

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
Joseph Cava, Permit Technician
Ted Miles, Code Compliance Officer
Charlene Orton, Permitting & Inspections Administrator*



TO: Development Review Board
FROM: Scott Gustin
DATE: April 19, 2022
RE: ZP-21-700; 43 Starr Farm Road

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: RL Ward: 4N

Owner/Applicant: Birchwood Prop, LLC / Michael Koch

Request: Parking expansion and related maximum parking space waiver.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking)

Background Information:

The applicant is seeking approval to construct additional surface parking. A waiver of the maximum parking standards in Article 8 of the CDO is needed in order to do so. A similar proposal was reviewed and approved by the Development Review Board in January 2019. That project to increase from 54 to 75 parking spaces has been constructed. In the meantime, the lot coverage standards in the CDO associated with senior housing have been revised to match those for inclusionary housing. The January 2019 approval was limited by the then-lower lot coverage limit and did not fully address the applicant's requested parking. The applicant is now seeking a follow-up approval for 23 additional parking spaces possible under the current lot coverage limit.

This application was originally scheduled for DRB review December 7, 2021 but was deferred to allow the applicant additional time to address outstanding matter relating to parking and transportation demand management. It was again scheduled for DRB March 8, 2022; however, problems with parking criteria remained and it was deferred a second time to allow those items to be addressed. No additional deferrals are possible at this point without action by the DRB to grant a 3-month time extension.

Previous zoning actions for this property are noted below:

- 8/18/20, Approval for a freestanding sign
- 9/2/20, Approval for residing the building
- 1/8/19, Approval of parking expansion and related maximum parking waiver
- 9/15/14, Approval to replace access ramp with new
- 8/13/12, Approval to replace sign
- 4/2/12, Approval to replace sign
- 10/19/10, Approval for wall-mounted LED light fixtures

- 8/13/10, Approval to construct courtyards, storage shed, gazebo, and fence
- 6/17/03, Approval to install emergency generator
- 4/3/02, Approval to construct pavilion
- 11/14/00, Approval to replace canopy
- 5/20/97, Approval to install sign
- 11/2/92, Approval of adult daycare
- 10/8/92, Approval to install storage shed and additional fencing
- 8/24/92, Approval to replace fencing
- 6/4/85, Approval to enclose covered entry
- 8/11/82, Approval to install chain link fence
- 7/30/82, Approval to replace flat roof with pitched roof
- 9/21/79, Approval to relocate dishwashing area
- 4/16/74, Denial to construct medical services building
- 4/17/73, Approval to construct a 50' X 59' addition
- 5/19/70, Approval to construct a 1,200 sf front entry addition
- 5/20/69, Approval to construct a 50-bed addition
- 10/15/68, Approval to construct a 100-bed addition
- 3/28/67, Approval to construct a 1,500 sf kitchen addition
- 10/19/65, Approval to construct a 48' X 90' addition
- 1/24/64, Amended approval to construct a nursing home
- 5/29/63, Approval to construct a nursing home

Recommendation: Certificate of Appropriateness approval, as per, and subject to, the following findings and conditions below.

I. Findings

Article 2: Administrative Mechanisms

Sec. 2.7.8 Withhold Permit

Most of the old zoning permits for this property have been closed out with certificates of occupancy since the January 2019 zoning permit approval. Two additional zoning permits have since expired without certificates of occupancy. These zoning permits (19-0479SN for signage & 19-0468CA for additional parking and maximum parking waiver) must be closed out with final certificates of occupancy prior to closing out this new zoning permit with a certificate of occupancy. **(Affirmative finding as conditioned)**

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The subject property is located in the RL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes. Some other residential uses, such as this convalescent facility, are allowed as conditional uses. No change or expansion of use is proposed. **(Affirmative finding)**

(b) Dimensional Standards & Density

No change in residential density is proposed.

Lot coverage will increase to 43.2%. This coverage is allowable per the provisions of Sec. 4.4.5 (d) 6 B, which allows up to 44% lot coverage for senior housing facilities.

With frontage along three city streets, the property has three front yards and just one side yard. Two front yard setbacks, along North Avenue and Starr Farm Road, affect this proposal. The proposed parking is located in the northeast corner of the property and complies with the front yard setbacks.

Building height remains unchanged. **(Affirmative finding)**

(c) Permitted & Conditional Uses

The convalescent home is a conditional use in the RL zone. No change or expansion of use is proposed. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

No setback encroachments are sought. **(Not applicable)**

2. Lot Coverage

No lot coverage exceptions are being sought. **(Not applicable)**

3. Accessory Residential Structures and Uses

(Not applicable)

4. Residential Density

(Not applicable)

5. Uses

No neighborhood commercial use is included in this proposal. **(Not applicable)**

6. Residential Development Bonuses

See Sec. 4.4.5 (b) as to additional lot coverage allowance for senior housing.

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

The subject property does not contain steep slopes or wetlands. The lot is composed entirely of buildable area. **(Affirmative finding)**

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

New outdoor lighting is proposed for illumination of the expanded parking area. The photometric plan depicts acceptable fixtures and illumination levels. Mounting heights are noted and are acceptable. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control

The required erosion prevention and sediment control plan has been reviewed and approved by city stormwater program staff. Existing subsurface stormwater storage chambers will accommodate runoff from the expanded surface parking. **(Affirmative finding)**

Article 6: Development Review Standards

Part 1, Land Division Design Standards

(Not applicable)

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

The subject property contains no important natural features as defined in the Open Space Protection Plan. The area to be paved is currently grassy lawn. The proposed site plan depicts a single honey locust tree that will be relocated or replaced. It will be more than offset with additional new landscaping as part of the project. **(Affirmative finding)**

(b) Topographical alterations

The property is essentially flat and will remain so. **(Affirmative finding)**

(c) Protection of important public views

The subject property is not affected by any identified public view corridor. **(Affirmative finding)**

(d) Protection of important cultural resources

The property contains no known archaeologically significant features. **(Affirmative finding)**

(e) Supporting the use of alternative energy

This application contains no provision for alternative energy utilization, nor does it adversely affect potential for such utilization on the subject or neighboring properties. **(Affirmative finding)**

(f) Brownfield sites

The subject property is not an identified brownfield. **(Affirmative finding)**

(g) Provide for nature's events

See Sec. 5.5.3 for stormwater management.

Sufficient area remains onsite for seasonal snow storage. (**Affirmative finding**)

(h) Building location and orientation

(Not applicable)

(i) Vehicular access

Vehicular access will remain unchanged. Private driveways will provide access to the site.

(Affirmative finding)

(j) Pedestrian access

Pedestrian access remains unchanged. The building's primary entrance abuts the public sidewalk along Starr Farm Road. (**Affirmative finding**)

(k) Accessibility for the handicapped

Handicap accessibility features are present onsite. No changes to them are associated with this proposal. (**Affirmative finding**)

(l) Parking and circulation

The proposed increase of 23 parking spaces comes with a requirement for shade trees. Specifically, one new shade tree for every 5 additional parking spaces is needed. The goal is to provide shade to 30% of the additional parking area. Revised project plans include a landscape and shading plan that depicts an acceptable 33.5% shading of the expanded parking area.

(Affirmative finding)

See Article 8 below as to parking standards.

(m) Landscaping, fences, and retaining walls

A revised landscaping plan depicts a modest increase in proposed plantings. The existing line of trees and shrubs along the North Avenue and Starr Farm Road frontages will be retained. These plantings are intended to screen the surface parking from said public streets. The new landscaping is a continuation of existing landscaping done with the prior parking lot expansion. Several new honey locust trees are proposed within and adjacent to the parking area, as are a variety of perennial lilies. (**Affirmative finding**)

(n) Public plazas and open space

No public plaza or open space is included or required in this proposal. (**Not applicable**)

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

No new ground mounted mechanical equipment is included in the project plans. (**Not applicable**)

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(Not applicable)

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The subject property is located within the Neighborhood Parking District (the Multimodal Mixed-Use Parking District stops just shy of this property along North Avenue). Within that district, the minimum parking requirement for a convalescent/nursing home is 1 parking space per 4 beds. In this case, the facility is permitted for 160 beds and requires at least 40 parking spaces. The property is permitted for 75 spaces but contains just 73 parking spaces. **(Affirmative finding)**

Sec. 8.1.9, Maximum Parking Spaces

This section limits surface parking to 125% of the Neighborhood Parking District minimum parking requirement. In this case, the maximum permissible parking for a 160-bed convalescent/nursing home is 50 spaces. Given that 98 spaces are proposed, a maximum parking waiver is required.

4. Waiver of Maximum Parking Limitations

A. The applicant requesting the waiver shall also provide:

(i) A peak demand parking study for two similar uses in the area; and,

A parking analysis has been provided. It is the same one as submitted for the 2019 maximum parking waiver but remains pertinent to the current request. The analysis includes the subject property and two other area nursing homes. The current parking ratio at the subject facility is 0.425. The expressed need is 0.6. The other two facilities, Starr Farm Nursing Center and Green Mountain Nursing have ratios of 0.66 and 0.932, respectively. **(Affirmative finding)**

(ii) A TDM Plan pursuant to the requirements of Sec. 8.1.16

See Sec. 8.1.16 below.

B. The following additional criteria shall be addressed regarding how:

(i) The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses;

On-street parking is not allowed along Starr Farm Road or the nearby stretch of North Avenue. Most neighboring uses are single family homes. The nearby public school has its own parking challenges without surplus to share. **(Affirmative finding)**

(ii) The proposed development demonstrates that its design and intended uses will continue to support high levels of existing or planned transit and pedestrian activity;

The disparity between parking demand and parking availability contributes to a significant use of alternative transportation. The parking analysis and TDM plan assert that 20% of employees already use transportation other than single occupancy vehicles. The property is served by public sidewalks, a nearby GMT bus stop, and onsite bike parking. A TDM plan is proposed that incorporates a number of the recommendations made in Sec. 8.0, *Parking Management Plan*, of the RSG parking analysis. Some of those recommendations are incorporated into the proposed TDM plan. See Sec. 8.1.16 for more info. **(Affirmative finding)**

(iii) The site plan indicates where additional parking can be redeveloped to a more intensive transit supportive use in the future.

Transit supportive use is not a defined term in the city's Comprehensive Development Ordinance. Review of pertinent literature indicates that transit supportive use provides services or activities which are which are attractive and convenient to transit riders and pedestrians. Practically speaking, the facility is too small and too far removed from the city

center to be well served by alternative means of transportation. As noted above, some measures are in place already to encourage use of alternative transportation, and additional steps should be taken to formalize and broaden such measures. Insofar as this particular criterion is concerned, the site could be wholly or partially redeveloped in the future. Such redevelopment could conceivably include transit supportive uses. **(Affirmative finding)**

Sec. 8.1.10, Off-Street Loading Requirements
(Not applicable)

Sec. 8.1.11, Parking Dimensional Requirements

Parking spaces are striped at 9' X 18' and are consistent with present parking standards. Back up length is 23' - the standard for 90-degree spaces. Per Sec. 6.2.2 (1), the enlarged parking area shall be bordered by concrete curbing or similar barrier to prevent parking on adjacent green spaces. The site plans depict boulders along the easer edge of the expanded parking area. Curbing should be installed along the northern edge. **(Affirmative finding as conditioned)**

Sec. 8.1.12, Limitations, Location, Use of Facilities

(a) Offsite parking facilities

(Not applicable)

(b) Front yard parking restricted

The proposed parking expansion is compliant with applicable front yard setbacks as noted in Article 4 above. Consistent with this criterion, the new parking is located to the side of the building. Given its placement between the building and the road, screening of the additional parking is required. Screening between the road and the parking was installed as part of the prior parking expansion. **(Affirmative finding)**

(c) Shared parking

(Not applicable)

(d) Single story structures in Shared Use Districts

(Not applicable)

(e) Joint use of facilities

(Not applicable)

(f) Availability of facilities

None of the proposed parking will be used for the storage or display of vehicles or materials by offsite users. Parking will be for employees and visitors. **(Affirmative finding)**

Sec. 8.1.13, Parking for Disabled Persons

The site plan depicts several existing handicap parking spaces in close proximity to the building's main entrance. Associated striping is also shown. No new ADA spaces are proposed. **(Affirmative finding)**

Sec. 8.1.14, Stacked and Tandem Parking Restrictions
(Not applicable)

**Sec. 8.1.15, Waivers from Parking Requirements / Parking Management Plans
(Not applicable)**

Sec. 8.1.16, Transportation Demand Management

(b) Applicability

As noted in Sec. 8.1.9 above, a TDM plan is required as part of a maximum parking waiver application. A TDM plan has been submitted. **(Affirmative finding)**

(c) Transportation Demand Management Program

The applicant has provided a revised transportation demand management program prepared by WCG that addresses each of the following items.

a. Outreach and Education:

The TDM plan notes outreach and education as a plan component and identifies the executive director of the facility as the Transportation Coordinator. As required, the outreach and education part of the plan includes provision for an annual meeting to present and discuss available TDM strategies and opportunities for increased use and participation. The plan also notes annual travel mode and parking surveys with associated annual reporting to the city. **(Affirmative finding)**

b. TDM Strategies:

The updated TDM plan notes the presence of 8 short term bike parking spaces in the form of outdoor racks and 4 long term bike parking spaces inside the building. There is no specific bike parking requirement for convalescent homes. The medical center standard is 1 long term space per 10,000 sf and 1 short term space per 20,000 sf. The short term bike parking provided exceeds the standard for the ~48,000 sf facility. The long term bike parking is 1 space shy. A fifth long term bike parking space should be provided.

This criterion requires subsidy for GMT passes and car share memberships for all residents and employees or membership in a transportation management association (such as CATMA) that offers equivalent or better TDM strategies. The applicants propose membership with CATMA. They also propose a guaranteed ride home program for employees using alternative transportation. These measures must be in place for at least 10 years following issuance of a certificate of occupancy for this project. **(Affirmative finding as conditioned)**

c. Parking Management:

As with the TDM strategies, annual parking utilization studies must be conducted for a period of at least 10 years with results reported to the city. There are no leases or deeds to unbundle parking costs from at this facility. Parking will not be made available for off-site users. Priority parking is noted in the TDM plan and reflected on the site plan. It includes provision for 4 ADA spaces, 2 motorcycle spaces, and 5 carpool spaces. Onsite car share parking may not be required, as the nursing home is not a residential complex. **(Affirmative finding)**

d. TDM Agreement:

This criterion is included in the proposed TDM Plan. (**Affirmative finding**)

II. Conditions of Approval

1. **This approval includes the TDM plan** as addressed under Sec. 8.1.16 of these findings. The TDM plan shall be executed and sustained for a period of at least 10 years following issuance of a certificate of occupancy for this project.
2. The enlarged parking area shall be bordered by concrete curbing or similar barrier to prevent parking on adjacent green spaces.
3. A fifth long term bike parking space should be provided within the building.
4. Per Sec. 2.7.8, *Withhold Permit*, zoning permits 19-0479SN for signage & 19-0468CA for additional parking and maximum parking waiver must be closed out with final certificates of occupancy prior to closing out this new zoning permit with a certificate of occupancy.
5. 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. It is the applicant's obligation to amend State Wastewater and Act 250 permits to reflect changes within this review.
6. Standard Conditions 1-15.