

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
Layne Darfler, Planning Technician
Alison Davis, Planning & Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: November 4, 2020
RE: 21-0326CU; 254 South Union 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: ZP21-0326CU

Location: 254 South Union Street

Zone: RL **Ward:** 6S

Date application accepted: September 22, 2020

Owner / Applicant: William Reilly & Cynthia Secondi / William Reilly

Parking District: Neighborhood

Request: The applicant seeks approval to permit an existing single family home as a historic inn with 4 guest rooms, and to permit the previous removal of a pool placed on the rear parking area.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), Article 8 (Parking)

Background:

- **Zoning Permit 92-006;** installation of an above ground swimming pool with surrounding fence. Approved 7/8/91.
- **Non-Applicability of Zoning Permit 19-615NA;** driveway repair. Approved 3/7/19.

Overview:

The applicant proposes to convert the single family home at 254 South Union Street into a historic inn while residing at the property. The proposal was originally submitted as a bed and breakfast/short term rental application, but given the nature of the application, it is more fitting of a historic inn. The structure, built in 1887, is included as a contributing historic resource on both national and state historic registers (South Union Street Historic District). The applicant states that they have been intermittently renting rooms since 1978, and prior to that, the previous owners had rented rooms here since the 1950s.

The proposal also includes an after-the-fact pool removal from the rear parking area.

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

I. Findings

Appendix A: Use Table – All Zoning Districts

'Historic Inn' is a Conditional Use in the RL zoning district. Section 5.4.2 CDO, which specifically addresses historic inns applies. See below. **Affirmative finding.**

Article 2: Administrative Mechanisms

Part 7, Enforcement:

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. There is one zoning permit (ZP92-006) that has not been closed out. **Affirmative finding as conditioned.**

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review

Section 3.5.6 Review Criteria

(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;*

The proposal will have minimal impact on public utilities, facilities and services. **Affirmative finding.**

- 2. The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the Municipal Development Plan;*

The property is within an established residential neighborhood and a residential zoning district. The Residential Low Density (RL) zoning district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. Historic Inns are specifically included as a conditional use in the underlying zone. It is located on a relatively busy residential street and, with parking in the rear, the single family appearance of the structure from the street will not be altered. **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;*

No greater impacts are anticipated than other residential uses in the area. **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;*

This parcel is located along South Union Street, a residential street that connects the downtown center to the Shelburne Street corridor. The long driveway provides access to vehicular parking behind the home. There are transit stops along the street, the closest being at the intersections of

South Union St/Maple St and South Union St/Adams St, both essentially within one block. Sidewalks line both sides of the street. **Affirmative finding.**

5. *The utilization of renewable energy resources;*
Nothing within the application prevents the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**
and;

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*
The applicant will have to ensure compliance with state regulations regarding short-term guest room rentals, including but not limited to payment of required rooms and meals taxes. The applicant notes that they have been paying state and local rooms & meals taxes already. **Affirmative finding as conditioned.**

(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;*

As noted above, the proposal also includes the after-the-fact removal of a swimming pool from the rear parking area. As required by Sec. 5.4.2 (g), parking for historic inns must be adequately screened from neighboring properties and from the public street. The parking is in the rear, behind the house and is non-visible from South Union Street. There is a vegetative strip between the neighboring property and the parking area. The applicant will have to demonstrate that this vegetative strip provides an adequate screen, or install additional screening measures to accomplish this requirement. **Affirmative finding as conditioned.**

2. *Time limits for construction.*

Should the parking area be reconfigured and/or the parking area screening be improved, the applicant will have one year to at least start the work, and two more years to complete it. **Affirmative finding.**

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

It is recommended that guest check-ins for the historic inn use be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances. **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,*

Should the applicant wish to alter the use, such alteration will require review and permitting under regulations in effect at that time. **Affirmative finding as conditioned.**
and

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.*

None identified.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose

1. *The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhood's development history.*

Historic Inns are conditional uses within the RL district, and the proposal is compliant within the underlying zone. **Affirmative finding.**

(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 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W.

Single detached dwelling, RL Minimum 60' frontage, RL Minimum 6,000 sq ft lot size.

The property has 66.75 ft of frontage along South Union Street, and is 26,933 sf in size.

Affirmative finding.

Table 4.4.5-2 Base Residential Density

The base density allowance in the RL district is 7 units per acre. The property, with its single family use, more than meets the density limit. There is a density limit for historic inns based on the number of guest rooms. See Sec. 5.4.2 below. **Affirmative finding.**

Table 4.4.5-3 Residential District Dimensional Standards

No new development is proposed. The plans indicate an existing lot coverage of 21.6%, well under the 35% limit. **Affirmative finding.**

(c) Permitted and Conditional Uses

'Historic Inn' is a conditional use in the RL zoning district, per Appendix A. **Affirmative finding.**

(d) District Specific Regulations

1. Setbacks

A. Encroachment for residential driveways

Not applicable.

B. Encroachment into the Waterfront Setback

Not applicable.

2. Height

Not applicable.

3. Lot Coverage

A. Exceptions for Accessory Residential Features

Not applicable.

4. Accessory Residential Structures and Uses

Not applicable.

5. Residential Density

A. Additional Unit to multi-family

Not applicable.

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.

Not applicable.

6. Uses

A. Exception for Existing Neighborhood Commercial Uses

Not applicable.

7. Residential Development Bonuses

Not applicable.

Article 5: Citywide General Regulations

Part 2: Dimensional Requirements

Section 5.2.5 Setbacks

(b) Exceptions to Yard Setback Requirements

5. Accessory Structures and Parking Areas. Accessory structures no more than fifteen (15) feet in height, parking areas, and driveways may project into a required side and rear yard setback provided they are no less than five (5) feet from a side or rear property line where such a setback is required.

According to the site plan, the parking area behind the inn is setback 8 ft from the side yard property line. **Affirmative finding.**

Part 4: Special Use Regulations

Section 5.4.2 Historic Inns

In addition to the applicable provisions of Art 3, Part 5 for conditional uses, and site and design review standards in Art 6, the following additional regulations shall be applicable to an application involving a historic inn:

(a) Historic Building:

The principal building shall be listed or eligible for listing on the State or National Register of Historic Places, and located on a lot of record as of January 1, 2007 a minimum of one-half (1/2) acre (21,780 square feet) in size and located on a major street.

The principal building is listed on the South Union Street Historic District (National Register), and also on the State Historic Register. The structure was constructed in 1887 and remains a contributing historic resource. No alterations are proposed to the building. The property is 26,933 sf in size, and is located on South Union Street which is a major connecting street between downtown and the Shelburne St corridor. **Affirmative finding.**

(b) *Owner-Occupied:*

In districts where a Historic Inn is a conditional use, the premises shall be occupied by a person as their primary residence who is an owner of the property or of the business. For purposes of this subsection only, an “owner” is defined as someone who holds, at least, a twenty-five (25%) percent ownership interest in the property or in the business.

The property owners reside, and shall continue to reside, on the property. This is their primary residence. **Affirmative finding as conditioned.**

(c) *Guestrooms:*

The maximum number of guestrooms allowed shall be based on an overall density of twelve (12) rooms per acre. In districts where a Historic Inn is a conditional use, the DRB may determine that a lesser number of rooms is appropriate, based on their consideration of the impact of the proposed use on neighboring properties and traffic on nearby streets.

Given a lot size of 26,933 sf, the inn could have up to 7 guest rooms. The inn proposes 4 guest rooms. **Affirmative finding.**

(d) *Exterior Modifications:*

Any exterior modifications to the principal structure and changes to the site plan shall be subject to the development review standards for historic buildings in Sec 5.4.8.

The proposal involves no exterior modifications to the principal structure. However, an after-the-fact removal of an above ground swimming pool previously placed on the rear parking area is included as part of this application. **Affirmative finding.**

(e) *Dining Facilities:*

Common dining facilities for overnight guests and their guests may be included where a Historic Inn is a permitted use. In districts where a Historic Inn is a conditional use, regular meals may be limited if so determined by the DRB based on their consideration of the impact of the proposed use on neighboring properties and traffic on nearby streets.

The applicant indicates that no meals are provided for guests, just bedrooms. **Not applicable.**

(f) *Ancillary Events:*

In districts where a Historic Inn is a permitted use, ancillary events are allowed. In districts where a Historic Inn is a conditional use, ancillary events may be permitted only at the discretion of the DRB based on their consideration of the impact of the proposed use on neighboring properties and traffic on nearby streets, and if so permitted shall be limited to indoor business meetings and meals in conjunction with those meetings for overnight guests and no more than four (4) invited guests.

The applicant indicates that there are no ancillary events held. **Not applicable.**

(g) *Parking:*

- 1. The full setback requirements as for a new principal structure shall be applied to new parking areas in the RL districts; and,*
- 2. All parking shall be adequately screened from neighboring properties and the public street.*

With a setback of 8 ft, the existing parking area complies with the principal structure setback requirement – which is 10% of the lot width. 66.75 ft of frontage results in a 6.675 ft side yard setback. Existing landscaping/vegetation between the parking area and the neighboring lot to the south exists and provides a screen – however, at the time of report preparation, it is unknown if it is fully adequate for screening purposes. The applicant will have to provide information pertaining

to the existing screening, or if it is deemed insufficient, additional screening measures must be installed. **Affirmative finding as conditioned.**

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

Nothing within the application suggests non-compliance with applicable nuisance regulations and performance standards per the requirement of the Burlington Code of Ordinances. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

New lighting is not proposed. **Not applicable.**

Section 5.5.3 Stormwater and Erosion Control

Not applicable.

Section 5.5.4 Tree Removal

Not applicable.

Article 8: Parking

Table 8.1.8-1 Minimum Off-Street Parking Requirements

Single family uses in the Neighborhood Parking District require 2 parking spaces. Historic Inns require 1 parking space per guest room. With there being four guest rooms, a total of 6 parking spaces is required. The two car garage and parking area provides the required 6 parking spaces. **Affirmative finding.**

II. Conditions of Approval

1. Per **Section 2.7.8, Withhold Permit**, all zoning permits issued after July 13, 1989 must be closed out (issued a Certificate of Occupancy) prior to issuance of a Final Certificate of Occupancy for this permit. See attached permit list. Upon expiration of this new zoning permit, no additional zoning permits may be issued until it, and all prior zoning permits, have been closed out with final certificate(s) of occupancy. It is recommended that certificates of occupancy for the old zoning permits be sought prior to seeking a certificate of occupancy for the new zoning permit.
2. **Prior to the release of the zoning permit**, the applicant shall demonstrate to staff that the existing vegetation between the parking area and the property to the south provides an adequate screen for the parking area, OR additional screening measures shall be installed, subject to staff review and approval.
3. The subject property must be, and remain, owner occupied as a primary residence as long as the Historic Inn use remains in operation.
4. It is recommended that guest check-ins for the Inn be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
5. All guest parking shall be on-site and off-street.
6. The applicant will have to ensure compliance with state regulations regarding short-term guest room rentals, including but not limited to payment of required rooms and meals taxes and compliance with Division of Fire Safety standards and Health Department standards.
7. Any additional guest rooms, or physical alteration, will require a new zoning permit, subject to regulations in effect at the time of permit application submittal.

8. 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.
9. Standard Permit Conditions 1-15.