

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
<http://www.burlingtonvt.gov/PZ/>
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

David E. White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Senior Planner
Mary O'Neil, AICP, Senior Planner
Nic Anderson, Zoning Clerk
Elsie Tillotson, Department Secretary



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner *mwneil*
Date: October 15, 2013
RE: ZP 14-0280CU

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: ZP 14-0280CU

Location: 80 Austin Drive Unit 124

Zone: RL-W **Ward:** 5

Date application accepted: September 6, 2013

Applicant/ Owner: Bradley Mahan

Request: Home occupation to produce and package glazed nuts, legumes, and other related culinary products.

Background: There are no specific zoning permits for this residential unit. There are assorted permits for siding and handrail replacement for the condo complex.

Overview: The applicant wishes to operate a small home occupation to produce culinary items. The intention is to roast for 1-6 hours two days a week. On the occasion of a weekend event (farmer's market, festival, fair), they would roast for an additional 1-4 days ranging from 3-8 hours per day.

The condominium association has provided written approval of the request.

Recommendation: Consent approval, per the following findings and conditions:

I. Findings

Sec. 3.5.6 (b) 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 the following general standards:

1. The capacity of existing or planned community facilities;

With the proposed small scale home occupation proposed, no adverse impact is anticipated.

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 home occupation is proposed with a low density residential zone. There may be the emission of some odor with the proposed activity, which may be alternately enjoyable or disagreeable to area residents. The aroma has been likened to baking cinnamon buns; a mixture of vanilla and cinnamon. This determination is highly subjective, but consideration appropriate in this review. **Affirmative finding as conditioned.**

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;*

The applicant hopes to make deliveries to some of the customers who live locally. Additionally, they will self-deliver to local retailers who carry their product, and to the post office for shipping. No commercial delivery vehicles are proposed; only personal vehicles. **Affirmative finding.**

4. *Any standards or factors set forth in existing City bylaws and city and state ordinances;*

As conditioned, the proposed home occupation is compliant. **Affirmative finding as conditioned.**

5. *The utilization of renewable energy resources;*

There is no suggestion of the use of wind, water, or other renewable energy resources; but no barrier is introduced to their potential use. **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;*

No cumulative impact of an adverse nature 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.*

N/A.

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

No change proposed. N/A.

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

No signage is proposed. Any signage would require a separate 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.

Noise and glare are not anticipated associated effects of this home occupation. Some aroma from roasting nuts or legumes is anticipated; however has been likened to cinnamon buns (vanilla and cinnamon.) No venting is required, per the applicant's information. As this suggests nothing more burdensome than the scent of holiday cooking, no mitigation appears appropriate. **Affirmative finding as conditioned.**

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

No construction or alteration of the residential dwelling unit is proposed. **Not applicable.**

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

No hours or operation are noted in the submission materials. No specific construction has been identified, although the home occupation questionnaire leaves open the potential for kitchen enhancement which as an interior project would not require a zoning permit. **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.

This is a requirement under the CDO. **Affirmative finding as conditioned.**

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

This is at the discretion of the DRB. If warranted, the DRB may place limitations on the time of day or hours of product roasting if any adverse impact is anticipated. **Affirmative finding if conditioned.**

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.

Approval of the city fire marshal as to the appropriateness of the activity in a residential area, the UL rating of the product roasting machines, and the method of venting (if required) shall be a pre-release requirement of this permit. **Affirmative finding as conditioned.**

Sec. 5.4.6 Home Occupations

(b) Conditional Use Review

All home occupations not otherwise eligible for administrative approval above shall require review and approval by the DRB pursuant to the requirements of Art. 3, Part 5. In addition to the conditional use criteria, the following criteria must be met for any home occupation:

1. A home occupation shall be conducted solely by resident occupants plus no more than one additional full-time equivalent employee in RL districts, and no more than two (2) full-time equivalent employees in other districts. The home occupation shall be conducted entirely within an existing dwelling unit and/or one enclosed accessory structure;

Two resident occupants are proposed to be engaged in the roasting of nuts and legumes. Some materials are proposed to be stored in an existing outdoor shed. **Affirmative finding.**

2. No more than thirty-five per cent (35%) of the floor area of said residence, including accessory structures, up to a maximum of seven hundred fifty (750) square feet, whichever is less, shall be used for such purpose;

Portions of a shed (24 sf), living room (144 sf) and the kitchen (180 sf) are proposed for the home occupation; totaling 348 sf / 1,138 total square feet of dwelling unit = 30.5%: less than 35% limit defined by the Comprehensive Development Ordinance. **Affirmative finding.**

3. No home occupation shall require alterations, construction or equipment that would change the fire rating of the structure or the fire district in which the structure is located;

It is unknown if roasting nuts and legumes will change the fire rating of this residential structure. The applicant's submission indicates that intend to employ a 1850 watt kettle style roasting machine which is UL listed. They are looking to acquire a larger capacity propane/electric kettle style machine, where surface temperatures of the kettle typically do not exceed 250 degrees. See attached information provided by applicant. Written approval of the fire marshal's office is warranted. **Affirmative finding as conditioned.**

4. There shall be no outside storage of any kind related to the home occupation;

Unroasted product is proposed for storage within the defined shed area. **Affirmative finding.**

5. There shall be no exterior evidence of the conduct of a home occupation except for:

Occasional garage/lawn/yard type sales (up to twice a year not to exceed two (2) days each); and

One non-illuminated attached parallel sign that shall not exceed two (2) square feet. No other signs shall be permitted.

No signage is proposed. **Affirmative finding.**

6. No home occupation may increase vehicular traffic flow or parking by more than one additional vehicle at a time for customers or deliveries. All parking shall be located off-street and shall maintain the required front yard setback;

No customers are proposed to visit the site. Any deliveries will be made by the applicant within his own vehicle. No additional parking is proposed or required. **Affirmative finding.**

7. No home occupation shall create sounds, noise, dust, vibration, smell, smoke, heat, humidity, glare, radiation, electrical interference, fire hazard or any other hazard, nuisance or unsightliness which is discernible from any adjacent dwelling unit;

The proposed activity will have a characteristic aroma, described as pleasant by the applicant. The proposal is within the RL zone. While some may find the odor appealing; still others may find it unacceptable. For the introduction of smell, and in concern for the neighbors, a return visit to the DRB in one year's time is suggested to report any complaints. **Affirmative if conditioned.**

8. The home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.

The home occupation as submitted appears to be clearly incidental and secondary to the residential use of the property. **Affirmative finding.**

9. Delivery of products and materials related to the home occupation by vehicles other than automobiles shall occur no more than once per day;

No deliveries are proposed. The applicant has indicated that he all product transit will be made in his own personal car. **Affirmative finding.**

10. With the exception of one delivery per day, as specified in subparagraph (9), no more than one (1) commercial vehicle shall be allowed on the premises at any one time;

No deliveries or commercial vehicles are proposed. **Affirmative finding.**

11. There shall be no sale of goods except for goods fabricated on the premises as part of an approved home occupation.

There is no proposal for the sale of goods on premises. **Affirmative finding.**

II. Conditions of Approval

- 1. Prior to release of the zoning permit,** the applicant shall provide written approval from the fire marshal as to the acceptability of the proposed activity within the residential dwelling unit.
- 2. Any future enlargement or alteration of the use will require application and return for review to the DRB.**
- 3. The applicant shall return to the DRB in one year's time after the end of the appeal period.** At that time the DRB shall review any evidence of complaints received regarding noise or odors or other nuisance caused by the home occupation. Upon finding of any significant adverse effects of such, the DRB may require mitigation measures to ameliorate the nuisance or decide for a discontinuance of the home occupation.
- 4. Standard Permit Conditions 1-15.**

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVED
SEP 06 2013

DEPARTMENT OF
PLANNING & ZONING

Home Occupation Application Questionnaire

Use this checklist for all applications for a home occupation - See Sec. 5.4.6 of the Zoning Ordinance. This questionnaire is provided to summarize details and is required to accompany a zoning permit application form and required fee (for either administrative approval or conditional use review).

Please note:

- 1. The specific requirements for home occupations can be found in Section 5.4.6 of the Comprehensive Development Ordinance which is available in its entirety on our website at www.ci.burlington.vt.us/planning
2. A 'Business Personal Property Registration Form' may be required to be submitted to the Assessors Office. This form is available at www.ci.burlington.vt.us/assessor/businesses

Name of Business Proposed: Squirrel Stash Nuts LLC

Type of Business Proposed: Home Based Kitchen

Provide a detailed description of the proposed Home Occupation such as: activities involved; materials and equipment used; quantities of materials and equipment stored on-site; methods of operation; hours of operation. This may be done on a separate piece of paper and attached.

Please respond to the following:

- 1. How many persons will be involved or employed in the conduct of the proposed Home Occupation: Residents of premises: 2 Others 0 Total Number 2
2. What type of product will be produced, serviced, or repaired in the conduct of your Home Occupation? (For example: repair of clocks or watches, making jewelry, etc.). Explain: We would like to operate a certified kitchen for the primary purpose of producing and packaging roasted and glazed nuts, legumes and other related products.
3. Describe any alterations to the home or premises that might be required to facilitate your Home Occupation: The potential to add improvements to the kitchen area.
4. Describe what rooms will be used in the conduct of the Home Occupation and how these rooms will be used. (For example: garage will be used to store supplies; or den will contain desk and file cabinets, etc.). Indicate the gross floor area(s) that will be used in the conduct of the Home Occupation. Indicate the total gross floor areas of your house and include any accessory structure(s) to be used for the Home Occupation, (Ex. Garage).

The ground floor living room is the roasting, packaging and office area. This area will have the nut roaster, tools, ingredients (except those stored elsewhere), business files, and packaging materials. The kitchen sink area will serve as a washing and sanitation station and the bathroom will serve as hand washing and toilet facilities. Ingredients will also be stored in the outdoor shed.

- 5. Describe the mechanical and/or electrical equipment that will be necessary to conduct your business activity: Nut roasting machine(s) will be used in addition to a hot water heater as a hot water source. A computer will also be required for business logistics.

- 6. Describe how, where and in what amounts the material, supplies and/or equipment related to your Home Occupation will be displayed or stored: Equipment (1-2 roasting machines), tools (max. 20) and ingredients (enough for multiple roasts) used for producing and packaging the products will reside in the living room upon table top. In said living room the office area including a desk, computer, file storage and office materials will be adjacent to the roasting area. Enough ingredients and packaging supplies for 2 months worth of roasting will be stored on site in both the outdoor shed and living room. The hot water heater and some kitchen and bathroom supplies are located in the closet next to the kitchen area. Two sinks are located in both the kitchen and the bathroom.

7. Will people come to your home to obtain any product or utilize any service connected with the proposed Home Occupation activity? Yes _____ No NO
If yes, please explain in detail:

8. Are any signs necessary or proposed relative to the Home Occupation?
Yes _____ No NO
If yes, you are required to file for a Sign Permit. An application form can be obtained at the Planning and Zoning Department or on our website.
9. If trucks or other equipment will be used in your Home Occupation, where will they be parked or stored?
Parked in the condominium units designated space and/or along allowed town roads.
10. Will the Home Occupation involve the use of commercial vehicles for delivery of materials to or from the premises? Yes _____ No NO
If yes, please explain:

11. How many parking spaces will be provided for the home occupation? None dedicated to home occupation
Where will they be located? Indicate parking spaces on a site plan of this property as part of your application submission.
12. Is your proposed Home Occupation in conformance with the conditions, covenants and restrictions pertaining to your property? Yes YES No _____
We suggest checking your deed for conditions, covenants and restrictions.

I have read and understand 'Sec 5.4.6 Home Occupations' under the City of Burlington Comprehensive Development Ordinance and believe that to the best of my knowledge my proposed Home Occupation would not violate any portion of said Ordinance:

Applicant's Signature: *Brady McKinley*

Date: 7/29/13

Property Owner's Signature: *Marian Seicide*

Date: 5/13/13

RECEIVED

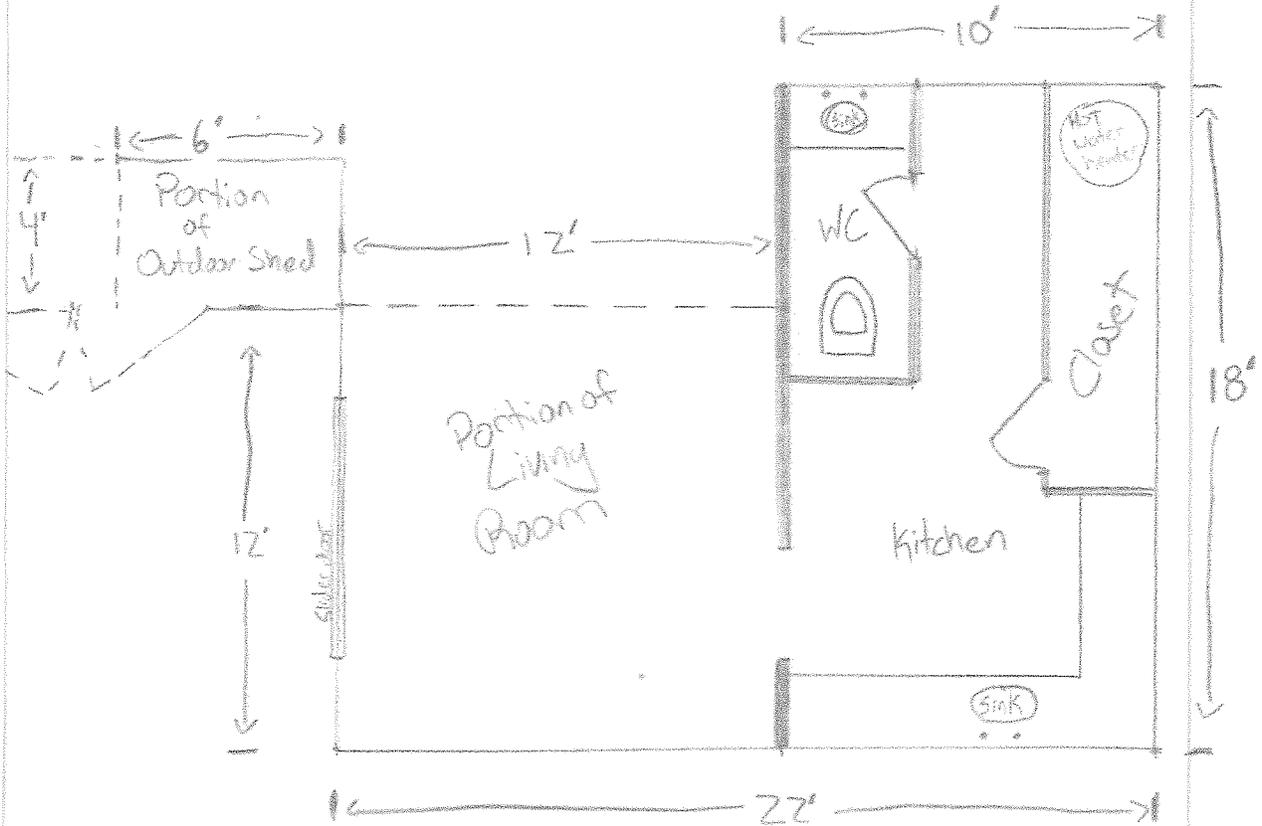
SEP 06 2013

DEPARTMENT OF
PLANNING & ZONING

RECEIVED
SEP 06 2013

Squirrel Stash Nuts LLC
Home Occupation / Home based Kitchen
Floor Plan Layout

DEPARTMENT OF
PLANNING & ZONING



Square footage
description

Business use total: 348 ft²

House total: 1,138 ft²

Mary O'Neil

From: Bradley Mahan <bmahan511@gmail.com>
Sent: Monday, September 23, 2013 12:26 PM
To: Mary O'Neil
Cc: Mr. Squirrel Bergeron-Mahan
Subject: Re: Questions about home occupation

Mary,

I can help you answer those questions to the best of my knowledge at this point of our business (answers in blue). Please let me know if you have any further clarifying questions. I am curious to what time the board meeting will be held and if I should plan to bring anything?

1. Can you explain what the nut roasting machines are? Are they UL listed? Can you provide some information to share with the board and/or fire marshal?

We currently have a 1850 watt kettle style roasting machine which is UL listed (UL 78ZF). We are looking to acquire a larger capacity propane/electric kettle style machine over the coming months. They consist of a kettle which have agitating arms which rest inside along the heating surface. For our electric roaster, it uses conductive heating element to heat the kettle as two arms spin atop a shaft fed through the bottom of the kettle. The gas one will use a convection style burner heating up a kettle which spins below a set of stationary arms. The surface temperatures of the kettles typically does not exceed about 250 degrees Fahrenheit to avoid burning the sugar.

2. Are odors associated with the nut roasting?

There is a very pleasant aroma which resembles the smell of baking cinnamon buns. Immediate neighbors whom live near us have told us they find it pleasant. The cinnamon/vanilla smell is the primary aroma which is given off while cooking.

3. Will venting be required?

It is my understanding that no special venting is required. The temperatures are not as high as a traditional oven and any vapor (mostly water) which rises from the kettle does not exceed the equivalent of a pot of boiling water. We do have a carbon monoxide detector in the room where roasting occurs and will have a more localized one when the gas roaster is purchased.

4. What hours to you intend to operate the business – evenings? Weekends? How many hours a day/week?

Currently, we roast for private orders on a schedule of 2 days per month during the first and third weeks of each month (typically a Wednesday or Thursday). Depending on the quantities of private orders, we would roast for 1-6 hours on each day. On the occasion that we have a weekend event (farmers markets, festivals, fairs, etc), we would roast for an additional 1-4 days ranging from 3-8 hours per day. This could occur any day of the week, when time allows and thus far we have not exceeded 20 hours of roasting in any given week.

5. Will you be making deliveries?

We were hoping to be able to make deliveries to some of those customers whom live locally and order through private orders, however if it is a concern of the board, we would consider discontinuing this service. As we move to a retail market for re-sale, we expect to be distributing the product to those retail locations which choose to carry our product. We also deliver product to the post office to ship out those orders which require it.

Thanks for your help,
Brad Mahan

On Thu, Sep 19, 2013 at 2:40 PM, Mary O'Neil <MCOneil@burlingtonvt.gov> wrote:

Hello Bradley,

I have a few questions about your proposed home occupation business to complete my staff report.

1. Can you explain what the nut roasting machines are? Are they UL listed? Can you provide some information to share with the board and/or fire marshal?
2. Are odors associated with the nut roasting?
3. Will venting be required?
4. What hours to you intend to operate the business – evenings? Weekends? How many hours a day/week?
5. Will you be making deliveries?

Thank you,



Mary O'Neil, AICP

Senior Planner

Coordinator, Certified Local Government Program

Please note! New city domain and email: mconeil@burlingtonvt.gov

[802.865.7188](tel:802.865.7188) office

[802.865.7556](tel:802.865.7556) direct