

**Department of Permitting & Inspections**

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**TO:** Development Review Board  
**FROM:** Scott Gustin  
**DATE:** October 18, 2022  
**RE:** ZP-22-489; 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: Daisy Properties, LLC / Stephen Kredell

**Request:** 5-Unit addition to previously approved adaptive reuse office space conversion to 8 residential units. Total of 13 residential units now proposed.

**Applicable Regulations:**

Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), Article 9 (Inclusionary & Replacement Housing)

**Background Information:**

Earlier this year, the applicant received approval under the adaptive reuse provisions of Article 4 to convert office space within an historic building to 8 dwelling units. Some minor site work was also included in that approval. The applicant is now seeking approval to revise that project to include a rear addition for an additional 5 dwelling units. Most of the work included in this proposal consists of the rear addition, although some minor changes to the parking and trash/recycling enclosure are also included. The adaptive reuse provision of Article 4 has been relocated to Article 5 and revised to operate as a bonus for historic buildings, regardless of nonconformity.

The subject building was originally constructed as a residence but was used as office space from the 1960's until the past year or so. The building is on the National Register of Historic Places and dates to 1848.

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 within the past 12 months, inclusionary zoning requirements apply.

Previous zoning actions for this property:

- 2/15/22, Approval to convert office building to 8 residential units
- 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 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. Conversion of the building back to residential use results in a multi-family residence that is typically not allowed in the RL zone; however, the adaptive reuse bonus (now “historic building rehabilitation bonus”) allows for such higher density development in order to encourage conversion of nonconforming commercial uses to residential. Amending the project to include an additional 5 dwelling units and rear addition results in greater intensity of residential development incentivized by the bonus.

**(Affirmative finding)**

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

With the proposed rear addition, there will be 13 dwelling units. There is no unit/acre density limit associated with the historic building rehabilitation bonus. Rather, development intensity is limited to an expansion of up to 125% of pre-application gross floor area of the historic building. Existing GFA is 7,114 sf. A 125% expansion of that is 8,893 sf. As proposed, GFA would be an acceptable 8,810 sf.

The project as approved results in 40.6% lot coverage. As now proposed, lot coverage will increase to 49.9%. Lot coverage is limited by the 125% building GFA expansion as noted above.

The front yard setback will remain unchanged. The minimum required side yard setback is 13,’ and the minimum required rear yard setback is 75.’ As proposed, the rear addition is more than 20’ to the nearer of the two side yards and 80’ to the closer of the two rear property lines.

Height of the proposed addition is about 20’ – and less than that as measured from South Union Street. Height is well below the 35’ maximum permissible. **(Affirmative finding)**

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

Multi-family residential use is not typically allowed in the RL zone; however, it is permitted via the historic building rehabilitation bonus. **(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 most recent prior zoning permit for the property approved conversion of long-standing office space back to residential use containing 8 dwelling units. This current application will add another 5 dwelling units to the property in a rear addition. No alterations to the building are included in this application except for the connection to the rear addition. The connection between the existing building and the new addition is at the rear ell, which does not appear to be original. **(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.*

As noted above, minimal changes to the historic building are proposed and are limited to the connection to the rear addition. **(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. Minimal alteration to this ell are proposed in order to connect to the rear addition. **(Affirmative finding)**

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

No alterations to distinctive materials, features, or finishes are proposed. **(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.*

No replacement materials are proposed. **(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.*

The proposed addition is located behind and below the historic structure along South Union Street. It will be hidden behind the primary historic structure and will require minimal alteration to the existing building exterior. The new addition is obviously new and is clearly subordinate to the primary structure. **(Affirmative finding)**

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.*

The proposed addition leaves the existing historic building largely untouched. Only a small connector in the rear will join the existing and proposed buildings. If the addition were to be removed in the future, the essential form and integrity of the historic building would be retained. **(Affirmative finding)**

*(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;*

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

- (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 by an expansion up to a total of 125% of pre-application gross floor area of the qualifying principal building in (i) above;*

As noted previously, the proposed addition fits within the 125% allowance. **(Affirmative finding)**

- (iii) *The rehabilitation conforms to the requirements of Sec. 5.4.8 (b) above;*

See (b) 1-10 above.

- (iv) *Neighborhood commercial uses may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A); and,*

**(Not applicable)**

(v) *Lot coverage shall not exceed:*

*[RL, RL-W, I – Expansion up to a total of 125% of pre-application principal building coverage.]*

As noted above the proposed addition fits within the permissible 125% expansion of pre-application GFA. **(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***

Minimal new exterior lighting is included in the project and consists of building entryway fixtures. Full cutoff style and locations are noted on the elevation plans, but fixture cutsheets are lacking and are required. **(Affirmative finding as conditioned)**

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

An erosion prevention and sediment control plan is required for this project. Review and approval of such plan by the city's water resources staff is required prior to construction. **(Affirmative finding as conditioned)**

**Article 6: Development Review Standards**

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

No land division is proposed.

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

Note the site plan and some of the elevation drawings differ as to an enclosed connection between the existing and proposed buildings. The connector needs to be enclosed building space. Plan revisions are needed for consistency.

***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. As noted previously, the proposed addition will be set downslope from, and below, the existing building. Minimal topographical alterations are proposed for the new addition. **(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.

Ground floor entries into the new residences lack any sort of protection from the elements. At least basic overhangs are recommended to provide some bit of shelter.

Ample room remains available onsite to handle snow storage. **(Affirmative finding as conditioned)**

*(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*

A new walkway will connect the parking area to the front entries of the new dwelling units in the addition. The walkway is separate from the parking area and keeps pedestrians out of traffic circulation in the driveway and parking area. **(Affirmative finding)**

*(k) Accessibility for the handicapped*

The plans depict handicap parking nearest the walkway to the new dwelling units and rear entry of the existing building. ADA standards are administered primarily by way of the Building Inspector. **(Affirmative finding)**

*(l) Parking and circulation*

The rear parking area will be somewhat reconfigured, mostly to rearrange the parking spaces. The location remains unchanged. The strip of parking spaces for the neighboring property to the north that encroach into this property are shown as retained on this current site plan. On the prior approval, they were removed and converted to green space. They appear to be accounted for in the proposed parking count with this new application. **(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 at the edge of the parking area. Enclosure details are provided. The connector space between the existing and proposed buildings will serve as the mail room. No ground-mounted mechanical units beyond those originally approved are depicted in the project plans. **(Affirmative finding)**

**Part 3, Architectural Design Standards**

**Sec. 6.3.2, Review Standards**

*(a) Relate development to its environment*

*1. Massing, Height, and Scale*

The proposed addition reads as a shoebox with uniform massing set behind the original historic building. It is simple in appearance and differential to the original structure. Rooftop height matches that of the rear ell on the existing building but is substantially lower than that on the original building. Scale of the addition is similar to that of neighboring buildings. Overall, the proposed structure is a fairly unobtrusive addition to the neighborhood. **(Affirmative finding)**

*2. Roofs and Rooflines*

The proposed addition incorporates a flat roof. While not especially common in this neighborhood, it matches the flat roof on the primary structure's rear ell. The flat roof further reduces the presence of the addition relative to the primary structure. **(Affirmative finding)**

*3. Building Openings*

The proposed fenestration fits within the design of the proposed addition. That said, it differs substantially from that within the primary structure. There is opportunity here to revise the proposed fenestration to more closely resemble that in the primary structure to better tie the two structures together. Scale and pattern could be made more consistent, not necessarily the same styles. **(Affirmative finding as conditioned)**

*(b) Protection of important architectural resources*

See Sec. 5.4.8 above.

*(c) Protection of important public views*

See 6.2.2 (c) above.

*(d) Provide an active and inviting street edge*

The proposed addition is located behind the existing building and has no street presence, nor is it intended to. The existing building has an impressive street presence and a well-articulated front entrance. No changes to the existing primary façade are proposed. **(Affirmative finding)**

*(e) Quality of materials*

The proposed addition will be clad in fiber cement panels. Membrane roofing will be installed, and the structure will be set atop a concrete foundation. Insulated vinyl windows and doors will be installed. The materials proposed are common for new construction and are of acceptable quality and durability for this building. **(Affirmative finding)**

*(f) Reduce energy utilization*

The proposed building must comply with the current energy efficiency standards of Burlington and the State of Vermont. **(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*

No rooftop or other exterior mechanical equipment is included in the project plans. Mechanical space is noted in the basement cross sections. **(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**

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

There is no longer a minimum on-site parking requirement. **(Affirmative finding)**

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

This criterion limits on-site parking spaces to 3 spaces per dwelling unit in this Neighborhood Parking District. With a total of 13 units, the maximum parking allowable would be 39 spaces. Only 16 spaces are proposed. **(Affirmative finding)**

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

**(Not applicable)**

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

The parking areas exist and are of sufficient size to contain the 16 parking spaces noted above. **(Affirmative finding)**

### ***Sec. 8.1.12, Shared Parking for Off-Site Use***

**(Not applicable)**

*(b) Front Yard Parking Restricted*

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

*(c) 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 depicted as required. **(Affirmative finding)**

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

**(Not applicable)**

### ***Sec. 8.1.15, (Reserved)***

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

#### ***(b) Applicability***

The prior project approval to convert the office space to 8 dwelling units did not require a transportation demand management plan. Since that approval, an amendment to these standards has been warned for public hearing and is currently effective. These current standards require a transportation demand management plan. One has not been provided and is required. **(No finding possible)**

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

The prior approval for 8 dwelling units included provision for long and short term bike parking. This amended proposal contains no such details and must. The 5 additional dwelling units require no additional short term spaces. The number of long term bike parking spaces required is tied to the number of bedrooms (2 per bedroom). That number is not specified. Therefore, the additional long term bike parking requirement cannot yet be determined. **(No finding possible)**

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

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

The project as amended contains 13 dwelling units, and therefore, requires inclusionary housing units (10 or more units by way of adaptive reuse triggers inclusionary zoning). 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 2 inclusionary dwelling units are required.

Details as to the affordability of these units 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. Consistency among the project plans depicting enclosed space connecting the existing and proposed buildings;
  - b. Exterior light fixture cutsheets;
  - c. Sheltered exterior entries for the new dwelling units;
  - d. Revised fenestration in the addition to reflect the size and installation pattern of that in the existing building;
  - e. A Transportation Demand Management plan;
  - f. Detail for the required bike parking; and,
  - g. Written approval of the inclusionary housing proposal by the manager of the city's Housing Trust Fund is required.
2. **Prior to release of the zoning permit**, an erosion prevention and sediment control plan shall be reviewed and approved by the city's Water Resources Division.
3. 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.
4. 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.

5. A state wastewater permit is required. It is the applicant's responsibility to inquire with VT DEC as to whether such permit is necessary.
6. 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.
7. Standard permit conditions 1-15.