 spaces in total). In this situation, the city would credit 4 spaces per the existing use, not 5. As a result, the applicant is requesting a 1 space parking waiver. **(Affirmative finding if the parking waiver is approved)**

Sec. 8.1.15, Waivers from Parking Requirements/Parking Management Plans

Any waiver granted for a residential use shall not exceed fifty percent (50%) of the required number of parking spaces.

The applicant submitted a parking management plan in support of a 1-space parking waiver request. The applicant states that the property’s location is within walking distance to nearby restaurants and downtown. The applicant also asserts that both driveways accommodate 2 cars each. However, aerial evidence and street view imagery show the north side driveway as only being long enough to accommodate 1 parking space.

The applicant states that they have been renting out the other unit on both a short and long term basis for the last 5 years. Currently, it’s being rented on a long term basis. On a short term basis, the unit has been rented to small families or groups of friends. Based on the applicant’s experience, short term guests typically bring a maximum of 2 vehicles. Most often, guests only bring 1 vehicle. Uber is also commonly used for those that fly into Burlington. Lastly, the applicant notes that there is a bus stop within 600 ft from the property, and a Carshare location within 0.3 miles.

Should the DRB find the parking waiver request appropriate, then the applicant should be prepared to report back to the Department of Permitting and Inspections each year for 3 years as to the actual onsite parking demand. **(Affirmative finding if the parking waiver is approved)**

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. A 1-space parking waiver is included in this approval. The applicant shall report back to the Department of Permitting and Inspections each year for three years to define the efficacy of the parking waiver.
3. It is recommended that guest check-ins be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
4. All guest parking shall be on-site and off-street.
5. 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.
6. 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.
7. 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.

8. 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.
9. Standard permit conditions 1-15.