

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
Vacant, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Interim Chief Administrative Officer
Mary O'Neil, AICP, Senior Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board

From: Scott Gustin, AICP, CFM , Senior Planner and Mary O'Neil, AICP, Senior Planner

Date: September 15, 2015

RE: 1127 North Avenue; ZP16-0205CA/CU

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: ZP15-0205 CA/CU

Location: 1127 North Avenue (Ethan Allen Shopping Center)

Zone: NAC **Ward:** 4N

Date application accepted: August 10, 2015

Applicant/ Owner: David Hauke / Hauke Building Supply Inc.

Request: Construct approx. 2,000 sf. two bay car wash with office and mechanical room at location of former Ethan Allen Cinema.

Background:

There are dozens of permits on file for the shopping center. Among the most recent:

- Zoning Permit 15-0397CA; construct single story building addition to existng hardware store for retail space. November, 2014.
- Zoning Permit 15-0659CA; demolish vacant cinema building and convert to gree space. December 2014.
- Zoning Permit 15-0394SN; install one parallel sign for 802 BWS. September 2014.
- Zoning Permit 14-0824CU; conditional use for small recycling center (bottle redemption) associated with change of use to VT State Liquor Store in portion of building. April 2014.
- Zoning Permit 14-1145SN; parallel sign for La Boca Pizzeria. June 2014.
- Zoning Permit 14-0670CA; change of use from bank to restaurant, expand covered walkway, update storefront. No change to building footprint. January 2014.

Overview: The applicant wishes to construct a car wash at the southwesterly corner of the Ethan Allen Shopping Center complex, at the site of the former cinema. The theatre was permitted for demolition in 2014.

Applicable regulations: Article 3 (Applications, Permits, and Project Reviews); Article 4 (Zoning Maps and Districts); Article 5 (Citywide General Regulations); Article 6 (Development Review Standards); Article 8 (Parking); Appendix A (Use table.)

Recommendation: Conditional Use **approval**, per the following findings and conditions:

I. Findings

Article 3: Applications, Permits, and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Section 3.3.4.

The construction of new non-residential building square footage will result in an assessment of Impact Fees, which shall be based on the total gross square footage of the building. Based on the submitted plans, the following is the estimated Impact Fee for the project:

SF of Project 1,952

Department	Retail	
	Rate	Fee
Traffic	0.709	1,383.97
Fire	0.191	372.83
Police	0.338	659.78
Parks	0.404	788.61
Library	0.000	0.00
Schools	0.000	0.00
Total	1.642	\$ 3,205.19

Affirmative finding as conditioned.

Section 3.3.7 Time and Place of Payment

(a) New Buildings: Impact fees must be paid at least seven days prior to occupancy of a new building or any portion thereof.

Affirmative finding as conditioned.

Part 4: Site Plan and Design Review

Section 3.4.2 Applicability

(a) Site Plan

(b) Design Review

1. *Any development subject to the provisions of Article 3, Part 5 – Conditional Use and Major Impact review.*

See Part 5 and Articles 4, 5, 6, below.

Part 5: Conditional Use and Major Impact Review

Section 3.5.2 Applicability

1. Any use identified under Article 4 and Appendix A – Use Table as a “Conditional Use” or “CU.”

Carwash is a Conditional Use in Appendix A, Use Table.

Section 3.5.6 Review Criteria

- (a) **Conditional Use Review Standards** (as adopted by City Council 8.10.2015)

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 new use will require a state stormwater permit and a letter of capacity from the Department of Public Works. **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 proposal for a carwash is consistent with the Neighborhood Activity Center, for convenient neighborhood and city wide oriented goods and services. The proposed carwash is intended to provide service for people driving along North Avenue – a primary transportation corridor for the New North End. From the Municipal Development Plan:

The intent of the NAC is to take underutilized commercial areas within a residential area and transform them into higher density, compact mixed use settlements. These will typically include childcare centers, local banks, grocery stores, offices, branch libraries, pharmacies, small businesses, churches, and housing. NAC’s are close to where people live and oriented to serving the neighborhood, thus lessening the need to drive for local errands and convenience shopping. (Municipal Development Plan, Land Use Plan, Page I-20.) **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;*

A carwash will have some auditory impact from the proposed vacuums, which are placed interior to the development plan. The carwash itself will likely have closed bays during a wash cycle, limiting noise impacts. No dust, odor, vibration or heat is expected to be associated with the use. The associated impacts are not inconsistent with the impacts from vehicular traffic in the adjacent parking lots or uses within the shopping center. **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;

Customers to the carwash will typically arrive in their own vehicle. Alternative transportation is not consistent with the proposed use. Existing vehicular access and circulation paths will be employed with the new use.

And

5. The utilization of renewable energy resources;

No part of this application would foreclose an opportunity to use wind, water, solar, geothermal or other renewable energy resource.

And

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

See comment about capacity letter from DPW, requirement for a state wastewater permit.

Affirmative finding as conditioned.

(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;

A landscaping plan has been provided (Plan L-1) that will provide plantings and mulch both north and south of the proposed structure, and along the sidewalk area north of the project site. The existing lawn to the west will remain.

2. Time limits for construction.

The zoning permit is good for two years, should be ample time for the construction of the project.

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

The carwash is proposed to be open seven days a week and operate from 7:00 am to 8:00 pm. As most customers are expected to utilize the service while they are within the shopping center for other errands (grocery shopping, hardware store), the hours are consistent with area businesses within the same plaza.

4. 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 statutory requirement, and will be a condition of approval.

and

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.

This is at the discretion of the Board.

Affirmative finding as conditioned.

Article 4: Zoning Maps and Districts

Section 4.4.2 Neighborhood Mixed Use Districts

The Neighborhood Mixed Use districts promote development that combines non-residential and residential uses on a single site. These zones allow an increased intensity of development than would typically be found in the surrounding residential uareas, and provides neighborhood oriented goods and services and employment opportunities witin walking distance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new commercial and residential opportunities in the City. The emphasis of nonresidential uses should primarily be oriented to serving the needs of the surrounding residential neighborhoods and other neighborhood commercial uses.

Development is intended to consist primarily of businesses on the ground floor with housing on upper stories. Development is intended to be pedestrian oriented with buildings oriented to the sidewalk, especially at corners.

(a) 1. Neighborhood Activity Centers (NAC) *are intended to provide convenient neighborhood and city wide oriented goods and services and employment opportunities with walking or biking distrance of many of the city’s residential areas.*

(b) Dimensional Standards and Density

NAC	Max. Intensity 2.0 FAR	Max Lot Coverage 80%	Min. Blds setbacks See footnotes 2, 4			Height max. 35’
			0 Front	0 Side	0 Rear	
Proposed	Overall intensity < 2 FAR across entire site.	80%	The development is significantly setback from North Avenue, and meets the minimum 15’ setback from a residential zoning district to the south.			14’ to the top of the flat roof. Measurement guidance given under Sec. 5.2.6. (a) 2. A.

2. Structures shall be setback a minimum of 15 feet along any property line that abuts a residential zoning district.

4. All structures shall be setback 12 feet from the curb on a public street.

Affirmative Finding.

(c) Permitted and Conditional Uses

Carwash is a Conditional Use in the NAC Zoning District. See Section 3.5.6.

(d) District Specific Regulations:

1. Ground Floor Residential Uses Restricts

The proposal does not include any residential component.

2. Exception to Maximum Lot Coverage in the NAC District

No additional lot coverage above the limitations of Table 4.4.2-1 is requested.

3. Development Bonuses/Additional Allowances

No development bonuses or additional allowances are requested.

Not applicable.

Article 5: Citywide General Regulations

Part 1: Uses and Structures

d. Conditional Uses

A conditional Use is listed in any district where denoted by the letters “CU” in Appendix A – Use Table. Such uses may be permitted by the DRB only after review under the conditional use provisions provided in Article 3 Part 5, such further restrictions as the DRB may establish and such additional requirements as may be established by this ordinance such as but not limited to dimensional and intensity limitations, performance and design standards, and parking requirements.

See Section 3.5.6. for Conditional Use Review Standards.

Part 2: Dimensional Requirements

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2. Required Frontage or Access

There is existing access to North Avenue. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirments

See Table 4.4.2-1, above.

Section 5.2.4 Buildable Area Calculation

The project area is not within the RCO, WRM, RM, WRL or RL zoning district. **Not applicable.**

Section 5.2.5 Setbacks

See Table 4.4.2-1, above.

Section 5.2.6 Building Height Limits

See Table 4.4.2-1, above.

Section 5.2.7 Density and Intensity of Development Calculations

(b) Floor Area Ratio

The development does not exceed the 2.0 FAR allowable in the NAC Zoning District. **Affirmative Finding.**

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

A carwash is consistent with other neighboring small businesses that support area residential use. The structure is 165' from the property line at the south, where the residential district begins. No adverse impact can be determined given the specific zoning district in which the use is proposed and the distance from the property line and neighboring zoning districts. **Affirmative Finding.**

Section 5.5.2 Outdoor Lighting

(f.) Specific Outdoor Lighting Standards

Recessed lighting and one pole lamp are proposed. Although fixture information has been provided, the mounting height and anticipated footcandle measurement will need to be defined to assure compliance with this standard. **Affirmative finding as conditioned.**

Section 5.5.3 Stormwater and Erosion Control

An EPSC plan has been forward to the City Stormwater team for review and approval. **Affirmative finding as conditioned.**

Section 5.5.4 Tree Removal

Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Section 6.2.2 Review Standards

(a) Protection of Important Natural Features

This is a flat site; the location of a former movie theatre. There are no important natural features. **Affirmative finding**

(b) Topographical Alterations

No topographical alterations are proposed. **Affirmative finding**

(c) Protection of Important Public Views

There are no important public views. Not applicable.

(d) Protection of Important Cultural Resources

Not applicable.

(e) Supporting the Use of Renewable Energy Resources

See Section 3.5.6 (a) 5.

(f) Brownfield Sites

Not applicable.

(g) Provide for Nature's events

Customers will remain within their vehicles during the carwash, so will be unaffected by rain or snow events. The vacuum machines and trash will be utilized as necessary; employees will empty those containers on a regular basis without regard to weather conditions.

Affirmative finding

(h) Building Location and Orientation

The carwash is proposed to face east toward North Avenue and the existing available parking. **Affirmative finding**

(i) Vehicular Access

No change to the existing access or traffic circulation is proposed. Cars will continue to enter from North Avenue at the stop light entrance, or from the Leddy Park Drive access to the south. **Affirmative finding**

(j) Pedestrian Access

A pedestrian circulation path will continue east/west past the carwash, although the proposed use will have limited if any pedestrian demand. **Affirmative finding**

(k) Accessibility for the Handicapped

Access is open to all vehicular bound customers. It is not known if there are special provisions for access relative to carwashes.

(l) Parking and Circulation

There is an established circulation system within the shopping center. Access to the carwash is proposed on the north of the specific site; cars may circulate through one of two bays, or enter an area for vacuum facilities. Exits are to the east, or south. **Affirmative finding**

(m) Landscaping and Fences

See Plan L-1. Landscaping is proposed both north and south of the structure, and within an island adjacent to the pedestrian way. There is an existing chain link fence south and west of the development site. **Affirmative Finding.**

(n) Public Plazas and Open Space

There are no identified public plazas; however shopping centers in general function as community gathering areas. The public pedestrian circulation path will link the businesses within the plaza. **Affirmative finding**

(o) Outdoor Lighting

See Section 5.5.2.

(p) Integrate infrastructure into the design.

A spec sheet for a HVAC unit has been submitted; presumably this will be roof mounted. The applicant shall confirm. Utilities must be undergrounded.

Affirmative finding as conditioned.

Part 3: Architectural Design Standards

Section 6.3.2 Review Standards

(a) Relate development to the environment

1. *Massing, Height and Scale*

At one storey with a flat parapetted roof, the building design is compatible with other commercial buildings within the center and the district. **Affirmative finding.**

2. *Roofs and rooflines*

See above. **Affirmative Finding.**

3. *Building Openings*

The proposed openings are consistent with the proposed use; double bays for vehicles, pedestrian doors to the office. **Affirmative Finding.**

(b) Protection of Important Architectural Resources

Not applicable.

(c) Protection of Important Public Views

There are no protected public views from the site. **Not applicable.**

(d) Provide an active and inviting street edge

The east elevation (front) will have a parapetted roofline with a characteristic peaked gable profile, a building feature associated with automotive services since the 1920s. The technical vehicular entrance for the carwash (west elevation) will be similarly parapetted, with a visible door to the office. **Affirmative Finding.**

(e) Quality of Materials

Colored CMU lower walls are proposed to be topped with a fiber cement upper wall and a metal capped parapet. Doors and windows are insulated aluminum. **Affirmative Finding.**

(f) Reduce energy utilization

All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site

Any signs, including graphics or text on the awning, will require a separate sign permit. **Affirmative finding as conditioned.**

(h) Integrate infrastructure into the building design

See Section 6.2.2. (p).

(i) Make spaces secure and safe.

The development shall meet all applicable building and life safety code, as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

Table 8.1.8-1 requires 4 stacking spaces per wash bay. Table 8.1.11-1 gives a minimum parking space length of 20', so each bay would require 4 x 20', or 80' of stacking space per bay. There is adequate area on the westerly entrance / queue for each bay of the carwash. **Affirmative Finding.**

Appendix A: Use Table

Carwash is a Conditional Use in Appendix A. See Section 3.5.6 for review standards.

II. Conditions of Approval

1. Based on the submitted plans, the following is the estimated Impact Fee for the project:

**SF of
Project** 1,952

Department	<u>Retail</u>	
	Rate	Fee
Traffic	0.709	1,383.97
Fire	0.191	372.83
Police	0.338	659.78
Parks	0.404	788.61
Library	0.000	0.00
Schools	0.000	0.00
Total	1.642	\$ 3,205.19

Impact fees must be paid to the City's Administrative officer or City Treasurer at least seven days prior to occupancy of a new building or any portion thereof.

2. The new use will require a state wastewater permit and a letter of capacity from the Department of Public Works/Water/Wastewater Division.
3. Any future enlargement or alteration of the use will require return for review to the DRB to permit the specifying of new conditions under the regulations in effect at that time.
4. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
5. Any signs, including graphics or text on the awning, will require a separate sign permit.
6. The applicant shall confirm the installation location of the HVAC unit, which will be assessed for any required screening.
7. The mounting height and anticipated footcandle measurement of the proposed westerly pole light will need to be defined to assure compliance with this standard **prior to release of the zoning permit.**
8. 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.