

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Principal Planner

Date: January 16, 2018

RE: ZP18-0561CA/CU, 208-212 North Winooski Avenue

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.

Project Number: ZP18-0561CA/CU

Address: 208-212 North Winooski Avenue

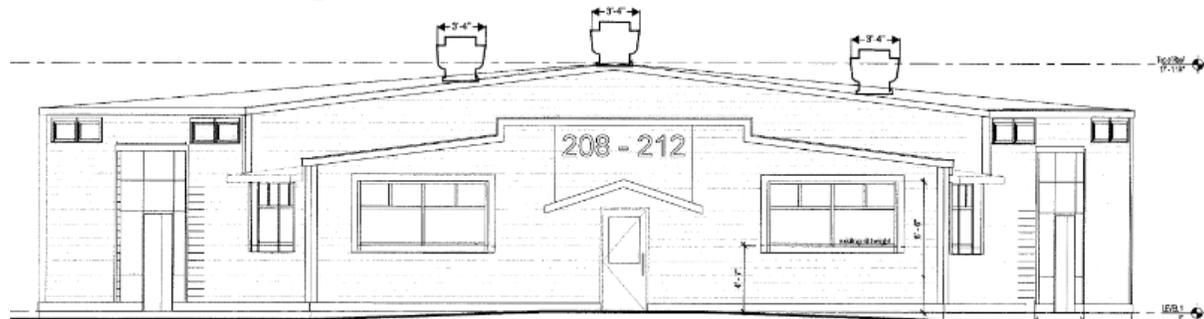
Zone: NMU **Ward:** 2C

Parking District: Shared Use

Date application accepted: December 11, 2017

Applicant/ Owner: 208-212 North Winooski Avenue LLC (Redstone, Erik Hoekstra)

Request: Change of use from retail (convenience store) and beverage redemption center to restaurant (permitted use) and food processing (Conditional Use.)



Background:

- **Zoning Permit 17-1250CA/CU;** Change of use from retail (convenience store and beverage redemption center) to recording studio. Infill overhead doors, window additions and alterations; infill siding. **Permit relinquished December 2017.**
- **Zoning Permit 87-720;** Additional sign over North Union garage entrance. March 1988.
- **COA 85-075;** Conditional use to relocate beverage store. Approved April 1986.
- **Zoning Permit 85-426 / COA 85-075;** Reduce and remove existing large windows, add drive-in redemption window and canopy; match existing 8" wood clapboard siding and repaint. New entrance door on north side. No change in coverage. Approved September 1985.

- **82-004; Conditional Use permit** to convert a commercial site to a bottle redemption center and hardware store. Approved March 1982.

Overview: The property was recently approved for a change of use to a recording studio, but the anticipated tenant withdrew interest so the owners are positioning for a new tenant/uses. Similar building alterations will occur to accommodate the new uses. Restaurant is a permitted use and can be approved administratively; however, the food processing component is a Conditional Use requiring DRB review.

The existing use (beverage/ redemption center) was approved and benefited from the existing non-conformity to parking. The prior use (repair garage) had a 10 space parking requirement but provided none on-site. The change to the current use provided 3 parking spaces on site which lessened the non-conformity.

Some exterior alterations, such as window and door rearrangement and infilled siding are proposed to enhance the change of use.

Recommendation: Conditional Use and Certificate of Appropriateness 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: Impacts Fees

Section 3.3.2 Applicability

*Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings 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.***

Although the existing retail use and the proposed uses are separate use categories for purposes of calculating impact fees, the fees for retail are higher. Therefore, no added municipal impacts are identified and **no impact fees are assessed** for the changes of use.

Affirmative finding.

Sec. 3.5.2 Applicability

(a) Conditional Use Review:

Conditional Use Review shall be required for the approval of all development subject to the following provisions of this ordinance:

1. *any use identified under Article 4 and Appendix A – Use Table as a “Conditional Use” or “CU;”*
2. *any Special Use specifically identified as being subject to conditional use review under Article 5, Part 3;*

Food processing is a Conditional Use in the NMU zoning district per *Appendix A, Use Table.*

Sec. 3.5.6 Review Criteria

The application and supporting documentation submitted for proposed development involving Conditional Use and/or Major Impact Review, including the plans contained therein, shall indicate how the proposed use and associated development will comply with the review criteria specified below:

(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 new food processing use is proposed within an existing, developed mixed use area. There are no identified unreasonable or objectionable demands on utilities, facilities or services.

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 Neighborhood Mixed Use zoning district is intended to preserve and enhance historically commercial areas while reinforcing the compact scale and development patterns of the city's older neighborhoods. The proposed use (and associated exterior alterations) is consistent with the definition of the NMU district.

From the Municipal Development Plan:

- o It continues to be a high priority of the City to actively promote redevelopment and investment within the Enterprise Community, and to implement the strategies found in Common Ground: A strategic Plan for the Old North End Enterprise Community which is incorporated into this Plan by reference. [Land Use Plan, Page I-27.]*
- o Support sustainable development activities in target areas of the city including the Enterprise Community, Neighborhood Activity Centers, the Pine Street Corridor, Downtown, and the Downtown Waterfront. [Economic Development Plan, Page VI-2.]*
- o Street level storefronts and building entrances should be open and inviting to pedestrians, and service entrances, driveways and garages should be located on side streets or in service alleys. [Built Environment, Page III-8.]*
- o Each gateway to the city or its neighborhoods should reflect the particular characteristic of its setting and provide a welcoming introduction. The City should take active steps to enhance the primary gateways into the city. [Built Environment, Page III-5.]*

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 proposed food processing use will be internalized and not present adverse noise, odor, dust, heat or vibration impacts to the immediate area. Renovations are proposed to include infilling some existing small windows and single leaf swing doors, infilling the overhead door openings with a mix of new storefront doors and siding. Three exhaust fans are proposed to be mounted on the roof. In contrast to the existing use where the garage door was typically open while bottles and cans were counted, bagged, and hauled out for transport to a parked 18 wheeled commercial vehicles, the proposed use as outlined will be significantly less perceptible.

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;*

The project site is accessible from two streets (North Winooski and North Union Street) and within an established network of public roads, sidewalks and bicycle pathways. Public transit is immediately available. A loading area is existing along the North Winooski Avenue streetfront. Access will remain as existing. **Affirmative finding.**

and,

- 5. The utilization of renewable energy resources;*

No part of the application precludes the utilization of wind, water, solar, geothermal or other forms of renewable energy resources. Additionally, the rehabilitation of the overall building and installation of energy efficient windows and doors will help with energy savings. **Affirmative finding.**

and,

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

It is the applicant's responsibility to secure any required additional state or city permits. **Section 2.7.8, Withhold Permit,** will apply to this property. See conditions.

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.*

If the rooftop hoods are visible from the street, they will require screening.

The proposed use and building renovation will not alter the character so as to make it inconsistent with the surrounding Neighborhood Mixed Use area. **Affirmative finding as conditioned.**



August 2017 Google street view

2. *Time limits for construction.*

The zoning permit will limit the project to be completed within 2 years. **Affirmative finding as conditioned.**

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

Construction activities shall be limited to 7:00 am to 6:00 pm, Monday through Saturday. There shall be no construction on Sundays. Hours of operation for the restaurant use are limited by **Appendix A, Footnote 13**: 5:30 am to 11:00 pm. Hours for the food processing use are proposed to be 8am – 2am seven days a week. **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 application for enlargement or expansion shall be viewed under the regulations in effect at the time of submittal. **Affirmative finding.**

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.*

This remains at the discretion of the Board.

Article 4: Zoning Maps and Districts

Section 4.4.2 Neighborhood Mixed Use

(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 proposed restaurant and food processing use will utilize an existing commercial building within one of the city’s older neighborhoods. The use fits within the purpose statement of the NMU zoning district, particularly as providing services and employment opportunities within walking or biking distance of residential neighborhoods. **Affirmative finding.**

(b) Dimensional Standards and Density

Table 4.4.2-1 Dimensional Standards and Density

NMU	2.0 FAR	80%	Front yard setback 0	Side yard setback 0	Rear yard setback 0	Height: Min: 2 stories Max: 35
208-212 North Winooski Avenue	No change	No change	No change	No change	No change	No change

The proposed change of use will not no impact on the dimensional standards or density calculation for the site. Aside from changes to doors and windows, the building will retain the same massing, height scale and coverage as existing.

Affirmative finding.

(c) Permitted and Conditional Uses

A food processing facility is a Conditional Use in the NMU zoning district. Consult Appendix A.

(d) District Specific Regulations

1. Ground Floor residential uses restricted

This is for NAC zoning district. Not applicable.

2. Exception to Maximum Lot Coverage in NAC District

Not applicable.

3. Development Bonuses/Additional Allowances

No development bonuses are requested. Not applicable.

Article 5: General Citywide Regulations

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access

Development is proposed on a parcel with existing access and frontage on both North Union Street and North Winooski Avenue. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.2-1, above.

Section 5.2.4 Buildable Area Calculation

The parcel is not within RCO, WRM, RM, WRL or RL zoning districts. Not applicable.

Section 5.2.5 Setbacks.

See Table 4.4.2-1, above.

Section 5.2.6 Building Height Limits

See Table 4.4.2-1, above.

Section 5.2.7 Density and Intensive of Development Calculations

See Table 4.4.2-1, above.

Part 3: Non-conformities

The site has historically been non-conforming to parking. Prior to 1982, the site hosted a repair garage which had a 10 parking space requirement and provided no parking onsite. Permits in 1982 and 1986 changed the use to retail (hardware store, beverage mart) and storage. The removal of gas pumps allowed for three on-site parking spaces; non-conforming to the parking requirement of 6, but less than the original non-conformity of the 10 space requirement. A combination of changing uses with a lesser parking requirement and providing new spaces on site lessened the non-conformity. (A deficiency of 10 spaces, versus 3.)

The proposal for a change of use to a food processing use will require 1 space; the restaurant use requires 6 spaces. The total spaces required by the CDO (7) is less than the 10 parking space requirement of the previous repair garage, and is further ameliorated with the three parking spaces on-site. As proposed, the new uses can exercise the acknowledged non-conformity to parking. **Affirmative finding.**

Part 4: Special Use Regulations

Section 5.4.8 Historic Buildings and Sites

Not applicable

Section 5.4.9 Brownfield Remediation

Not applicable.

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

Construction activities will be limited Monday-Saturday 7:00 am – 6:00 pm, with no construction on Sundays.

Affirmative finding as conditioned.

Section 5.5.2 Lighting

Plans do not include any new lighting. If new fixtures are proposed, fixture spec sheets and anticipated light levels will be required for staff review and approval.

Affirmative finding as conditioned.

Section 5.5.3 Stormwater and Erosion Control

Not applicable.

Section 5.5.4 Tree Removal

Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Section 6.2.2 Review Standards

(a) Protection of Important Natural Features

There are no identified important natural features. The site is entirely impervious.

Affirmative finding.

(b) Topographical Alterations

No changes to the topography are proposed. **Affirmative finding.**

(c) Protection of Important Public Views

There are no protected or important views from this parcel. Not applicable.

(d) Protection of Important Cultural Resources

There are no identified architectural or archaeological resources at the site. Not applicable.

(e) Supporting the Use of Renewable Energy Resources

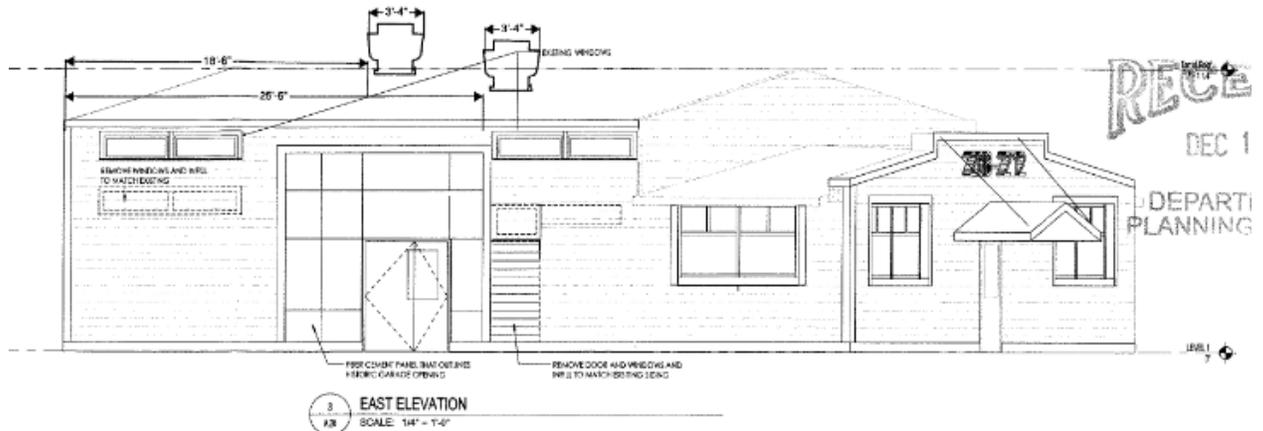
No part of this application will prohibit the use of solar, wind, water, geothermal or other renewable energy resources. **Affirmative finding.**

(f) *Brownfield Sites*

None identified. Not applicable.

(g) *Provide for Nature's Events*

There exists a canopy at the front entrance to protect visitors from inclement weather. The remainder of the site will remain as existing. **Affirmative finding.**



(h) *Building Location and Orientation*

There is no proposed change to the building's orientation or location. Not applicable.

(i) *Vehicular Access*

Access will be maintained via the existing entrance locations. Three on site parking spaces are available at the northerly portion of the site. **Affirmative finding.**

(j) *Pedestrian Access*

Pedestrian access is immediately available via public sidewalk from both North Union Street and North Winooski Avenue. **Affirmative finding.**

(k) *Accessibility for the Handicapped*

ADA compliance is under the jurisdiction of the building inspector. **Affirmative finding as conditioned.**

(l) *Parking and Circulation*

There remain 3 on site parking spaces, with the site recognized as non-conforming to parking. (See Article 8, and Article 5, Part 3, above.) The loading area along North Winooski Avenue will benefit the food processing use; the existing three parking spaces remain on site, and parking is available on-street as well.

Access is available from both North Union Street and North Winooski Avenue. **Affirmative finding.**

(m) *Landscaping and Fences*

Not applicable.

(n) *Public Plazas and Open Space*

There are no public plazas or required open space as part of this application. **Affirmative finding.**

(o) *Outdoor Lighting*
See Section 5.5.2, above.

(p) *Integrate Infrastructure into the design:*
The new uses will be internalized to the existing building. An existing utility meter will remain on the west elevation. Roof mounted hoods may require screening (if visible from the right-of-way.) **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards
Section 6.3.2 Review Standards

(a) *Relate development to its environment*

1. *Massing, Height and Scale*

There is no change proposed to the existing massing, height or scale of the structure.
Affirmative finding.

2. *Roofs and rooflines*

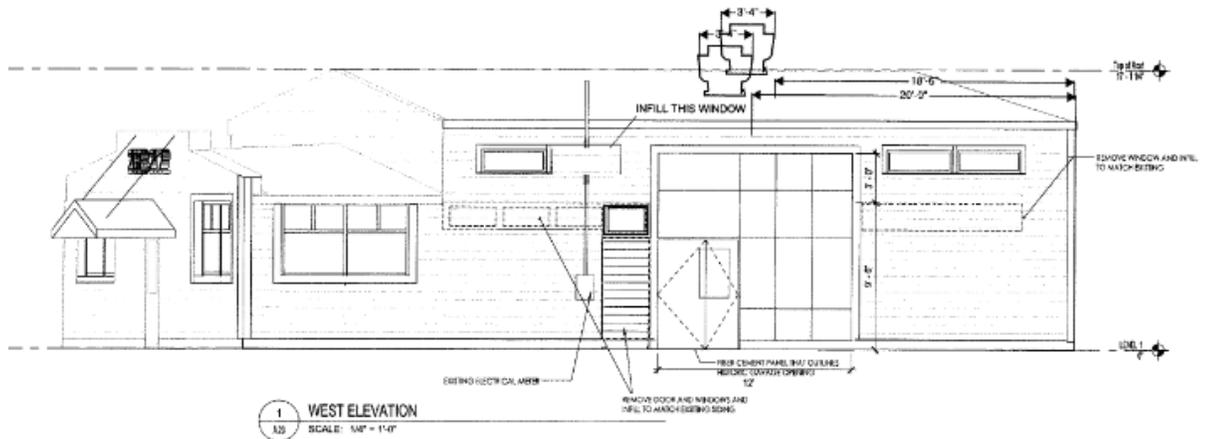
Roof top mechanicals shall be screened from view from the public street, and should be incorporated into and hidden within the roof structure whenever possible.

If visible from either streetfront, the method for screening proposed roof vents shall be submitted for review.

Affirmative finding as conditioned.

3. *Building Openings*

Building openings are appropriate to the intended function and overall design of the building. Overhead garage doors will be infilled with smaller pedestrian doors surrounded by fiber cement panels. Some door and window openings will be filled in or relocated to accommodate the new tenant. **Affirmative finding.**



(b) *Protection of Important Architectural Resources*
Not applicable.

(c) *Protection of Important Public Views*
Not applicable.

(d) *Provide an active and inviting street edge*

The proposed building alterations are both consistent with the existing building design and complementary in appearance. The replacement windows and doors will provide a warm and bright welcome. **Affirmative finding.**

(e) *Quality of Materials;*

Infill materials include fiber cement panels and matching siding. **Affirmative finding.**

(f) *Reduce energy utilization;*

All development is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) *Make Advertising features complementary to the site;*

Any new or revised signage will require a separate sign permit. **Affirmative finding as conditioned.**

(h) *Integrate infrastructure into the building design;*

Rooftop mechanicals, including heating and cooling devices and elevator equipment, should be incorporated into the structure's design, and shall be arranged to minimize their visibility from the street level. Such features, in excess of one foot in height, shall be either enclosed within the roof structure, outer building walls, or parapets, or designed so that they are integrated into the overall design and materials of the building.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 5 Performance Standards.

The application proposes the installation of three exhaust fans on the roof. This standard notes that mechanical equipment visible from the street and in excess of one foot in height requires screening. **Affirmative finding as conditioned.**

(i) *Make spaces secure and safe.*

Development shall meet all required building and life safety code as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

Article 7: Signs

Any new or replacement signage will require separate permitting. **Affirmative finding as conditioned.**

Article 8: Parking

The site has been non-conforming to parking for the zoning history of this parcel. Previous to being a hardware store, beverage mart and bottle redemption center, the use was a truck repair garage that had a parking requirement of 10 spaces but provided none. The change-of-uses that lessened the parking requirement (7 spaces) and the ability to provide some on-site spaces (3) lessened the non-conformity. This newly proposed uses have a parking requirement of 7 spaces (see attached breakdown by use. This reflects parking requirement for Food Processing *prior to* Zoning Amendment ZA18-03, as application preceded warning). The site may continue to utilize the acknowledged non-conformity to parking. **Affirmative finding.**

II. Conditions of Approval

1. The method of screening the rooftop hoods (if visible from the ROW and in excess of 1 foot in height) shall be presented to staff for review and approval.
2. If new light fixtures are proposed, fixture spec sheets and anticipated light levels will be required for staff review and approval.
3. Construction activities will be limited Monday-Saturday 7:00 am – 6:00 pm, with no construction on Sundays.
4. Hours of operation for the restaurant use are limited to 5:30 am to 11:00 pm (Appendix A, Footnote 13.) Hours for the food processing use are proposed as 8:00 am to 2:00 a.m. *unless otherwise defined by the Development Review Board.*
5. Requirements for ADA compliance are under the jurisdiction of the building inspector.
6. All development is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
7. Any new or revised signage will require a separate sign permit.
8. Per **Section 2.7.8, Withhold Permit**, 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.
9. Standard Permit Conditions 1-15.

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