

## 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: Mary O'Neil, AICP, Senior Planner  
Date: September 1, 2015  
RE: ZP16-0165CU; 747 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.**

**File:** ZP16-0165CU

**Location:** 747 Pine Street

**Zone:** ELM **Ward:** 5

**Date application accepted:** August 4, 2015

**Applicant/ Owner:** Burlington Furniture Company (Mark Binkhorst) / Cresta Cooper Nedde LLC

**Request:** Change of use for 33,548 sf. to Retail Warehouse for Burlington Furniture Company. Breakdown: Retail 21,384; warehouse 10,694, office 1,470. Request for parking waiver.

### **Background:**

- Non-applicability of Zoning Permit Requirements; interior work. August 12, 2015.
- Zoning Permit 16-0012CU; Establish health club, approx. 6762 sf. Allocate 14 parking spaces to use. No site changes. Approved August 10, 2015.
- Zoning Permit 15-0738CA; Renovation to existing warehouse building; removal of approx. 8,700 building addition, exterior façade upgrade, improved stormwater management, add parking. Approved February 2015.
- Zoning Permit 08-011CA; change of use from wholesale grovery/warehouse to printing. No site or exterior building changes. July 2007.
- Zoning Permit 02-331; new 36" metal outswing egress door on north wall. February 2002.
- Zoning Permit 99-023; installation of nonilluminated freestanding sign for Burlington Food Service Company. July 1998.
- Zoning Permit 92-350; three new windows in exterior wall and install new rooftop heating and A.C. unit next to existing HVAC unit at existing warehouse building. May 1992.
- Zoning Permit 92-426; installation of door with construction of handicapped access ramp with pipe railing for Burlington Food Service. June 1992.

- Zoning Permit 87-464; replace existing 4,000 gal underground fuel tank with one 8,000 tank or two 4,000 gal tanks. August 1987.
- Zoning Permit 87-091 / COA 87-034; add a 6,677 sq. ft. one story office wing and freezer to existing warehouse. Add 4,065 sq. ft. of parking and loading area. March 1987.
- Zoning Permit 85-151 / COA 85-039; add new 80' x 96' freezer to existing building, reconfigure existing parking, blacktop, and landscape. April 1985.

**Overview:** The DRB approved exterior structural and site modifications in February of this year; however it was noted that as tenants are identified, the building owner would be coming back for use permits. This is the second application; to relocate Burlington Furniture Company in the largest tenant space. Appendix A has no specific “furniture retail” use which includes warehouse and retail space. Warehouse Retail use is a Conditional Use in the ELM Zoning District. A parking waiver is requested; see Article 8 for discussion.

**Applicable Regulations:** Article 3 (Applications, Permits and Project Reviews); Article 4 (Zoning Maps and Districts); Article 5 (Citywide General Regulations); Article 8 (Parking); Article 13 (Definitions); Appendix A, Use Table.

**Recommendation:** **Approval** of Conditional Use with parking waiver, per the following findings and conditions:

**I. Findings**

**Appendix A, Use Table.** Warehouse Retail is a Conditional Use in the E-LM Zone. See Article 3.

**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 building 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.*

Both the previous use (warehouse) and proposed use (Warehouse Retail) fall within the same category of the Impact Fee regulations and calculator: *Offices and Other*. Therefore no Impact Fees would be assessed for the change in use.

**Affirmative finding.**

**Section 3.5.6 (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;*

This is an existing business on Pine Street within the same zoning district that proposes to relocate to this newly remodeled facility. There are no identified impacts to public utilities, facilities or services; all of which currently serve this use. **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 Enterprise-Light Manufacturing 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 accessory commercial uses are allowed to support a side range of services and employment opportunities. This furniture distributor will display, store, distribute, and manage the sales of a wide range of household furnishings. The relocation of Burlington Furniture will also fulfill a goal of the Municipal Development Plan, illustrating the adaptive reuse of old warehouses in the Enterprise District (MDP, Land Use Plan, Page I-22.) **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 using manufacturing machinery and equipment that emit greater volumes of noise and dust, the proposed use will not induce similar nuisance impacts. Furniture storage and sales is low impact per this standard. **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;*

747 Pine Street fronts a major arterial, and has an expanded parking lot to accommodate the anticipated new tenants. It is also on the CCTA bus route and has a pedestrian sidewalk on both Pine and Sears Lane. Pine Street has a bicycle lane as well. There is a robust transportation system in place to support the proposed use. The success of this enterprise (already on Pine Street) confirms the capability of the transportation network for this use. **Affirmative finding.**  
*and,*

*5. The utilization of renewable energy resources;*

No part of this request prohibits the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**  
*and,*

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

No identified conflicts. Required building and/or life safety codes will be under the review of the building inspector. **Affirmative finding as conditioned.**

**Article 4: Zoning Maps and Districts**

**(c) Permitted and Conditional Uses**

No changes are proposed to the exterior of the site.

Warehouse Retail is a Conditional Use in the E-LM Zoning District. See Article 3 and Appendix A.

**Article 5: Citywide General Standards**

**Part 1: Uses and Structures**

**(d) Conditional Uses**

See Article 3, above for newly revised Conditional Use Review Standards.

**Part 2: Dimensional Requirements**

Not applicable.

**Part 3: Non-Conformities**

Not applicable.

**Part 4: Special Uses**

Not applicable

**Part 5: Performance Standards**

**Section 5.5.1 Nuisance Regulations**

A furniture retail warehouse is not anticipated to introduce any impacts in conflict with the Burlington Code of Ordinances. **Affirmative finding.**

**Section 5.5.2 Outdoor Lighting**

Not applicable.

**Section 5.5.3 Stormwater and Erosion Control**

Development related to Stormwater and Erosion Control was included within a previous review and approval. Not applicable.

**Section 5.5.4 Tree Removal**

Not applicable.

**Article 6: Development Review Standards**

Not applicable.

**Article 8: Parking**

**Table 8.1.8-1, Minimum Off-Street Parking Requirements for Warehouse; Retail** requires 2.5 parking spaces per 1,000 sf. of space in the Shared Use Parking District.

Based on the total sf. of the lease area, (33,548), the parking requirement would be **84 parking spaces**. ( $33,548 / 1000 \times 2.5 = 83.87$ .) The parking requirement in the ordinance anticipates a “Costco” type warehouse shopping experience, and does not foresee a warehouse retailer that

would have much smaller business volume but requires the warehouse storage and retail space demanded of the use. The applicant has submitted information that defines approximately 9 full time staff and 3 part time (with the anticipation of hiring 2-3 new employees in the future). Currently they see an average of 20 customers per day. They hope to grow that client base to 25-30 per day. Understandably weekends are busier than week days, but customer visits are dispersed throughout the day.

They anticipate a maximum of 10 cars at peak (lunch or weekend) hours.

The newly expanded parking lot has 86 parking spaces. Fourteen have been designated to the new Health Club Use. With 72 remaining spaces, the building owner would like to avoid unnecessary dedication of the remaining 72 spaces to the Warehouse Retail use without warrant. As more tenants are identified, those new uses will present a parking demand as well.

### **Section 8.1.15 Waivers from Parking Requirements/Parking Management Plans**

*Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to Section 5.4.8 and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Section 3.2.7 (a) 7.*

The applicant has submitted information that addresses the specific needs of the proposed use, the proposed number of employees, customers, visitors, and hours of operation. They also have provided anticipated parking demand by day and demand of the use. It is their belief that an 84 parking space requirement is excessive given their existing business model on Pine Street, anticipated customer base, number of employees, and fluctuating customer arrivals (weekend over week days.)

This section of the ordinance limits parking waivers to 50% of the parking requirement which would be 42 spaces. The parking requirement then would be reduced to 42 spaces. The application, based on the existing business model, number of employees and anticipated customer volume does not suggest the need for the total parking requirement (84, based on Table 8.1.8-1), and unlikely to ever need the 42 parking spaces that would result from a maximum 50% parking waiver.

Within this business model, there will also be an opportunity for shared use of the parking area, as the furniture warehouse will see its busiest hours and days when associated tenants would be closed (office occupancy leases anticipated.)

A 50% waiver of parking requirements would dedicate 42 parking spaces to the new use, with a waiver of 42 spaces. This number more reasonably reflects the lower actual parking demand of this specific use, and is available for consideration by the DRB under this provision.

**Affirmative finding as conditioned.**

### **Article 13: Definitions**

*Warehouse, Retail: A building used for the sale of goods, in bulk or as individual retail items, to the general public or to a membership.*

Burlington Furniture's use is a combination of retail, product storage and accessory office, with warehouse the larger of the uses. As the public may move about the warehouse floor and purchase individual or a collection of items, the use category best fits the proposed furniture warehouse sales proposed.

**II. Conditions of Approval**

1. Upon DRB approval and assuming a waiver of 50%, a parking waiver of 42 spaces is provided for the Warehouse Retail use. 42 parking spaces will be allocated to the proposed use.
2. Required building and/or life safety codes will be under the review of the building inspector.
3. Standard Permit Conditions 1-14.

**NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.**