

Department of Permitting & Inspections

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

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



TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: March 3, 2021
RE: 21-0647CU; 428 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.

Zone: RM Ward: 6S

Owner/Applicant: Jill Badolato

Request: Establish an existing single-family residence as a short-term rental (bed and breakfast) use.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 8 (Parking)

Background Information:

The applicant is requesting approval to rent out her two-bedroom single-family dwelling as a short-term rental (bed and breakfast) use while she is away from the property. No development is included.

There are no previous zoning actions for this property.

Recommendation: Consent approval as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications, Permits, and Project 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;

Renting out the single-family home as a short-term rental (bed and breakfast) use strictly while the owner is away from the property has no appreciable impacts on existing or planned public utilities,

services, or facilities. The applicant is advised to check with VT DEC as to whether a state wastewater permit is needed. **(Affirmative finding as conditioned)**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal development plan;*

The property is located within the residential – medium density zone. The neighborhood consists of a mixture of residential properties of varying unit counts. The property will still maintain the appearance of a single-family residence when occupied by guests on a short term basis rather than long term when the owner is away. City records indicate that this is the owner’s primary residence. **(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;*

As noted above, the short term rental will continue to serve as a place for people to stay within the neighborhood, albeit on a short term basis. The short term rental is not expected to generate nuisance impacts from noise, odor, dust, and the like. **(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;*

Little change in traffic is expected. Rather than occupants arriving and departing, short term guests will arrive and depart within established timeframes. Additionally, the property is well within walking distance to transit stops and the downtown core. **(Affirmative finding)**

5. *The utilization of renewable energy resources;*

No part of this application would prevent the use of wind, water, solar, or other renewable energy resources. **(Affirmative finding)**

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

The short term rental must adhere to the life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont. **(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 short term rental is not expected to produce adverse effects in need of mitigation.

(Affirmative finding)

2. Time limits for construction.

No construction timeline or phasing is included in this proposal. **(Affirmative finding)**

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

The short term rental is offered indefinitely. It is recommended that guest check-ins 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; and,

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time. **(Affirmative finding as conditioned)**

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.

Not applicable.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(3) Residential Medium Density (RM)

The Residential Medium Density (RM) district is intended primarily for medium density residential development in the form of single-family detached dwellings and attached multi-family apartments. The existing single-family dwelling is consistent with this intent. Utilizing the two-bedroom single-family dwelling as a short term rental use while the owner is away remains consistent with the intent of the zone. **(Affirmative finding)**

(b) Dimensional Standards and Density

Not applicable.

(c) Permitted and Conditional Uses

The “bed and breakfast” (short term rental) use is conditional in the RM zone. Owner occupancy is required, and up to 5 rooms may be let. In this case, the applicant is the owner and lives onsite. The applicant proposes to rent out the home for short term guests while away from the property. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Single-family dwellings in the Neighborhood Parking District require 2 parking spaces. “Bed & Breakfast” uses require 1 parking space per rental room. The one and one-half story home contains two bedrooms – thus requiring 2 guest parking spaces. In this case, when the owner is away and the home is rented for short-term guests, the required parking count will remain unchanged. The single-width driveway is relatively deep and provides more than enough room for two tandem parking spaces. As a condition of this permit, the short term rental use should not be

operated as such when the owner is occupying the dwelling. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. The subject property must be, and remain, owner occupied as long as the bed and breakfast short term rental remains in operation.
2. The short term rental shall not be operated at any time when the owner is occupying the dwelling.
3. The short term rental must adhere to the life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont.
4. It is recommended that guest check-ins 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. A state wastewater permit may be required. It is the applicant's responsibility to inquire with VT DEC as to whether such permit is necessary.
7. Any additional B&B room, or physical alteration, will require a new zoning permit, subject to regulations in effect at the time of permit application submittal.
8. The applicant will have to ensure compliance with state regulations regarding short-term B&B type 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.
9. 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.
10. Standard permit conditions 1-15.