



ITEM NO 3
 MEETING DATE 11/19/09
 STAFF Shepard

PLANNING & ZONING BOARD

STAFF REPORT

PROJECT: 1124 West Mulberry Street - Addition of Two Permitted Uses, #34-09

APPLICANT: Mr. Daryl Alexander
 6812 Deerhurst Court
 Fort Collins, CO 80525

OWNER: Mr. Daryl Alexander
 1124 West Mulberry Street
 Fort Collins, CO 80521

PROJECT DESCRIPTION:

This is a request to add two permitted uses to the existing building at 1124 West Mulberry Street. The two uses are *office* and *bed and breakfast with six or fewer beds*. The site is a former residence/duplex, a former home occupation and is currently the location of the State Farm Insurance Company – Daryl Alexander Agency. The site is located at the northeast corner of West Mulberry Street and Shields Street and zoned N-C-L, Neighborhood Conservation Low Density. The zone district does not permit *office* and *bed and breakfast establishments with six or fewer beds* as permitted uses.

RECOMMENDATION: Approval

EXECUTIVE SUMMARY:

The proposed additional uses are not permitted in the N-C-L district. The request has been reviewed by the criteria of Sections 1.3.4 and 3.5.1 which address compatibility within the zone district and the surrounding area. A neighborhood meeting was held and a summary is attached. The request is for the existing house only and would not allow the proposed uses to be carried forward if there is a demolition of the house followed by new construction.

1. **Background:**

The surrounding zoning and land uses are as follows:

N:	N-C-L;	Single Family
S:	N-C-L;	Single Family
E:	N-C-L;	Single Family
W:	N-C-L;	Single Family
SW:	N-C-B;	7-eleven Convenience Store and Gilsdorf Garage

2. **Zoning History:**

The house was built in 1906. The property was annexed and platted as Lots 9, 10 and 11 as part of the Kenwood Heights Addition in 1924. According to the historic zoning maps:

1929 – zoned A – single family.

1950 – zoned B – single family and multi-family.

1965 – R-L, Low Density Residential.

Prior to 1977, and as best as can be determined, the building was used as a non-owner-occupied residential duplex.

The property was purchased on 1976 by James and Janet Alexander. In 1977, James Alexander obtained a Home Occupation License allowing a portion of the building to be used as an office for an insurance agency.

At some point, the residential component was phased out and the building featured only the office function. By converting from a home occupation to solely a professional office, the land use became non-conforming with the zone district.

In 1991, the property was rezoned from R-L to N-C-L, Neighborhood Conservation Low Density, in fulfillment of the West Side Neighborhood Plan. Like the R-L zone, the office function was not a permitted use in the N-C-L. (Note that the N-C-L zone was adopted prior to the adoption of City Plan in 1997.)

Between 1981 and 1997, the Land Development Guidance System was in effect providing the opportunity for a Planned Unit Development on the site. A note in the Building Permit file indicates that the owner initiated a P.U.D. to convert the non-conforming use to a legal use but did not follow through.

It is interesting to note that other owners did indeed convert residential properties along arterials to commercial uses as P.U.D.'s. For example:

Hawkeye Software – 2115 West Mulberry Street
Camera Corner/Alpine Scuba – 1110 West Prospect Road
Alpha Center and Restoration Services – 921 East Prospect Road
Atlas Roofing – 525 South Taft Hill Road

In 2002, the property was purchased by Daryl Alexander who continues to use the building for an insurance agency. This results in 32 years of continuous, uninterrupted usage as a professional office by two generations of the Alexander family.

According to the Zoning Department, there have been no zoning complaints on this property.

3. **Description of the Proposed Additional Use:**

The two proposed uses are *office* and *bed and breakfast establishment with six or fewer beds*. There is no definition for *office* in the Land Use Code as this use is considered self-evident. Article Five, however, allows the City to rely upon secondary sources related to the planning and legal professions such as The New Illustrated Book of Development Definitions by Harvey S. Moskowitz and Carl G. Lindbloom which states:

“*Office* – a room or group of rooms used for conducting the affairs of a business, profession, service industry or government and generally furnished with desks, tables, files and communication equipment.”

The Land Use Code describes *bed and breakfast establishments* as:

“*Bed and breakfast* shall mean an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment.”

4. **Context of the Surrounding Area:**

The parcel is located at the northeast corner of two arterial streets. To the north and east are single family homes that were platted as part of Kenwood Heights in 1924. To the south are single family homes platted as part of the Mantz Addition in 1952. Across Shields Street to the west are single family homes platted as part of the Scott-Sherwood Addition of 1925. Across both streets to the southwest, are the 7-eleven convenience store and Gilsdorf Garage. A vacant lot south of 7-eleven was the site of the Shields Street Lofts, a mixed-use project consisting of commercial and residential above which is now expired.

Obviously, this is an older part of the City where a mix of land uses has evolved over time. The proximity to the C.S.U. campus has created a blending of both owner and renter occupied housing.

The area around this intersection is similar to other major intersections on the northwest side of the City that feature residential conversions to commercial uses. For example:

- Prospect and Shields – Alpine Scuba
- Mountain and Shields – Beavers Market, Gas/Convenience, Montessori School
- Vine and Shields – Gasamat, Animal Shelter, Multi-family
- LaPorte and Taft – Shell, Liquor Store
- Mulberry and Taft – Gas/Convenience, Carwash, Custom Small Industry

These areas all represent an evolution of non-residential land uses within the context of mature residential neighborhoods.

5. **West Side Neighborhood Sub-Area Plan:**

The site is located within the Conservation sub-area of the West Side Neighborhood Plan adopted in 1989. The Plan does not speak directly to the future aspects of this particular parcel. (There is considerable attention paid to the intersection of Shields and Mountain but not Shields and Mulberry. Also, note that the southwest corner of Shields and Mulberry is not within the W.S.N.P.). The Plan does, however address issues related to preserving existing character and stability and preservation along Shields Street. For example:

“The land use plan for the WSN reinforces and builds on the existing land use pattern that has evolved over the years and is intended to conserve and enhance the neighborhood’s valuable assets.”

“The existing land use pattern in the WSN should be retained in order to further stabilize the neighborhood’s physical condition and enhance its’ quality of life.”

“The residential blocks facing Shields Street present a special problem for the neighborhood to address. South of LaPorte Avenue, the conservation of single family uses along the face blocks is desirable over the long term.”

In general, the broad theme of the WSNP for the Shields Street and Conservation sub area is stability. Toward this end, the existing house has been used as an office for 32 years which precedes the adoption of the WSNP. The viability of this use as allowed for

the maintenance and upkeep of the property over the long term. The existing house is part of the established development pattern of the neighborhood.

Staff finds that the continued use of the property as an *office* fulfills the vision of the WSNP allowing for a stable, long-term occupancy of the building that is residential in character. Further, Staff finds that the proposed use of a *bed and breakfast with six or fewer beds* is roughly on par with a professional office and would continue to allow for the preservation of the character of the structure. The preservation of the brick house and the occupancy and upkeep of the property as a non-residential land use has contributed to the stability of the neighborhood.

6. **Compliance with Compatibility Standards of Article Three:**

A. *Section 3.4.7(A) – Historic and Cultural Resources*

The two-story brick house was built in 1906 and represents an example of the American Foursquare style. The building is individually eligible for local landmark designation but an application for such designation has not been submitted at this time. Since the proposed uses are subject to adapting the existing structure and would not impact the exterior, there are no issues with historic preservation. Any subsequent request which may cause changes to the exterior will be evaluated according to the provisions of Section 3.4.7.

B. *Section 3.5.1(B) – Architectural Character and Building Compatibility*

There have been no significant exterior additions except for a small enclosure of a portion of the front porch. There is an existing fence and landscaping along the east property line. The historic architectural character is representative turn-of- the-20th century style and is compatible with the neighborhood.

C. *Section 3.5.1(C) – Building Size, Height, Bulk, Mass, Scale*

The building is 3,028 square feet. The building size, height, bulk, mass and scale is residential in character and is compatible with the neighborhood.

D. *Section 3.5.1(E) – Building Materials*

As mentioned, the building is brick with a stone foundation. The roof is asphalt fiberglass shingles. A portion of the first floor front porch has been enclosed in vinyl siding. The second floor porch provides for a distinctive feature.

E. *Section 3.5.1(I) - Outside Storage Areas/Mechanical Equipment*

There will be no outside material storage associated with either the office or bed and breakfast functions.

F. *Section 3.5.1(J) - Operational/Physical Compatibility Standards*

At this time, Staff does not anticipate any significant issues relating to the operating characteristics of the existing office or the proposed bed and breakfast facility. Any issues that arise during subsequent review of the Change of Use (office) or P.D.P. (bed and breakfast) will be addressed at that time.

7. **Traffic:**

A transportation impact study has not been submitted with the Addition of the Permitted Uses. Discussions regarding traffic indicate the following:

- There are no medians so there is full access to both arterials.
- During times of peak traffic when left turns may be difficult, there are right-in/right-out turning opportunities along both streets.
- An office use and a bed and breakfast with six or fewer beds will not cause any measurable increase in the number of trips impacting the intersection of Mulberry Street and Shields Street.
- The Traffic Operations Department has provided traffic counts from 2008 (see attached). The intersection is under evaluation for possible improvements such as the addition of right-turn lanes. No decision has been made to date.
- Allowing the proposed uses in the existing house on this property does not preclude the potential construction of a westbound right-turn lane on Mulberry Street as there is sufficient land area for acquisition without impacting the house, driveway or parking lot.

8. **Neighborhood Meeting:**

A neighborhood information meeting was held on October 12, 2009. A summary is attached. Those in attendance were in general support of the office and proposed bed and breakfast establishment but opposed the request for personal and business service shops. As a result of this input, the applicant modified the application by deleting the request for personal and business service shops.

9. **Site Specific Plan Follow-up:**

If the applicant is successful in his request for the Addition of Permitted Uses, then a Change of Use would be required to clear up the illegal Home Occupation and implement the *office* with a new certificate of occupancy. The *bed and breakfast establishment for six or fewer beds*, however, would be processed as a Project Development Plan, subject to Planning and Zoning Board review.

10. **Criteria of Section 1.3.4(A):**

Additions of a Permitted Use are required to comply with the criteria of Section 1.3.4(A).

A. *The Use Is Appropriate In the Zone To Which It Is Added*

For the office function, this use, at this location, has existed for 32 years without complaint. The conversion from residential to office has successfully preserved the residential character of the house while allowing for prominent visibility for the business.

The size of the building is 3,028 square feet and the size of the lot is 21,000 square feet. With 13 parking spaces, there is a ratio of 4.3 spaces per 1,000 square feet which slightly exceeds the allowable maximum (10 spaces if this were a new project). Parking beyond the maximum is considered a benefit in this particular case since there is no opportunity for on-street parking or shared parking with an adjoining property.

For a lodging establishment limited to a maximum of six rooms, there is ample parking guests (one car per room) and staff at full capacity.

The conversion of the residential occupancy to the office function, therefore, has an impressive track record in demonstrating compatibility with the neighborhood.

For the bed and breakfast function, this use is found to be appropriate along arterial streets along the edge of a neighborhood. For example, there are three similarly situated establishments on the edge of neighborhoods:

- The Edwards House – 402 West Mountain Avenue – N-C-B
- Sheldon House – 616 West Mulberry Street – N-C-M
- Inn at City Park – 1734 West Mountain Avenue – N-C-L

These uses are found to be in older homes that have been adapted for re-use but preserve the original residential in character of the structure. Such conversions are well-maintained and help stabilize their neighborhoods and are appropriate to the zone district in which

they are located. According to the Zoning Department, there have been no complaints received regarding the operation of these three existing bed and breakfast establishments. By being at the immediate corner of two arterials, the subject site would act as a transitional land use and would help buffer the neighborhood from the traffic noise.

- B. *Such Use Conforms to the Basic Characteristics of the Zone District and the Other Permitted Uses in the Zone District To Which It Is Added*

Both proposed uses were selected for the express purpose of adapting the existing house. By adapting the house to these proposed uses, the character of the house is preserved which contributes to stabilizing the neighborhood. This is a fundamental aspect of the West Side Neighborhood Plan and the N-C-L zone district.

- C. *Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added;*

Neither of the proposed uses cause any problems identified by this standard.

- D. *Such use is compatible with the other listed permitted uses in the zone district to which it is added;*

Both of the proposed uses, within the context of preserving the existing house, are compatible with the N-C-L neighborhood. Compatibility is achieved because the existing house containing the two proposed uses would be comparable to the residential neighborhood by virtue of building's height, scale and mass. The vehicular traffic associated with the two uses does not feed back into the neighborhood but, rather, is oriented to the two adjoining arterial streets. There will be no spillover parking into the neighborhood. The size of the parking lot in relationship to the size of the building is capable of accommodating the necessary parking associated with either proposed use. The two proposed uses within this existing structure would maintain the character of the existing neighborhood.

- E. *Such use is not specifically listed by name as a prohibited use in the zone district to which it is added.*

The proposed uses are not specifically listed as prohibited uses.

- F. *Such use is not specifically listed as a "Permitted Use" in Article 4, and specifically found by the Planning and Zoning Board to not be detrimental to*

the public good and to be in compliance with the requirements and criteria contained in Section 3.5.1.

The proposed uses are not listed as permitted in the N-C-L (hence the request). Staff has evaluated the two uses and concludes that the proposed *office and bed and breakfast establishment with six or fewer beds* have been described and defined in sufficient detail to be in compliance with Section 3.5.1 and, further, is not considered detrimental to the public good.

11. Findings of Fact and Conclusion:

In reviewing the request to add *office and bed and breakfast establishment for six or fewer beds* as Permitted Uses for 1124 West Mulberry Street, Staff makes the following findings of fact:

- A. Adding the *office and bed and breakfast establishments with six or fewer beds* to the existing house and property at 1124 West Mulberry Street in the N-C-L zone is found to comply with the compatibility standards of Section 3.5.1 of the Land Use Code
- B. Adding the two proposed uses to 1124 West Mulberry Street is found to comply with the criteria of Section 1.3.4 of the Land Use Code.
- C. A neighborhood meeting was held in conjunction with this request and these two uses were generally supported.

RECOMMENDATION:

Staff recommends approval of adding *office and bed and breakfast establishment for six or fewer beds* as a Permitted Uses for the existing structure at 1124 West Mulberry Street, subject to the *bed and breakfast establishment* being reviewed as a P.D.P. by the Planning and Zoning Board as a Type Two review.