

## Department of Permitting & Inspections

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**TO:** Development Review Board  
**FROM:** Scott Gustin  
**DATE:** March 4, 2020  
**RE:** 20-0658CU; 36-38 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: RH Ward: 8E

Owner/Applicant: The Paul Gregory Mayer Rev. Trust & The Karen Louise Mayer Rev. Trust / Burlington Community House, LLC d/b/a My Cousin's Place c/o Jennifer Fabiano

**Request:** Change use from duplex to hostel.

### **Applicable Regulations:**

Article 3 (Applications, Permits, & Project Reviews), Article 8 (Parking), Article 9 (Inclusionary and Replacement Housing)

### **Background Information:**

The applicant is seeking approval to convert a duplex into a hostel. No site or exterior building changes are proposed. The property is currently being used as a short term rental, and the applicants are seeking to legitimize this use with approval as a hostel. A hostel is a conditional use in the high density residential zone, wherein the subject property is located.

Prior to use as a short term rental, the property was most recently used as a duplex; however, the zoning permit record indicates use as a triplex in 1978 with no further zoning permits on file. The assessor's records indicate an "R3" (triplex) until 2007 after which it is changed to "R2" (duplex). A zoning permit would have been needed for this conversion, but none is evident on file. The legitimacy of the duplex or triplex use may have significance insofar as housing replacement per Article 9 is concerned. Configuration as two 7-bedroom units is concerning insofar as occupancy by a "family" is considered; however, conversion to a "hostel" may render that concern moot.

Previous zoning actions for this property are noted below:

- 9/21/78, Approval to add a 2<sup>nd</sup> bathroom to one apartment (noted 3-apartment complex as existing use)

**Recommendation:** Denial as per the following findings.

## **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;*

The property is served by municipal utilities. Sufficient water and sewer service are available. A State of Vermont wastewater permit may be required for the “new” use. A capacity letter issued by the Dept. of Public Works will be required prior to issuance if applicable. **(Affirmative finding as conditioned)**

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 located within an established residential neighborhood in the high density residential zoning (RH) district. The RH zoning district is intended primarily for high density attached dwellings and attached multi-family apartments. Such was the case as a triplex or duplex. Several non-residential uses are allowed conditionally within the RH zone. Hostel is one of those uses. The proposed hostel is not a typical hostel – guests are let individual rooms rather than group accommodations. The venue is not advertised as a “hostel,” and no staff appear to be onsite. It may be viewed as a hostel only as a result of an outdated “hostel” definition in Article 13. That reads: “A place where travelers may stay for a limited duration, as recognized by the International Hostel Association.” Such association no longer exists. The property does serve as a place for visitors to stay for short periods of time. Insofar as no exterior building or site alterations are proposed, and given that the property will continue to serve as a place for individuals to stay, it may be viewed as consistent with the character of this high density residential neighborhood. **(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 hostel is not expected to generate nuisance impacts from noise, odor, dust, and the like that may be more typically associated with industrial uses. Overnight quiet hours are articulated in the application and would be included in this permit, if approved. **(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;*

No traffic analysis has been provided or is required for this application. The proposed hostel is expected to generate modest additional traffic, primarily associated with guest turn-over. **(Affirmative finding)**

*and,*

5. *The utilization of renewable energy resources;*

No renewable energy utilization is included in this proposal. Future incorporation is not precluded by the use. **(Affirmative finding)**

*and,*

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances;*

With the change in use to a hostel, rooms and meals tax will likely be required. **(Affirmative finding as conditioned)**

(b) Major Impact Review Standards

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 hostel is not expected to produce offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

2. *Time limits for construction.*

No construction timeline or phasing are included in this proposal. The standard 3-year timeframe for zoning permits will apply. **(Affirmative finding)**

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

As a hostel, guests will stay overnight. Check in time is noted as 4:00 PM, and check out time is noted as 10:00 AM.

No construction is associated with this proposal. **(Affirmative finding)**

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.*

See the recommended conditions.

**Article 8: Parking**

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

The onsite parking requirement for a hostel in the neighborhood parking district is 0.5 space per 2 beds. In this case, the total onsite requirement would be 4 spaces (0.5 X 7). The onsite driveway is wide enough for two vehicles side-by-side and deep enough for tandem parking (4 spaces); however, tandem parking spaces cannot be counted towards the minimum onsite parking requirement. As a result, only two parking spaces can be counted.

There appear to be additional parking spaces behind the building and at least partially within the subject property, but it is unclear whether those spaces may be used in support of the hostel or not. They appear to be accessed from an adjacent property. Clarification has been sought from the applicant but none received. The application asserts 8 onsite spaces but provides no basis. The online listing notes room for 3-4 vehicles but advises visitors to park on the left side only of the driveway so as to not impact parking on the right side used by residents of the duplex. This statement suggests that perhaps the property continues to serve, in part, as a dwelling unit in addition to short term rental. Clarification is needed. **(Adverse Finding)**

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

### ***Sec. 9.2.2, Applicability***

The housing replacement requirements of this Article are triggered by the conversion of dwelling unit(s) to nonresidential use. Such is the case here. The most recent use prior to conversion to a short term rental (“hostel”) seems to be that of a duplex; however, as noted previously, the use as a duplex appears to be unpermitted. Lacking a zoning permit to convert to a duplex, arguably, housing replacement standards would be predicated on use as a triplex. **(No finding possible)**

### ***Sec. 9.2.3, Approval***

The applicants have provided information as to the number of dwelling units to be converted and the number of bedrooms within each (2 dwelling units, 7 bedrooms within each unit). No information has been provided as to whether the tenant notice requirements prior to conversion ever took place. **(No finding possible)**

### ***Sec. 9.2.4, Relocation Requirements; Notice and Relocation Costs***

As noted above, no information has been provided as to whether any of the required tenant notice and relocation provisions ever happened per the requirements of this section. **(No finding possible)**

### ***Sec. 9.2.5, Housing Replacement Requirement***

While the applicants are aware of the applicability of housing replacement to this application, no information has been provided as to how the housing replacement requirement will be met. Housing replacement requirements can be met by providing new housing elsewhere, by subsidizing existing housing to meet certain affordability requirements, or by paying into the city’s Housing Trust Fund. **(No finding possible)**

## **II. Reasons for Denial**

1. Parking deficiency per the standards of Article 8.
2. Replacement housing deficiency per the standards of Article 9.