

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Senior Planner

Date: August 18, 2015

RE: ZP16-0106CU; 177-179 South Winooski Avenue

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: ZP16-0106CU

Location: 177-179 South Winooski Avenue

Zone: DT **Ward:** 3C

Date application accepted: July 20, 2015

Applicant/ Owner: COTS/Champlain Housing Trust

Request: Change of use to Community House to operate a warming shelter this coming winter.

Background:

- Zoning Permit 14-0627CA; Change use of lower (basement) and upper (middle) levels to community center for all of King Street Youth Centers operations, including licensed child care programs. December, 2013.
- Zoning Permit 14-0301CA; Installation of concrete wall and railing on east side of building to replace existing concrete wall and railing. September 23, 2013.
- Zoning Permit 95-521; Replacement of existing chain link fencing with steel fencing along the northeast corner of the property. Use remains office. June 1995.
- Zoning Permit 93-293; Façade improvement and creation of courtyard for existing commercial office building. No change in use. December 1992.
- Zoning Permit 87-420; Erect a 25.5" x 19" parallel sign on front of building. August 1987.
- Zoning Permit 86-576 / COA 86-137; Exterior renovations to include stucco finish on the north, west and south elevations; new windows, new storefront glass on the east elevation, modify entrance on the west elevation, landscaping. Convert offices to condominiums. September 1986.
- Zoning Permit 84-520; Sign of carved wood to read Rent One Plus. November 1984.
- Zoning Permit 82-549; Construct a 37' x 6.5' covered entry to the basement level of the existing building on the north side. No additional lot coverage. December 1982.

- Zoning Permit 82-013; Finish off partially excavated, unfinished basement to provide additional office space. January 1982.
- Zoning Permit 78-174; Alter east elevation for new entrance similar to existing; no additional coverage, no additional non-compliance. October 1978.

Overview: The Committee on Temporary Shelter (COTS) seeks approval for a warming shelter on the middle and lower floors. This is the former site of COTS Daystation and case management services. The program will operate from 6:pm to 7:am on a seasonal basis from November through March. This will operate as a low-barrier facility.

Applicable regulations: Article 3 (Applications, Permits and Project Reviews); Article 4 (Zoning Maps and Districts); Article 5 (Citywide General Regulations); Article 8 (Parking); Article 13 (Definitions); Appendix A (Use Table.)

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

I. Findings

Article 3: Applications, Permits, and Project Reviews

Part 3: Impact Fees

Article 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Sec. 3.3.4.

Impact fees for the change-of-use to a Community House will be assessed; based upon square footage and calculated to give credit for the previous office use. **Affirmative finding as conditioned.**

Section 3.3.3 Exemptions and Waivers

(c) Affordable Housing Waivers

Any residential project containing newly constructed units or substantially rehabilitated housing units that are affordable for households as described in subsections (1), (2) or (3) below are eligible for a waiver of impact fees for that portion of the project. The terms, rules, and regulations used herein shall be the same as those defined and specified in this Ordinance pertaining to Inclusionary Zoning (Article 9).

3. 100% Waiver of Fees: One hundred percent of the fees will be waived for that portion of a residential project that initially sells or rents for a price that is affordable for households earning less than 50% of the median income and that remains continually affordable as defined above.

The applicability of any waiver of Impact Fees shall be determined by the Housing Officer in the Community and Economic Development Office.

It is anticipated that all clients of the Community House may meet income eligibility to qualify for a waiver of Impact Fees. The determination of the HTF manager will determine the amount of waiver.

Any such waiver, if determined, will be provided to staff (with the associated square foot measurement) so as to correct the calculated impact fee assessment. **Affirmative finding as Conditioned.**

Part 5: Conditional Use and Major Impact Review

Sec. 3.5.6 (a) Conditional Use Review Standards

1. Capacity of existing or planned community facilities.

The community house proposes to use the existing structure; one which previously was utilized as the Daystation. The clients utilizing the Community House are from within the local community, and not likely to increase demand on existing community facilities greater than at present. **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 Downtown Transition District is intended to provide a balance and continuity in the character and scale of development on both sides of Main Street, Pearl Street and South Winooski Avenue creating a gateway into the urban core of Burlington. While no changes are proposed to the building, the use is intended to serve those in the city who are in need of warmth and shelter during the coldest months of the year.

The Municipal Development Plan (MDP) recognizes Housing as the Key to a Livable Community:

Burlington's housing policy is shaped around the concept of a "housing ladder of tenure," which represents a community housing system. The "housing ladder of tenure" provides housing options that offer increasing amounts of security and equity as one moves "up" the ladder. This ranges from shelters for the homeless at the lowest "rung", to fee-simple home ownership at the top of the ladder.¹

Burlington's homeless strategy is based on offering a "continuum of care" developed originally in 1984. Coordinated by the private, nonprofit COTA, non-profit housing and service providers collaborate with the City to provide a range of services that includes;

Prevention; Outreach, Intake and Assessment, Emergency Shelters and Shelter Services, Supportive Services, Transitional Housing, Permanent and Semi-permanent Supporting Housing.

The City will continue to work with non-profit housing and service providers to offer services and opportunities to meet the complex needs of the City's homeless population. This is the most important "first-rung" on the housing ladder of tenure.²

Affirmative finding.

3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;

¹ City of Burlington VT 2006 Municipal Development Plan, Housing Plan, Page IX-7.

² Ibid., Page IX-11.

Vehicle ownership is inconsistent with the population that utilizes the services of the proposed use. No change in traffic patterns or demand for parking is anticipated with the use. **Affirmative finding.**

4. *Any standards or factors set forth in existing City bylaws and city and state ordinances;*
No deficiencies or conflicts have been identified. **Affirmative finding.**

5. *The utilization of renewable energy resources;*
No part of the application prevents the use of alternative energy methods, including wind, solar, water, or biomass; however none of these opportunities is exercised within this permit application. **Affirmative finding.**

and,

In addition to the General Standards specified above, the DRB;

6. *shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;*

The Municipal Development Plan acknowledges the need to provide safe, affordable shelter for all Burlington residents. No site changes are proposed. The warming shelter is proposed for approximately 151 days a year (Nov-March) to provide safe housing for a vulnerable population. As this was previously a COTS location for more than 15 years (and the Daystation continues to operate there), little additional impact is anticipated. **Affirmative finding.**

7. *in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.*

Not applicable.

8. *may control the location and number of vehicular access points to the property, including the erection of parking barriers.*

No site changes proposed. Not applicable.

9. *may limit the number, location and size of signs.*

Any signage will require a separate sign permit. **Affirmative finding as conditioned.**

10. *may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

The proposed Community House will utilize the middle and lower floors of the structure. COTS administrative offices and program services will utilize the top (South Winooski Avenue) floor. No impacts are anticipated that would require mitigation. **Affirmative finding.**

11. may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.

No construction is proposed. Not applicable.

12. may specify hours of operation and/or construction to reduce the impact on surrounding properties.

The Community House use is proposed from 6:00 pm until 7:00 am from November through March; the coldest months of the year. The applicant characterizes staffing as robust, professionally trained in rapid assessment, mental health and first aid. A security guard will be employed from 6:00 pm until midnight daily to monitor activities. **Affirmative finding.**

13. may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.

If approved, the Community House will operate for less than a year. Any structural or programmatic expansion of the Conditional Use will require a return to the DRB for review. **Affirmative finding as conditioned.**

14. may consider performance standards, should the proposed use merit such review.

This is at the discretion of the DRB.

15. may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

This is at the discretion of the DRB.

Article 4: Zoning Maps and Districts

Section 4.4.1 Downtown Mixed Use Districts

(b) Dimensional Standards and Density

No site changes proposed. Not applicable.

(c) Permitted and Conditional Uses

Community Houses are a Conditional Use in the DT zone.

(d) District Specific Regulations

1. Use Restrictions

Ground Floor Residential Uses Restricted:

In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities, residential uses shall not be permitted on the ground floor of any structure as follows:

- ii) Any structure fronting on Pearl, South Winooski and Main Streets in the Downtown Transition (DT) district.)*

COTS administrative offices and program services will occupy the South Winooski Avenue level of the building. No residential use will occupy that level. The Daystation will occupy the middle floor; the lower floor will have the Daystation and Community House. Middle floor cots will be reserved for those who might have mobility issues to assure the safest exits from the building in case of emergency. **Affirmative finding.**

Article 5: Citywide General Regulations

Article 5: Citywide General Regulations

Sec. 5.1.1 Uses

(d) Conditional Uses

A Community House is a conditional use in the DT zone.

Part 2: Dimensional Requirements

Sec. 5.2.3 Lot Coverage Requirements

No change to lot coverage. Not applicable.

Sec. 5.2.4, Buildable Area Calculation

Not applicable.

Sec. 5.2.5 Setbacks

No changes to setbacks. Not applicable.

Sec. 5.2.6 Building Height Limits

No changes to building height. Not applicable.

Sec. 5.2.7 Density and Intensity of Development Calculations

Density is calculated using Floor Area Ratio in the DT district. No change to the FAR is proposed for the Community House. **Affirmative finding.**

Sec. 5.4.4 Community House

Community houses shall be considered a conditional use in any residential district and subject to all applicable provisions of Article 3, Part 5 and the site and design review standards in Article 6. In addition to conditional use standards, proposals for new community houses shall also comply with the following requirements:

(a) Density shall not exceed 1 person per two hundred (200) square feet of gross floor area;

The gross floor area of the middle and lower floors combined is 8589.5 sf. If the entire floor area is considered, 43 people may be accommodated. The applicant has provided floor plans illustrating the intended area. While 26 beds are illustrated, the applicant would like to house up to 40 individuals as need arises.

Based on the floor area and proposed number of individuals, the proposal falls within this limitation.

Affirmative finding.

(b) All dimensional standards for the underlying zoning per the requirements of Article 4 shall be applicable;

See Article 4, above.

and

(c) *The minimum distance (lot line to lot line) between any two community houses shall not exceed the following: [This is a misprint. The intention was to avoid a concentration of Community Houses in any one location. The corrected language is “shall not be less than...” This was confirmed by David E. White, Planning Director.]*

Total Occupancy (beds)	Distance (feet)
6 or less	0
7 – 12	500
13 – 20	1,000
21 or more	1,500

The application proposes the use of the middle and lowest floors for overnight accommodations during the winter months. The anticipated number of beds has not been provided. In mapping the location of Community Houses, one is in proximity: The Ronald McDonald House (formerly identified as 16 South Winooski Avenue). That use is approximately 1475’ from 177-179 South Winooski.. Given the limited number of residents at the Ronald McDonald House, and the parcel to parcel measurement, the proposed Community House would be sufficiently distanced from other approved Community Houses based on their occupancy and this standard. **Affirmative finding.**

Sec. 5.4.8 Historic Buildings and Sites

Not applicable.

Sec. 5.4.9 Brownfield Remediation

None identified. Not applicable.

Sec. 5.5.1, Nuisance Regulations

The applicant has many years experience working to address the issues associated with homelessness, and has presented an application that includes trained staff, security, associated services and case managers to support the use. COTS occupied this building from spring 1994 until more recently; the Daystation continues to operate within the structure. The applicant has shared that the state has made a commitment to staffing, particularly relative to mental health needs. As proposed with supporting information, no nuisance is presented. **Affirmative finding as conditioned.**

Sec. 5.5.2 Outdoor Lighting

None proposed. Not applicable.

Sec. 5.5.3 Stormwater and Erosion Control

Not applicable.

Sec. 5.5.4 Tree Removal

Not applicable.

Article 7: Signs

Any signage will require a separate permit. **Affirmative finding as conditioned.**

Article 8: Parking

Table 8.1.8-1, Minimum Off-Street Parking Requirements

Community House requires .5 parking space per dwelling unit in the Downtown Parking District.

The Community House counts as 1 dwelling unit. The previous use (offices) required 2 parking spaces per thousand in the Downtown Parking District. As this is a lesser requirement, it may be assumed that existing parking is sufficient to accommodate the proposed use. **Affirmative finding.**

Table 8.2.5-1 Bicycle Parking Requirements

Household Living, long term spaces, 1 per 4 units; short term, 1 per 10 units.

Temporary lodging: 1 per 20 rooms/sites; 2 per 20 rooms/sites.

A Community House is considered one residential unit. The bicycle parking requirement would be fractional. Given the proposed (seasonal) use proposed, however, it is unlikely that bicycle parking would be in demand. Facilities for bicycle parking are therefore encouraged, but not required.

Affirmative finding.

Article 13: Definitions

Community House: *A community house is a residential dwelling unit where individuals are not handicapped as per the Federal Fair Housing Act but where, due to the particular needs of the resident individuals, a joint living arrangement is necessitated and where the individuals are under sponsorship or care of a public, nonprofit, or for profit agency where the sponsor or caretaker provides, or arranges for, the provision of varying degrees of personal supervision and/or care in a residential environment, such as a halfway house, a personal care residence, a community transitional facility, or any other such facility that provides such services.*

The following are NOT considered community houses: group homes, fraternities, sororities, dormitories, convents, communes, apartments, boarding and room houses, tourist homes, and hotels and motels.

As the residents will be under the care of a nonprofit where COTS will provide personal supervision and or care in a residential environment, the proposed use meets the definition of Community House. **Affirmative finding.**

II. Conditions of Approval

1. The applicant shall confirm the area in square feet for the new use, on which to base Impact Fees and to confirm occupancy levels per Section 5.4.4.(a).
2. Occupancy shall not exceed the limitation defined in Section 5.4.4. (a)
3. Any signage will require a separate sign permit.
4. Impact fees, as calculated by staff and based upon area calculations for the new uses(s) shall be paid to the city's chief administrative officer/city treasurer prior to

the issuance of a zoning permit, or if a building permit is required, within thirty days of issuance of the building permit. Credit will be given for the previous uses in the final calculation.

5. The applicability of any waiver of Impact Fees shall be determined by the Housing Officer in the Community and Economic Development Office. Any such waiver, if determined, will be provided to staff (with the associated square foot measurement) so as to correct the calculated impact fee assessment.
6. Any structural or programmatic expansion of the Conditional Use will require a return to the DRB for review.
7. Standard Permit Conditions 1-15.

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