

Department of Permitting & Inspections

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TO: Development Review Board
FROM: Scott Gustin
DATE: June 16, 2020
RE: 20-0803SP; 230 Main Street

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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: FD5 Ward: 8E

Owner/Applicant: Midtown Associates

Request: Sketch plan review of building demolition and conversion to green space and surface parking.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 5 (Citywide General Regulations), Article 14 (Downtown Code)

Background Information:

The applicant is requesting sketch plan review of a proposal to demolish the Midtown Motel and convert it to a surface parking lot with green space in front. The building is historically significant, and demolition of it triggers conditional use review in addition to the standards of Sec. 5.4.8. The property is located within the downtown form districts (FD5). Applicable standards are largely administrative, but some key points are noted in this sketch plan report. The applicant has indicated the parking lot would be temporary, but details are lacking. Note that "temporary" as defined in the Comprehensive Development Ordinance is 30 days or less within a 12-month period.

Previous zoning actions for this property are as follows:

- 5/11/98, Approval for front façade changes
- 8/11/97, Approval to install a front awing with signage
- 5/21/86, Approval to establish a frozen dessert business and associated take-out window

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Sec. 3.5.6, Review Criteria

(a) Conditional Use Review 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;

Demolition of the building would not result in additional demands on existing or planned public utilities, facilities, or services.

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 subject property is located within the Downtown Center (FD5) zone. This district is intended to enhance the city's vibrant urban center with a variety of high density building types that provide locally and regionally serving office, retail, service, hospitality, entertainment, and civic functions as well as a variety of urban housing choices. The district is intended to reinforce and extend the walkable nature of the adjacent downtown core with shallow front setbacks and active street frontages and provide a transition between larger and smaller scale buildings in adjacent districts. The current Municipal Development Plan makes numerous references to Burlington's unique character, rich architectural heritage, and vibrant pedestrian environment. Demolition of the motel and conversion to a surface parking lot is inconsistent with the intent of this district and with key themes expressed in the Municipal Development Plan.

3. The proposed use will not have nuisance impacts form noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;

The proposed parking lot use is not expected to generate nuisance impacts greater than surrounding uses.

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;

The surface parking lot would likely not generate any more traffic than is presently generated by the current (unpermitted) parking arrangement on the property.

5. Utilization of renewable energy resources;

This proposal does not include any utilization of renewable energy resources.

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

It is the applicant's responsibility to comply with other applicable city and state bylaws and ordinances. Demolition of the structure will require consultation with the Vermont Department of Health for lead and asbestos assessment prior to demolition.

(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.

Some screening of the parking lot is proposed in the form of green space between the street and surface parking spaces. Parking spaces remain widely visible from both side property lines. Mitigation should be unwarranted, as demolition resulting in a surface parking lot cannot be permitted per the applicable standards of the CDO.

2. Time limits for construction.

No construction schedule is proposed. Given the scope of work, the standard 3-year timeframe for zoning permits is likely sufficient.

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

The proposed days and hours of operation for the parking lot are not noted and should be. Construction hours should be limited per the standards in the noise ordinance (quiet hours between 10:00 PM and 7:00 AM).

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.

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.

See the recommended conditions.

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable.

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Part 3: Non-Conformities

No zoning permit has been granted for the use of the property as parking for offsite users. The applicants have submitted information in support of “grandfathering” this use. Such status has not yet been sought or obtained. At best, the parking use may qualify as an unenforceable violation. Either status may not be especially relevant to the proposal, given the proposed change from structured parking to a surface parking lot. As noted under Article 14 below, a surface parking lot

is not permitted in the Downtown districts, whereas structured parking is. Status as either grandfathered or an unenforceable violation precludes change to a new nonconformity.

Sec. 5.4.8, Historic Buildings and Sites

Compliance with Sec. 5.4.8 (d) will require a fully developed redevelopment plan, consistent with the standards of Article 14 (Downtown Code) and sufficient for the Development Review Board to make a determination that the proposed redevelopment is a greater benefit to the community than the existing resource. The demolition as proposed fails to meet this standard.

(d) Demolition of Historic Buildings:

2. Standards for Review of Demolition.

Demolition of a historic structure shall only be approved by the DRB pursuant to the provisions of Art. 3, Part 5 for Conditional Use Review and in accordance with the following standards:

A. The structure proposed for demolition is structurally unsound despite ongoing efforts by the owner to properly maintain the structure;

or,

B. The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property in conformance with the intent and requirements of the underlying zoning district; and, the structure cannot be practicably moved to another site within the district;

or,

C. The proposed redevelopment of the site will provide a substantial community-wide benefit that outweighs the historic or architectural significance of the building proposed for demolition.

None of the foregoing criteria have been expressly addressed and will need to be in the zoning permit application. The applicant has indicated that the building's roof needs to be repaired and that doing so is an unnecessary expense, as the building has been long slated for removal as part of a comprehensive redevelopment of this, and adjacent, property. Failure to maintain the building; however, could result in demolition by neglect – an end result best avoided. As proposed, the resultant surface parking lot is an unacceptable end result for an indeterminate period of time.

And all of the following:

D. The demolition and redevelopment proposal mitigates to the greatest extent practical any impact to the historical importance of other structures located on the property and adjacent properties;

The subject property is within the context of a national historic district and is specifically cited in the Modern Architecture of Burlington survey of 2010. Most neighboring properties contain historic buildings, including the fire station and Memorial Auditorium. A large surface parking lot sits immediately to the west. The building demolition and resultant surface parking lot will effectively expand the degree of surface parking further east along Main Street – one of the city's primary gateways. The national historic district and the buildings within will be adversely impacted by the additional surface parking.

E. All historically and architecturally important design, features, construction techniques, examples of craftsmanship and materials have been properly documented using the applicable standards of the Historic American Building Survey (HABS) and made available to historians, architectural historians and others interested in Burlington's architectural history;
If demolished, documentation as required under this criterion will need to occur prior to demolition.

and,

F. The applicant has agreed to redevelop the site after demolition pursuant to an approved redevelopment plan which provides for a replacement structure(s).

- (i) Such a plan shall be compatible with the historical integrity and enhances the architectural character of the immediate area, neighborhood, and district;*
- (ii) Such plans must include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project; and,*
- (iii) The time between demolition and commencement of new construction generally shall not exceed six (6) months.*

No replacement structure is proposed.

This requirement may be waived if the applicant agrees to deed restrict the property to provide for open space or recreational uses where such a restriction constitutes a greater benefit to the community than the property's redevelopment.

While a small area of green space is proposed, there's no indication that it will be available for public use. If the entire property were to be converted to green or "civic" space (as defined in Article 14) and available for public use, such conversion may be acceptable. As proposed, much of the property will become surface parking with some green space along Main Street. The proposal does not conform to any civic space standard contained in Article 14.

3. Deconstruction: Salvage and Reuse of Historic Building Materials.

The applicant shall be encouraged to sell or reclaim a structure and all historic building materials, or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials for future use. An applicant may be required to advertise the availability of the structure and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition.

The applicant shall be encouraged to deconstruct using the safest method possible, minimizing exposure to lead paint and any other potential public safety issue. What material may be salvaged is encouraged for sale or reuse.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance under this criterion.

Sec. 5.5.2, Outdoor Lighting

The sketch plans reference LED lighting to city standards, but details are lacking. The permit application must include fixture specifications, locations, and a photometric plan to demonstrate compliance with the standards of this section.

Sec. 5.5.3, Stormwater and Erosion Control

Since the application includes removal of the motel and at least some conversion to green space, a “small project erosion control” plan is required. This plan will require review and approval by the Stormwater Program manager.

Article 14: Downtown Code

Many of the standards of the downtown code are administrative. For the purposes of sketch plan review, some important points are noted.

The physical parking layout as it exists now is structured, contained in bays under the building and behind the former front office space and walk-up window. This configuration approximates the present standard that allows structured parking behind programmed building space along the street. Following building demolition, only a surface parking lot will remain behind some green space.

Parking lots are expressly prohibited in the downtown zones. A parking lot is defined as “an off-street, ground-level open area within a lot for parking vehicles as an independent commercial principal use. Not synonymous with parking area.” The resultant parking lot will be the principal (and only) use on the property.

Full conversion of the property to one of the variety of civic spaces (i.e. a park) defined in Sec. 14.3.6 could be permissible; however, the proposal does not meet the standards of any one of the civic spaces. Alternatively, a redevelopment proposal including a new building compliant with the provisions of Article 14 could be acceptable. Such redevelopment is not included in this proposal.