

## Department of Permitting & Inspections

Zoning Division  
645 Pine Street  
Burlington, VT 05401  
Telephone:(802) 865-7188

*William Ward, Director  
Scott Gustin, AICP, CFM, Principal Planner  
Mary O'Neil, AICP, Principal Planner  
Ryan Morrison, Associate Planner  
Layne Darfler, Planning Technician  
Alison Davis, Planning & Zoning Clerk  
Ted Miles, Zoning Specialist  
Charlene Orton, Permitting & Inspections Administrator*



### MEMORANDUM

**TO:** Development Review Board  
**FROM:** Ryan Morrison, Associate Planner  
**DATE:** January 5, 2021  
**RE:** 21-0520CU; 31 North Prospect Street

=====  
**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:** 1E

**Owner/Applicant:** Kesha Ram

**Request:** Change of use to duplex, removing boarding house use.

#### **Applicable Regulations:**

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps and Districts), Article 8 (Parking)

#### **Background Information:**

The applicant is seeking approval to convert an existing two unit residence (one apartment unit and one boarding house unit) to a duplex. No new development/construction is proposed.

The existing boarding house use was approved under ZP19-0119CU – “Owner occupied duplex; change downstairs use from commercial medical to 3 bedroom boarding house.” The downstairs medical office was recognized as a non-conforming use per the findings of fact of that permit. Per the standards for a boarding house, that permit required owner occupancy of the premises. The owner resides in the upstairs unit, while the downstairs unit contains the 3 boarding rooms. The permit enabled two residential units in the building, and it received its final certificate of occupancy in November 2018. The upstairs apartment continued to be a dwelling unit and required occupancy by a family. The downstairs boarding house was a “special residential use” and could be occupied by individuals without the family restriction associated with a dwelling unit. The owner now requests to convert the boarding house to a second dwelling unit for conversion to a traditional duplex use and reside offsite.

Previous zoning actions for this property are as follows:

- **Non-Applicability of Zoning Permit 12-0052NA;** interior work only. Approved July 15, 2011.
- **Zoning Permit 13-0569FC;** install picket fence. Approved December 3, 2012.
- **Zoning Permit 19-0119CU;** owner occupied duplex; change downstairs use from commercial medical office to a 3 bedroom boarding house. Approved September 18, 2018.

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

## **I. Findings**

### ***Article 2: Administrative Mechanisms***

#### ***Part 7: Enforcement***

##### ***Sec. 2.7.8, Withhold Permit***

Of the three zoning permits approved for the property, one remains ‘permit indeterminate’ – meaning it has never been closed. The applicant is tasked with closing this permit before being able to obtain any future certificate of occupancy. **Affirmative finding as conditioned**

### ***Article 3: Applications, Permits and Project Reviews***

#### ***Part 5, Conditional Use & 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 property will continue to be served by municipal utilities. A State of Vermont wastewater permit will be required. **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 located within an established residential neighborhood in the low density residential zoning (RL) 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 proposed duplex is consistent with this intent. The MDP provides the following support:

- Support the development of additional housing opportunities within the city... (MDP, Housing Plan, Page IX-1. **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;*

The proposed duplex is not expected to generate nuisance impacts from noise, odor, dust, and the like that may be more typically associated with industrial uses. **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;*

No traffic analysis has been provided or is required for this application. The proposed duplex is not expected to generate any additional traffic than what the current use of the property already generates. North Prospect Street has sidewalks on both sides, and is approximately 200 ft from Pearl Street, where bus stops are available. **Affirmative finding**

5. *The utilization of renewable energy resources;*

No renewable energy utilization is included in this proposal. Future incorporation is not precluded by the project design. **Affirmative finding**

*and,*

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances;* City building and energy efficiency codes will apply as conditioned. **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 proposed duplex is not expected to produce offsite noise or glare substantial enough to require mitigation. **Affirmative finding**

2. *Time limits for construction.*

No construction timeline or phasing are included in the project plans. The standard 3-year timeframe for zoning permits will apply. **Affirmative finding**

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

Hours of operation are not applicable to residential uses. No construction is proposed as part of this change of use. **Affirmative finding**

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**

5. *Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

See the recommended conditions.

***Article 4: Zoning Maps & Districts***

***Sec. 4.4.5, Residential Districts:***

***(a) Purpose***

**(1) Residential Low Density (RL)**

The Residential Low Density (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 reflective of the respective neighborhood’s development history.

As noted previously, a duplex is consistent with this intent. **Affirmative finding**

**(b) Dimensional Standards and Density**

**Table 4.4.5-1: Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W<sup>2</sup>**

Use	Lot Frontage <sup>1</sup> (linear feet)		Lot Size (square feet)	
	RL, WRL	RM, WRM	RL, WRL <sup>3</sup>	RM, WRM
Single detached dwelling	Min:	Min:	Min: 6,000	NA
Duplex and above	60’	30’	Min: 10,000	
<ol style="list-style-type: none"> <li>The DRB may adjust the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots reflecting the existing neighborhood pattern on each respective street.</li> <li>There are no minimum lot size or frontage requirements in the RH District.</li> <li>Exception: Larger minimum lot size in RL and WRL larger lot overlay district; refer to Section 4.5.5 &amp; Table 5.5-1.</li> </ol>				

No physical changes are proposed to the property that would affect lot coverage, setbacks, or building height. While the subject property has a substandard frontage of 57 ft, this would not preclude conversion to a duplex. The property is 5,638 sf in area, well below the minimum 10,000 sf lot size required for a duplex use. Normally, this substandard size would preclude a new duplex use; however, in this case, the property already contains two attached residential units. One is a regular dwelling unit, and the other is a special residential use (boarding house). In effect, the residential density of the property remains unchanged upon conversion to a duplex. **Affirmative finding**

**(c) Permitted and Conditional Uses**

A duplex is a conditional use in the RL zone. **Affirmative finding**

**(d) District Specific Regulations**

**1. Setbacks**

Not applicable.

**2. Height**

Not applicable.

**3. Lot Coverage**

Not applicable.

**4. Accessory Residential Structures and Uses**

Not applicable.

## **5. 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.*

The property, either a single family use, a duplex use (if approved), or continuance of the existing boarding house use, will be limited to members of a family as defined in Article 13. **Affirmative finding as conditioned**

## **6. Uses**

Not applicable.

## **7. Residential Development Bonuses**

Not applicable.

## **Article 8: Parking**

### **Sec. 8.1.8, Minimum Off-Street Parking Requirements**

The subject property is located in the Neighborhood Parking District. As such, the duplex requires 4 parking spaces (2 per dwelling unit). According to the site plan approved with the boarding house permit issued in 2018 (ZP19-0119CU), there are 6 onsite parking spaces. **Affirmative finding**

## **II. Conditions of Approval**

1. Per **Section 2.7.8, Withhold Permit**, all zoning permits issued after July 13, 1989 must be closed out (issued a Certificate of Occupancy) prior to issuance of a Final Certificate of Occupancy for this permit. See attached permit list. Upon expiration of this new zoning permit, no additional zoning permits may be issued until it, and all prior zoning permits, have been closed out with final certificate(s) of occupancy. It is recommended that certificates of occupancy for the old zoning permits be sought prior to seeking a certificate of occupancy for the new zoning permit.
2. Both units shall be occupied only by a family as defined in Article 13.
3. A state wastewater permit may be required, and is the responsibility of the applicant to secure.
4. 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.
5. Standard permit conditions 1-15.