

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: March 2, 2016
RE: 56, 58 and 66 North 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.

File: ZP16-0811SP

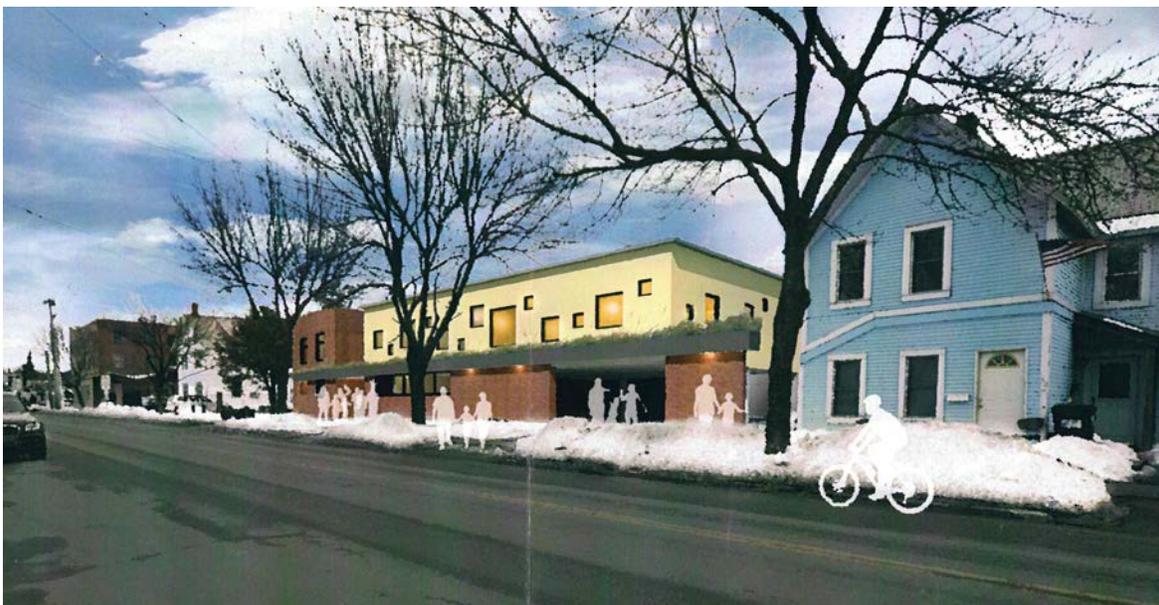
Location: 56, 58 and 66 North Avenue

Zone: RM **Ward:** 3C

Date application accepted: January 27, 2016; amended February 11, 2016

Applicant/ Owner: Sara Holbrook Community Center / Bob Duncan, Duncan Wisniewski Architects

Request: Combine three lots into one 20,544.5 sf parcel; demolish two existing duplex buildings at 56 and 58 North Avenue; build an addition to the existing Sara Holbrook Community Center.



Previous Sketch Plan Review for all three properties:

Zoning Permit 15-0263SP; Sketch Plan review of proposed demolition of one existing building, moving another to a different location, expansion of existing community center and construction of six new apartments. September 16, 2014.

Background for each parcel:

56 North Avenue

- **Zoning Permit 06-632CA**; Construction of 9' x 12' pressure treated deck with railing on rear of second floor unit. May 2006.

58 North Avenue

- **Zoning Permit 16-0577FC**; relocate fence between 66 and 58 North Avenue for children's play space. November 2015.
- **Zoning Permit 14-0257CA**; change of use from single family to duplex residence. Add stair railing, replace five windows. December 2013.
- **Zoning Permit 06-802CA**; amend ZP03-330 to remove condition #3 of permit regarding painting of the deck. May 2006.
- **Non Applicability of Zoning Permit Requirements**; repair front stoop roof covering. (Applicant asserts multi-family use. Zoning Administrator adds: "Proposed use is NOT included in this determination. Any change in use requires a zoning permit.") August 2013.
- **Zoning Permit 03-330**; replace northern 2nd story window on rear of house with fire exit door. Erect railings around flat rooftop of existing mudroom on rear of house. Install staircase with 4' x 4' platform leading up to 2nd story on rear of house. All wood pressure treated. February 2003.
- **Zoning Permit 91-343**; demolish 10' x 10' and 6' x 10' sheds in rear of existing single family home and construct a 24' x 24' single story garage with gravel access drive. Side and rear yard setbacks proposed at 6' (5' minimum.) May 1991.
- **Zoning Permit 81-752**; replace 115' of 4' chain link fence along front and side of property. Approved October 1981.

66 North Avenue (Sara Holbrook Center)

- **Non-Applicability of Zoning Permit Requirements**; replace existing playground structure. May 2004.
- **Non-Applicability of Zoning Permit Requirements**; replace existing playground structure – scope of equipment remains the same. March 2004.
- **Zoning Permit 01-029**; replace existing window sash with new for the Sara Holbrook Center. Proposal includes stucco repairs where necessary. No change in footprint or use. July 2000.
- **Zoning Permit 94-395**; rear two story addition to the existing Sara Holbrook Community Center. April 1994. (Includes a waiver for four parking spaces as 1000 sf. addition provides handicapped access to the second floor, larger entry area, and relocated activity room with natural light. Zoning permit defines required parking 14, provided parking 11.)

- **Zoning Permit 90-071 / COA 89-068A**; Amend site work to include handicapped access. March 1990.
- **Zoning Permit 89-496**; construct 10' x 8' shed against rear of existing structure. September 1989.
- **Zoning Permit 89-362 / COA 89-068**; restore playground areas and front lawn landscaping. July 1989.
- **Zoning Permit 89-354**; remove existing 10' x 20' shed on rear of property. July 1989.
- **Zoning Permit 82-230**; erect a 4' chain link gate and fencing between building and existing fence. June 1982.
- **Zoning Permit 78-208**; construct 100' chain link fencing beside parking lot. November 1978.
- **Zoning Permit**; to erect a 10' x 20' utility building on the rear of the property at 66 North Avenue. December 1974.
- **Notice of Appeal to Zoning Board of Adjustment**; Permission to erect a new home for the Sara Holbrook Community Center which was forced to move by Urban Renewal from its previous location at 98 College Street. November 1965.

Overview: The overall development proposes to combine three parcels (56, 58 and 66 North Avenue) to accommodate an expanded Sara Holbrook Community Center. The project has been revised since the earlier 2014 Sketch Plan Review to eliminate the residential component of the project (originally proposed to add 6 residential apartments within the expanded building.) Additionally, the two existing duplexes at 56 and 58 North Avenue are now proposed to be demolished rather than re-locating one.

Applicable Regulations: Article 3 (Applications and Review), Article 4 (Maps and Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), Article 9 (Inclusionary and Replacement Housing) and Article 10 (Subdivision Review) and Appendix A (Use Table.)

I. Findings

Appendix A – Use Table.

A community center is a conditional use in the RM zoning district. See Conditional use review standards, below. Footnote 13 declares: “Permitted hours of operation are 5:30 am to 11:00 pm.”

Article 3: Applications and Review

Part 3: Impact Fees

Impact fees may be assessed for new gross floor area, based upon calculations provided by the applicant to staff. Such Impact Fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within 30 days of issuance of the building permit. (Sec. 3.3.7.)

Conditional Use Review Criteria

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards (as adopted by City Council 8.10.2015)

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 proposed redevelopment may require additional water and sewer services; a letter of confirmation of adequate capacity will be required from the department of Public Works. A state wastewater permit will also be required.

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 existing community center is within the medium density residential zoning district, which is intended primarily for medium density residential development in the form of single family detached dwellings and attached multi-family apartments. The proposed expansion of the Sara Holbrook Center will cause the removal of 2 existing duplexes, for a loss of four residential units. Community Centers typically offer supportive services for neighboring residential districts, and therefore beneficial. The expansion and further enhancement of the Sara Holbrook Center may be consistent with the MDP in that it would conserve existing elements and design characteristics of the City's neighborhoods, particularly where the importance of a structure is defined. (The Sara Holbrook Center was design by noted Burlington architect Benjamin Stein and is included within the inventory of Burlington's Modern Architecture Survey, 2010. MDP reference Page IV-5.)

There is, however, conflict with the Housing Action Plan (Chapter IX, Municipal Development Plan, *Preserve existing, affordable housing*) and Chapter 9 of the Comprehensive Development Plan (Inclusionary and Replacement Housing.)

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;

The expansion of the existing community center would precipitate similar noise and traffic associated with the current use. No undue nuisance relative to odor, dust, heat or vibration is anticipated.

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 Sara Holbrook Center is connected to a city-wide sidewalk network, and is accessed from a major arterial (North Avenue) and adjacent to North Street. A broad transportation network, including public transit, is at the ready.

and

5. *The utilization of renewable energy resources;*

Plans have not been developed to the point of determining the intent to use renewable energy resources.

and

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

Sewer and Water capacity will have to be confirmed. A state wastewater permit will be required. No work may be done within the public right-of-way without the written expressed consent of the Department of Public Works, and if appropriate, approval by the City Council. The Comprehensive Development Ordinance will require replacement housing, or payment-in-lieu for lost housing units. See Article 9.

(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;*

See Article 6.

2. *Time limits for construction.*

Zoning permits have a two-year life; construction must begin within the first year and commence within two years.

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

Typical limitations for construction are M-F 7:30 am – 6:00 pm; Saturday construction is limited to interior work only. No construction activities may occur on Sunday.

4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*

As a Conditional Use, any expansion or alteration will require review by the DRB under regulations in effect at that time.

and

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.*

This is at the discretion of the Board.

Article 4: Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose

3. *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.*

As noted, community centers are not identified as intended uses; however this is an existing community center that proposes to expand. The removal of two multi-unit (duplex) buildings is contrary to the intended uses as defined.

(b) Dimensional Standards and Density

Table 4.4.5-1 Minimum Lot Size and Frontage

Minimum lot frontage is 30', there is no minimum lot size in the RM zoning district. The application meets the minimum lot frontage, the collective new frontage increasing to 137'. (66' +33'+38')

Table 4.4.5-2 Base Residential Density

For the RM district, maximum dwelling units per acre is 20. The Density Equivalent, for nonresidential use (**Section 5.2.7, (a) 2.**) provides that for purposes of density calculations, *each 1,500 sf of nonresidential gross floor area not contained within a dwelling unit or within common hallways, stairwells and elevator shafts shall be counted as one dwelling unit.*

For a lot size of 20,544.5, **9** residential units or equivalent could be permitted (9/.47 acres = 19.14, or less than the limitation of 20/acre.) For a proposed floor area of 9350 sf of non-residential area, density calculations equate to **6 units**. (9350/1500 = 6.23.) This will comply with the limitations of this standard.

Table 4.4.5-3, Residential District Dimensional Standards

Zoning District	Maximum Lot Coverage	Setbacks			Maximum Height 35'
		Front the average of 2 adjacent lots on both sides +/-5'	Side 10% of lot width or average of side yard setback of 2 adjacent lots on both sides. Max 20'	Rear Min. 25% of lot depth, not less than 20', max. 75'	
Existing lots	Total area of combined lots: 62% See submitted plan, LO for breakdown.	Differ by parcel. SHC approx.. 16' 58 North Ave. 10', 56 North Ave 1'.	See Plan LO.	See Plan LO.	
Proposed redevelopment	65%* exceeds current non-conforming coverage for combined lots. Exceeds current individual levels	Continues current setback of existing community center; approx..	No change to north setback. South setback, structure meets 10% lot width	Proposed building meets required 25% rear setback; parking and walkways	Not defined. May not exceed 35'.

	of non-conforming coverage for 56 and 58 North Avenue.	16'.	(approx..3.7'); Parking is subject to minimum 5' setback. First parking space #8 is only 12' x 8' and would not contribute to parking count.	meet minimum 5' setback. There is no permit for the shed on the northeasterly corner, which encroaches into a required setback. Ortho photos demonstrate it has been there since 2000, and therefore an unenforceable violation.	
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(c) Permitted and Conditional Uses

A community center is a conditional use in the RM zoning district. See Appendix A.

(d) District Specific Regulations:

1. Setbacks

A. Encroachment for Residential Driveways

Not applicable.

B. Encroachment into the Waterfront S

C. Setback

Not applicable.

2. Height

A. Exceptions in the Waterfront RM District

Not applicable.

3. Lot Coverage

A. Exceptions for Accessory Residential Features

The patio and walkways may count toward the 10% bonus provision; however the property remains significantly over the 40% limitation of the zoning district, and in excess of the existing 62% (collective) coverage of all three lots. With a proposal for 65% coverage, the plan presents an unacceptable increase in the level of non-conformity relative to lot coverage.

4. Accessory Residential Structures and Uses

No residential uses are proposed. Not applicable.

5. Residential Density

No residential use is proposed. Not applicable.

6. Uses

A. Exception for Existing Neighborhood Commercial Uses

Not applicable.

7. Residential Development Bonuses

Not applicable.

Article 5: Citywide General Regulations

Part 2: Dimensional Requirements

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2. Required Frontage or Access

The combined lot will meet minimum frontage per Table 4.4.5-1, and have access to a public street.

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

Section 5.2.4 Buildable Area Calculation

The parcel will not exceed 2 acres. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.5-3, above.

Building Height Limits

See Table 4.4.5-3, above.

Section 5.2.7 Density and Intensity of Development Calculations

2. Density Equivalent, Nonresidential Uses

See Table 4.4.5-2 and area breakdown, above.

Part 3: Non-Conformities

Currently the Community Center is over the coverage allowance of 40% within the RM Zoning District. (56 North Avenue is at 46%, 58 North Avenue is 51%.) It has not been established if all the reported coverage has been legitimized through approved zoning permits. The applicant will be required to confirm that reported coverage for the three lots has either been permitted or can be demonstrated as pre-existing.

Although all parcels exceed the 40% coverage allowance of the zoning district, 56 and 58 North Avenue are less non-conforming than 66 North Avenue. For purposes of redevelopment, the lot coverage for all three parcels has been examined collectively, to forward a plan to equal the existing coverage in redevelopment; 62%. The site plan provided (L-1) defines a coverage of

65%; exceeding the reported 62% non-conforming coverage. The level of non-conformity may not be increased.

Section 5.4.9 Brownfield Remediation

None of the parcels are listed on the state hazardous sites list. Not applicable.

Section 5.5.1 Nuisance Regulations

See Section 3.5.6 (a) 3. above.

Section 5.5.2 Outdoor Lighting

All outdoor lighting will be evaluated to assure compliance with the standards within this section. The applicant should provide a plan, with fixture location, mounting height, illumination levels/lumens, spec sheets, and a photometric of the site to assure compliance with these standards.

Section 5.5.3 Stormwater and Erosion Control

The applicant will be required to submit a Stormwater management plan, consistent with Chapter 26 and subject to approval by the Stormwater administrative team.

Section 5.5.4 Tree Removal

Any trees intended for removal, and an assessment of their size, species and condition, shall be noted on a landscaping plan submitted at the time of final application.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No land division will occur. The project review will include the merger of three parcels, which can be accomplished as a boundary line adjustment.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

No natural features have been identified within submission materials for Sketch Plan review. The lots appear flat, with little landscaping.

(b) Topographical Alterations:

No topographical alterations have been included within the plans, and are not anticipated.

(c) Protection of Important Public Views:

There are no protected views from any of the three parcels.

(d) Protection of Important Cultural Resources:

None of the buildings are listed on the state or National Register of Historic Resources. 66 North Avenue was identified within a study of Burlington's Modern Architecture due to its design by local architect Benjamin Stein.

(e) Supporting the Use of Renewable Energy Resources: More detailed submission information will define any use of wind, water, solar, geothermal, or other renewable energy resource.

(e) Brownfield Sites:
See Section 5.4.9, above.

(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.
See Section 5.5.3, above.

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.

Snow storage and removal will need to be addressed at application. A drop-off area is proposed for community center attendees. An airlock space at the front entrance will give visitors a chance to escape inclement weather.

(h) Building Location and Orientation:
The building will continue to front North Avenue, strengthening the streetscape.

(i) Vehicular Access:
While a single access drive currently serves the community center, a semi-circular drop-off is proposed in the redevelopment, combined with a driveway at the south end of the parcel. This will facilitate quick and easy delivery of children and materials, it may be problematic if used as short-term or unauthorized parking (as occurred at the former King Street center.) The site plan does not indicate intended pattern of traffic flow(one way/two-way which direction), nor does it provide a sense of spatial position of these driveway to the nearest intersecting streets. Further review by the Department of Public Works will help understand if there might be issues with discharging possibly a greater volume of traffic onto the street. Their inquiry will examine the projected entering and existing traffic volumes under full build out versus current conditions.

Driveway cuts will need to be consistent with city dimensional requirements. The curb cut and development within the right-of-way will require review by the department of public works, and potentially a license agreement with the City Council.

(j) Pedestrian Access:
The municipal sidewalk network connects to the front patio area, and circles the existing building to a continued walkway around the rear. The southly section of the front (North Avenue) façade is largely reserved for vehicular drop off and access. Although obscured by the shadows in the illustration, the drop off area is adjacent to a walkway for building entry.

Early review by city engineering staff raised concern relative to pedestrian safety for the northernmost access and the broad radius exiting the parcel into the right of way. DPW will require the sidewalk to be continued through the driveway aprons.

(k) Accessibility for the Handicapped:

The building will be required to meet all ADA standards. Review of compliance is under the jurisdiction of the building inspector.

(l) Parking and Circulation:

Vehicular entry will occur at a southerly driveway, with the ability to enter the drop off area or access the parking lot. While a comprehensive traffic study is likely not needed, basic information relative to anticipated trip generation should be provided to understand any increase in trips, and foreseeable complications of introducing a new curb cut for the drop-off circle. It is recognized that two existing curb cut (for 56 and 58 North Avenue) will be eliminated with the plan.

(m) Landscaping and Fences:

A landscaping plan will be required at the time of final application.

(n) Public Plazas and Open Space:

A large entry patio is proposed on the North Avenue frontage; a smaller rear patio and connected walkways are available on the rear. The redevelopment includes playspace on the easterly (rear) of the lot; removed from the congestion and conflict of traffic.

(o) Outdoor Lighting:

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

(p) Integrate infrastructure into the design:

Final design should include identification of exterior storage areas, machinery and equipment installations, utility meters, dumpsters or other accessory structures. Where appropriate, screening shall be provided.

Any new on-site utilities shall be place underground. Trash and recycling bins and dumpsters are to be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

More definitive building elevations will be required at the time of application. From the modeled study, it appears that the addition to the community center will continue the massing of the existing building. Height measurements have not yet been provided.

2. Roofs and Rooflines.

A flat roof is proposed, which is consistent with the existing building.

3. Building Openings

Early elevations suggest an irregular pattern of window placement on the primary North Avenue facade, exhibiting an informality and freshness that exudes a playful quality appropriate to the intended neighborhood users. No formalized plans have yet been received.

(b) Protection of Important Architectural Resources:

None of the buildings within the plan are listed on the state or National Register of Historic Places.

(c) Protection of Important Public Views:

There are no protected public views from the site.

(d) Provide an active and inviting street edge:

This can be assessed when additional plans are submitted at application.

(e) Quality of materials:

More complete information will be required at the time of formal application.

(f) Reduce energy utilization:

All development 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.

(g) Make advertising features complementary to the site:

Any signage will require a separate sign permit.

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p).

(i) Make spaces secure and safe:

The development will be required to meet all applicable egress standards, and comply with all applicable building and life safety code as defined by the building inspector and fire marshal.

Article 8: Parking

The property is within a Neighborhood Parking District. Per Table 8.1.8-1, Community centers require 3.3 parking spaces per 1,000 sf. of gross floor area. The number of existing parking spaces has not been provided, and will be required to determine the total number of parking spaces that need to be provided.

The total proposed *new* area is 5334 sf, for a parking requirement of an additional 18 parking spaces. ($5334/1000 = 5.33 \times 3.3 = 17.6$.) The submitted site plan illustrates 13 parking spaces on-site; however parking space #8 does not meet the area required for even a compact space, resulting in only 12 spaces that meet the standards of Table 8.1.11-1.

Upon submission of the existing parking availability, an assessment will be made of the total requirement and the percentage of waiver that may be required upon application.

A Parking Management Plan (Section 8.1.15) will be required for the Board to consider a waiver from the parking requirements of the ordinance.

Part 2: Bicycle Parking

Community Services, including community centers require 1 bicycle parking space per 20,000 sq. ft. for long term parking, and 3 per 5,000 for short term bicycle parking. The area does not rise to the requirement to provide long term spaces, however 2 short term bicycle parking spaces will be required (total area 9350 / 5000 = 1.87.) Given the intended use and patronage, a broader consideration of bicycle parking is encouraged.

Article 9: Inclusionary and Replacement Housing

Part 2: Housing Preservation and Replacement/Demolition and Conversion (as adopted by City Council August 10, 2015.)

Section 9.2.3 Approval

Notwithstanding any other provision of this ordinance, a person who proposes to remove, demolish, or to convert to a nonresidential use any housing unit or units, in a zone where such a use is otherwise permitted, must obtain approval pursuant to all applicable provisions of this Ordinance. In addition to the permit application requirements contained in Article 3, the applicant must also submit:

- a. A statement certifying the number of housing units to be demolished or converted to a nonresidential use and the number of bedrooms existing within each of these units; and*
- b. A list containing the name of each tenant currently residing in the housing units to be demolished or converted, as well as verification by affidavit of compliance with the tenant notice requirements of this section.*

Section 9.2.5 Housing Replacement Requirement

The demolition of 56 and 58 North Avenue will result in the loss of four housing units.

Notwithstanding that housing replacement in and of itself does not require Development Review Board review and approval, an owner shall replace any housing units that are demolished or converted to a nonresidential use in accordance with and subject to all other applicable requirements of the Comprehensive Development Ordinance. Replacement units may be provided by the owner or by the owner's designee fully in any of the following ways:

- a. New Construction. Construction of housing units within a new structure or new addition;*
- b. Residential conversion. Conversion of all or a portion of a nonresidential building to residential use; or*
- c. Subsidy. Creation of affordable housing units that have not been affordable to low-income households for the twenty-four months preceding that date of application for approval. An applicant may use any of the three methods to partially fulfill their replacement requirements, until the total requirement is met.*

The applicant is encouraged to meet with the Housing Trust Fund Manager in the Community and Economic Development Office to determine the most appropriate method of meeting this standard of the ordinance.

Section 9.2.9 Relief

Any owner who has applied for approval for demolition or conversion of a housing unit or units may apply to the DRB for relief from the housing replacement requirements of Section 9.2.5.

Such relief may be a downward adjustment of up to fifty percent (50%) of the owner's housing replacement obligation if the owner establishes to the Board's satisfaction that:

- a. The literal interpretation and strict application of the housing replacement requirement would be impossible for the owner;*
- b. The requested relief would be consistent with the spirit and purpose of this Article; and*
- c. The requested relief does not constitute a grant of special privilege inconsistent with the limitations upon similar properties.*

The DRB must make positive findings on each of the three (3) criteria above in order for any such adjustment to be valid.

If a request for relief toward housing replacement for the four lost units is forwarded to the DRB, the applicant will be required to provide supporting information in response to all three criteria noted above.

Section 9.2.10 Exemptions

This article shall not be applicable to:

(a) A loss or change of use lasting less than one (1) year, where residential use is restored within that same one (1) year period, shall not be subject to the replacement requirements of this Part.

As all four units are proposed to be lost through building demolition, this does not apply.

(b) Any housing unit ordered demolished or declared unfit for habitation by the office of inspection services because of damage caused by civil commotion, malicious mischief, vandalism, natural disaster or other causes beyond the owner's control shall not be subject to these regulations. Any housing unit ordered demolished, or declared unfit for human habitation, by the office of inspection services because of deterioration caused by neglect or deferred maintenance by the existing or prior owner(s) shall not be exempt. A determination of neglect or deferred maintenance shall be made by the administrative officer based on evidence of one or more of the following:

- 1. The deterioration of exterior walls or other vertical support;*
- 2. The deterioration of roofs or other horizontal members;*
- 3. The deterioration of external chimneys;*
- 4. The deterioration or crumbling of exterior mortar;*
- 5. The ineffective waterproofing of exterior walls, roofs and/or foundations; and/or*
- 6. The existence of broken windows or doors.*

In the event that any unit is demolished prior to obtaining conditional use approval, enforcement action in accordance with Article 2 shall commence immediately and the requirements of this Article shall apply in addition to any enforcement penalties.

There has been submitted no information that any of the housing units has been declared unfit for habitation or ordered demolished by the building inspector. This exemption does not apply.

(b) The demolition or conversion to a nonresidential use of a single attached or detached housing unit or duplex that is occupied by the owner as his or her primary residence for the

twelve-(12) month period preceding the date of application for conditional use approval. Nor shall this section be applicable in its replacement requirement to that portion of a multi-unit building of three (3) units or more that is occupied by the owner as his or her primary residence for the thirty-six-(36) month period preceding the date of application for conditional use approval. Any exemption allowed under this provision shall be void if the owner sells any of the applicable units within twenty-four (24) months of the date of conditional use approval;

The Sketch Plan information does not define the ownership and length of residency of the two duplex residences; so it cannot be discerned if this exemption might apply.

and,

(d) The demolition or conversion of a housing unit that has rented, for the twenty-four (24) months preceding the date of application for conditional use approval, for a monthly charge in excess of twice the HUD Fair Market Rent for the Burlington MSA, adjusted for unit size.

Although rental rate information has not been submitted with Sketch Plan materials, it is unlikely that the units would meet this threshold. This exemption, therefore, would not apply.

Article 10: Subdivision Review

Section 10.1.5 Lot Line Adjustments

The submission materials and requirements of a lot line adjustment, including plat preparation, will be required to complete the merger of three lots. Per Section (c), lot line adjustments do not constitute a subdivision.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.