

Department of Permitting & Inspections

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TO: Development Review Board
FROM: Scott Gustin
DATE: May 19, 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.

This project was to be heard by the Development Review Board on March 4, 2020; however, the applicants requested deferral to address outstanding concerns related to parking and the duplex use of the property. The applicant has since resolved questions as to the duplex use with zoning approval. Questions as to parking remain.

Previous zoning actions for this property are noted below:

- 4/21/20, Approval recognizing prior conversion to a duplex
- 9/21/78, Approval to add a 2nd 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 is the case as a 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 are additional parking spaces behind the building and at least partially within the subject property, but they are used by neighboring properties on Buell Street and are not for the subject property and will likely be removed. Instead, the applicant is proposing to use offsite parking at 307 Pearl Street and 17 South Willard Street. The applicant owns these properties as well. See Sec. 8.1.12 (a), *Off-Site parking facilities*, for additional information.

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. **(No finding possible)**

Sec. 8.1.12, Limitations, Location, Use of Facilities
(a) Off-Site parking facilities

The property is within the neighborhood parking district. As such off-site parking may be used, but no more than 50% of the minimum requirement may be located at a distance greater than 600 ft. from the use it serves. In this case, the distance between 36-38 South Union Street and the shared parking at 307 Pearl Street and 17 South Willard Street is 1,060 ft. With 2 onsite parking spaces, the other two spaces could be located more than 600 ft. away.

There are no zoning permits on file for 307 Pearl Street or 17 South Willard Street. Orthophotos from 1978 and 2019 show significant parking expansion over time with no zoning approval. Presently, 307 Pearl Street contains 12 parking spaces (for 6 apartments) and 17 South Willard Street contains 10 parking spaces (for 5 apartments). There may be just enough room for 2 additional spaces to serve 36-38 South Union Street; however, zoning approval is required for both 307 Pearl Street and 17 South Willard Street before they can legitimately host offsite parking for 36-38 South Union Street.

Offsite parking in any event must be guaranteed for the duration of the use as evidenced by deed or easement, subject to review and approval by the City Attorney. **(No finding possible)**

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. Housing replacement standards for this application are predicated on use as a duplex. **(Affirmative finding)**

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.