

## 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  
Meagan Tuttle, AICP, Comprehensive Planner  
Jay Appleton, Senior GIS/IT Programmer/Analyst  
Scott Gustin, AICP, CFM, Principal Planner  
Mary O'Neil, AICP, Principal Planner  
Ryan Morrison, CFM, Associate Planner  
Layne Darfler, Planning Technician  
Anita Wade, Zoning Clerk*



### MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Principal Planner

Date: July 5, 2017

RE: ZP17-1250CA/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.**

**File:** ZP17-1250CA/CU

**Location:** 208-212 North Winooski Avenue

**Zone:** NMU **Ward:** 2C

**Date application accepted:** June 7, 2017

**Applicant/ Owner:** 208-212 North Winooski Avenue LLC / Erik Hoekstra

**Request:** Change of use from retail (convenience store and beverage redemption center) to recording studio. Infill overhead doors, window additions and alterations; infill siding.



#### Background:

- **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:** 208-212 North Winooski Avenue is within the NMU zoning district where recording studios are a Conditional Use. 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. This application proposes full conformity to parking.

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 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 use 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 change 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;*

Recording Studios are 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 use is proposed within an existing, developed mixed use area. There is no identified unreasonable or objectionable demand 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:

- *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.]*
- *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.]*
- *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.]*
- *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 use will be internalized and not present adverse noise, odor, dust, heat or vibration impacts to the immediate area. Renovations are proposed to include double wall construction with acoustic insulation in the cavity and specialty acoustic sealing products at the face of the separate stud walls. The recording studio will have sound conditioning treatments as part of the fit-up with sound absorbing panels. 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 wheelers, 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. 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.*

No additional mitigation measures are identified. The proposed use and building renovation will not alter the character so as to make it inconsistent with the surrounding area. **Affirmative finding.**

- 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 are suggested as 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 recording studio 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%	0	0	0	Min: 2'. 2 stories Max: 35
208-212 North Winooski Avenue	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 and scale as existing.

**Affirmative finding.**

**(c) Permitted and Conditional Uses**

A recording studio is a Conditional Use in the NMU zoning district. Consult Appendix A.

**(d) District Specific Regulations**

**1. Ground Floor residential uses restricts**

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 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 recording studio will require 3 spaces; equivalent to what exists on-site. Consequently, the site will move into conformance with the parking requirements of the Comprehensive Development Ordinance. **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**

The applicant has submitted detail about proposed interior alterations, which include double wall construction and acoustic insulation. The recording room spaces are mostly windowless, with the former garage door openings and the lower set of narrower windows in the back getting filled in. At the concrete block rear wall (south) the sound detail calls for a single new stud wall set a few inches away from the concrete exterior wall with the same acoustic sealing products used to keep the noise in. The studio also plans sound conditioning treatments as part of their fit up scope (installing sound absorbing panels, constructing bass traps) that will soften raw sound being produced within the spaces.

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, sufficient to meet the requirements of Article 8 for the proposed use. 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 use will be internalized to the existing building. An existing utility meter will remain on the west elevation. **Affirmative finding.**

### **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*

No change proposed. **Affirmative finding.**

*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;*

Infll 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;*

See Section 6.2.2. (p), above.

*(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 (6 spaces) and the ability to provide some on-site spaces (3) lessened the non-conformity. This newly proposed use has a parking requirement of 3 spaces/1000 sf; or 3 parking spaces for a 3,263 sf area. This application will bring the project site into compliance for parking. **Affirmative finding.**

**II. Conditions of Approval**

1. If new light fixtures are proposed, fixture spec sheets and anticipated light levels will be required for staff review and approval.
2. Construction activities will be limited Monday-Saturday 7:00 am – 6:00 pm, with no construction on Sundays.
3. Hours of operation are limited to 8:00 am to 2:00 a.m. unless otherwise defined by the Development Review Board.
4. Any requirements for ADA compliance is under the jurisdiction of the building inspector.
5. 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.
6. Any new or revised signage will require a separate sign permit.
7. 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.
8. Standard Permit Conditions 1-15.

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