

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: December 7, 2021
RE: ZP-21-723; 321 Manhattan Drive

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: RM Ward: 2C

Owner/Applicant: 321 Manhattan Drive LLC / Sam Gardner

Request: Convert one unit within the existing triplex into a bed and breakfast (short term rental).

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 one unit within the existing triplex into a bed and breakfast (short term rental). No alterations to the building or site are proposed.

Previous zoning actions for this property:

- **Zoning Permit;** new fence. Approved September 11, 1974.
- **Zoning Permit 89-283;** new fence. Approved June 22, 1989.
- **Zoning Permit 89-301;** new shed. Approved June 27, 1989.
- **Zoning Permit 20-0647CA;** remove shed and back porch, build 2-car garage and back deck. Approved January 24, 2020.
- **Zoning Permit 20-0701CA;** convert single family to a triplex. Approved February 21, 2020.

Recommendation: 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, 1-bedroom unit within the existing triplex to a short term rental use (bed and breakfast) 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 – medium density zone. The neighborhood consists of a mixture of residential properties of varying unit counts. The subject rental will continue to serve as a place for people to stay, except that it will serve occupants on a short term basis rather than long term. The owner/applicant resides in one of the units onsite. **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 will continue to serve as a place for people to stay within the neighborhood, albeit on a short term basis. The short term rental 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. The unit configuration remains unchanged. Rather than residents arriving and departing, short term guests will arrive and depart within established timeframes. Additionally, the property is well within walking distance to transit stops throughout the area. **Affirmative finding as conditioned**

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 is not expected to produce adverse effects in need of mitigation. **Affirmative finding**

2. *Time limits for construction.*

No construction timeline or phasing is included in this proposal. **Affirmative finding**

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

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

(5) Residential High Density (RH)

The Residential Medium Density (RM) district is intended primarily for medium density residential development in the form of single-family detached dwellings and attached multi-family apartments. The existing triplex is consistent with this intent. Permitting one unit as a short term rental use remains consistent with the intent of the zone. **Affirmative finding**

(b) Dimensional Standards and Density

Not applicable. No changes to the density or site are proposed.

(c) Permitted and Conditional Uses

The “bed and breakfast” (short term rental) use is conditional in the RM zone. Owner occupancy is required, and up to 5 rooms may be let. In this case, the applicant is the owner and lives onsite. The applicant proposes to rent out a ‘one-bedroom’ unit on a short term basis. The particular unit (Unit 1) contains one bedroom and a living room which could possibly be construed as a separate rental room within the unit. The living room space can be used within the bed and breakfast unit, but it cannot be counted as a bedroom for occupancy. A new zoning permit would be required in order to permit the living room, or any other room(s) within the triplex, as a bed and breakfast room. **Affirmative finding as conditioned**

(d) District Specific Regulations

1. Setbacks

Not applicable.

2. Lot Coverage

Not applicable.

3. Accessory Residential Structures, Buildings, and Uses

Not applicable.

4. Residential Density

(c) Residential Occupancy Limits

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13.

Each unit within the structure will be limited to occupancy by a family, including no more than 4 unrelated adults and their minor children. **Affirmative finding as conditioned**

5. Uses

Not applicable.

6. Residential Development Bonuses

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Multi-unit attached dwelling uses in the Shared Parking District require 1 parking space per unit. “Bed & Breakfast” uses require 1 parking space per rental room. By converting one unit to a ‘one-room’ bed and breakfast use, the minimum parking requirement remains at 3 onsite spaces. The property has 4 parking spaces. **Affirmative finding**

II. Conditions of Approval

1. The living room space can be used within the bed and breakfast unit, but it cannot be counted as a bedroom for occupancy. A new zoning permit will be required in order to permit the living room, or any other room(s) within the triplex, as a bed and breakfast room.
2. The occupancy of each unit on the property shall be limited to members of a family, as defined in Article 13. No more than 4 unrelated adults and their minor children may reside in any unit.
3. The subject property must be, and remain, owner occupied as long as the bed and breakfast (short term rental) remains in operation.
4. 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.
5. It is recommended that guest check-ins be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
6. All guest parking shall be on-site and off-street.
7. 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.
8. 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.

9. 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.
10. 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.
11. Standard permit conditions 1-15.