

Department of Permitting and Inspections

Zoning Division

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: October 4, 2022
RE: ZP-22-509; 98-100 North Willard 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.

File Number: ZP-22-509

Zone: RL Ward: 1E

Applicant/ Owner: Wen Dong

Request: Add one residential unit to a recently converted duplex (previous use was one commercial office unit and one residential unit; allowed conversion per *Section 5.2.7 (a) 2., Density Equivalent, Nonresidential Uses.*)



Background:

- **Zoning Permit 22-472;** convert office to one residential unit to create a second unit in the building. August, 2022.
- **Zoning Permit 10-1002CA;** install new railing around landing and down stairs, replace shingles on three porch roofs and install two egress windows. June 2010.
- **Non-Applicability of Zoning Permit Requirements 04-219;** remove existing first floor porch decking and replace with same. October 2003.
- **Zoning Permit 84-139;** erect a 4' green vinyl chain link fence 145' along south property line. April 1984.
- **Zoning Permit 78-563;** erect a 21' x 21' addition to the rear of the existing house for offices. March 1978.

Overview: 98-100 North Willard Street, which is listed on the Vermont State Register of Historic Resources, has been a non-conforming use with offices upstairs and a single residential unit downstairs until August of this year, when the offices were converted to one new residential unit. The units are large (4 bedrooms proposed), so the applicant has requested the addition of

one new residential unit as part of rehabilitation efforts. A recently adopted bonus (ZP-22-01, adopted February 2022) provides an allowance for development in excess of the limits established for residential density and residential dimensional standards if the building is listed on the state or National Register of Historic Resources upon review by the DRB.

Recommended motion: Consent approval, per the following findings and conditions:

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 3: Impact Fees

Section 3.3.3 Exemptions and Waivers

(a) Exemptions

The following types of development are exempt from this Part:

2. *Alterations to existing use provided that such alteration occurs entirely within an existing building and within the same square footage.*

The applicant proposes no change to the building footprint or envelope; all alterations will be internal to the structure. No Impact Fees are required for this request. **Affirmative finding.**

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose:

The Residential Districts are intended to control development in residential districts in order to create a safe, livable, and pedestrian friendly environment. They are also intended to create an inviting streetscape for residents and visitors. Development that places emphasis on architectural details and form is encouraged, where primary buildings and entrances are oriented to the sidewalk, and historic development patterns are reinforced. Parking shall be placed either behind, within, or to the side of structures, as is consistent with the district and/or the neighborhood. Building facades designed for parking shall be secondary to the residential aspect of a structure.

1. *The **Residential Low Density (RL)** 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 applicant proposes no exterior changes with the addition of one new residential unit. Although Appendix A does not define three units or more as permitted in the RL zoning district, the Historic Building Rehabilitation Bonus provides an allowance to add new residential units to buildings that enjoy historic register listing. See Section 5.4.8 (e), below. **Affirmative finding.**

(b) Dimensional Standards and Density

Table 4.4.5-1: Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W²

Use	Lot Frontage ¹ (linear feet)		Lot Size (square feet)	
	RL,WRL	RM,WRM	RL, WRL ³	RM, WRM
Single detached dwelling	Min: 60'	Min: 30'	Min: 6,000	NA
Duplex and above			Min: 10,000	

98-100 North Willard Street is an existing, developed lot with a street frontage of 45.26' and a lot size of 6,743 sq. The Historic Buildings Rehabilitation Bonus, however, allows increased development in excess of limits set forth in this section. See Section 5.4.8 (e), below.

Affirmative finding.

Table 4.4.5-2: Base Residential Density

District	Maximum dwelling units per acre ¹
Low Density: RL, RL-W	7 units/acre
Medium Density: RM, RM-W	20 units/acre
High Density: RH	40 units/acre
Inclusive of new streets but exclusive of existing streets, and without bonuses or any Inclusionary Zoning allowances.	

The maximum dwelling units per acre calculation has an annotation that the allowance is *without bonuses*. The Historic Buildings Rehabilitation Bonus allows increased development in excess of limits set forth in this section. See Section 5.4.8 (e), below. **Affirmative finding.**

Table 4.4.5-3: Residential District Dimensional Standards

No changes are proposed to the exterior of the building or the site.

The Historic Buildings Rehabilitation Bonus allows increased development in excess of limits set forth in this section. See Section 5.4.8 (e), below. **Affirmative finding.**

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Residential districts shall be as defined in Appendix A – Use Table.

Although Appendix A does not define three units or more as permitted in the RL zoning district, the Historic Building Rehabilitation Bonus provides an allowance to add new residential units to buildings that enjoy historic register listing in excess of the limits set forth in 4.4.5-2 and 4.4.5-3. See Section 5.4.8 (e), below. **Affirmative finding.**

(d) District Specific Regulations:

The following regulations are district-specific exceptions, bonuses, and standards unique to the residential districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above.

1. Setbacks

A. Encroachment for Residential Driveways
Not applicable.

B. Encroachment into the Waterfront Setback.
Not applicable.

2. Lot Coverage

No changes to the parcel are proposed. Not applicable.

A. Exceptions for Accessory Residential Features.

The application proposes no changes or additions to the site. Not applicable.

3. Accessory Residential Structures, Buildings, and Uses

Not applicable.

4. Residential Density

A. Additional Unit to Multi-Family.

One additional unit may be added to structures located in the RL district which legally contained two or more units as of January 1, 2007, if approved in advance as a conditional use, by the DRB.

This standard is not applicable, as the lot did not contain 2 or more units as of the date specified. The Historic Buildings Rehabilitation Bonus, however, allows increased

development in excess of limits set forth in this section. See Section 5.4.8 (e), below.

Affirmative finding.

B. Additions to Existing Residential Structures.

Not applicable.

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.

Occupancy of any unit within the building is subject to the Functional Family provisions of the ordinance. Not more than four unrelated adults may occupy any of the three units. **Affirmative finding as conditioned.**

5. Uses

This application proposes to introduce one new unit for a total of 3 units on-site. Although not identified as permitted in Appendix A (three or more units, not permitted), the Historic Preservation Rehabilitation Bonus allows for density in excess of limits imposed by Section 4.4.5-2. **Affirmative finding.**

A. Exception for Neighborhood Commercial Uses.

Not applicable.

6. Residential Development Bonuses.

A. Senior Housing Bonus.

Not applicable.

B. Residential Conversion Bonus.

The commercial office space has already been converted to a (conforming) residential use. The owner seeks to utilize the Historic Building Rehabilitation Bonus to add one more new residential unit. See Section 5.4.8 (e), below.

C. Limitations on Residential Development Bonuses:

For projects where the conditions of more than one applicable bonus listed above and under Sec.5.4.8 (e) are met, the applicant may use the most permissive exemption to the underlying lot coverage or residential densities applicable.

In no case shall any development bonuses and allowances granted, either individually or in combination, enable a building to exceed the maximum density, lot coverage and building height permitted in any district as defined below:

Table 4.4.5-8: Maximum Density, Lot Coverage and Building Heights with Bonuses

District	Maximum Density*	Maximum Height	Maximum Lot Coverage*
RH	80 du/ac	45-feet <i>(68-ft in RH Overlay)</i>	92%
RM-W	40 du/ac	60-feet	72%
RM	40 du/ac	35-feet	72%
RL, RL-W	20 du/ac	35-feet	62%

*- or 125% of the pre-application gross floor area or coverage of the qualifying principal building as may be applicable per Table 5.4.8-1 Historic Building Rehabilitation Bonus

The applicant is only seeking one bonus. No changes are proposed to the building exterior or to the site. **Affirmative finding.**

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots.

Not applicable.

Section 5.2.2 Required Frontage or Access

Not applicable.

Section 5.2.3 Lot Coverage Requirements

No changes are proposed to the existing parcel; but the Historic Building Rehabilitation Bonus offers additional allowance for principal building coverage. None is sought. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

The site is not more than 2 acres. Not applicable.

Section 5.2.5 Setbacks

No changes proposed. Not applicable.

Section 5.2.6 Building Height Limits

No changes proposed. Not applicable.

Section 5.2.7 Density and Intensity of Development Calculations

See Table 4.4.5-2, above and Section 5.4.8 (e), below.

Part 3: Non Conformities

Prior to August 2022, the use was non-conforming as it included a pre-existing commercial office on the 2nd floor. Utilizing the Density Conversion from non-residential option, that office

space was eliminated in favor of a new residential unit. The Historic Preservation Rehabilitation Bonus allows for the addition of another residential unit in excess of the density and dimensional standards of Sections 4.4.5-2 and 4.4.5-3. **Affirmative finding.**

Sec. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

98-100 North Willard Street is listed on the State of Vermont list of Historic Resources.

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

98-100 North Willard Street was constructed in 1895 by Louis Burbo as his own residence. Residential use will remain.

- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

The State Register listing states: *The house has the same proportions and scale as the rest of the street and contributes to the general harmonious character of the street. The majority of the enlargement and alteration has been to the rear of the building and is not readily visible to the street; the façade is relatively unchanged.*

No exterior changes are proposed.

3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

No exterior changes are proposed.

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

None identified.

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

No exterior changes are proposed.

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

No exterior changes are proposed.

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

Not applicable.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

No archaeological resources have been identified at this location. Not applicable.

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

No exterior changes are proposed.

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

No exterior changes are proposed.

Affirmative finding.

Section 5.4.8 (e) Historic Building Rehabilitation Bonus:

In order to facilitate the rehabilitation and reuse of historic buildings in Residential and Institutional districts, development in excess of the limits set forth in Tables 4.4.4-1, 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to all of the following conditions:

- i. *The principal building shall be listed or eligible for listing in the United States Department of the Interior’s National Register of Historic Places or the Vermont State Register of Historic Places;*
98-100 North Willard Street is listed on the Vermont State Register of Historic Places.
- ii. *The density limits of the underlying zoning district in Sec. 4.4.4(b) shall not apply. The extent of development shall instead be limited to an expansion up to a total of 125% of pre-application gross floor area of the qualifying principal building in (i) above;*
The development will not occur outside the existing parameters of the structure.
- iii. *The rehabilitation conforms to the requirements of Sec.5.4.8 (b) above;*
See Section 5.4.8, above.
- iv. *Neighborhood commercial uses may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A);*
Not applicable.
- and,*
- v. *Lot coverage shall not exceed:*

Table 5.4.8-1 Historic Building Rehabilitation Bonus

District	Maximum Coverage
RL, RL-W, I	Expansion up to a total of 125% of pre-application principal building coverage.
RM, RM-W	Expansion up to a total of 125% of pre-application principal building coverage.
RH	Expansion up to a total of 125% of pre-application principal building coverage.

No changes are proposed to the existing lot coverage. **Affirmative finding.**

Article 8: Parking

Zoning Amendment 22-07 eliminated minimum parking requirements (Table 8.1.8) but has established Maximum Off-street Parking Requirements (Table 8.1.9-1.) Under that new provision, each unit has a limit of 3 off-street parking spaces.

98-100 North Willard Street has an existing a three car garage with room for parking and turnaround in front of the garage. This is an existing condition, and does not threaten the



Maximum Parking standard.

Affirmative finding.

II. Conditions of Approval

1. A State of Vermont Wastewater Permit may be required. It is the applicant's obligation to secure any such permit.
2. Prior to release of the zoning permit, the applicant shall receive written approval from Burlington's Department of Water Resources confirming adequate water and sewer capacity for the new unit.
3. Not more than four unrelated adults may occupy any of the residential units.
4. Standard Permit Conditions 1-15.

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