

Department of Permitting & Inspections

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TO: Development Review Board
FROM: Scott Gustin
DATE: October 1, 2019
RE: 20-0249CA; 3173 North Avenue

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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: W-RL Ward: 7N

Owner/Applicant: Dante Holdings Trust / David Diamantis

Request: Demolish existing home and replace with new home on existing footprint.

Applicable Regulations:

Article 4 (Maps & Districts), Article 6 (Development Review Standards), Article 5 (Citywide General Regulations), Article 8 (Parking)

Background Information:

The applicant is seeking approval to demolish an existing vacant home and to replace it with a new single family home on the same footprint. The driveway will be reconstructed, and the existing onsite septic system will be replaced with a new system. Some new landscaping will be installed as well.

The property is affected by the special flood hazard area (SFHA), although the new home will be elevated above the 102' base flood elevation. The property is also affected by the Riparian & Littoral Conservation Overlay, Wetland Conservation Zone, and the Natural Areas zone. As a result, Conservation Board review is required and took place September 9, 2019. The Conservation Board unanimously recommended project approval subject to the following conditions:

1. Installation of native plantings along the seawall is encouraged.
2. Limit site disturbance west of the house as much as possible. Use of orange construction fence to define the western boundary of construction impacts is recommended.
3. Final review and approval of the application by the city's stormwater program staff is needed.

Renderings as viewed from the lake depict what appear to be ornamental grasses installed along the seawall; however, nothing is noted in the site plan, nor are any details provided. Item 2 will be included in permit conditions, if granted. Item 3 has been completed.

The Design Advisory Board reviewed this application on September 24, 2019 and recommended project approval subject to the following conditions:

1. Revise the front door to look more like an entry door (match that on the south elevation).
2. Move the parking as far south as possible to be located to the side or rear of the house.

Revised project plans have been submitted to address condition 1. A revised site plan addressing condition 2 has not yet been submitted.

Comments from the State of Vermont flood hazard area coordinator have been received and are noted below:

The proposed replacement structure is located within the Special Flood Hazard Area for Lake Champlain (Zone AE), and is thus subject to Burlington's adopted flood hazard area regulations. The site plan included with the permit application proposes a crawlspace that is elevated to elevation 102.6 and the Finished Floor to 107.3, which exceeds the adopted regulations.

To ensure the project is built as proposed and meets the adopted regulations, the zoning permit must be conditioned to require within 90 days of project completion:

- 1) A completed as-built Elevation Certificate certified by registered professional engineer or licensed land surveyor; and
- 2) A certification by a registered professional engineer that all utilities servicing the new structure, that are below the base flood elevation of 101.6, have been designed and constructed in accordance with provisions in *FEMA P-348 Protecting Building Utility Systems from Flood Damage* – including water, wastewater, and the underground liquid propane tank.

These comments will be incorporated into conditions of approval. Note that elevation above sea level must be checked at three stages: 1) plan drawings (done); 2) under construction (verify the level of the finished floor elevation); and, 3) upon completion of construction.

There are no previous zoning actions for this property.

Recommendation: Initial review and continuation pending receipt of final plan revisions.

I. Findings

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(2) Waterfront Residential Low Density (W-RL)

The subject property is located in the W-RL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes with consideration given to design review. The single detached dwelling use will remain unchanged with the construction of the new residence. **(Affirmative finding)**

(b) Dimensional Standards & Density

Residential density remains unchanged at 1 dwelling unit on the ~1/3 acre property.

Lot coverage increase somewhat to 12.8%.

The property is 100' wide. As a result, 10' minimum side yard setbacks apply. The proposed home observes these minimum side yard setbacks. Interestingly, the property has no defined front yard setback. In this case, there are no neighboring homes along the same side of the street upon which to base a front yard setback. The new home will observe the same front yard setback that the existing home does. There is no rear yard setback. Rather, a waterfront setback applies. The waterfront setback is 75' from the 100' lakeshore elevation. The proposed home is set within that distance. Doing so is acceptable as it will observe the same setback as the existing home (~40') with no increase in the degree of encroachment.

The proposed home will be 25' tall to the peak of the roof (and about 20' to the midpoint of the roof rise). This height is well below the maximum permissible height of 35.' **(Affirmative finding)**

(c) Permitted & Conditional Uses

The replacement single family dwelling is a permitted use in the W-RL zone. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

See 4.4.5 (b) above for lakeshore setback encroachment.

2. Height

No height bonuses are being sought. **(Not applicable)**

3. Lot Coverage

No lot coverage bonuses are being sought. **(Not applicable)**

4. Accessory Residential Structures and Uses

No accessory structures subject to this criterion are proposed. **(Not applicable)**

5. Residential Density

Occupancy of the new residence is limited to that of a "family" as defined in Article 13 of the Comprehensive Development Ordinance. **(Affirmative finding as conditioned)**

6. Uses

No neighborhood commercial use is included in this proposal. **(Not applicable)**

7. Residential Development Bonuses

No development bonuses are being sought. **(Not applicable)**

Sec. 4.5.4, Natural Resource Protection Overlay (NR) District

(c) District Specific Regulations: Riparian and Littoral Conservation Zone

The subject property is largely affected by the Riparian and Littoral Conservation Zone (250' width from the 95.5' lakeshore elevation). This overlay zone limits the clearing of trees over 6"

caliper and addresses new stormwater outfalls. Two trees along the northerly property line are to be removed, and an area of scrub growth at the southeast corner of the property will be removed and replaced with a new evergreen hedge. No new stormwater outfalls are proposed. The Conservation Board reviewed the proposal and recommended that native vegetation be planted along the reconstructed seawall. Details are needed as to this recommendation. The Board also recommended limiting construction disturbance west of the home as much as possible. **(Affirmative finding as conditioned)**

(d) District Specific Regulations: Wetland Conservation Zone

(6) Criteria for Review

The property is affected by the 100' wide buffer zone of nearby wetlands. No wetlands were found to be onsite as reviewed by VT ANR wetlands staff. The Conservation Board reviewed the application and expressed no concerns as to potential impacts. No construction is proposed within the 100' buffer zone. **(Affirmative finding)**

(f) District Specific Regulations: Special Flood Hazard Area

(7) Special Review Criteria

A. The danger to life and property...

The most of the proposed development is located within the special flood hazard area. The reconstructed seawall will protect the home from wave action. The home itself will be elevated with a finished floor elevation of 107.25' above sea level. By comparison the base flood elevation is 102' above sea level. The proposed development footprint essentially duplicates the existing development footprint and will have no perceptible effect on flood heights or velocities.

(Affirmative finding)

B. The danger that material may be swept onto other lands...

The building and related items such as exterior mechanical equipment and propane tank must be constructed or installed and anchored such that they will remain in place during times of flooding.

(Affirmative finding as conditioned)

C. The proposed water supply and sanitation systems...

The new home will be served by city water. The proposed septic system has been reviewed and approved by the Vermont Department of Environmental Conservation. A state wastewater permit has been issued. **(Affirmative finding)**

D. The susceptibility of the proposed facility and its contents to flood damage...

The home will be set atop a concrete crawlspace foundation. The living quarters will be elevated to 107.25' above sea level. Such elevation should significantly reduce the potential for flood-related damage. **(Affirmative finding)**

E. The importance of the services provided...

The city has long standing policy in place to preserve and protect its housing stock. The proposed work will replace a vacant home in disrepair and replace it with a new home. No net loss in housing units will result. **(Affirmative finding)**

F. The availability of alternative locations...

Topographic information on the site plan demonstrates that there is no area on the subject parcel that could feasibly contain a new home fully outside of the special flood hazard area.

(Affirmative finding)

G. The compatibility of the proposed use with existing development...

The new home will replace an existing vacant home in this largely residential neighborhood. The introduction of a replacement single family home is compatible with existing development in this neighborhood. **(Affirmative finding)**

H. The relationship of the proposed use to the Municipal Development Plan...

The Open Space Protection Plan is incorporated into the Municipal Development Plan by reference. The proposed construction tightly limits impacts on nearby wetlands and the lakeshore buffer. In addition, the Comprehensive Plan specifically calls for preserving and sustaining our residential neighborhoods. This project will result in the replacement of a vacant, deteriorated home with a new home more appropriately constructed to withstand flood hazard area conditions.

(Affirmative finding)

I. The safety of access to the property...

The proposed construction will not affect access to the property during times of flooding. Access comes by way of North Avenue which will not be altered by the new home and related site work.

(Affirmative finding)

J. The expected heights, velocity, duration, rate of rise...

The maximum regulatory flood elevation along the lakeshore is 102' above sea level. The proposed construction replaces an existing home with essentially the same footprint within the flood hazard area. The new home is not expected to impact lakeshore flood height, velocity, duration, rate of rise, or sediment transport. **(Affirmative finding)**

K. Conformance with all other applicable requirements...

See Articles 4, 5, and 6 of these findings.

Sec. 4.5.6, Mouth of the River Overlay District

(c) District Specific Regulations: Mouth of the River Overlay

1. Uses

A. Exception for Non-Residential Marine and Recreational Uses

This criterion is aimed at permitting otherwise un-permitted uses in this area of the W-RL zone. Detached single family dwellings are permitted throughout the W-RL zone and are not addressed under this criterion. **(Not applicable)**

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.

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

Elevation drawings depict exterior lighting fixture locations. The associated cut sheets provide required details as to fixture types; however, illumination levels are lacking as bulbs are not noted. Information as to proposed light sources (i.e. bulbs) is needed so as to determine acceptability per the outdoor lighting standards of Sec. 5.5.2. **(Affirmative finding as conditioned)**

Sec. 5.5.3, Stormwater and Erosion Control

An erosion prevention and sediment control plan has been reviewed and approved by the city's stormwater program. **(Affirmative finding)**

Article 6: Development Review Standards

Part 1, Land Division Design Standards

Not applicable.

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

As noted above, the property is affected by several natural resource overlays. Significantly, none of the protected resources will be impacted. Only their associated buffer zones affect the property. Given the location of the new home on the existing footprint, impacts associated with the new development are significantly limited. The Conservation Board recommended project approval. **(Affirmative finding)**

(b) Topographical alterations

The lot slopes gently towards the lake. No significant topographical alterations are proposed. **(Affirmative finding)**

(c) Protection of important public views

There are no important public views from or through this property. **(Affirmative finding)**

(d) Protection of important cultural resources

There are no known archaeological resources on the property. The western half of the property is within an archaeologically sensitive area. This archaeological sensitivity stems from the property's lakeshore location. If, during construction, artifacts are unearthed, it is the applicant's responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance. **(Affirmative finding as conditioned)**

(e) Supporting the use of alternative energy

The project plans do not include utilization of alternative energy. Given the property's location and building orientation, rooftop solar may be feasible. The applicant is encouraged to consider rooftop solar installation. **(Affirmative finding as conditioned)**

(f) Brownfield sites

The property is not an identified brownfield. **(Not applicable)**

(g) Provide for nature's events

There is ample room onsite for winter snow storage from driveway plowing. An erosion prevention and sediment control plan has been provided and has been approved by the city's stormwater program staff. **(Affirmative finding)**

(h) Building location and orientation

The new home will be situated as the existing home is. Following review by the Design Advisory Board, the eastern (street-facing) elevation has been revised to improve and accentuate the front door. A small roof is now depicted along with a revised door and landing. The front door leads into an interior mudroom and then into the rest of the home. The changes make the front door more apparent as the primary entry into the residence. **(Affirmative finding)**

(i) Vehicular access

A private driveway will continue to provide vehicular access to the property. It will be reconstructed and resurfaced with new gravel. Edging along the sides is recommended in order to maintain a well-defined boundary between the gravel driveway and adjacent green space. Driveway width of 18' is acceptable. As presently is the case, vehicles will have to back out. While not ideal, backing out onto this lightly traveled portion of North Avenue is acceptable. **(Affirmative finding)**

(j) Pedestrian access

A walkway is depicted on the site plan connecting the front door to the street. **(Affirmative finding)**

(k) Accessibility for the handicapped

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

(l) Parking and circulation

As currently proposed, the driveway will contain 2 parking spaces. The present driveway accesses an existing attached garage. As proposed, there will be no garage. Both parking spaces will sit between the house and the road. Oddly, the lack of adjacent homes precludes a front yard setback for this property. As a result, the front yard parking prohibition of Sec. 8.1.12 (c) may not apply. However, this criterion requires that parking be set to the side or rear of the lot to the extent possible. There appears to be sufficient room on the lot to set the driveway to the side of the home in order to avoid placement of both parking spaces in front of the home. Revision to the parking is warranted. The DAB's recommendation notes the need to revise the parking and driveway layout. Completed plan revisions have not yet been submitted. **(No finding yet possible)**

(m) Landscaping, fences, and retaining walls

A basic landscaping plan has been provided. Most existing vegetation will be retained. A new evergreen hedgerow is proposed along much of the southern property line, and it wraps around part of the front property line. The Conservation Board had recommended native plantings along the reconstructed seawall. Details are pending. Much of the existing lawn will remain. **(Affirmative finding as conditioned)**

(n) Public plazas and open space

No public plaza or open space is included or required in this proposal. **(Affirmative finding)**

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

Any new utility lines must be buried. A ground-mounted (and elevated) HVAC unit is located along the northern side of the building. No screening is evident and is required. In light of flood zone considerations, screening in the form of new bushes may be the best option. An underground LPG tank is situated in the southeast corner of the. **(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 proposed home is similar in scale to the one it will replace and also to other nearby homes in the neighborhood. Massing is clean and simple with two basic components as viewed from the road. The building is essentially one story with a partial loft above. The proposed home is typically residential in appearance and fits within the context of this neighborhood's built environment. **(Affirmative finding)**

2. Roofs and Rooflines

A gable roof is proposed on the primary structure with a shed roof over the side mud room and storage space. Such roof forms are common in the neighborhood and typical for residential construction. **(Affirmative finding)**

3. Building Openings

Fenestration is fairly basic and is consistent with the overall appearance of the structure. **(Affirmative finding)**

(b) Protection of important architectural resources

There are no historic 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

As proposed, the new home appears to face south, parallel to the street rather than to face it. The east elevation has been revised to enhance the entryway as noted in Sec. 6.2.2 (h). Exterior building features such as windows, differing materials, and roof overhangs provide some visual interest to the structure and are acceptable. Large blank walls are avoided. **(Affirmative finding)**

(e) Quality of materials

The main structure will be clad in vertical wooden board siding. The mud room and storage space on the side will be clad in rust-colored corrugated steel siding. Standing seam metal roofing will be installed throughout. Clad wooden windows will be installed, and the building will be set on a board-formed concrete foundation. Metal post and rail system with composite decking is proposed for the western deck and side stairs. The proposed materials are of acceptable quality and durability. **(Affirmative finding)**

(f) Reduce energy utilization

The proposed building must comply with the current energy efficiency standards of the city and state. **(Affirmative finding as conditioned)**

(g) Make advertising features complimentary to the site

No advertising is included in this proposal. **(Not applicable)**

(h) Integrate infrastructure into the building design

The electrical meter is depicted at an acceptable location on the north side of the mud room and storage space. No other mechanical exterior mechanical equipment is noted. **(Affirmative finding)**

(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

The subject property is located within the neighborhood parking district. Within that district, detached single family dwellings have a minimum off-street parking requirement of 2 spaces. Those two spaces will be provided for in the driveway. **(Affirmative finding)**

II. Conditions of Approval

If satisfactory revisions to the site plan, specifically as to driveway location and configuration, approval may be granted per the following conditions:

1. Prior to release of the zoning permit, revised plans shall be submitted to address the following items, subject to staff review and approval:
 - a. Installation of native plantings (note location and species) along the reconstructed seawall;
 - b. Light source and illumination level details for the exterior lighting fixtures; and,
 - c. Screening of the exterior HVAC unit.
2. If, during construction, artifacts are unearthed, it is the applicant's responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance.
3. Occupancy of the home shall be limited to that of a "family" as defined in Article 13.
4. This zoning permit in no way grants or implies approval to use the property for "short term rental."
5. Utilization of solar energy is encouraged.

6. Per Sec. 4.5.4, (f) 8, construction within the Special Flood Hazard Area is subject to the following conditions:

C. All development:

- (i) New construction and/or substantial improvements to structures shall be reasonably safe from flooding and be:
 - 1. Designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood;
 - 2. Constructed of materials resistant to flood damage;
 - 3. Constructed by methods and practices that minimize flood damage; and
 - 4. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (ii) All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities;
- (iii) All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards;
- (iv) All new construction and substantial improvements that have fully enclosed areas below the lowest floor shall:
 - 1. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - 2. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings of two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- (v) All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law.

D. Residential Development:

- (i) All new and substantially improved residential structures within Special Flood Hazard Area have the lowest floor, including basement, elevated one foot or more above, the base flood elevation;
- (ii) All new, replacement or substantially improved manufactured homes in the Special Flood Hazard Area shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood. The manufactured home may be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation OR so that the lowest floor is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than one foot in height above the base flood elevation.

- E. Non-Residential Development:
 - (i) Not applicable.
 - F. Water Supply Systems:

New and replacement water supply and sanitary sewer systems shall be designed so as to prevent the infiltration of floodwaters into the systems and discharge from the systems;
 - G. On-Site Waste Disposal Systems:

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
 - H. Recreational Vehicles:
 - (i) Not applicable.
7. A completed as-built elevation certificate certified by a registered professional engineer or licensed land surveyor shall be provided prior to issuance of a certificate of occupancy. Note that elevation above sea level must be checked at three stages: 1) plan drawings (done); 2) under construction (verify the level of the finished floor elevation); and, 3) upon completion of construction.
 8. A certification by a registered professional engineer that all utilities servicing the new structure, that are below the base flood elevation of 101.6, have been designed and constructed in accordance with provisions in *FEMA P-348 Protecting Building Utility Systems from Flood Damage* – including water, wastewater shall be provided prior to issuance of a certificate of occupancy.
 9. A construction fence shall be installed for the duration of construction defining the western boundary of construction activity.
 10. Any new utility lines must be buried.
 11. 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.
 12. Standard permit conditions 1-15.