

## Department of Permitting and Inspections

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### MEMORANDUM

To: Development Review Board  
From: Mary O'Neil, AICP, Principal Planner  
Date: July 7, 2021  
RE: 21-421; 12-22 North Avenue

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**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 Number:** ZP21-421

**Zone:** NMU **Ward:** 3C

**Date application accepted:** May 16, 2021 A revised floor plan received June 17, 2021.

**Applicant/ Owner:** Casey Thomas / A.J. Rossman

**Request:** Small brewery (Food and Beverage Processing) and tasting room (bar) in basement of existing mixed use building. The area of the proposed uses has been minimized since the first application.

#### Background:

- **Zoning Permit 21-0377CU;** Use conference room on first floor for educational use. 510 sf. December 2020.
- **Zoning Permit 91-193;** Installation of double hung window, first floor in rear of building. No change in use. December 1990.
- **Zoning Permit 01-110;** Change of use from office space to educational/office on the first floor, Residentail unit and artist studio on the second floor. No exterior changes included. August 2000. [Subsequent request to relinquish permit.]
- **Zoning Permit 02-341;** Convert entire second floor to residential unit; Currently 1 residential unit and 33 sf artist studio. March 2002.
- **Zoning Permit 05-385CA;** Installation of photovoltaic panels on lower roof of building. February 2005.
- **Zoning Permit 08-016CA;** install solar tracker. July 2009.
- **Zoning Permit 13-0462FC;** install solid privacy fence in rear yard and across driveway at rear with gates. October 2012.
- **Zoning Permit 14-0636CA;** Replace 5 windows (identified as phases I and III). December 2013.

- **Zoning Permit 15-0121CA**; replace three existing skylights in kind. Two on front and one on back. July 2014.
- **Zoning Permit 17-0699CA**; Replace rotted decking boards on south entrance ramp and landing. January 2017.

**Overview:** the applicant wishes to install a 167 sf brewing space and 69 sf tasting room in the corner of the basement of 12-22 North Street. Both Food and Beverage Processing and a bar/tavern are Conditional Uses in the NMU zoning district.

**Recommended motion: Consent Approval**, per the following Findings and Conditions:

**I. Findings**

**Article 2: Administrative Mechanisms**

**Section 2.7.8 Withhold Permit**

**Per this standard**, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations. **Affirmative finding as conditioned.**

**Article 3: Applications, Permits and Project Reviews**

**Part 3: Impact Fees**

The basement is currently used for storage (“Offices and Other”), so Impact Fees will be calculated for the change to Manufacturing (167 sf, Food and Beverage Processing) and Retail (69 sf. Bar/Tavern.)

Change from storage to Food and Beverage Processing

**SF of Project** 167

**FY 21: July 1, 2020 - June 30, 2021**

Department	Industrial		Offices & Other	
	Rate	Fee	Rate	Fee
Traffic	0.268	44.76	0.690	115.23
Fire	0.200	33.40	0.203	33.90
Police	0.358	59.79	0.358	59.79
Parks	0.430	71.81	0.428	71.48
Library	0.000	0.00	0.000	0.00
Schools	0.000	0.00	0.000	0.00
<b>Total</b>	1.256	<b>\$ 209.76</b>	1.679	<b>\$ 280.40</b>

The industrial use is less, so no impact fees are assessed.

Change from storage to bar/tavern (Retail)

Department	Offices & Other		Retail	
	Rate	Fee	Rate	Fee

Traffic	<b>0.690</b>	47.61	<b>0.751</b>	51.82
Fire	<b>0.203</b>	14.01	<b>0.203</b>	14.01
Police	<b>0.358</b>	24.70	<b>0.358</b>	24.70
Parks	<b>0.428</b>	29.53	<b>0.428</b>	29.53
Library	<b>0.000</b>	0.00	<b>0.000</b>	0.00
Schools	<b>0.000</b>	0.00	<b>0.000</b>	0.00
<b>Total</b>				
	1.679	<b>\$ 115.85</b>	1.740	<b>\$ 120.06</b>

**Difference:(All Traffic) \$ 4.21**

**Affirmative finding as conditioned.**

**Section 3.3.8 Time and Place of Payment**

*(b) Existing Buildings: Impact fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within thirty (30) days of issuance of the building permit.*

**Affirmative finding as conditioned.**

**Part 5: Conditional Use**

**Section 3.5.6 Conditional Use Review Criteria**

**(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 application proposes the use of 167 sf. for brewing, and 69 sf as a tasting area. Both Food and Beverage Processing and a Bar/Tavern are Conditional Uses in the NMU zoning district. The support of Water Resources will be required for the greater intensity use for brewing. Industrial Waste Water review and an upsized meter have been alluded to in staff communications. Any advanced conditions are at the discretion of the Water Resources division.

**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 NMU zoning district was intended to allow an increased intensity of development than would typically be found in the surrounding residential areas, and provides neighborhood oriented goods and services and employment opportunities within walking and biking distance.

The following references from the Municipal Development Plan may apply: (Plan BTV)

- Identify opportunities to leverage the creative economy and institutions to strengthen the economy (*Economic Development, Section 5.2*)
- Promote and support locally owned and controlled small businesses. (*Economic Development, Section 5.8.*)

Promote local-owned small businesses, entrepreneurs, home occupations. (*Land Use, Section 5.8*)

**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 relatively small area of use, appropriate proprietor supervision and adherence to Burlington's Noise Ordinance should collectively address any potential for noise, odor or other nuisance. **Affirmative finding as conditioned.**

- 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;*

12-22 North Street is located on a major thoroughfare within the city and on or adjacent to public bus routes. There are no minimum parking requirements for the uses. It may be anticipated that the business will attract those within the immediate neighborhood and introduce no negative impact the local transportation network. **Affirmative finding.**

*and,*

- 5. The utilization of renewable energy resources;*

Nothing within this applications will preclude the use of wind, water, solar, geothermal or other renewable energy resources. **Affirmative finding.**

*and,*

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

Written confirmation and any additional conditions from Burlington's Water Resources division will be required so as to mitigate any extra demand on wastewater services due to the high nutrient content. A State of Vermont Wastewater permit will be required, as will approval by the State for a brewery license and a 4<sup>th</sup> class (manufacturing) license. It is the applicant's obligation to secure the latter.

Any fit-up, if required, will be subject to all applicable building and life safety codes.

**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.*

The utilization of 236 sf of the basement for a brewery/tasting room will not spur any requirement for screening, landscaping, or other exterior mitigation measures.. **Affirmative finding.**

2. *Time limits for construction.*

The identified location is an existing developed site. Any interior work, if demanded, will be subject to trades permit review. **Affirmative finding as conditioned.**

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

As a Conditional Use, the DRB may define the hours of operation. **Affirmative finding as conditioned.**

4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions;*

Any change in the use will require review under the regulations in effect at the time of application. **Affirmative finding as conditioned.**

*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.*

The imposition of additional performance standards is at the discretion of the Development Review Board. Conformity to Burlington's Noise Ordinance will be essential to assuring no nuisance impacts. **Affirmative finding as conditioned.**

#### **Article 4: Zoning Maps and Districts**

##### **Section 4.4.2 Neighborhood Mixed Use Districts**

###### **(a) Purpose**

*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 areas, and provides neighborhood oriented goods and services and employment opportunities within walking and biking 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.*

2. *The Neighborhood Mixed Use (NMU) district is intended to preserve and enhance historically commercial areas while reinforcing the compact scale and development patterns within the city's older neighborhoods. Uses are intended to*

*provide neighborhood oriented goods and services and employment opportunities within walking or biking distance of residential neighborhoods;*

The introduction of a small brewery and tasting room at 12-22 North Street is consistent with the overall purpose of the zoning district; particularly relative to providing new opportunities and neighborhood oriented services within walking or biking distance of residential neighborhoods.

**Affirmative finding.**

**(b) Dimensional Standards and Density:**

There are no exterior physical changes proposed to the existing building. **Affirmative finding.**

**(c) Permitted and Conditional Uses:**

*The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Neighborhood Mixed Use districts shall be as defined in Appendix A – Use Table.*

Both Food and Beverage Processing (brewery) and Bar/Tavern (tasting room) are Conditional Uses within the NMU zoning district. See Section 3.5.6, Conditional Use Review Criteria (above) and Appendix A, Use Table.

**(d) District Specific Regulations:**

**1. Ground Floor Residential Uses Restricted**

This applies only to the NAC District. Not applicable.

**2. Exception to Maximum Lot Coverage in NAC District**

Not applicable.

**A. Landscaping**

Not applicable.

**B. Housing**

Not applicable.

**3. Development Bonuses/Additional Allowances**

No bonuses are sought. Not applicable.

**A. Inclusionary Housing:**

Not applicable.

**B. Senior Housing:**

Not applicable.

**C. Maximum Bonus:**

Not applicable.

**Article 5: Citywide General Regulations**

**Section 5.2.1 Existing Small Lots.** Not applicable.

**Section 5.2.2 Required Frontage or Access**

This is an existing, developed site with access along North Street. **Affirmative finding.**

**Section 5.2.3 Lot Coverage Requirements**

Not applicable.

**Section 5.2.4 Buildable Area Calculation**

Not applicable.

**Section 5.2.5 Setbacks**

Not applicable.

**Section 5.2.6 Building Height Limits**

Not applicable.

**Section 5.2.7 Density and Intensity of Development Calculations**

Not applicable.

**Part 3: Non Conformities**

Not applicable.

**Sec. 5.4.8 Historic Buildings and Sites**

Not applicable.

**Article 8: Parking**

12-22 North Street is now within the Multi Modal Mixed Use parking district, which has no minimum parking requirements.

**Section 8.1.6 Transportation Demand Management**

**b) Applicability**

*Non-residential or mixed use development: A building footprint of 8,000 sf or more.*

The building footprint of 12-22 North Street is less than 8,000 sf. Not applicable.

**Part 2: Bicycle Parking**

The requirement for Food and Beverage Processing is:

Long Term: 1/20,000 sf

Short Term: 1/25,000, at least 2 per entrance.

Retail (Restaurant, Bar)

Long Term 1/1,000

Short Term 1/500 sf serving area.

The use of 167 sf for brewing will only spur 2 bicycle parking spaces (“at least two per entrance”). The area is too small to require any Long Term spaces for Food and Beverage Processing or Retail.

The applicant has the opportunity to work with the Department of Public Works for placement within the right-of-way, or Payment in Lieu for the required bike parking as defined under **Section 8.2.7, Payment in Lieu.**

**Affirmative finding as conditioned.**

**II. Conditions of Approval**

1. Impact fees. Based on the provided area calculations, \$4.21 is required to offset impacts from Traffic for the Bar/Tavern use. This must be paid **prior to issuance of the zoning permit.**
2. A Vermont Wastewater permit will be required.
3. A Vermont brewer’s license and a 4<sup>th</sup> class (Manufacturing) license will be required. It is the applicant’s obligation to secure these.
4. Written approval shall be received from Burlington’s Water Resources Division to confirm adequate wastewater facility and metering prior to release of the zoning permit.
5. Two bike parking spaces shall be provided. Their location is subject to review and approval by staff; or if Payment-In Lieu is chosen, confirmation from DPW of appropriate arrangement.
6. Hous of operation shall be set by the DRB.
7. Standard Permit Conditions 1-15.

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