

## Department of Permitting & Inspections

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**TO:** Development Review Board  
**FROM:** Scott Gustin  
**DATE:** February 15, 2022  
**RE:** ZP-21-809; 251-253 South Union 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.**

Zone: RL                      Ward: 6S

Owner/Applicant: Two Fifty Three South Union, Realty LLC / Stephen Kredell

**Request:** Adaptive reuse conversion of historic structure from commercial to residential use.

This project underwent sketch plan review November 16, 2021 but included a rear addition and separate detached apartment building that are not included in this application.

### **Applicable Regulations:**

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), Article 9 (Inclusionary & Replacement Housing)

### **Background Information:**

The applicants are seeking approval to convert an existing office building into a multi-family attached dwelling with 8 units. Minimal building alterations are included and are limited to some minor work on the rear of the building. The front and sides remain unchanged.

The office building was originally constructed as a residence but has been used as office space since the 1960's. The building is on the National Register of Historic Places and dates to 1848. The proposed residential conversion qualifies for the "adaptive reuse" bonus under Article 4. Consideration under adaptive reuse requires conditional use review.

The property is split between Residential – Low Density along South Union Street and Residential Medium Density downhill to the west. All work will take place within the RL portion of the lot. Given the number of proposed dwelling units, inclusionary zoning requirements apply.

Previous zoning actions for this property:

- 3/4/21, Denial to change general office use to neighborhood commercial use (health studio and medical office)
- 7/12/89, Approval to install a compressor and new window
- 8/28/86, Approval to construct exterior egress stairs behind the building
- 3/10/82, Approval to install a replacement parallel sign

- 8/1/77, Approval to convert an apartment into expanded office space
- 7/11/67, Approval to convert the first floor residential space into office space

**Recommendation:** Initial review and continuation to allow the applicant additional time to address the outstanding items below.

## I. Findings

### Article 3: Applications and Reviews

#### Part 5, Conditional Use & Major Impact Review:

#### Section 3.5.6 (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;*

This project constitutes infill development and will utilize existing infrastructure. Incremental impacts on city services will be offset with payment of impact fees. **(Affirmative finding as conditioned)**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal development plan;*

The property is split between two residential zones – Residential Low Density and Residential Medium Density. Elimination of the nonconforming commercial use and introduction of residential use is consistent with the express purpose of the residential zones. **(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 residences are not expected to generate nuisance impacts from noise, odor, dust, and the like. **(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;*

Basic traffic information has been provided. Per current ITE standards, trip generation is expected to drop with the conversion from office space to residential units. Estimated weekday trip generation is 54 trip ends – about 32 fewer than associated with small office use. While this figure seems high for just 8 dwelling units close to downtown and alternative transportation, the figure is well below the threshold of 75 trip ends necessitating a comprehensive traffic analysis. No significant impacts on the city’s transportation network are anticipated. Impact fees will help offset what impacts there are. **(Affirmative finding as conditioned)**

5. *The utilization of renewable energy resources;*

No part of this application would prevent the use of wind, water, solar, or other renewable energy resources. **(Affirmative finding)**

6. *Any standards set forth in existing City bylaws and city and state ordinances;*  
None identified. **(Affirmative finding)**

**(b) Major Impact Review Standards**

Exempt per Sec. 3.5.3, *Exemptions*, (b). **(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 residential development is not expected to generate offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

2. *Time limits for construction.*

No construction schedule is included in the application plans. The standard time frame is 3 years (1 year to start and 2 more to finish) with one phase. **(Affirmative finding)**

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

Hours of operation do not pertain to the proposed residential development.

No days or hours of construction are noted in the application. Typical days and hours of construction within residential neighborhoods are Monday – Friday from 7:00 AM – 5:00 PM.

Saturday construction may be allowed upon request. No work 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; and,*

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

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.*

To be addressed in conditions of approval.

**Article 4: Maps & Districts**

**Sec. 4.4.5, Residential Districts:**

**(a) Purpose**

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

The existing building is located in the RL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes. The adaptive reuse

of the historic building will result in a multi-family residence that is typically not allowed in the RL zone; however, the adaptive reuse bonus allows for such higher density development in order to encourage conversion of nonconforming commercial uses to residential. **(Affirmative finding)**

***(b) Dimensional Standards and Density***

The historic building will contain 8 dwelling units. There is no unit/acre density limit associated with the adaptive reuse bonus.

Existing lot coverage within the RL portion of the property is about 34%. It will remain largely unchanged with the addition of a walkway and a dumpster enclosure and the removal of a strip of parking along the northerly property line. Lot coverage may actually decline a bit. No updated lot coverage figure is noted and is required.

Setbacks will remain unchanged.

Building height remains unchanged. **(Affirmative finding as conditioned)**

***(c) Permitted and Conditional Uses***

The proposed adaptive reuse of the historic building entails conditional use review and is included in these findings. **(Affirmative finding)**

***(d) District Specific Regulations***

***6. Residential Development Bonuses***

**B. Adaptive Reuse Bonus**

Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential principal use within a historic building to a conforming residential use subject to all of the following conditions:

- (i) *The 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;*

The existing brick building is included within the National Register of Historic Places. **(Affirmative finding)**

- (ii) *The gross floor area shall not exceed the pre-redevelopment gross floor area of the existing structure by more than twenty-five (25) percent;*

No change to the building GFA is proposed. **(Affirmative finding)**

- (iii) *The density limits of the underlying residential zoning district in Sec 4.4.5(b) above shall not apply. The intensity and extent of development shall be limited by gross floor area maximum in (ii) above and Table 4.4.5-6 below;*

See above.

- (iv) *The adaptive reuse and rehabilitation conforms to the requirements of Art 5, Historic Buildings;*

See Sec. 5.4.8.

(v) *Neighborhood commercial uses less than 2,000 sqft gross floor area may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A) above. Neighborhood commercial uses 2,000 sqft or larger in gross floor area shall not be permitted. In combination, the sum of neighborhood commercial uses shall be limited to no more than 50% of the gross floor area of the existing structure; and,*

**(Not applicable)**

(vi) *Lot coverage shall not exceed:*

Up to 50% lot coverage is allowed with the adaptive reuse bonus. As noted above, proposed lot coverage in the RL portion of the property will vary slightly from the existing 34%. This coverage is within the acceptable limits for an adaptive reuse project.

**(Affirmative finding)**

## **Article 5: Citywide General Regulations**

### **Sec. 5.2.3, Lot Coverage Requirements**

See Sec. 4.4.5 (b).

### **Sec. 5.2.4, Buildable Area Calculation**

See Sec. 4.4.5 (b).

### **Sec. 5.2.5, Setbacks**

See Sec. 4.4.5 (b).

### **Sec. 5.2.6, Building Height Limits**

See Sec. 4.4.5 (b).

### **Sec. 5.2.7, Density and Intensity of Development Calculations**

See Sec. 4.4.5 (b).

## **Part 4: Special Use Regulations**

### **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.*

251-253 South Union Street is listed on the National Register of Historic Places (South Union Street Historic District) and on the State of Vermont Historic Sites & Structures Register.

**(Affirmative finding)**

*(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.*

The Henry Shaw House was constructed as a dwelling, c. 1848. The building is currently permitted as general office space with a single upstairs apartment (no apartment actually exists). The current building configuration is as it is noted on the National Historic Register: a 2 ½ story central block with ells to the north and south (all gable roofed), and an additional flat-roof ell at the rear.

The proposal will bring the property back to its historic residential use, although with 8 residential units in comparison to the original single family use. Only limited exterior changes are proposed to the rear of the existing structure and consist of replacement decking and railings, two new exterior stairs integrated into the rear porches, and some new rear doors. **(Affirmative finding)**

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 exterior of the structure will largely remain as-is. No removal of distinctive materials or alterations of features, spaces, or spatial relationships characterize the building are proposed. **(Affirmative finding)**

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 conjectural alterations are proposed. **(Affirmative finding)**

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

The rear ell does not appear to be part of the original structure, but has acquired historic significance in its own right, as documented in the Historic registers. No exterior alterations to it are proposed. **(Affirmative finding)**

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

Some existing wooden decking on the rear porch will be replaced with new wooden decking. Steel guardrails will replace wooden railings along this rear porch and stairways. This limited alteration in the back is acceptable. **(Affirmative finding)**

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.*

As noted above, some wooden decking in the rear will be replaced with new wooden decking. Steel guardrails will replace the wooden railings in back. **(Affirmative finding)**

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.*

No chemical or physical treatments are identified within the submission materials. **(Affirmative finding)**

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

There are no known archaeological resources on this site. If any such resources are discovered during construction, the applicant shall report as much to the Vermont Division for Historic Preservation for assessment, evaluation, and appropriate disposition. **(Affirmative finding)**

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.*

See items 5 & 6 above.

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.*

A few new rear doors are proposed, along with replacement steel railings. New exterior staircases will be integrated into the rear porches. It is entirely possible that these alterations could be undone and conditions returned to their existing state with relatively little effort. **(Affirmative finding)**

#### ***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***

No new exterior lighting is included in the project. **(Not applicable)**

***Sec. 5.5.3, Stormwater and Erosion Control***

Minimal earthwork is involved in this project. **(Not applicable)**

**Article 6: Development Review Standards**

***Part 1, Land Division Design Standards***

No land division is proposed.

***Part 2, Site Plan Design Standards***

***Sec. 6.2.2, Review Standards***

***(a) Protection of important natural features***

No identified important natural features will be impacted by the project. **(Affirmative finding)**

***(b) Topographical alterations***

The property has an east-west downslope. No topographical alterations are proposed.

**(Affirmative finding)**

***(c) Protection of important public views***

There are no identified public view corridors from or through the subject property. **(Affirmative finding)**

***(d) Protection of important cultural resources***

See Sec. 5.4.8.

***(e) Supporting the use of alternative energy***

No part of the application will preclude the use of wind, water, solar, geothermal or other renewable energy resource. **(Affirmative finding)**

***(f) Brownfield sites***

The property is not listed as a Brownfield Site. **(Affirmative finding)**

***(g) Provide for nature's events***

See Sec. 5.5.3 for stormwater and erosion control.

New and existing building entries are sheltered within porches or other overhangs.

Ample room is available onsite to handle snow storage. **(Affirmative finding)**

***(h) Building location and orientation***

No change. **(Not applicable)**

***(i) Vehicular access***

No change to the existing curb cut along South Union Street is proposed, nor is any change proposed to the private driveway that serves the property. **(Affirmative finding)**



*(j) Pedestrian access*

Pedestrian access will be improved with a new walkway connecting the parking area to the public sidewalk along South Union Street. **(Affirmative finding)**

*(k) Accessibility for the handicapped*

The plans do not address handicap parking or access and must. **(No finding possible)**

*(l) Parking and circulation*

Parking and circulation remain unchanged. An existing driveway connects to an existing parking area behind the building. **(Affirmative finding)**

*(m) Landscaping, fences, & retaining walls*

Existing landscaping onsite will remain unchanged. **(Not applicable)**

*(n) Public plazas and open space*

There is no requirement within the ordinance to provide a public plaza. The property will, however, provide ample yard/natural space for tenants to utilize. **(Affirmative finding)**

*(o) Outdoor lighting*

See Sec. 5.5.2.

*(p) Integrate infrastructure into the design*

The site plans include a trash enclosure along with a detailed drawing. New condensing units are pointed out on the site plan at the rear of the building but are not depicted in the elevation drawings and must be. Location in the rear of the building is acceptable. Mailbox location is not noted and must be. **(Affirmative finding as conditioned)**

***Part 3, Architectural Design Standards***

***Sec. 6.3.2, Review Standards***

Only minimal exterior alterations are proposed. See Sec. 5.4.8 above.

**Article 8: Parking**

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

The subject property is located in the neighborhood parking district. This district requires 2 parking spaces per dwelling unit. Sec. 8.1.6 exempts adaptive reuse projects from minimum parking standards and also exempts inclusionary housing units. There is 0 minimum parking requirement for this project. **(Affirmative finding)**

***Sec. 8.1.9, Maximum On-Site Parking Spaces***

This criterion limits on-site parking spaces to 125% of the minimum requirement. Lacking exemptions, the 8 dwelling units would require 16 parking spaces. As proposed, 11 parking spaces would be provided. **(Affirmative finding)**

***Sec. 8.1.10, Off-Street Loading Requirements***

**(Not applicable)**

***Sec. 8.1.11, Parking Dimensional Requirements***

The parking area exists and is of sufficient size to contain the 11 parking spaces noted above. Note that the arrangement of parking spaces in the aerial photo overlain the “proposed conditions plan” differs from that depicted in the architectural site plan. Consistency is needed. **(Affirmative finding as conditioned)**

***Sec. 8.1.12, Limitations, Location, Use of Facilities***

*(a) Off-Site Parking Facilities*

**(Not applicable)**

*(b) Front Yard Parking Restricted*

None is proposed. **(Affirmative finding)**

*(c) Shared Parking*

**(Not applicable)**

*(d) Single Story Structures in Shared Use Districts*

**(Not applicable)**

*(e) Joint Use of Facilities*

Onsite parking will be shared by residents of the building. **(Affirmative finding)**

*(f) Availability of Facilities*

As noted above, the parking to be constructed as part of this development will serve residents and visitors. It may not be used for the storage or display of vehicles or materials. **(Affirmative finding)**

***Sec. 8.1.13, Parking for Disabled Persons***

ADA parking details are not provided and must be as noted during sketch plan review. **(No finding possible)**

***Sec. 8.1.14, Stacked and Tandem Parking Restrictions***

**(Not applicable)**

***Sec. 8.1.15, Waivers from Parking Requirements/Parking Management Plans***

**(Not applicable)**

***Sec. 8.1.16, Transportation Demand Management***

*(b) Applicability*

This property is not within the multimodal mixed-use parking district, and therefore, does not require a TDM plan. **(Not applicable)**

***Sec. 8.2.5, Bicycle Parking Requirements***

The 8 dwelling units will require 1 short term bike parking space. The project plans depict bicycle racks at the edge of the rear parking area, relatively close to the rear building entries. A detail for the proposed racks is needed. The number of long term spaces is dependent on the number of bedrooms, in this case 13. The long term bike parking requirement is 1 per 2 bedrooms (7 long term spaces). The project plans depict interior, enclosed long term bike parking spaces. **(Affirmative finding as conditioned)**

## **Article 9: Inclusionary and Replacement Housing**

### ***Sec. 9.1.5, Applicability***

The project contains more than 5 dwelling units, and therefore, requires inclusionary housing units. Details are not included in the application plans, but the typical standard is 15% of the residences must be inclusionary. In this case, at least 1 inclusionary dwelling unit is required.

Details as to the affordability of this unit are needed and have not yet been provided. The project is of a size and in a location that prohibits payment in lieu or off-site inclusionary units. **(No finding possible)**

## **II. Conditions of Approval**

If the DRB finds that approval is warranted, the following conditions are recommended:

1. **Prior to release of the zoning permit**, the following items shall be provided, subject to staff review and approval:
  - a. Existing and proposed lot coverage square footage and percentage;
  - b. Handicap parking spaces depicted on the site plan;
  - c. Condensing units depicted in the elevation drawings;
  - d. Mailbox location noted on the project plans;
  - e. Scale noted on the architectural site plan;
  - f. Consistent parking layout between the architectural and civil site plans;
  - g. Detail for the proposed short term bike racks; and,
  - h. Written approval of the inclusionary housing proposal by the manager of the city's Housing Trust Fund is required.
2. Impact fees, based on the converted square footage of the building, shall be paid **at least 7 days prior** to issuance of a certificate of occupancy.
3. Days and hours of construction shall be limited to Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request. No work on Sunday.
4. A state wastewater permit is required. It is the applicant's responsibility to inquire with VT DEC as to whether such permit is necessary.
5. 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.
6. Standard permit conditions 1-15.