

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Ryan Morrison
DATE: July 6, 2021
RE: ZP-21-446; 501 Pine Street

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: Vermont Gas Systems, Inc. / Kurt Schueler

Request: Develop a seasonal outdoor patio and picnic area that will support up to 4 food trucks, container kitchens and/or food carts (café use).

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 is requesting approval to develop a seasonal outdoor patio and picnic area that will support up to 4 food trucks, container kitchens and/or food carts – more specifically a café use as defined by the Burlington Comprehensive Development Ordinance. The subject property is vacant.

There are no previous zoning actions for this property:

Recommendation: Certificate of Appropriateness and Conditional Use 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 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 project will see new electric and water utilities connected to the site. The proposal should have no appreciable impacts on existing or planned public utilities, services, or facilities. The applicant is advised to check with VT DEC as to whether a state wastewater permit is needed. **(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 Enterprise-Light Manufacturing zoning district is the primary commercial/industrial center of Burlington, and is intended to accommodate enterprises engaged in the manufacturing, processing, distribution, renovating, or assembling of goods, merchandise, or equipment without potential conflicts from interspersed residential uses. Other commercial uses are allowed as primary or accessory uses to support a wide range of services and employment opportunities. The proposed café use is allowed in the zone as a conditional use. **(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;*

Contrary to other uses within the district that may be manufacturing or utilizing machinery and equipment that emit greater volumes of noise and dust, the proposed development will not induce similar nuisance impacts. **(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;*

Pine Street is a major arterial with sidewalks on both sides. There are transit stops within walking distance from the subject property. Pine Street has an articulated bicycle lane as well. There is a robust transportation system in place to support the proposed use. **(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;*

Required building and/or life safety codes will be under the review of the building inspector. **(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 that would exceed those of other uses allowed in the ELM zoning district. **(Affirmative finding)**

2. *Time limits for construction.*

The zoning permit will have the standard timelines to complete construction: 1 year from the approval date to commence construction, and 2 more years to complete the project. **(Affirmative finding)**

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

Typical construction hours are Monday-Friday 7:30 am to 5:30 pm, Saturdays limited to interior work unless specific allowances are granted by the DRB, and no construction permitted on Sundays. The café use will operate between the hours of 11:00 am and 10:00 pm. **(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; 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

Section 4.4.3 Enterprise Districts

(a) Purpose

1. *The Light manufacturing 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. ... 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 in 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.*

‘Café’ is a conditional use in the ELM zoning district, which will be the primary use of the property. The site plan identifies two short-term pick-up parking spaces at the front. As the property is in the Multimodal Mixed Use Parking District, there is no onsite parking requirement. **(Affirmative finding)**

(b) Dimensional Standards and Density

Table 4.4.3 -1 Dimensional Standards and Density

<i>Districts</i>	<i>Max. Intensity (floor)</i>	<i>Max. Lot Coverage¹</i>	<i>Minimum Building Setbacks¹ (feet)</i>			<i>Max. Height₁</i>
			<i>Front</i>	<i>Side</i>	<i>Rear³</i>	

	<i>area ratio¹</i>					<i>(feet)</i>
Light Manufacturing	2.0 FAR	80%	5 min	0 ²	10% ²	45'
501 Pine Street	n/a	70%	9' to the pick-up parking spaces; approx. 23 ft to the pergola and food truck pads.	5' to the food truck pads.	A 60' deep lot requires a 6 ft rear yard setback. The site plan shows what appears to be a 5 ft rear yard setback to the food truck pads.	< 45'

1 – Floor area ratio is further described in Art 5. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.

2 – Structures shall be setback a minimum of 25-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by enterprise and residential zones are exempt from this district boundary setback.

3 – Percentage of the lot depth.

The property does not abut a residential zoning district. The applicant will need to revise the site plan to show the food truck pads at a minimum distance of 6 ft from the rear yard property line. **(Affirmative finding as conditioned)**

(c) Permitted and Conditional Uses

Cafés are Conditional Uses in the E-LM. See Section 3.5.6 (a), above. **(Affirmative finding)**

(d) District Specific Regulations

1. *Convenience Stores* Not applicable.
2. *Drive Thrus* Not applicable.

Article 5: Citywide General Regulations

Part 5, Performance Standards

Sec. 5.5.2 Outdoor Lighting

The application makes no reference to outdoor lighting. The applicant will need to provide this information to staff to ensure compliance with this section. **(Affirmative finding as conditioned)**

Sec. 5.5.3 Stormwater and Erosion Control

The application does not include Erosion Prevention / Sediment Control and stormwater plans. The applicant will have to submit these plans to the stormwater program manager for review and approval, prior to the release of the zoning permit. **(Affirmative finding as conditioned)**

Sec. 5.5.4, Tree Removal

(a) Review criteria for zoning permit requests for tree removal

(1) Grounds for approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

D. As part of a development with an approved zoning permit.

The project site will be cleared of trees as part of the proposed development. **(Affirmative finding)**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

(a) Protection of Important Natural Features:

There are no natural features. The site is currently undeveloped and will be cleared to make way for the proposed development. **(Affirmative finding)**

(b) Topographical Alterations:

The applicant expects there to be 2-4 feet of site grading/excavation to make way for the development. The end result of the project, however, will see insignificant topographic alterations. **(Affirmative finding)**

(c) Protection of Important Public Views:

There are no protected public views from the parcel. Not applicable.

(d) Protection of Important Cultural Resources:

There are no cultural resources on the subject property. Not applicable.

(e) Supporting the Use of Renewable Energy Resources:

Clearing the lot will allow for natural sunlight. No other renewable resources are proposed. **(Affirmative finding)**

(f) Brownfield Sites:

Not applicable.

(g) Provide for nature's events:

An approved Erosion Prevention and Sediment Control plan, as well as a stormwater plan, will be required prior to the release of the zoning permit. Since the café use will operate between May and November, snow storage should not be a concern. **(Affirmative finding as conditioned)**

(h) Building Location and Orientation:

Aside from the centrally located pergola, there will be no permanent buildings constructed on the site. Food trucks and carts will park temporarily in the designated locations, as depicted on the site plan. **(Affirmative finding)**

(i) Vehicular Access:

The development proposes direct access off Pine Street with two curb cuts to allow for an easy, one-way circulation pattern. See site plan. **(Affirmative finding)**

(j) Pedestrian Access:

Pedestrians will have direct access from the Pine Street sidewalk. Internal walkways will be provided for access to the café use. **(Affirmative finding)**

(k) Accessibility for the Handicapped:

The building inspector has jurisdiction over ADA requirements, and the proposal must comply with the Burlington Code of Ordinances. **(Affirmative finding)**

(l) Parking and Circulation:

The development will have a one-way driveway (with two curb cuts on Pine Street), and two temporary parking spaces for food pick-ups. **(Affirmative finding)**

(m) Landscaping and Fences:

The proposal does not include any landscaping, and it should. Given the amount of hard surface proposed, there could be some planter boxes strategically placed around the development to enhance site aesthetics. A wooden fence is proposed to run along the outer edge of the development, specifically along the rear property line and along the back half of both side property lines. **(Affirmative finding as conditioned)**

(n) Public Plazas and Open Space:

Not applicable.

(o) Outdoor Lighting:

As noted above, there is no reference to exterior lighting, and all lighting is subject to the requirements of Sec. 5.5.2 CDO. The applicant will need to submit lighting information to staff to confirm compliance with Sec. 5.5.2 CDO, and update the site plan to show the location of all lights. **(Affirmative finding as conditioned)**

(p) Integrate infrastructure into the design:

Electric and water utilities will be provided underground. No other utilities are proposed. The site plan does not identify trash/recycling areas or bins and will need to. **(Affirmative finding as conditioned)**

Part 3: Architectural Design Standards

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The property is located within the Multimodal Mixed Use Parking District, where parking requirements have been eliminated. The applicant proposes two short term parking spaces along the driveway for to-go food pick-ups. **(Affirmative finding)**

II. Conditions of Approval

1. **Prior to the release of the zoning permit**, the applicant shall provide staff with the following:
 - A revised site plan showing the food truck pads meeting the 6 ft rear yard setback, and trash/recycling containers.
 - Exterior lighting plans and manufacturer's spec sheets.
 - A landscape plan.
2. **Prior to the release of the zoning permit**, the applicant shall submit an Erosion Prevention and Sediment Control plan, as well as a stormwater plan, to the Stormwater Program Manager for review and approval.
3. **Prior to the start of construction**, the applicant shall obtain curb cut approval from the Dept. of Public Works for the proposed curb cuts on Pine Street.
4. Construction hours shall be limited to Monday-Friday 7:30 am to 5:30 pm, Saturdays limited to interior work unless specific allowances are granted by the DRB, and no construction permitted on Sundays
5. A state wastewater permit may be required. It is the applicant's responsibility to inquire with VT DEC as to whether such permit is necessary.
6. Any future enlargement or alteration shall be reviewed under the zoning regulations in effect at that time.
7. 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.
8. Standard permit conditions 1-15.