

## Department of Permitting & Inspections

Zoning Division  
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**TO:** Development Review Board  
**FROM:** Ryan Morrison, Associate Planner  
**DATE:** January 18, 2022  
**RE:** ZP-21-796; 266 Pine Street

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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.**

Zone: ELM Ward: 5S

Owner/Applicant: Pine Properties LLC, Steve Conant / Justin Bunnell

**Request:** Change of use to a café within Unit 122 and a portion of Unit 116.

### **Applicable Regulations:**

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 8 (Parking)

### **Background Information:**

The applicant is requesting approval to change the use of Unit 122 and a portion of Unit 116 into a café use. No alterations to the building or site are proposed. The space was previously used as a wine tasting room.

Previous zoning actions for this property:

- **Zoning Permit 21-0553CA**; add an additional 5 parking spaces. Approved December, 2020.
- **Zoning Permit 20-0931MP**; master sign plan for the Soda Plant. Approved July, 2020.
- **Zoning Permit 20-0743SN**; install replacement freestanding sign. Approved March, 2020.
- **Zoning Permit 20-0517CA**; change of use to include food and beverage processing. Approved November, 2019.
- **Zoning Permit 20-0240CA**; change of use from manufacturing to health studio in Unit 224. Approved September 2019.
- **Zoning Permit 20-0124CA**; install awning. Approved August, 2019.
- **Zoning Permit 19-0787CA**; install concrete block retaining wall. Approved May, 2019.
- **Zoning Permit 19-0375SN**; install parallel sign for Tom Girl Juice. Approved November, 2018.
- **Zoning Permit 19-0354CA**; install rooftop exhaust fan. Approved October, 2018.
- **Zoning Permit 18-0882CA**; building & site changes including new siding, fenestration, lighting, awning, patio area, bike racks, and interior remodels. Approved May, 2018.
- **Zoning Permit 17-0603CA**; replace retaining wall. Approved November, 2016.
- **Zoning Permit 15-1047BA**; install skylight and rooftop HVAC. Approved May, 2015.

- **Zoning Permit 13-0693SN**; replacement sign for Conant Metal & Light. Approved January, 2013.
- **Zoning Permit 13-0608CA**; install sculpture in front. Approved December, 2012.
- **Zoning Permit 12-0710CA**; replacement siding, windows, and block wall. Approved February, 2012.
- **Zoning Permit 12-0399CA**; replacement siding. Denied October, 2011.
- **Zoning Permit 12-0343CA**; new concrete wall and metal roofing. Approved September, 2011.
- **Zoning Permit 12-0109CA**; replace concrete wall with metal railing, replace stairs, new skylight. Approved August, 2011.
- **Zoning Permit 11-0614CA**; change of use from manufacturing to artist studio in Unit 106. Approved February, 2011.
- **Zoning Permit 11-0564CA**; install vent and security lighting. Approved January, 2011.
- **Zoning Permit 11-0420CA**; add shipping container to site. Approved November, 2010.
- **Zoning Permit 10-0124CA**; replacement doors. Approved August, 2009.
- **Zoning Permit 08-808SN**; replacement wall sign for Conant Metal & Light. Approved May, 2008.
- **Zoning Permit 08-436CA**; mount steel soda bottle on roof. Approved November, 2007.
- **Zoning Permit 07-644SN**; replacement wall signs for Recycle North. Approved May, 2007.
- **Zoning Permit 07-050AW**; install 8 awnings. Approved July, 2006.
- **Zoning Permit 07-049SN**; install new wall sign. Approved July, 2006.
- **Zoning Permit 06-909CA**; replace asphalt pad with concrete pad. Approved July, 2006.
- **Zoning Permit 06-601CA**; replacement door. Approved April, 2006.
- **Zoning Permit 05-437AW**; new awning. Approved March, 2005.
- **Zoning Permit 03-346**; new projecting sign. Approved March, 2003.
- **Zoning Permit 02-424**; replace garage doors with glass façade and commercial doors. Approved April, 2002.
- **Zoning Permit 02-313**; add 950 sf to Conant custom brass business. Approved February, 2002.
- **Zoning Permit 02-111**; change of use – manufacturing to warehouse. Approved September, 2001.
- **Zoning Permit 00-622**; relocate existing sign. Approved June, 2000.
- **Zoning Permit 00-218**; install rooftop HVAC. Approved October, 1999.
- **Zoning Permit 00-109**; new and replacement windows. Approved August, 1999.
- **Zoning Permit 97-465**; construct new mezzanine area. Approved April, 1997.
- **Zoning Permit 97 247**; front façade alterations. Approved December, 1996.
- **Zoning Permit 95-063**; new wall sign. Approved August, 1994.
- **Zoning Permit 93-215**; construction of internal, 2-story walkway between buildings. Approved November, 1992.

**Recommendation:** Consent approval as per, and subject to, the following findings and conditions.

## **I. Findings**

### **Article 3: Applications, Permits, and Project 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 conversion of existing commercial space to a café, in heavily developed area with similar and more intense uses, will have no appreciable impacts on existing or planned public utilities, services, or facilities. A state wastewater permit will be needed, and it is the applicant's responsibility to procure. **Affirmative finding as conditioned**

- 2. The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal development plan;*

The property is located within the light manufacturing zone. The surrounding area contains a mixture of industrial and commercial uses. The subject property contains a café use, retail, and food/beverage production. The introduction of another café will not alter the character of the area.

**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 new café is not expected to generate nuisance impacts from noise, odor, dust, and the like.

**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;*

Little change in traffic is expected. The property, which is located in highly developed area, already has several businesses on it which sees traffic daily. Pine Street is a heavily traveled street as well. Changing the use from a wine tasting shop to a café will not negatively impact the transportation system. Additionally, the property is well within walking distance to transit stops throughout the area, as well as the downtown core. **Affirmative finding**

- 5. The utilization of renewable energy resources;*

No part of this application would prevent the use of wind, water, solar, or other renewable energy resources. **Affirmative finding**

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

The café use must adhere to the life safety standards and building codes of the city and State.

**Affirmative finding as conditioned**

##### **(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.*

The café use is not expected to produce adverse effects, beyond what may exist today on the property, that may require mitigation action. **Affirmative finding**

*2. Time limits for construction.*

No construction timeline or phasing is included in this proposal. **Affirmative finding**

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

Normal café operating hours is expected, which should be consistent with other existing uses on and near the subject property. **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 as conditioned**

*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.*

Not applicable.

**Article 4: Maps & Districts**

**Sec. 4.4.3, Enterprise Districts:**

**(a) Purpose**

*(1) The **Light Manufacturing (E-LM)** district is the primary commercial/industrial center of Burlington, and is intended primarily to accommodate enterprises engaged in the manufacturing, processing, distribution, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment without potential conflicts from interspersed residential uses. Other accessory commercial uses are allowed to support a wide range of services and employment opportunities. This district is intended to ensure that sufficient land area is appropriately designated within the city to provide an adequate and diversified economic base that will facilitate high-density job creation and retention. This district is primarily intended to provide for industrial uses suitable for location in areas of proximity to residential development. Development is intended to respect interspersed historic industrial buildings, and reflect the industrial aesthetic of the district's past. Parking is intended to be hidden within, behind, or to the side of structures.*

Cafes are listed as conditional uses in the ELM zone, and are consistent with the intent of the zone.

**Affirmative finding**

**(b) Dimensional Standards and Density**

Not applicable. No changes to the density or site are proposed.

*(c) Permitted and Conditional Uses*

As noted above, cafes are conditional uses in the ELM zone. **Affirmative finding**

*(d) District Specific Regulations*

Not applicable.

**Article 8: Parking**

*Sec. 8.1.8, Minimum Off-Street Parking Requirements*

The property is in the Multimodal Mixed Use Parking District, where parking requirements have been eliminated. The existing parking lot contains 54 parking spaces that serves the various businesses onsite. **Affirmative finding**

**II. Conditions of Approval**

1. A state wastewater permit will be required. It is the applicant's responsibility to obtain from VT DEC.
2. Any new signage will require a separate sign permit.
3. Any future enlargement or alteration shall be reviewed under the zoning regulations in effect at that time.
4. 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, and shall meet all energy efficiency codes of the city and state as required.
5. Standard permit conditions 1-15.