

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

<http://www.burlingtonvt.gov/PZ/>

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

David E. White, FAICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Shaleigh Draper, Planning & Zoning Clerk



TO: Development Review Board
FROM: Ryan Morrison
DATE: October 2, 2018
RE: 19-0170SD/CU; 1288 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.

Zone: RL Ward: 7N

Owner/Representative: 1288 North Ave LLC

Request: Combined preliminary & final plat review to subdivide existing lot into two lots. Retain the duplex on Lot 1 and construct a duplex and related site improvements on Lot 2.

Applicable Regulations:

Article 3 (Applications, Permits and Project Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), Article 10 (Subdivision Review)

Background Information:

The applicant is seeking combined preliminary and final plat approval to subdivide an existing lot into two lots. The 59,677 sq ft property contains a duplex and a garage/barn. The proposed subdivision will result with the existing duplex and garage/barn situating on Lot 1, and the proposed duplex situating on Lot 2. There are no accessory structures proposed on Lot 2 at this time.

The proposal has been forwarded to the City Engineer's office, to the Burlington Fire Marshal, to the Director of the Parks & Recreation Department, to Burlington Electric, and to the Burlington School District as required. Comments from the City Engineer and the Fire Marshal have been received.

The City Engineer provided the following comments:

- A separate sewer service is required. Chapter 26-71 states: *A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building may be extended to the rear building and the whole considered as one (1)*

building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

- Lot #2-Sheet PL1-OF-1, the plan set indicates the proposed lot will only have 3 corners established, corner points “10”, “1”, and “3”. The proposed parcel should have monumenting on all four corners.
- Driveway easement for Lot #2 needs to be noted in the deeds for Lot #1 and Lot #2.

The Fire Marshal provided the following comments:

- As the front doors of the proposed duplex dwelling unit, as drawn, are less than 50 feet from the designated fire department access road off North Avenue, a sprinkler requirement will not be applied, at this time based on the submitted plans, to the structure under NFPA 1 Chapter 18 (Fire Department Access and Water Supply). Should the existing barn on Lot #1 be converted to residential use in the future, a sprinkler system will be required under the fire code in existence at that time (NFPA 1 Chapter 18, as previously noted).
- Future construction shall comply with the governing code set(s) adopted by the State of Vermont and City of Burlington at the time of construction.

Previous zoning actions for this property are noted below.

- **Zoning Permit 18-0567CU**; convert single family dwelling to a duplex. Approved January 17, 2018.
- **Zoning Permit 18-0765CA**; replacement windows. Approved April 10, 2018.
- **Non-Applicability of Zoning Permit 18-0761NA**; add 3rd bedroom to living room/kitchen area. Approved March 9, 2018.

Recommendation: **Consent Approval** as per, and subject to, the findings and conditions below:

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 3, Impact Fees

Section 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Section 3.3.4.

Impact fees shall apply. The fees will be based on the net new square footage of the building. The total living space of the proposed duplex is 1,841 sf. **Affirmative finding as conditioned**

Section 3.3.8 Time and Place of Payment

*(a) New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof. **Affirmative finding as conditioned***

Part 5: Conditional Use and Major Impact Review

Section 3.5.6 Review Criteria

(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 addition of a new duplex will have minimal impact on public utilities, facilities and services. A letter of confirmation from DPW will be required to assure adequate water and sewer capacity. Additionally, the proposal triggers the need for a state wastewater permit. **Affirmative finding as conditioned**

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 property is within an established residential neighborhood and a residential zoning district. The RL zoning 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 MDP provides the following support:

- *Support the development of additional housing opportunities within the city...* (MDP, Housing Plan, Page IX-1.
- *Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning.* (MDP, Housing Plan, Page IX-12.) **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;*

No significant impacts are anticipated. **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;*

This parcel fronts on North Avenue, a classified major street. Bus stops exist along North Avenue to the north and south of the subject property, both under 250 ft away. Sidewalks on both sides of North Avenue provide pedestrian access between the subject property and the surrounding neighborhood. Traffic impacts are expected to be minimal. **Affirmative finding**

5. *The utilization of renewable energy resources;*
Nothing within the application prevents the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding**
and;
6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*
The applicant will be required to secure a state wastewater permit, and any associated trades permits for construction. **Affirmative finding as conditioned**

(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 applicants note that they will be installing landscaping around the new duplex. The plans will need to be revised to include the proposed landscaping. **Affirmative finding as conditioned**
2. *Time limits for construction.*
There is a two-year time frame to complete the project. **Affirmative finding**
3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*
Typical work construction hours are Monday – Friday from 7:30 AM – 5:30 PM. Saturday construction may occur for interior work only. No construction activity on Sunday. **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,*
Any additional physical alteration or change of use will require review and approval under regulations in effect at that time. **Affirmative finding as conditioned**
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.*
None identified. It is the applicant’s obligation to secure any additional permits (from state or federal offices) as required. **Affirmative finding**

Article 4: Zoning Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The RL district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern of the respective neighborhood’s development history.

The property is located in the RL zone. The subdivision will result in the existing duplex and garage/barn situating on Lot 1, and a new duplex situating on Lot 2. Both lots will exceed 10,000 sf in size (Lot 1: 45,302 sf and Lot 2: 14,375sf), and are large enough for duplexes.

Affirmative finding

(b) Dimensional Standards & Density

The minimum lot size in the RL zone is 6,000 sf for a single family use, and 10,000 sf for a duplex use. Both lots will exceed 10,000 sf and will comply with the minimum lot size requirement for duplex uses.

Lot 1:

$45,302 / 43,560 \text{ (acre)} = 1.04 \text{ acres}$

$2 \text{ units} / 1.04 = 1.9 \text{ units}$; less than the 7 unit/acre limitation

Lot 2:

$14,375 / 43,560 \text{ (acre)} = 0.33 \text{ acres}$

$2 \text{ units} / 0.33 = 6.06 \text{ units}$; less than the 7 unit/acre limitation

Minimum lot frontage is 60 ft. Proposed Lot 1 will have 72 ft of frontage, and Lot 2 will have 60 ft of frontage.

Building setbacks of the RL zone require: a front yard setback to be the average of 2 adjacent lots on both sides, +/- 5 feet; a side yard setback of 10% of lot width; and a rear yard setback of 25% of lot depth. The average setback for Lot 2, based on the neighboring 4 homes (2 on either side), is 18'. This results in a front yard setback range of 13' – 23'. The duplex will be setback 18' from the front property line. The new duplex will have 6' side yard setbacks on both sides, which equates to 10% of the lot width. A rear setback of 168' will far exceed the minimum 61' setback requirement.

Lot coverage information has not yet been provided. The applicant states that lot coverage will be far below the 35% allowance. According to the plans, Lot 1's lot coverage percentage will be quite low. Lot 2 will have a higher lot coverage, but it does not appear that it will exceed the 35% maximum allowance. Prior to release of the zoning permit, lot coverage calculations will need to be submitted, reviewed and approved by Planning and Zoning staff.

The building height of the proposed duplex will be 28' 2" to the midpoint of the sloped roof, well enough below the 35 ft limit. **Affirmative finding as conditioned**

(c) Permitted & Conditional Uses

Duplexes in the RL zone are conditional uses. **Affirmative finding**

(d) District Specific Regulations

1. Setbacks

A. Encroachment for Residential Driveways

Not applicable

B. Encroachment into the Waterfront Setback
Not applicable

2. Height

A. Exceptions in the Waterfront RM District
Not applicable

3. Lot Coverage

A. Exceptions for Accessory Residential Features
Not applicable

4. Accessory Residential Structures and Uses

An accessory structure and/or use as provided under Sec. 5.1.1 and 5.1.2 customarily incidental and subordinate to a principal residential use, including but not limited to private garages, carriage houses, barns, storage sheds...

Not applicable. No new accessory structures are proposed.

5. Residential Density

Not applicable

6. Uses

Not applicable

7. Residential Development Bonuses

Not applicable

Article 5: Citywide General Regulations

Sec. 5.2.2, Required Frontage of Access

The existing lot has 132 ft of frontage on North Avenue. After the subdivision, both lots will continue to have frontage on North Avenue. Lots 1 and 2 will share the existing driveway that currently serves the property. The driveway is mostly situated on what will become Lot 1. The subdivision plan identifies the shared driveway on Lot 1 within an access easement. **Affirmative finding**

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable. The existing lot is 59,677 sq. ft. (less than 2 acres).

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above. Additionally, Sec. 5.2.5 (b) 6 exempts common or shared driveways along property lines from setback requirements. **Affirmative finding**

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.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to constitute a nuisance under this criterion. **Affirmative finding**

Sec. 5.5.2, Outdoor Lighting

Lighting fixture spec sheets have been provided, and the elevation drawings show the location of the proposed fixtures. The fixtures comply with the lighting standards of this section.

Affirmative finding

Sec. 5.5.3, Stormwater and Erosion Control

An Erosion Prevention and Sediment Control Plan was submitted to the Stormwater Program Manager. Prior to release of this permit, the plan must be approved. **Affirmative finding as conditioned**

Article 6: Development Review Standards:

Part 1, Land Division Design Standards

Sec. 6.1.2, Review Standards

(a) Protection of important natural features

The subdivision itself will have no impact on important natural features. **Affirmative finding**

(b) Block size and arrangement

Not applicable.

(c) Arrangement of Lots

The proposed subdivision will split the existing lot lengthwise into two lots. Both lots will front on North Avenue. Lot sizes along this stretch of North Avenue vary widely. **Affirmative finding**

Interior lot lines extending from a street should be perpendicular or radial to the street right-of-way line to the greatest extent possible.

While Lot 2 only goes back so far within the overall property, the new property line dividing Lot 1 from Lot 2 is perpendicular to North Ave. The property as it is today is 455 ft deep. Lot 2 will be 245 ft deep. Lot 1 will occupy the rest of the area behind Lot 2. **Affirmative finding**

(d) Connectivity of streets within the city street grid

Not applicable

(e) Connectivity of sidewalks, trails, and natural systems

Not applicable

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

The subject property contains no important natural features as identified in the Open Space Protection Plan. The back 50% of the property is wooded. There are a few small trees that will be removed that are presently located in the footprint of the new duplex. **Affirmative finding**

(b) Topographical alterations

The property is almost entirely flat. No significant topographical alteration is included in the project plans. **Affirmative finding**

(c) Protection of important public views

The subject property is not affected by any identified public view corridor. **Affirmative finding**

(d) Protection of important cultural resources

The property contains no archaeologically significant site points, nor is it located within an archaeologically sensitive area. The property is of no known historical significance. **Affirmative finding**

(e) Supporting the use of alternative energy

There is no indication that the proposed home will utilize alternative energy. Solar energy utilization is encouraged. In any event, the home will not adversely impact the actual or potential use of alternative energies by neighboring properties. **Affirmative finding**

(f) Brownfield sites

The subject property is not an identified brownfield. **Affirmative finding**

(g) Provide for nature's events

As total lot coverage will exceed 2,500 sf, a residential stormwater plan has been provided. As noted above, the city's stormwater program manager is reviewing the proposed stormwater management.

The front and rear entries into the duplex are sheltered, and ample room is available onsite for seasonal snow storage. **Affirmative finding**

(h) Building location and orientation

The proposed duplex is appropriately oriented towards the street. The building will be situated on the lot similar to other homes in the neighborhood. Ample lawn and open space will surround the home. **Affirmative finding**

(i) Vehicular access

A shared driveway providing access to Lots 1 and 2 of this subdivision will provide adequate access to both duplexes. A parking area of sufficient size for 4 parking spaces exists behind the existing duplex on Lot 1. The new duplex will have a single car garage space for each unit which, when combined with the parking/driveway area provided behind, will adequately park 4 vehicles on Lot 2. The driveway width is acceptable at 15'. **Affirmative finding**

(j) Pedestrian access

This criterion requires that a walkway connect the duplex to the public sidewalk. The site plan does not indicate such a walkway. The plans will need to be revised to include a walkway.

Affirmative finding as conditioned

(k) Accessibility for the handicapped

No handicap accessibility is evident or required with this proposal. **Affirmative finding**

(l) Parking and circulation

Four parking spaces will be provided for the new duplex in the rear (2 garage spaces and 2 exterior spaces), complete with ample turnaround space so vehicles don't have to back out onto the street. These spaces meet the minimum parking requirement of 2 spaces per dwelling unit. Circulation is simple with access provided to the surface parking spaces. **Affirmative finding**

(m) Landscaping and fences

The plans do not indicate any landscaping, and they should. The applicant notes the new duplex will have a newly established lawn area as well as shrubs and flowers typical of residences in the area. **Affirmative finding as conditioned**

(n) Public plazas and open space

Not applicable. No public plaza or open space is included or required in this proposal.

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

The applicant acknowledges that utility lines must be underground. The elevation drawing shows the utility meters on the south side of the home. The meters will need to be screened from view from the public street. The site plan will need to be revised to show the location of the trash/recycling area. This area is required to be screened from view from the public street.

Affirmative finding as conditioned

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The massing, height, and scale of the proposed duplex are consistent with that of existing homes within this neighborhood. The homes come in a variety of typically suburban forms and styles. The proposed duplex will have a covered front porch entry, which will provide for a clear distinction between the first and second floor. Building openings on the front façade will break up any possibility of a blank wall. The overall height of 28' 2" is consistent with several homes in the neighborhood. **Affirmative finding**

2. Roofs and Rooflines

The duplex will have gable roof lines with a front dormer. This roof form is common in the neighborhood. **Affirmative finding**

3. *Building Openings*

The front doors will be protected under the front porch roof. Fenestration is appropriately scaled and placed in consistent rhythm throughout the building. **Affirmative finding**

(b) Protection of important architectural resources

There are no historically significant structures on, or near, the subject property. **Affirmative finding**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

The front doorways are clearly articulated. There are no large blank walls or expanses of roof. Fenestration and roof variations work successfully to provide an active and inviting street elevation. **Affirmative finding**

(e) Quality of materials

The proposed duplex will be clad in vinyl siding and trim. The windows will be vinyl as well. Asphalt shingles will be installed. The front and rear decks will be PT wood with vinyl clad posts. The materials proposed are of acceptable quality and durability for new construction such as this. **Affirmative finding**

(f) Reduce energy utilization

The proposed duplex must comply with the current energy efficiency standards of Burlington and the State of Vermont. **Affirmative finding as conditioned**

(g) Make advertising features complimentary to the site

Not applicable. No advertising is included in this proposal.

(h) Integrate infrastructure into the building design

The utility meters are located on the south side wall. They will need to be screened. **Affirmative finding as conditioned**

(i) Make spaces safe and secure

The proposed building must comply with the city's current egress requirements. Building entries will be illuminated. **Affirmative finding**

Article 8: Parking

Table 8.1.8-1 requires 2 parking spaces per unit in the Neighborhood Parking District. A total of 4 parking spaces will be required to accommodate the duplex. This is achieved with 2 garage parking spaces, and room for 2 exterior spaces. The paved area behind the new duplex will be wide enough and deep enough to accommodate the 2 exterior parking spaces, with more than enough back-up room. **Affirmative finding.**

Article 10: Subdivision Review

Sec. 10.1.7, Combined Preliminary and Final Plat

For subdivisions that will create fewer than five (5) lots or dwelling units, and are not otherwise subject to consideration under Major Impact Review pursuant to the provisions of Article 3, Part 5 or Planned Unit Development pursuant to the provisions of Article 11, the applicant may request, and the DRB may authorize the hearings on preliminary and final subdivision plats to be combined into a single public hearing.

In such cases, the submission requirements for final subdivision plats pursuant to Sec. 10.1.9 shall be met at the time of application, and decisions by the DRB shall be based on the project's conformance with the review criteria for both preliminary (Sec. 10.1.8(d)) and final plats (Sec. 10.1.9(d)).

The proposed subdivision is for two lots and thus qualifies to be considered in a combined hearing. **Affirmative finding**

Sec. 10.1.9, Final Plat Review

(a) Final Plat and Construction Detail Submission Requirements

6. Final Plat Specifications

This criterion requires that the final plat plan be drawn at a scale of 1" = 40', and be on sheets sized 24" x 36" with one inch margins on three sides and a two inch margin on the side to be bound. The plan is already scaled at 1" = 40'. The final plat plan will need to meet the margin size requirements. **Affirmative finding as conditioned**

(d) Review Criteria

1. The requirements of the underlying zoning district(s) and all applicable overlay district(s) as set forth in Article 4

See Article 4 of these findings.

3. The requirements of Article 5 with regard to Special Uses and Performance Standards as applicable

See Article 5 of these findings.

4. The land division and site development principles and design standards in Article 6.

See Article 6 of these findings.

Sec. 10.1.11, Recording of Final Plats

(a) Certifications and Endorsement

Prior to recording the mylar plat plan, all of the required endorsement blocks must be depicted on the plan itself and signed by the appropriate individuals. **Affirmative finding as conditioned**

II. Conditions of Approval

- 1. Within 180 days of the date of final approval**, the subdivision plat mylar, with all applicable endorsement signatures, shall be filed with the City Clerk per Sec. 10.1.11 of the Comprehensive Development Ordinance. Failure to do so shall render void the final plat approval.
- 2. Prior to the release of the permit**, lot coverage calculations for each lot shall be submitted to Planning and Zoning staff for review and approval.

3. **Prior to filing the mylar** in the city land records, the subdivision plat shall be revised to reflect the following:
 - a. Sheet size of 24" x 36" with one-inch margins on three sides and a two-inch margin on the side to be bound.
 - b. Obtain signatures for all certifications and endorsements required under Sec. 10.1.11 (a) of the Comprehensive Development Ordinance. These signature blocks shall be included on the final plat plan.
4. **Prior to the release of the zoning permit**, the site plan shall be revised to include:
 - a. A walkway between the new duplex and the sidewalk.
 - b. The location of trash and recycling storage.
 - c. All landscaping proposed around the duplex.
5. Utility lines to the new duplex shall be underground and the utility meters shall be sufficiently screen from view from the public street.
6. **Prior to the release of the zoning permit**, the applicant shall secure a letter of adequate capacity from DPW for water and sewer services.
7. **Prior to the release of the zoning permit**, the EPSC plan shall be reviewed and approved by the Stormwater Program Manager.
8. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the net new square footage of the proposed development.
9. Construction hours shall be limited to Monday – Friday from 7:30 AM – 5:30 PM. Saturday construction may occur for interior work only. No construction activity on Sunday.
10. The occupancy of both dwelling units is limited to members of a family as defined in Article 13.
11. A state wastewater permit will be required, and is the responsibility of the applicant to secure.
12. Any additional physical alteration or change of use will require review and approval under regulations in effect at that time.
13. 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.
14. Standard permit conditions 1-15.