Town of Underhill

Development Review Board
Final Findings and Decision

APPLICATION OF RADE HOLDINGS, LLC FOR A CONDITIONAL USE PERMIT TO CONVERT A MIXED-USE BUILDING CONTAINING TWO APARTMENTS TO A MIXED-USE BUILDING CONTAINING THREE APARTMENTS

In re: Rade Holdings, LLC
1 Pleasant Valley Road (PV001)
Underhill, VT 05489

Docket No. DRB-17-06

Decision: Approved with Conditions (see Section IV for More Details)

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a conditional use application for the conversion of a mixed-use building containing two apartments and retail space to a mixed-use building containing three apartments and retail space at 1 Pleasant Valley Road (PV001) in Underhill, Vermont.

A. On March 24, 2017, Peter Davis, on behalf of Rade Holdings, LLC (also known as the applicant), filed an application for a conditional use for the above-mentioned project. The application was accepted and determined to be complete shortly thereafter.

B. On March 30, 2017, a copy of the notice of the conditional use review hearing was mailed via Certified Mail to the following property owners adjoining the property subject to the application:

   A. PV002 – Town of Underhill, 12 Pleasant Valley Road, Underhill, VT 05489 *[Hand Delivered]*
   B. PV003 – Paul V. Moran & Nancy Jones, P.O. Box 134, Underhill Center, VT 05490
   C. PV004X – Roman Catholic Diocese of Burlington, 55 Joy Drive, South Burlington, VT 05403
   D. KR002 – Todd Mackenzie, 2 Krug Road, P.O. Box 47, Underhill Center, VT 05490
   E. RV285 – Patrick F. & Louise E. Lamphere, 178 Beartown Road, Underhill, VT 05489
   F. Application: PV001 – Rade Holdings, LLC, P.O. Box 184, Underhill Center, VT 05490

C. During the week of March 26, 2017, notice of the public hearing for the proposed conditional use permit was posted at the following locations:

   A. The Underhill Town Clerk's office;
   B. The Underhill Center Post Office; and
   C. The Underhill Flats Post Office.

D. On April 17, 2017, the notice of public hearing was published in the *Burlington Free Press.*

E. The conditional use review hearing commenced at 7:25 pm on April 17, 2017 at the Town of Underhill Town Hall.

F. Present at the conditional use review hearing were the following members of the Development Review Board:

A. Board Member, Shanie Bartlett
B. Board Member, Matt Chapek
C. Board Member, Mark Green
D. Board Member, Penny Miller
E. Board Member, Stacey Turkos

Board Member, Charles Van Winkle recused himself from the hearing.

Also in attendance was Staff Member Andrew Strniste, Planning Director & Zoning Administrator.

Others present at the hearing were:

1. Todd Mackenzie (2 Krug Road)
2. Robert Lair (8 Acer Ridge)
3. Rade Holdings, LLC/Peter Davis, Applicant (1 Pleasant Valley Road)

G. At the outset of the hearing, Acting Chair M. Green explained the criteria under 24 V.S.A § 4465(b) for being considered an "interested party." Those who spoke at the hearing were:

1. Todd Mackenzie
2. Robert Lair

H. In support of the final conditional use review application, the following exhibits were submitted to the Development Review Board:

Exhibit A – Davis/Rade Holdings, LLC Conditional Use Review Staff Report
Exhibit B – Conditional Use & Site Plan Review Hearing Request Form
Exhibit C – Site Plan Review Standards Checklist
Exhibit D – Conditional Use Review Standards Checklist
Exhibit E – List of Abutters
Exhibit F – Certificate of Service
Exhibit G – BFP Notice of Public Meeting
Exhibit H – BFP Advertisement Confirmation
Exhibit I – ANR Project Review Sheet
Exhibit J – Maintenance Agreement
Exhibit K – MMU Ability to Serve Letter
Exhibit L – UJFD Ability to Serve Letter
Exhibit M – First Floor Plan
Exhibit N – Site Plan
Exhibit O – ANR Source Protection Areas Map

No additional exhibits were submitted during the hearing.

All exhibits are available for public review in the PV001 Conditional Use Review file (DRB 17-06) at the Underhill Zoning & Planning office.

II. FINDINGS

The Minutes of the April 17, 2017 meeting, written by Andrew Strniste, are incorporated by reference into this decision. Please refer to the Minutes for a summary of the testimony.

Based on the submitted application, testimony, exhibits, and evidence, the Development Review Board makes the following findings under the requirements of the Underhill Unified Land Use and Development Regulations (ULUDR) as amended March 6, 2012 & March 4, 2014:

PREAMBLE

The Board notes that this central three-way stop in Underhill Village Center is a slow trafficked area, with the former Underhill Country Store building creating an ad hoc pedestrian center of town. Anecdotally, customer parking for the carry-out businesses in this historic building has been across the road and on Green Street with pedestrian circulation across Pleasant Valley Road without incident or complaint. There is support within the Town Plan, and from members of the community, to continue the existing model of parking and pedestrian circulation at this location.

FACTUAL FINDINGS

The applicant, Peter Davis on behalf of Rade Holdings, LLC, record owner of the property located at 1 Pleasant Valley Road (PV001) in Underhill, Vermont, is seeking a conditional use permit to convert an existing mixed-use building containing two apartments and retail space to a mixed-use building containing three apartments and retail space. Since the applicant is proposing a building containing two types of uses, the project is designated as a mixed-use project, thus requiring conditional use review under Article II, Table 2.1.

The property is located in one zoning district: the Water Conservation District as defined in Article II, Table 2.4 of the ULUDR.

ZONING DISTRICTS, ARTICLE II

ARTICLE II – ZONING DISTRICTS

A. ARTICLE II, TABLE 2.4 – WATER CONSERVATION DISTRICT

The Board finds that the existing lot does not meet the requirements of the Underhill Water Conservation District, as the existing building fails to meet the minimum dimension setback requirements; the building is a nonconforming structure on a nonconforming lot.

GENERAL REGULATIONS, ARTICLE III

A. **SECTION 3.2 – ACCESS**

The Board finds that existing lot contains two access points from Pleasant Valley Road, a regularly maintained public road. One access point is located to the west of the existing building; the other access point is located to the east of the existing building. The Board finds that there is no evidence that an access permit has ever been obtained, most likely since the existing development predates the access permitting process. The Board waives the requirement of limiting the property to a single access point under Section 3.2.D.2 since both access points are pre-existing, and since the building is intended to be entered from both the west and east sides.

The Board finds that the lot does not conform to the District's frontage requirement of at least 300 feet; however, the lot is pre-existing to the current Underhill Unified Land Use & Development Regulations, and therefore qualifies as a pre-existing, nonconforming lot under Section 3.8.

B. **SECTION 3.3 – CONVERSION OR CHANGE OF USE**

The Board finds that the applicant has failed to satisfy the requirements of Section 3.3.A.1 since the lot fails to meet the dimensional requirements. However, Section 3.3.A.4 allows a nonconforming

structure to be converted so long as it meets the requirements of Section 3.9.

Conditional use review is required under Section 3.3.A.3 since the proposed project includes three (3) dwelling units, as well as retaining retail space, thus qualifying the use as "mixed use." Multi-family dwellings (structures containing three or more dwelling units), retail space, and mixed uses are classified as conditional uses under Table 2.1.

The Board finds that the wastewater system & potable water supply permit/approval is not required per the Vermont Department of Environmental Conservation project review sheet that was submitted as an exhibit prior to the hearing. The Board finds that the submission of this document creates a rebuttable presumption that the soils, water, and groundwater will not be contaminated.

C. **SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS**
The Board finds that the existing structure and existing lot are both nonconforming. While the lot contains one existing structure, which is proposed to be occupied by three (3) apartments and retail space, the structure fails to meet the setback requirements, and likely the building and lot coverage requirements.

The Board finds that the structure has the following lot characters: a front setback of one (1) foot, a west side setback of four (4) feet, an east side setback of 44 feet, and a rear setback of 56 feet. The Water Conservation District requires a 30 feet front setback and 50 feet side & rear setback requirement. Furthermore, the lot is ± 0.26 acres in a district that requires a minimum lot size of 5 acres. Lastly, the lot fails to meet the 300 feet frontage requirement, as it only has 129 feet of frontage on Pleasant Valley Road.

However, the Board finds that applicant has satisfied the requirements of Sections 3.8 and 3.9, and therefore, will not be prevented from obtaining approval from the Board under this section.

D. **SECTION 3.8 – NONCONFORMING LOTS**
The Board finds that the lot was legally existing on the effective date of the current Underhill Unified Land Use & Development Regulations (March 1, 2011; Amended March 6, 2012; Amended March 4, 2014), and therefore, per Section 3.8.A, the lot may be developed for the purposes allowed in the district it is located in even though it does not conform to the minimum lot size requirements.

E. **SECTION 3.9 – NONCONFORMING STRUCTURES**
The Board finds that the existing structure was legally in existence as of the effective dates of the current Underhill Unified Land Use & Development Regulations, and therefore, may continue to be occupied or used indefinitely. The applicant is not proposing to structurally enlarge, extend, expand, modify, or move the building, but rather, the applicant is proposing the building to remain in the same footprint.

F. **SECTION 3.10 – NONCONFORMING USES**
The Board finds that both the existing use and proposed use conform to the Water Conservation District, if approved as a conditional use, and therefore, this section does not apply.

G. **SECTION 3.11 – OUTDOOR LIGHTING**
The Board finds that the applicant did not submit a lighting plan; however, it waives this requirement under Section 3.11.C. The Board requires full cut-off light fixtures for the new, first

floor apartment entry on the west side of the building, which shall be on a motion sensor and not to exceed 1800 lumens (~100 watt incandescent bulb).

In addition, goose-neck light fixtures shall be permitted on both the east and west sides of the building to light (future) signs. The signage lighting shall only be on during business hours, and the illumination is to be confined to the area of the sign. Lastly, the Board finds that all new exterior lighting on the building shall be full cut-off or a shielded type, not allowing any upward distribution of light. Floodlighting is not permitted.

H. **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS**

The Board finds that the applicant submitted a site plan indicating a total of 8 on-site parking spaces located at the sides of the building – seven (7) standard parking spaces and one (1) handicapped parking space, along with a bicycle rack.

The Board finds the handicapped parking space as shown on the site plan is undersized per federal ADA regulations and that the adjustment of its size will result in the loss of one of the seven (7) standard-sized parking spaces.

The Board finds that the applicant did not provide enough information to demonstrate that parking would be screened from adjoining residential properties and public rights-of-way per Section 3.13.A.3; however, given the constraints of the lot, it understands that screening the parking, loading, and service areas is not feasible.

Assuming the historic parking model outlined in the preamble of this decision continues without significant change in pattern, the Board approves a minimum of 5 residential tenant parking spaces with an additional handicapped commercial parking space on-site. Should the nature of the business change from carry-out services or grow by 25% or more (such as an increase in the number of employees) thus requiring more parking spaces, or should the historic off-site parking and circulation pattern become unacceptable or unavailable, the applicant must come back to the Board for additional review.

The Board finds that the applicant provided a Maintenance Plan for snow and trash removal and for landscape maintenance.

I. **ARTICLE III, TABLE 3.1 – MINIMUM OFF-STREET PARKING REQUIREMENTS**

The Board finds that Table 3.1 Minimum Off-Street Parking Requirements does not adequately address how to calculate parking for mixed-use occupancies. Depending on the calculation process, the resulting off-street parking requirements can result in seven (7) spaces or in nine (9) spaces.

The Board finds that the applicant submitted a site plan indicating a total of 8 on-site parking spaces located at the sides of the building; however, as addressed directly above in Section 3.13, the Board finds that with the addition of the handicapped parking space, the total proposed number of parking spaces will be reduced from eight (8) parking spaces to seven (7) parking spaces.

J. **SECTION 3.14 – PERFORMANCE STANDARDS**

The Board finds that the applicant did not submit the requisite information to satisfy the

requirements of Section 3.14; however, the Board does not anticipate that the proposed use of the property will cause, create or result in any of the situations identified in this section. Nevertheless, with the applicant communicating that the intended business is a carry-out type bakery, the hours of operation shall be confined between 6 am and 9 pm, Sunday through Saturday.

K. **SECTION 3.16 – SIGNS**
The Board finds that no specific request for signage has been submitted; however, the applicant noted that lit signage on the sides of the building is anticipated per request of the future commercial tenant. The Board allows any future signage permit application to be reviewed and approved administratively by Staff.

L. **SECTION 3.17 – SOURCE PROTECTION AREAS**
The Board finds the location of the existing property is within an active Groundwater Source Protection Area, but that the existing building is not located within a 200 ft. radius of a public water source.

The Board finds that the applicant is not changing the overall occupancy-type of the existing building (mixed-use with residential tenants and a commercial tenant), and therefore, does not anticipate the source protection area being burdened by the project to any greater degree than it currently is.

The Board recognizes that the proposed use is unlikely to be discharging hazardous materials from floor drains, and the applicant is unlikely to store and apply fertilizers, pesticides, herbicides, and/or other chemicals. The Board finds that the applicant did not provide enough information to satisfy § 3.17.D, however, per Section 5.5.A, the Board waives this requirement for the reasons stated above.

Per Section 3.17.B, The Board finds that the applicant did not provide any information regarding above ground storage tanks for oil, gasoline, or other petroleum products, nor provided information regarding the use of sodium chloride for ice control, information regarding drainage ways and sediment traps, and information regarding any site clearing or distance. The Board requires that the use of sodium chloride for ice control shall be minimized since the property is within an active Groundwater Source Protection Area. Per Section 5.5.A, the Board waives the other requirements of this section for the reasons stated above.

M. **SECTION 3.18 – STEEP SLOPES**
The Board finds that there are no areas of steep slopes (15-25%) or very steep slopes (>25%) present on the lot, and therefore, this section does not apply.

N. **SECTION 3. 19 – SURFACE WATERS & WETLANDS**
The Board finds that there are no surface waters or wetlands present on the lot, and therefore, this section does not apply.

O. **SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS**
The Board finds that the applicant has provided a project review sheet from the Vermont Department of Environmental Conservation indicating that a wastewater system and potable water supply permit/approval is not required. In the event that the applicant changes the type of retail service provided in the commercial section of the building, the applicant shall inquire with the State regarding possible permit updates.

ARTICLE IV, SPECIFIC USE STANDARDS

A. **SECTION 4.13 – MIXED USE**

The Board finds that each of the proposed uses (the three dwelling units and the retail space, presumably a bakery) are conditional uses listed in the Water Conservation District, and therefore, with Board approval, can be conditionally permitted. The proposed structure does not meet the minimum lot, frontage and setback, and maximum lot coverage requirements of the Water Conservation District; however, as discussed above, the lot and structure are both nonconforming and pre-existing.

In addition, the Board approves the application with the understanding that the proposed business will be a carry-out type. If the nature of the business changes from a carry-out to another type of retail business, additional Board review will be required, as the nature of the business could potentially impact other areas of the Board's decision (e.g. parking).

ARTICLE V, DEVELOPMENT REVIEW

A. Section 5.1 – ***APPLICABILITY***

The Board finds that as part Section 5.4.C of the ULUDR, site plan review is required in addition to conditional use review required by Section 5.4.

B. ***SECTION 5.3 – SITE PLAN REVIEW***

Section 5.3.A – Purpose: The Board finds that site plan review is required as part of conditional use review per Section 5.4.C.

Section 5.3.B – Standards: The Board has considered the following standards, and imposes and comments about the following safeguards, modifications and conditions:

SECTION 5.3.B.1 – EXISTING SITE FEATURES: The Board finds that applicant failed to submit an adequate site plan to make a determination; however, it notes that the deficient site plan will not prevent the Board from approving the application. The Board notes that the building at issue is existing, and therefore, the site layout and design will more or less remain the same.

Section 5.3.B.2 – Site Layout & Design: The Board finds that the site layout and design does not conform to the stated goals of the Water Conservation District under Section 5.3.B.2.b; however, the applicant's lot is in Underhill Center, which as a whole, does not conform to the Water Conservation district, as an overwhelming number of lots are nonconforming. The Board notes this discrepancy and waives any requirements under 5.4.D pertaining to this subsection.

Section 5.3.B.3 – Vehicle Access: The Board finds that vehicular access points and parking lots are existing. The Board notes that it has the ability to reduce, consolidate, or eliminate all noncomplying curb cuts under Section 5.3.B.3.b; however, given the property's location in the community and the intended use of the building, the Board waives this requirement per Section 5.5.A.

Section 5.3.B.4 – Parking, Loading & Service Areas: The Board finds that the applicant shall provide adequate on-site parking for all residential tenants. The applicant shall provide at a minimum five (5) parking spaces for the residential tenants, and in addition, provide one (1) handicapped parking space for the commercial tenant. The residential tenant parking spaces shall be dimensioned per Section 3.13.A, and the handicapped parking shall be dimensioned

per the Vermont State Accessibility Code. All parking spaces shall be striped. Furthermore, the Board finds that overnight residential tenant parking shall be restricted to on-site; there shall be no overnight tenant parking on the street. The applicant will be held responsible for enforcing this condition.

Section 5.3.B.5 – Site Circulation: The Board finds that implementing a site circulation plan is not feasible, as the lot's dimensions provide constraints and limited space to implement a circulation plan, if at all. Nevertheless, the applicant shall ensure that the residential tenants have sufficient ingress and egress from the lot during all hours. If a dumpster is to be used on-site, it shall not interfere with parking or site circulation. Furthermore, the Board recognizes that the existing on-site traffic pattern on the west side of the building extends beyond the borders of the property. The Board does not endorse this project impinging on property not owned by the applicant, and it requires the applicant to contain the parking and site circulation to the property's boundary lines.

Section 5.3.B.6 – Landscaping and Screening: The Board finds that the applicant would be unable to provide any landscape screening techniques due to the lot's dimensions. However, if a dumpster is used on-site, the Board finds that it shall be adequately screened, and not visible from Pleasant Valley or River Road.

Section 5.3.B.7 – Outdoor Lighting: The Board finds that the applicant did not submit a lighting plan; however, this deficiency will not prevent the Board from approving the application. The applicant shall provide full cut-off fixtures for the new apartment entry on the west side of the building, on a motion sensor, and not to exceed 1800 lumens (approximately a 100-watt incandescent bulb). In addition, goose-neck signage lighting is permitted on the sides of the building, but can only be lit during business hours. Illumination shall be confined to the area of the sign.

In addition, the building lighting shall be full cut-off or a shielded type, not allowing any upward distribution of light. Floodlighting is not permitted. For acceptable light fixture types, the applicant shall follow Guidelines for Good Exterior Lighting Plans 2009, by The Dark Sky Society. See http://www.darkskysociety.org/handouts/LightingPlanGuidelines.pdf for more detail.

Section 5.3.B.8 – Stormwater Management and Erosion Control: The Board waives this requirement under 5.5.A as there will be no development phases since the application pertains to a conversion of use rather than an expansion of the existing structure or the construction of a new building.

C. SECTION 5.4 – CONDITIONAL USE REVIEW

Section 5.4.A – Purpose: The Board finds that conditional use review is required due to the intended proposed use. The Board finds that the conditions imposed herein address the identified potential impacts, as well as help reduce, avoid, or mitigate those impacts.

Section 5.4.B – General Standards: The Board finds that the conditions imposed herein will mitigate any potential undue adverse effects.

Section 5.4.B.1 – The Capacity of Existing or Planned Community Services or Facilities: The Board finds that the proposed multi-family units will not result in an increase in the

community services and facilities. The Board also finds that the Department of Environmental Conservation has provided documentation that an updated water/wastewater permit is not required.

Section 5.4.B.2 – The Character of the Area Affected: The Board finds that the Town Plan encourages multi-family dwellings/mixed-use buildings to be located in the village centers, such as Underhill Center:

> § 3.1 Land Use, which states: "1. Traditional Village Centers: Underhill has two traditional village centers, Underhill Center and the Underhill Flats area. *These areas are characterized by relatively dense, mixed use development.*" [*Emphasis Added*]
>
> § 3.1 Land Use, which states: "2. Residential Lands: These areas are characterized by private house, primarily single-family homes, some with an accessory dwelling. Current zoning regulations permit single family and two family dwellings in all zoning districts. Multi-family dwellings are allowed as a conditional use in all zoning districts except Soil & Water Conservation. Commercial operations exist in all zoning districts because of allowed conditional uses."

Section 5.4.B.3 – Traffic on Roads and Highways in the Vicinity: The Board finds that the change of use from a mixed-use building containing the old country store and two apartments to a mixed-use building containing retail space, presumably a bakery, and three apartments will result in a minimal impact on the road network, if any.

Section 5.4.B.4 – Bylaws in Effect: The Board finds that the applicant is not in conformance with the regulations in effect. On February 10, 1976, the building was approved for two apartments to be located on the second floor (one efficiency apartment and a one-family apartment). On April 28, 2005, the Zoning Board of Adjustment approved the conversion of one of the apartments into office space. Currently, the second floor contains two apartments rather than one apartment and one office, thereby not complying with the current Underhill Unified Land Use & Development Regulations. In order for the applicant to comply with the Regulations, he would have had to seek a conditional use permit from the Board. Since the applicant is currently proposing a use that requires a conditional use permit, the Board forgoes the applicant bringing the structure into compliance.

Section 5.4.B.5 – The Utilization of Renewable Energy Resources: The Board finds that the proposed conversion of use will not interfere with any sustainable use of renewable energy resources.

Section 5.4.C – Site Plan Review Standards: The Board finds that the site plan review is required as a part of conditional use review. Analysis can be found under Section 5.3 above.

Section 5.4.D – Specific Standards: The Board finds that they may consider the Subsections 5.4.D.1 through 5.4.D.4 and impose conditions as necessary to reduce or mitigate any identified adverse impacts of a proposed development.

Section 5.4.D.1 – Conformance with the Town Plan: The proposed conversion of use complies with the Town Plan (see Section 5.4.B.2 above).

Section 5.4.D.2 – Zoning District & Use Standards: The Board finds that the project contains a nonconforming structure on a nonconforming lot, and that these characteristics shall not bar the applicant from approval.

Section 5.4.D.3 – Performance Standards: The Board finds that the proposed project will comply with the performance standards set forth in Section 3.14 above.

Section 5.4.D.4 – Legal Documentation: The Board finds that the applicant has provided a maintenance plan, which addresses trash removal, snow removal and landscape maintenance. The Board finds that the applicant is responsible for keeping the property free of debris and trash and shall provide adequate interim storage for the collection trash that is not visible from Pleasant Valley or River Road. If a dumpster is to be used on-site, it shall be screened as to not be visible from the road and shall not interfere with parking or site circulation.

D. **SECTION 5.5 – WAIVERS & VARIANCES**

Section 5.5.A – Applications & Review Standards: The Board finds that it has the authority to waive application requirements and site plan or conditional use review standards under Sections 5.3 and 5.4 that it determines are not relevant to a particular application. The Board has noted those conditions that have been waived throughout this decision. Any provision that was not explicitly waived, and has not been explicitly addressed, the Board makes no finding on.

ARTICLE VI, FLOOD HAZARD AREA REVIEW

There are no Flood Hazard Areas present on the lot, and therefore, review under Article VI is not required.

III. CONCLUSION

The Board thoroughly reviewed all aspects of the proposal under the evaluation criteria in the ULUDR, and it was satisfied with the level of investigation, engineering and evaluation conducted in the application submittal and review process concerning the abovementioned project.

Based on the evidence submitted and the above findings, the Board concludes that the proposed project generally conforms to the Underhill Land Use & Development Regulations.

IV. DECISIONS AND CONDITIONS OF APPROVAL

Based upon the findings above, and subject to the conditions below, the Development Review Board grants conditional use approval as presented at the hearing with the following conditions:

1. The applicant shall be responsible for keeping the property free of debris and trash, and shall provide adequate interim storage for the collection of trash that is screened and not visible from Pleasant Valley Road or River Road.
2. If a dumpster is to be used on-site, it shall be screened and not visible from Pleasant Valley Road or River Road, nor shall the dumpster interfere with on-site parking or site circulation.
3. The applicant shall secure all required permits or approvals from the applicable Vermont state agencies, including but not limited to the Division of Fire Safety (or written verification if a permit is not required) for the change of occupancy from commercial space to

residential/commercial space. These permits shall be submitted to the Zoning Administrator prior to obtaining a certificate of occupancy as required under Section 10.4.A.2.

4. A full cut-off fixture is permitted for the new apartment entry on the west side of the building, on a motion sensor, and not to exceed 1800 lumens (~100-watt incandescent bulb).
5. Goose-neck signage lighting is permitted on the sides of the building, and shall only be lit during business hours. Illumination shall be confined to the area of the sign.
6. Exterior lighting shall be full cut-off or a shielded type design that does not allow the distribution of light upward. Acceptable light fixtures are confined to those in the Guidelines for Good Exterior Lighting Plans 2009, by the Dark Sky Society.
7. Floodlighting is not permitted.
8. The applicant shall provide adequate parking on-site for all residential tenants. Residential tenant overnight parking shall be contained to the site; the applicant is responsible for enforcing this restriction.
9. The applicant shall provide a minimum of five (5) on-site parking for the residential tenants and one (1) handicapped parking space for the commercial tenant.
10. Residential tenant parking spaces shall be dimensional per the requirements under Section 3.13.A.1, and the handicapped parking space shall be dimensioned per the Vermont State Accessibility Code.
11. All parking spaces shall be striped.
12. The applicant shall contain all parking locations and site circulation patterns within the property's boundary lines.
13. The hours of operation of the retail carry-out type business shall occur between 6 am and 9 pm.
14. In the event that the nature of the business changes from carry-out services, the applicant shall return to the Board for additional review.
15. The applicant shall supply an as-built drawing of the interior first-floor layout and the exterior parking configuration to-scale prior to the Certificate of Occupancy being issued.
16. The above conditions must be met by the applicant prior to a Certificate of Occupancy being issued. Any ongoing conditions above shall be the permanent responsibility of the building owner if the property changes ownership.
17. The project shall conform to the submitted application materials and hearing testimony presented by the applicant. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention prior to its enactment to determine if the above conditions need to be amended.

Dated at Underhill, Vermont this 12 day of May, 2017.

Mark Green, Acting Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environment Court by an interested person who participated in the proceedings before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings. Appeal period ends June 11, 2017.