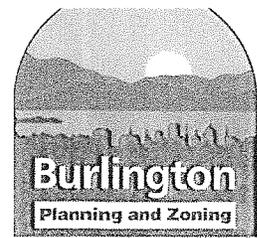


Department of Planning and Zoning

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Nic Anderson, Zoning Clerk
Elsie Tillotson, Department Secretary



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, Associate Planner *MOC*
Date: July 5, 2011
RE: ZP 11-0956HO 106 Rose Street Unit 5.

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: 11-0956HO

Location: 106 Rose St. Unit 5.

Zone: RM **Ward:** 3

Date application accepted: May 24, 2011

Applicant/ Owner: Abigail Knapp & Matthew Tucker

Request: Home occupation for home bakery; grind grains and prepare Gluten-Free flour mixes.

Background:

- **Zoning Permit 05-070FN;** Wooden picket fence to run along Manhattan Drive frontage of condo complex, along eastern property line to the front building line of Building A of Hailey Court Condos, 106 Rose Street. Approved August 2004.
- **Zoning Permit 03-044;** relocate transformer. Approved July 2002.
- **Zoning Permit 01-298;** four part phasing of previously approved eight unit PRD for purposes of issuing certificate of occupancy. Approved January 2001.
- **Zoning Permit 01-269;** Preliminary and final approval to construct six additional units in three buildings in combination with the existing duplex at the corner of Manhattan Drive and Rose Street. Approved December 2000.
- **Zoning Permit 76-683;** erect an 8' x 20' carport on the northwest corner of the shop at 106 Rose Street. Approved March, 1976.
- **Zoning Permit;** repair rear shed, install new foundation, new roof, and repair walls at 106 Rose Street. Approved March, 1974.

Applicable Regulations: Article 3 (Applications and Reviews), Article 5 (Citywide General Regulations), and Article 6 (Development Review Standards)

Background Information:

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

The applicant is seeking approval to establish a home occupation for food preparation (flour milling, home baking.) Distribution is proposed through local farmers' markets. There are no associated renovations included in this proposal.

Recommendation: Consent approval of conditional use as per, and subject to, the following findings and conditions:

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

(1) The capacity of existing or planned community facilities;

The proposed home occupation involves using an existing residential kitchen in specialty food preparation for distribution through farmers' markets. The modest enterprise does not suggest any increased demand on municipal water and sewer service. **(Affirmative finding)**

(2) The character of the area affected;

The subject property is located in the RM zone in a residential neighborhood. The proposed home occupation proposes two resident employees. The site will remain unchanged, and the activity undiscernable from the outside. As proposed, there will be no impact on the character of the area. **(Affirmative finding)**

(3) Traffic on roads and highways in the vicinity;

Only the two residents are proposed as employees. No clients will come to the premises. A distributor is proposed to come to the premises once a month, but drives a personal car and not a commercial vehicle. Another distributor will pick up products twice a week. The proposed home occupation will generate no more traffic than a typically active household, and therefore will have no anticipated impact on area traffic. **(Affirmative finding)**

(4) Bylaws then in effect;

The home occupation as conditioned complies with all applicable zoning bylaws. The applicant must register with the city Office of the Assessor as a business personal property. The applicant has supplied a letter of approval from the condominium association, providing approval of the request and activity. **(Affirmative finding as conditioned)**

(5) Utilization of renewable energy resources;

No information has been provided with respect to the use of alternative energies. However, the proposed home occupation will not unreasonably deter the actual or potential use of renewable energies by the subject or neighboring properties. **(Affirmative finding)**

(6) Cumulative impacts of the proposed use;

The proposed home occupation suggests no appreciable impact on the neighborhood. However, the service proposed will provide a substantial public benefit, given the growing population of residents with food allergies and the difficulty in accessing specialty flours and baked goods for those with celiac disease. Additionally, the home occupation will allow local production for local consumption, making the "food to table" connection tighter, as well as foster entrepreneurship within Burlington's community. **(Affirmative finding)**

(7) Functional family;

This criterion does not apply to the subject permit request. **(Not applicable)**

(8) Vehicular access points;

The dwelling unit is served by an general access drive. No changes are proposed or needed. **(Affirmative finding)**

(9) Signs;

No exterior signs are proposed. Any signage will require a separate sign permit. **(Not applicable)**

(10) Mitigation measures;

The proposed home occupation will not generate any noxious effects such as noise, glare, or emissions. The modest level of activity suggested within the application and the lack of a request for building alterations to accommodate commercial exhaust fans signal that nothing other than normal residential cooking aromas may be anticipated. Should the home occupation evolve into a more commercial venture (with expansion, or greater distribution), the applicant will be required to return to the DRB for approval. **(Affirmative finding as conditioned.)**

(11) Time limits for construction;

None proposed. **(Not applicable.)**

(12) Hours of operation and construction;

As all activity will be confined to an existing residential kitchen and basement storage, no specified hours of operation are needed. No construction is proposed. **(Affirmative finding)**

(13) Future enlargement or alterations;

Any future enlargement, expansion, or alterations of the home occupation will require additional permit review per the regulations in effect at that time. **(Affirmative finding)**

(14) Performance standards;

The proposed use is modest in scale and utilizes an existing residential kitchen and basement storage area. The proposal does not affect any items considered under performance standards such as outdoor lighting, noise, or erosion control. For any expansion, including but not limited to zoning permit requests for commercial ductwork, the applicant will be required to return to the DRB for further review. See (13) above. **(Affirmative finding as conditioned.)**

(15) Conditions and safeguards;

Conditions of approval are included in effort to safeguard against potential undue adverse impacts to the surrounding area. **(Affirmative finding as conditioned.)**

Article 5: Citywide General Regulations
Part 4: Special Use Regulations
Sec. 5.4.6, Home Occupations

1. *A home occupation shall be conducted solely by resident occupants plus no more than one additional full-time equivalent employee in RL and WRL 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.*

The home occupation is conducted by the two resident occupants as sole employees. The home occupation will take place entirely within the existing dwelling, utilizing approximately 290 sf. **(Affirmative finding)**

2. *No more than thirty-five percent (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.*

The 290sf home occupation space is 28% of the finished floor area of the 1028 sf residential unit (excluding the basement area in the total calculation, using the Assessor's records) and therefore meets this standard. **(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.*

The proposed home occupation, confined to an existing kitchen, will not change the fire rating of the structure or the fire district in which it is located. **(Affirmative finding)**

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

No outside storage is proposed. **(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 garage/lawn/yard type sales are included in this proposal. No outdoor signs are 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 per Article 5.*

As no customers or clients are proposed to visit the site, no increase in traffic is anticipated; nor any additional parking required. Distribution trips are projected to be twice a week, and within a personal vehicle; thus presenting little impact. **(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.*

Other than a small grain mill, no non-residential equipment is proposed to be used for the home occupation. Thus, the home occupation as proposed will not generate any nuisance or unsightliness discernible from the exterior. See above note about future expansion.

(Affirmative finding)

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 proposed using existing appliances is innocuous and as proposed is clearly incidental to the primary 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.*

Distribution trips are proposed to be twice a week in a personal vehicle. No commercial vehicles are proposed in association with this home occupation. **(Affirmative finding)**

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

No commercial vehicles are associated with the proposed home occupation. **(Affirmative finding)**

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

Food materials are proposed to be distributed by the applicant/owner to local farmers' markets. No customers will come to the residence. **(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

Not applicable.

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

Not applicable.

2. *Roofs and Rooflines*

Not applicable.

3. *Building Openings*

Not applicable.

II. Conditions of Approval

1. This home occupation is subject to all of the requirements of Sec. 5.4.6, *Home Occupations*, of the Comprehensive Development Ordinance.
2. The applicant must register with the city Office of the Assessor as a business personal property.
3. Any expansion, including but not limited to permit requests for commercial ductwork, will require the applicant to return to the DRB with a new application for further review.
4. Standard conditions 1 -18.

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Burlington Department of Planning and Zoning

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MAY 24 2011

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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: From the Ground Up

Type of Business Proposed: Home bakery

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:
Gluten-free flours, flour mixes and baked goods.
3. Describe any alterations to the home or premises that might be required to facilitate your Home Occupation:
None.
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).
Kitchen will be used to bake our baked goods and grind our grains. Part of the basement will be used for storage. Living room will contain desk, filing cabinet and printer. Total gross area used in the conduct of home occupation is 210 square feet.
5. Describe the mechanical and/or electrical equipment that will be necessary to conduct your business activity:
Small grain mill to grind grains and ^{BAKING} scale.
6. Describe how, where and in what amounts the material, supplies and/or equipment related to your Home Occupation will be displayed or stored:
We store ~~farmers~~ materials for the Farmer's Market and small amounts of ingredients (grains, oil, etc.) in the basement and mixing bowls and baking equipment in the kitchen.

PLEASE TURN OVER

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

8. Are any signs necessary or proposed relative to the Home Occupation?
 Yes _____ No X
 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?
N/A
10. Will the Home Occupation involve the use of commercial vehicles for delivery of materials to or from the premises? Yes X No _____
 If yes, please explain:
We have a distributor that comes once a month. Also, it's not a commercial vehicle (she drives a Subaru) but we work with a distributor who picks up our products twice a week.
11. How many parking spaces will be provided for the home occupation? None.
 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 X 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: Argail R. King

Date: 5/20/11

Property Owner's Signature: Argail R. King

Date: 5/20/11

The Board Of Directors at Hailey Court Condominium located at 106 Rose Street, Burlington, Vermont hereby grant permission to Matt Tucker and Abby Knapp who reside at Unit 5, 106 Rose Street to operate a Home Bakery in their residence which is zoned by the City as a residential property.



Roger Buchanan

Board Of Directors, Hailey Court Condominium

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MAY 24 2011

DEPARTMENT OF
PLANNING & ZONING

