

## Department of Permitting & Inspections

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### MEMORANDUM

To: Development Review Board  
From: Ryan Morrison, Associate Planner  
Date: September 1, 2020  
RE: 21-0028CA; 77-87 Pearl Street

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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.**

**File:** ZP21-0028CA  
**Location:** 77-87 Pearl Street  
**Zone:** FD6 **Ward:** 3S  
**Date application accepted:** July 9, 2020  
**Applicant & Owner:** 77-87 Pearl St. LLC  
**Parking District:** Downtown  
**Request:** Increase residential units from 5 to 9; three space parking waiver request.

#### **Applicable Regulations:**

Article 3 (Applications, Permits, and Project Reviews), Article 8 (Parking), Article 14 (PlanBTV Downtown Code)

#### **Background:**

- **Zoning Permit 01-228;** refurbish existing corner grocery store with a deli component exterior façade. November 2000.
- **Zoning Permit 01-294;** install two non-illuminated parallel signs. January 2001.
- **Zoning Permit 09-541CA;** replace asphalt shingles and slate roofing with asphalt shingles. February 2009.
- **Zoning Permit 09-955CA;** remove 2 roof additions, strip and re-sheath existing rooftop structure and enclosed stairway with cementitious clapboard, install rubber roofing system to flat-top roofs, shingles on the penthouse, remove and reconstruct existing decorative cornice to match existing, build two rooftop decks. June 2009.
- **Non-Applicability of Zoning Permit Requirements 12-0880NA;** temporary mural. March 2012.
- **Non-Applicability of Zoning Permit Requirements 15-0792NA;** replace and repair damaged trim and window sills/openings on first floor exterior store fronts, in kind. February 2015.
- **Non-Applicability of Zoning Permit Requirements 15-0949NA;** repair and replace fascia on east and south sides of building. April 2015.

- **Zoning Permit 17-1014CA**; install transom window in original location. May 2017.
- **Zoning Permit 17-1085CA**; change of use from diner to dog training facility. June 2017.
- **Zoning Permit 17-1118CA**; change of use from deli/take out restaurant (former Radio Deli) to restaurant with seating. May 2017.
- **Zoning Permit 18-0070SN**; new illuminated parallel sign for Fetch The Leash. July 2017.
- **Zoning Permit 18-0119CA**; install kitchen hood ventilation system and roof vent. August 2017.
- **Zoning Permit 18-0270CA**; install rooftop decking with steel railings, remove and replace exterior rooftop decking, repair siding, and replace windows. September 2017.
- **Non-Applicability of Zoning Permit Requirements 18-0392NA**; window sign less than 25% of the window area. October 2017.
- **Zoning Permit 18-1198CA**; add basement access door on north side in alleyway. July 2018.

**Overview:**

The applicant proposes to increase the number of residential units on the property from 5 to 9. Existing uses on the property include:

- 77 Pearl Street – Hong’s Chinese Dumplings
- 81 Pearl Street – residential
- 83 Pearl Street – Leonardo’s Pizza
- 85-87 Pearl Street – Fetch the Leash
- 6 Pine Street – Uninhabited Building

81 Pearl St is a four story building, with Leonardo’s Pizza and Hong’s Chinese Dumplings on the first floor, and residential units in the upper three floors. This project will see work on the 2<sup>nd</sup> and 3<sup>rd</sup> floors. The 4<sup>th</sup> floor will remain as is – a one unit penthouse. The property is zoned FD6 – Downtown Core, and uses within are subject to the guiding principles of Article 14 – PlanBTV Downtown Code.

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

**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 Sec. 3.3.4.*

While the number of units is proposed to increase from 5 to 9, the actual floor area devoted to residential uses within the building will remain the same. The proposal will see the existing four 3-bedroom units and one 2-bedroom unit change to 7 studio units, one 1-bedroom unit and one 2-bedroom unit, all within the existing residential layout. Impact fees for residential uses are based on the gross square footage devoted to such use, and since new square footage is not being added to accommodate the increase in units, no impact fees will be required. **Not applicable.**

## **Article 8: Parking**

### **Table 8.1.8-1 Minimum Off-Street Parking Requirements**

In the Downtown Parking District, multi-unit attached dwelling units, studio units or 1-bedroom dwelling units require 1 parking space per unit. Cafes (Leonardo's Pizza & Hong's Chinese Dumplings) and Animal Grooming (Fetch the Leash) require no parking spaces. Only the residential uses on the property trigger an onsite parking requirement. A parking plan was included in the application submittal which shows 8 parking spaces; however two of those spaces are tandem which are not permitted for multi-family dwellings or commercial uses. Those two tandem spaces, located between the barn and the rear of the commercial/residential buildings, would be considered non-compliant for the purposes of this application, and as a result, this office recognizes 6 parking spaces. As a result, the current proposal is three parking spaces short of the 9 required spaces. The applicant is requesting a 3 space parking waiver. **Affirmative finding if the DRB approves the parking waiver.**

### **Section 8.1.15 Waivers from Parking Requirements/Parking Management Plans**

Waivers of up to 50% can be permitted for residential uses. With the various uses combined, including the proposed residential unit increase, the required parking count totals 9 spaces. The property currently has 6 onsite parking spaces.

The applicant states that the property is on the same block as the Burlington Downtown Transit Center, which connects people with destinations around the city, county and state. Even with the increase in dwelling units, the number of bedrooms will decrease from 14 to 10. Currently, the four 3-bedroom units do not include off-street parking, which the applicant claims has housed tenants with and without vehicles for the past 30+ years. The availability of free and metered street parking, as well as public and private lots has made it possible for tenants to park a reasonable distance from the building.

The applicant has provided a sample lease that tenants of the property agree to. This includes language pertaining to the availability of off-street parking – whether it is or isn't available with an apartment.

It must be noted that an amendment to Article 8 – Parking (ZA-20-04), was publicly noticed on August 26, 2020 for a public hearing with the City Council on September 14, 2020. This amendment removes all parking space requirements within the new 'Multimodal Mixed Use Parking District', which the subject property will be in. As soon as a zoning ordinance amendment is noticed for public hearing with the City Council, it becomes effective, meaning that as of August 26, 2020, the additional parking requirements for this application are no longer, and essentially this parking waiver would not be needed. **Affirmative finding if the DRB approves the parking waiver.**

## **Article 14: Downtown Code**

### **Sec. 14.3.4 FD6 Downtown Core**

Many of the standards of the Downtown Code are administrative, and 'Attached Dwellings' are permitted uses within the FD6 Downtown Core district. Aside from increasing the apartment units from 5 to 9 within 81 Pearl Street, no other changes are proposed to the property or existing buildings. **Affirmative finding.**

## **II. Conditions of Approval**

1. A 3-space parking waiver is included in this approval. The applicant shall report back to the Department of Permits & Inspections each year for three years to define the efficacy of the parking waiver.
2. **Prior to the release of the zoning permit**, the applicant shall secure a letter of confirmation from the Department of Public Works verifying that there is adequate water and sewer capacity for the additional dwelling units.
3. 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.
4. The applicant/property owner shall secure a state wastewater permit, should one be required for the proposal.
5. Residential occupancy limits apply. The occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Not more than four unrelated adults may occupy any dwelling unit.
6. Any physical alteration or enlargement of the use will require a new zoning permit, subject to regulations in effect at the time of permit application submittal.
7. Standard Permit Conditions 1-15.