

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Scott Gustin/Garret King
DATE: April 4, 2023
RE: ZP-22-640; 294-296 North 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: RH Ward: 2C

Owner/Applicant: Irene C. Hinsdale Irrev TRUST/Samuel Nelis

Request: Change a café into a bar as well as add outdoor patio onto the building.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking)

Background Information:

The applicant wants to change the existing space from a café into a bar. The current plan is for the space to act as a cafe in the earlier hours of the day and more traditional bar at night as well as offer classes on cocktail mixing, wine tasting, and other similar beverage craft. A bar is a conditional use in the Neighborhood Mixed Use zone wherein the project is located. The majority of construction is renovation that will be happening inside the current structure. The only exterior changes will be the conversion of a raised flowerbed into a patio and the existing front window to be converted into a garage door for patio access. A new flowerbed of same size will be created to offset the removal of green space and be positioned on the parking side of the building.

Zoning Permit history

- Zoning Permit 21-0744CA; Expansion of Burly axe
- Zoning Permit 20-0345SN; One projecting and one parallel sign for Burly Axe Throwing
- Zoning Permit 19-1038CA; Change of use from performing arts theater to health studio (axe throwing lanes)
- Zoning Permit 18-0635SN; New window for health studio
- Zoning Permit 18-0634CA; Change of use to Health Studio: self-defense, functional fitness, mindfulness, and personal training studio
- Zoning Permit 18-0506CA/CU; Turn unit 112A into a Dance Studio
- Zoning Permit 18-0399SN; add projecting and parallel signage for restaurant. October 2017.
- Zoning Permit 17-1110CA; change of use for 1,123 sf from performing arts theatre to bakery/retail and café. Add overhead and entry door. May 2017.

- Zoning Permit 16-0795CA; change of use from office to health studio, suite 212. February 2016.
- Zoning Permit 15-1245CA; change of use to photo studio. No site or exterior building alterations. June 2015.
- Zoning Permit 15-1155NA; interior work only. May 2015.
- Zoning Permit 15-0480CU; conditional use review for performing arts studio. November 2014.
- Zoning Permit 12-0292SN; new parallel sign above door for North End Studios. September 2011.
- Zoning Permit 11-0724CA; add emergency door on Archibald St. side of building for egress. April 2011.
- Zoning Permit 10-0534CU; Conditional Use review to change from warehouse to performing arts theatre (Studio 115 on floor plan); approved January 2010.
- Zoning Permit 09-805CA; change of use of 1080sf to place of worship. May 2009.
- Zoning Permit; parallel sign for Vermont Workers Center. December 2007.
- Zoning Permit 08-415SN; parallel sign for The Vermont Workers Center. December 2007.
- Zoning Permit 08-337CA; restaurant with seven indoor tables with 4 seats each for a total of 28 seats and take out services. October 2007.
- Zoning Permit 06-606SN; parallel sign for Beatbox music store. April 2006.
- Zoning Permit 05-620CU; change of use from laundromat to youth and family education center. October 2005.
- Zoning Permit 04-511; construct bus passenger shelter and slab on City ROW. May 2004.
- Zoning Permit 02-029 / COA 086-131; establish office use with accessory classroom component. July 2001.
- Zoning Permit 99-266; parallel sign for video rental store. November 1998.
- Zoning Permit 99-237/COA 086-131A; change use from office to video rental. October 1998.
- Zoning Permit 98-050; change use from restaurant to office. August 1997.
- Non-Applicability of Zoning Permit Requirements, to continue utilizing 14,085 sf gross floor area for a restaurant/deli to include 24 seats. February 1996.
- Zoning Permit 96-325; parallel sign for restaurant/deli. February 1996.
- Zoning Permit 93-217; establish video rental use accessory to Laundromat use. November 1992.
- Zoning Permit 92-133; construct handicap access ramp to restaurant/deli. October 1991.
- Zoning permit 92-106; install front awning and parallel sign; September 1991.
- Zoning Permit 91-017; approval for parallel sign for Champlain Drug and Alcohol Services; July 1991.
- Zoning Permit 90-114; establish day care, max. 50 children, 10 staff. April 1990.
- Non-Applicability of Zoning Permit Requirements; expand Champlain Drug and Alcohol Tourist Home use as approved by ZBA. March 1990.
- Zoning Permit 90-024; install exhaust fan on roof. January 1990.
- Zoning Permit 89-463; install new double entry door on North Winooski side of building; enlarge existing window on Archibald side of building. September 1989.
- Non-Applicability of Zoning Permit Requirements; interior fit-up for Tourist Home. June 1989.

- Zoning Permit 89-361; amend uses for commercial building to allow “Tourist Home”. May 1989.
- Burlington Zoning Board of Adjustment; interpretation of uses for existing permit COA 86-131 to facilitate use per submitted description (Temporary occupancy for lodging or more than four individuals.) Referred by Zoning Administrator of Interpretation. Heard by BZBA April 1989. *The use as described is found to specifically meet the definition of a tourist home offered by the zoning ordinance and thereby the use as described is a permitted use in the GC zone.* FOF decision signed July 1989.
- Zoning Permit 87-269 / COA 86-131A; amend permit for renovation of building to incubator space. Exterior treatment to be stucco and corrugated metal over insulation rather than paint. May 1987.
- Zoning Permit 86-405 / COA 86-131; renovate existing building; new exterior windows, 4 new pedestrian entrances, landscaping, redefining parking area for use as commercial, office, light manufacturing and warehouse incubator space. August 1986.
- Zoning Permit 82-069; use existing vacant building for wholesale hardware business. No additional lot coverage and no exterior modifications. March 1983.
- Zoning Permit 82-532; erect plywood projecting sign. December 1982.
- Zoning Permit 82-451; convert portion of structure to office use. Approved September 1982.
- Zoning Permit 82-234; establish storage space, install a stairway. May 1982.
- Zoning Permit 82-209; change pitch of roof; construct 4/12 pitch over existing flat roof. May 1982.
- Zoning Permit 79-612; open grocery store in vacated section of Fassetts Bakery building, converting an existing commercial use to another commercial use. October 1979.
- Request under Interim Zoning to erect a 12’ x 30’ addition on the south side of the Fassetts Bakery building within 7’ of the front property line. August, 1975. Application withdrawn.
- ZBA review, install a 5,000 gallon gas tank and pump. Approved July 1971
- BFA review, erect two bulk flour storage tanks to be completely enclosed in a steel building on the premises. Approved March 1968.
- ZBA review; seeking permission to demolish existing building at 286-288 North Winooski Avenue and to erect in the rear of the property a loading station approximately 65’ x 100’ to accommodate 10 trucks. Approved October, 1964.

Recommendation: Conditional use and certificate of appropriateness approval as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications, Permits, and Project Reviews

Part 3: Impact Fees

Sec. 3.3.2, Applicability & Sec. 3.3.3, Exemptions & Waivers

Not applicable

Article 3: Applications and 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;*

The property will be served by municipal utilities. Electrical, water, and wastewater services are currently on site and will continue to be used for the new use. No adverse effects are expected from the change of use. The applicant has reached out to Steve Roy for a sewer and water capacity letter. **(Affirmative finding as conditioned)**

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 property is located within the Neighborhood Mixed Use zone. This zone is primarily intended to provide neighborhood oriented goods and services within walkable or biking distance of residential neighborhoods. The proposed conversion to a bar as a conditional use fits within the mixed use context of the NMU zone as the location is positioned in an already mixed use building next to a neighborhood. People from the adjacent neighborhood can walk to the location as well as take the bus or drive if need be. The new bar will be small scale and fit in seamlessly with the other uses that share the larger building. **(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;*

The current café will turn into a bar with a new addition of a small outdoor patio. The operational plan is for the new use to be active from 8am to 12am 7 days a week. The plan indicates that they will not allow for performances to occur out on the patio to respect the neighbors. All performances will be indoors, and the patio door will be closed by 10PM to mitigate potential noise impacts. With these measures in place, the change from previous use to the new proposed use should not cause additional disturbance to the community. **(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;*

No traffic analysis has been provided or is required for this application. The anticipated occupants of the bar are expected to be similar to the current rates and flows of the customers that visit the current establishment. **(Affirmative finding)**

5. *The utilization of renewable energy resources;*

Proposed building must comply with current energy efficiency standards. The proposed exterior work will be required to comply with Vermont Commercial Building Energy Standards. **(Affirmative finding)**

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

It is the applicant's responsibility to comply with other applicable city and state bylaws and ordinances. **(Affirmative finding)**

**(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.

Late night operation will to extend until 12am including live performances that will occur during standard operational hours. As noted above, live entertainment will be located inside, and the patio door will be closed by 10PM. **(Affirmative finding)**

2. Time limits for construction.

The allotted time for construction/renovation will follow the standard allowed time for zoning permits of 1 year to start and 3 years to finish construction and the applicant may request a zoning extension if needed. **(Affirmative finding)**

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

Current plan shows hours of operation to open 7 days a week open from the morning through the afternoon and evening hours. Morning hours for more coffee / juice service and then later in the day transition to more standard bar services. **(Affirmative finding as conditioned)**

Hours of construction are not noted. Limited exterior construction is expected, hours of construction are typically limited to M-F 7:00 am to 5:30 pm, with Saturday hours restricted to interior work. No work on Sundays. **(Affirmative finding)**

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)**

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.

See the recommended conditions. **(Affirmative finding)**

Article 4: Maps & Districts

Sec. 4.4.2

(a) Purpose

(2) Neighborhood Mixed Use (NMU)

The property is in the NMU zone and is subject to the development standards of this zone.

Primarily intended to provide neighborhood oriented goods and services within walkable or biking distance of residential neighborhoods. The proposed conversion to a bar to a bar is a conditional use for this district and fits into the current mixed use building and neighborhood. **(Affirmative finding)**

(b) Dimensional Standards & Density

Current lot coverage appears to be 98% and the proposed project will not change the lot coverage. All other dimensional and density metrics will not change with the change in use.

The visible changes to the property will consist of the raised flowerbed converted into a patio for sitting space along with the renovation of the front window into a garage door to provide garage access to the patio. Additionally a replacement flowerbed is required to maintain current lot coverage and will be placed along the parking lot side of the building. **(Affirmative finding)**

(c) Permitted & Conditional Uses

A bar is a conditional use in the neighborhood Mixed Use zone and is subject to review and approval, see above. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable. **(Affirmative finding)**

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.2 (b). **(Affirmative finding)**

Sec. 5.2.4, Buildable Area Calculation

See Sec. 4.4.2 (b). **(Affirmative finding)**

Sec. 5.2.5, Setbacks

See Sec. 4.4.2 (b). **(Affirmative finding)**

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.2 (b). **(Affirmative finding)**

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.2 (b). **(Affirmative finding)**

Sec. 5.5.1, Nuisance Regulations

See Sec 3.5.6(a) above as to noise. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

No new outdoor lighting is noted in the proposal. If any lighting is proposed, it will have to conform to lighting standards of sec. 5.5.2, and current outdoor lighting exists. **(Affirmative finding as conditioned)**

Sec. 5.5.3, Stormwater and Erosion Control

Not applicable **(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

(Not applicable)

(b) Topographical alterations

(Not applicable)

(c) Protection of important public views

(Not applicable)

(d) Protection of important cultural resources

(Not applicable)

(e) Supporting the use of alternative energy

(Not applicable)

(f) Brownfield sites

(Not applicable)

(g) Provide for nature's events

(Not applicable)

(h) Building location and orientation

(Not applicable)

(i) Vehicular access

(Not applicable)

(j) Pedestrian access

Not applicable **(Affirmative finding)**

(k) Accessibility for the handicapped

No changes, the current access ramp will remain in its current location to provide access into the building from the public sidewalk. **(Affirmative finding)**

(l) Parking and circulation

The property will continue to use the current parking lot and access. Parking requirements are unaffected by the proposed change in use. **(Affirmative finding)**

(m) Landscaping, fences, and retaining walls

The removal of a raised planter to make room for outdoor patio space is shown in the plans. The new patio will be made of painted wood to match the current access ramp and the replacement planting bed will be an in kind replacement of what is currently there but will be relocated to the parking lot side of the building. The new planter will have day lilies in it. **(Affirmative finding)**

(n) Public plazas and open space

(Not applicable)

(o) Outdoor lighting

See Sec. 5.5.2. **(Affirmative finding)**

(p) Integrate infrastructure into the design

(Not applicable)

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The new use will replace the current use and will be taking up the same volume and space so there will be no changes to the massing, height, and scale of the structure. **(Affirmative finding)**

2. Roofs and Rooflines

The new use will replace the current use and will be taking up the same volume and space so there will be no changes to the roof or roofline. **(Affirmative finding)**

3. Building Openings

The new outdoor patio space will be accessed by enlarging the front window opening and replacing it with a garage door. This garage door will replace the current window but features glazing that will mimic the appearance of a window when closed. **(Affirmative finding)**

(b) Protection of important architectural resources

(Not applicable)

(c) Protection of important public views

(Not applicable)

(d) Provide an active and inviting street edge

The addition of an outdoor patio will provide an inviting and interactive space between the private building space and the public sidewalk and street. The new patio will be a social space for customers to enjoy the outdoors while additionally creating a transition space from the outside to the inside of the bar. **(Affirmative finding)**

(e) Quality of materials

The new patio will be made with similar painted wood to the current access ramp and will have a railing to match. The new garage door for the patio will be aluminum painted charcoal grey with divided windows. **(Affirmative finding)**

(f) Reduce energy utilization

See Sec. 3.5.6(a).

(g) Make advertising features complimentary to the site

No new exterior signs are included in this proposal. **(Not applicable)**

(h) Integrate infrastructure into the building design

No new rooftop mechanical equipment is proposed. The existing pipe that is in the current flowerbed will be vented out underneath the new patio. **(Affirmative finding)**

(i) Make spaces safe and secure

The proposed building must provide adequate egress as required by the building code. Entries will be illuminated. **(Affirmative finding)**

Article 8: Parking

Sec. 8.1.9, Maximum On-Site Parking Spaces

Existing parking spaces will remain unchanged. The change in use does not affect the applicable parking limitations of this section. **(Affirmative finding)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, the following items shall be addressed, subject to staff review and approval:
 - a. A wastewater capacity letter from the Dept. of Public Works shall be obtained;
2. Hours of construction shall be limited to M-F 7:00 am to 5:30 pm, with Saturday hours restricted to interior work. No work on Sundays.
3. 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.
4. Standard permit conditions 1-15.