

Department of Permitting & Inspections

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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: October 15, 2019
RE: ZP20-0332CU; 336 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: ZP20-00332CU
Location: 336 North Winooski Avenue
Zone: NMU **Ward:** 2C
Date application accepted: September 16, 2019
Applicant/ Owner: Gorilla Bars, Inc. / Michael Rosenberg
Request: Conditional Use review for a food and beverage processing facility.

Background:

- Non-Applicability of Zoning Permit 11-0971NA; replace rubber membrane roof with new rubber. May 2011.
- Zoning Permit 08-552CA; replace flat rear roof with a rubber membrane roof. February 2008.
- Zoning Permit 07-182CA; Repair rot, vinyl siding on front and two sides. September 2006.
- Zoning Permit 99-169; Remove slate roof on the existing retail space. September 1998.
- Zoning Permit 96-619; Installation of an internally illuminated parallel sign for the existing retail store. June 1996.
- Zoning Permit 96-592; Façade improvements to the existing retail store. June 1996.
- Zoning Permit 94-531; New sign. July 1994.
- Zoning Permit 93-318; Installation of steel door as an emergency exit. January 1993.
- Zoning Permit 93-319; New parallel sign. January 1993.

Overview: The applicant proposes to change the use of the property from the Salvation Army retail store to a 'Food & Beverage Processing' facility for making Gorilla Bars. Food and beverage processing is a conditional use in the underlying zoning district. The business, which will manufacture energy bars, will consist of kitchen space and storage space. Patron visitation will not occur since the business will be shipping its product. The structure was constructed ca. 1885. However, according to its listing on the State Register of Historic Structures, the majority of the building was built ca. 1960 (the present day façade with garage).

Applicable Regulations: Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps & Districts), Article 8 (Parking)

Recommendation: **Consent approval**, per the following findings and conditions:

I. Findings

Article 2: Administrative Mechanisms

Sec. 2.7.8 Withhold Permit

Per this standard, the applicant is required to 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. **Affirmative finding as conditioned**

Part 5, Conditional Use & Major Impact Review

Sec. 3.5.6, Review Criteria

(a) Conditional Use Review 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 proposed change of use to food processing will generate little impact on community facilities. As the business will consist of kitchen (new 3 bay sink) and storage space, significant demands on utilities and facilities are not anticipated. A state wastewater permit for the change of use may be required, and if so, it will be the applicant's responsibility to obtain. **Affirmative finding as conditioned**

2. The character of the area affected;

336 North Winooski Avenue is within the Neighborhood Mixed Use (NMU) zoning district. The Salvation Army retail store previously occupied the building. The proposed change in use includes no exterior changes to the building or site. The Neighborhood Mixed Use zoning 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.

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;

No nuisance impacts are expected. **Affirmative finding**

4. Transportation system capable of supporting the proposed use;

The change of use will not negatively impact the transportation system. The property gains access from North Winooski Ave., a major street. Bus stops are located along North Winooski Ave, with the nearest ones approximately 400 ft to the south, and 350 ft to the north. Overall, the property is located within a highly developed neighborhood, which enables a large amount of foot and bicycle traffic for employees. **Affirmative finding**

5. Utilization of renewable energy resources;

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

6. Bylaws then in effect;

None identified. It is the applicant's obligation to secure any additional permits (from state or federal offices) as required. **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 exterior changes will occur, and all activities will occur indoors. No further mitigation measures are identified. **Affirmative finding**

2. Time limits for construction.

No construction timeline or phasing is included in the project plans. The standard 3-year timeframe for zoning permits will apply. **Affirmative finding**

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

The applicant states that the facility will generally operate Monday thru Friday, 9 am to 5 pm, but sometimes as early as 7 am and as late as 6 pm. Also, a few weekend hours between 9 am and 5 pm can be expected. No exterior construction is planned, only interior renovations. **Affirmative finding**

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 of the facility 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.

None identified. It is the applicant's obligation to secure any additional permits (from state or federal offices) as required. **Affirmative finding as conditioned**

Article 4: Zoning Maps and Districts

(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.

Development is intended to consist primarily of businesses on the ground floor with housing and other non-residential uses on upper stories. The exception to this is the NAC – Cambrian Rise district that is intended to be more residential in nature than the other Neighborhood Mixed Use districts and thereby is expected to incorporate residential uses at the street level. Development is intended to be pedestrian-oriented with buildings oriented to the sidewalk, especially at corners. Parking is intended to be hidden from the street, since its appearance is out of character with the surrounding residential development and the desired orientation of the buildings

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. And so the use is consistent with the intent... Affirmative finding.

(b) Dimensional Standards and Density

No exterior changes to the building or site are proposed. **Affirmative finding**

(c) Permitted and Conditional Uses

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Neighborhood Mixed Use districts shall be as defined in Appendix A – Use Table.

The proposed use falls under the definition of ‘Food and Beverage Processing’, which is listed as a conditional use in Appendix A. ‘Food and Beverage Processing’ is defined in Article 13 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.*” Footnote 14 of the Appendix A – Use Table limits such uses to a maximum area of 10,000 sf per establishment. Overall, useable area within the building totals 7,528 sf. As shown on the floor plan, the applicant notes that only the ‘Proposed Space’ and the ‘Garage/Entry’ will be used for the business – with the possible expansion into other areas of the first floor as need be for additional storage. **Affirmative finding**

(d) District Specific Regulations

Not applicable.

Article 8: Parking

Section 8.1.8, Minimum Off-Street Parking Requirements

The property is located within the Shared Use parking district. Food and Beverage Processing requires 1 space per 1,000 sf of gross floor area (gfa), plus 2 spaces per 1,000 sf of gfa devoted to patron use. The applicant indicates that the business strictly involves food production and shipping, and there will not be patrons; thus 1 space per 1,000 sf of gfa is the parking requirement. The previous use (general retail) required 2 spaces per 1,000 sf of gfa, and that retail business operated on the entire first floor (3,952 sf), and quite possibly the second floor. The proposed facility will operate in an area on the first floor of approximately 1,735 sf. Whereas the previous use would require 8 parking spaces, the new use will require 2 parking spaces. Even though there is one garage parking space for the property, the new use can enjoy the parking credit provided by the previous retail use. **Affirmative finding**

II. Conditions of Approval

1. Per **Section 2.7.8, Withhold Permit**, all zoning permits issued after July 13, 1989 shall be closed out (issued a Certificate of Occupancy) prior to issuance of a Final Certificate of Occupancy for this permit. See attached permit list. Upon expiration of this new zoning permit, no additional zoning permits may be issued until it, and all prior zoning permits, have been closed out with final certificate(s) of occupancy. It is recommended that

certificates of occupancy for the old zoning permits be sought prior to seeking a certificate of occupancy for the new zoning permit.

2. The applicant is responsible for securing all required building, state and/or federal permits for the expansion.
3. Any future alterations, expansion of the facility, and/or the introduction of patron use to the business, will require permit review per the regulations in effect at that time.
4. The applicant shall be responsible for obtaining a state wastewater permit, if required.
5. Standard Permit conditions 1-15.