

To: Design Review Board  
From: Donna Church on behalf of Zero Gravity Brewery  
Project Location: 716 Pine St  
Date: September 14, 2021  
Re: Response to Zoning Permit Denial  
ZP #: 21-604

Response to the Zoning Permit Denial:

Zero Gravity recently requested a permit for proposed renovations that would expand its current tasting room 2,286 SF to 4,986 SF. Our permit was denied as a café larger than 2,000 SF, when it should have been approved as an Accessory Use taking up less than 25% of the gross area of its principle use as a beer manufacturer.

Increasingly, brewery tasting rooms have become essential to the craft beer business model. Tasting rooms are the building blocks for strong craft brewery brands, and core to their ability to compete, grow, add jobs, and provide benefits to employees. They also provide the crucial cash flow for continued investment in the manufacturing process, which is very expensive – to date Zero Gravity has invested over \$6 million in its Pine Street production facility. Tasting rooms therefore are, at their very heart (and by definition), clearly an Accessory Use to beverage processing as envisioned in the Enterprise – Light Manufacturing (ELM) zone.

Currently the Zero Gravity brewery building is 24,807 SF, of which the current tasting room occupies 2,286 SF as an accessory use to its vastly larger beer processing business. Right next door, The Great Northern operates a 1,784 SF café as part of its 7,383 SF food processing business (wholesale and catering).

The needs of both businesses have evolved, however, due in no small part to the impacts driven by the COVID-19 pandemic. The Great Northern wants to get out of the café business completely, and instead focus exclusively on food processing, including expanding its catering business and selling food wholesale to Zero Gravity and other businesses. In doing so, The Great Northern will reduce its footprint from 7,383 SF to 3,248 SF (kitchen and loading dock only).

In turn, Zero Gravity would like to expand its tasting room by 2,700 SF, and its brewery production space by 1,435 SF. The net effect is that Zero Gravity would operate a larger tasting room (as an Accessory Use to beer production) that is less than 25% of its principle use as a rapidly growing beer processor. This is neither a café, nor a restaurant, and does Zero Gravity want to operate one. Zero Gravity's sole interest is in the business of producing and selling beer and promoting its brand, and any foodservice provided (by The Great Northern via wholesale contract) is purely incidental.

The property is located in the within the Enterprise – Light Manufacturing (ELM) zone that specifically allows for food and beverage processing and their accessory uses.

Food and beverage processing is defined in Article 13 of the Comprehensive Development Ordinance (CDO) as: The preparation and packaging of food and/or beverage (including alcoholic and non-alcoholic) products for distribution and/or wholesale or retail sales, on or off premise, excluding restaurants and cafes except as an accessory use.

An Accessory Use is defined in the CDO as: A use, building, or structure that (a) is located on the same lot as the principal use, structure, or building served; (b) is clearly incidental to and customarily found in connection with the principal use, structure, or building; and (c) is subordinate in area, temporal extent, or purpose to the principal use, structure, or building served, and is not to exceed twenty-five percent (25%) of the gross area or sales of the principal use, structure, or building served.

Zero Gravity meets every one of these tests, both as a Beverage Processor and an Accessory Use. In his denial letter, the Zoning Administrator implied that simply because we serve food subject to Vermont Health Regulations, we are deemed a Café (limited to 2,000 SF) rather than an Accessory Use (25% of the gross area of the principle use as a microbrewery). We believe this interpretation is not supported by the plain language of the CDO. This view also conflicts with the larger goal of the ELM Zone in creating and supporting sustainable manufacturing job growth in the City of Burlington.

The Zoning Administrator further is suggesting because we are proposing a tasting room larger than 2,000 SF (while also providing foodservice) that we are operating as a restaurant which are not permitted in the ELM Zone. A Restaurant is defined in the CDO as: Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served for consumption primarily on premises; and where the service of alcoholic beverages is incidental to the consumption of food (less than fifty percent (50%) of the gross sales receipts from the business). In our case, however, the service of alcoholic beverages is not incidental and in fact plays the leading role by providing 65% of the gross receipts from the accessory business. Add back the wholesale beer business, and suddenly foodservice is reduced to a mere fraction of the overall economic activity at the site.

The fact is, the CDO does not directly address the unique needs and importance of the brewery tasting room and its role in driving the success of the larger production business. If the Development Review Board is concerned about a slippery slope here, and potentially opening the door to restaurant development in the ELM zone, it should not be. The 25% rule more than adequately protects against this. For example, a 4,000 SF restaurant would need to lease 16,000 SF of space just to skirt the rule, while simultaneously developing and investing in a legitimate food or beverage production operation in the other 12,000 SF. It's just not going to happen.

With all due respect to the Zoning Administrator, the 25% rule is working as it was designed. We've proven that by expanding our beer production business, our accessory tasting room expansion should be approved. We are not a café. We are not a restaurant. We are a

production microbrewery trying to compete successfully against 8,700 craft breweries nationally and are complying with the rules, goals and intent of the ELM Zone.

Thank you for considering our appeal.