

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Vacant, Planning Technician
Celeste Crowley, Planning & Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: February 1, 2022
RE: ZP-21-815; 570 South 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.

File: ZP-21-815

Location: 570 South Prospect Street

Zone: RCO-RG **Ward:** 6S

Applicant/ Owner: Michael Koch / Amy E Tarrant Living Trust

Parking District: Neighborhood

Request: Subdivide 570 South Prospect Street into two lots and remove trees for a future home site on Lot 2. No other development is proposed.

Applicable Regulations:

Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 10 (Subdivision Review)

Background:

- **Zoning Permit 96-314;** addition to the existing single family home. January, 1996.
- **Zoning Permit 16-0262LL;** lot line adjustment with 584 South Prospect Street. September, 2015. *Superseded*
- **Zoning Permit 21-0752LL;** lot line adjustment with 584 South Prospect Street. March, 2021.

Overview:

The applicant proposes to subdivide 570 South Prospect Street into two lots. Lot 1 will contain the existing single family residence, and Lot 2 will remain vacant. Tree removal is proposed throughout Lot 2 to make way for infrastructure and grading for future development. No other development is proposed.

Recommendation: Subdivision approval as per the following findings and conditions.

I. Findings

Article 4: Zoning Maps and Districts

Section 4.4.6 Recreation, Conservation and Open Space Districts

(a) Purpose

The Recreation, Conservation and Open Space (RCO) Districts are intended to protect the function, integrity and health of the city's natural systems environment, provide for a balance between developed and undeveloped land, protect air and water quality, provide adequate open areas for recreation, conservation, agriculture, and forestry, enhance the city's quality of life and the aesthetic qualities of the city, moderate climate, reduce noise pollution, provide wildlife habitat, and preserve open space in its natural state.

2. RCO-Recreation/Greenspace (RCO-RG): *The Recreation/Greenspace District is intended to provide a diversity of passive and active recreational opportunities and other urban green spaces that provide for public use and enjoyment. The District includes a wide spectrum of recreational opportunities including developed parks with active public-use facilities, undeveloped open areas, dog parks, community gardens, urban parks and pocket parks, playgrounds, transportation corridors, and cemeteries. The District also includes private property, including a golf course and residential properties, where appropriate future development could be provided.*

The subject property is surrounded by the Burlington Country Club. There are a few existing homes on large lots along Country Club Road (private road providing access to the country club and residences). The subdivision will split the existing 1,458,121 sf property into two lots. Future residential development is anticipated on Lot 2 and will need to be in the form of a PUD to be allowed within this portion of the RCO zone. **Affirmative finding as conditioned**

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.6-1 Dimensional Standards and Density

District	Lot Coverage₁	Setbacks¹			Height¹
		Front	Side²	Rear²	
RCO-RG	5%	15'	10%	25%	35'
570 South Prospect St Lot 1	3.56%	425' (approx)	Width of 640' = 64' side yard setbacks. Proposed to new lot line - 200'.	Depth of 1,408' = 352' rear yard setback. Existing is 890'	N/A – no construction is proposed.
570 South Prospect St Lot 2 (vacant)	n/a	n/a	n/a	n/a	n/a

The proposed subdivision will see the existing home on Lot 1 comply with the dimensional standards of Table 4.4.6-1 above. Development on Lot 2 is not proposed at this time. **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 RCO districts shall be as defined in Appendix A – Use Table.

Provided, notwithstanding the foregoing, a planned unit development may be permitted pursuant to the standards and procedures of Article 11 hereof for residential development in accordance with the low density residential district (RL) allowances and standards for any property in excess of five acres which is located in the RCO-RG district south of Main Street. Any residential uses in the RCO-RG district south of Main Street existing on January 1, 2007 shall be treated as conforming uses and not otherwise subject to the restrictions for non-conforming uses pursuant to Sec.5.3.4.

No development is proposed. Future residential development on Lot 2 must be approved through the PUD process. **Affirmative finding as conditioned**

(d) District Specific Regulations

1. Lot Coverage for Agricultural Structures

Not applicable.

2. Exemptions for low impact design (LID) stormwater management techniques

Not applicable.

3. Pervious surface materials not included in impervious lot coverage calculations

Not applicable.

Article 5: Citywide General Regulations

Part 5: Performance Standards

Section 5.5.4 Tree Removal

(a) Review criteria for zoning permit requests for tree removal

(1) Grounds for approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

A. Removal of dead, diseased, or infested trees;

The application includes a report prepared by William De Vos, ASCA Registered Consulting Arborist, which details the existing stand and guidance with respect to clearing. The primary tree types on the property are Black Locust, Black Walnut and Buckthorn. The buckthorn is mostly dead or dying. The report states that it will be necessary to clear the entire lot of trees as future site work will make it impossible for them to survive. **Affirmative finding**

B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices;

Not applicable.

C. Removal of trees that are a danger to life or property; or,

Not applicable.

D. As part of a development with an approved zoning permit.

Preliminary development plans have been provided to staff for initial review, but a formal zoning permit application has not yet been submitted. The applicant is requesting approval to remove the trees at this time to start development of the home site ahead of schedule. **Affirmative finding**

(2) Grounds for denial

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be denied if existing healthy trees are known to be:

A. Providing a significant privacy or aesthetic buffer or barrier between properties;

Not applicable.

B. Providing stabilization on slopes vulnerable to erosion;

Not applicable.

C. Located within a riparian or littoral buffer;

Not applicable.

D. Provide unique wildlife habitat;

Not applicable.

E. A rare northern Vermont tree species as listed by the Vermont Natural Heritage Program; or,

Not applicable. Mr. De Vos' report notes that there appear to be no rare northern Vermont tree species on the property.

F. A significant element or, or significantly enhances, an historic site.

Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Sec 6.1.2 Review Standards

(a) Protection of Important Natural Features:

Not applicable. Cutting Lot 2 out of the overall property will not negatively impact any natural features of the property.

(b) Block Size and Arrangement:

The application proposes no new blocks. Lot 2 will be located to the east of Lot 1.

Affirmative finding

(c) Arrangement of Lots:

Existing residential development in this area is unique and unlike that of most other residential areas in the city. Lot 2 will be similar in nature to the other lots along Country Club Road.

Affirmative finding

(d) Connectivity of Streets within the City Street Grid:

Not applicable. The property is located on a private road that is separate from the city's street grid.

(e) Connectivity of Sidewalks, Trails, and Natural Systems:

Not applicable. There are no public sidewalks or trails near either lot.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

Not applicable. No development is proposed.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

Not applicable. No development is proposed.

Article 10: Subdivisions

Sec. 10.1.7, Combined Preliminary and Final Plat

For subdivisions that will create fewer than five (5) lots or dwelling units, and are not otherwise subject to consideration under Major Impact Review pursuant to the provisions of Article 3, Part 5 or Planned Unit Development pursuant to the provisions of Article 11, the applicant may request, and the DRB may authorize the hearings on preliminary and final subdivision plats to be combined into a single public hearing.

In such cases, the submission requirements for final subdivision plats pursuant to Sec. 10.1.9 shall be met at the time of application, and decisions by the DRB shall be based on the project's conformance with the review criteria for both preliminary (Sec. 10.1.8(d)) and final plats (Sec. 10.1.9(d)).

The proposed subdivision is for two lots and thus qualifies to be considered in a combined hearing.

Affirmative finding

Sec. 10.1.9, Final Plat Review

(a) Final Plat and Construction Detail Submission Requirements

6. Final Plat Specifications

This criterion requires that the final plat plan be on sheets sized 24" x 36" with one inch margins on three sides and a two inch margin on the side to be bound. The final plat plan will need to meet these requirements. **Affirmative finding as conditioned**

(d) Review Criteria

1. The requirements of the underlying zoning district(s) and all applicable overlay district(s) as set forth in Article 4

See Article 4 of these findings.

3. The requirements of Article 5 with regard to Special Uses and Performance Standards as applicable

See Article 5 of these findings.

4. The land division and site development principles and design standards in Article 6.

See Article 6 of these findings.

Sec. 10.1.11, Recording of Final Plats

(a) Certifications and Endorsement

Prior to recording the mylar subdivision plan, all of the required endorsement blocks must be depicted on the subdivision itself and signed by the appropriate individuals. **Affirmative finding as conditioned**

II. Conditions of Approval

1. **Within 180 days of the date of final approval**, the subdivision mylar, with all applicable endorsement signatures, shall be filed with the City Clerk per Sec. 10.1.11 of the Comprehensive Development Ordinance. Failure to do so shall render void the final subdivision approval.
2. **Prior to filing the mylar** in the city land records, the subdivision shall be revised to reflect the following:
 - a. Sheet size of 24" x 36" with one-inch margins on three sides and a two-inch margin on the side to be bound.
 - b. Obtain signatures for all certifications and endorsements required under Sec. 10.1.11 (a) of the Comprehensive Development Ordinance. These signature blocks shall be included on the final plat plan.
3. A separate PUD permit will be required for future residential development on Lot 2, subject to regulations in effect at the time of application submittal.
4. No new construction is included in this subdivision approval.
5. Standard permit conditions 1-15.