

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: Lorista Holdings, LLC

Owner/Applicant(s) Mailing Address: 70 William Street, Wallingford Ct. 06492

Address of the subject property: 1,3,5 East Main Street, Wilmington Vt. 05363

Tax Map: # 021-22-006 - 021-22-007 - 021-22-008

A copy of the request is filed in the office of the Board and is referred to as: #2015- 074

Description of Case per Public Notice:

Application # 2015-074; Owner Lorista Holdings, LLC. Application is being made to allow attachment of properties, change of use to an Inn & retail store & installation of new windows. Village zoning district (Historic Review District); Section 620, 630, 804 & 811; location 1,3 & 5 East Main Street.

Notice for a public hearing was published in the Valley News on: July 30th, 2015

Notice was posted in three public places on: July 30th, 2015

A copy of the notice was mailed to the applicant on: July 30th, 2015

A copy of the notice was mailed to the abutters on: July 30th, 2015

Public hearings were held on: August 17th, 31st, and September 8th, 2015

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environmental Court.

Appeal period for this Case expires on: _____

Approval expires on: _____

In addition to the Applicant/Agent the following persons, heard by the Board in connection with this request, were determined by the Board to be interested persons : Copies of this decision have been mailed to those persons listed below.

The following presented testimony on behalf of the Applicant or an Interested Person:

Meg Streeter	Abutter
Lilias MacBean Hart	Interested Party with Petition of 10 persons
Sheila Osler	Interested Party with Petition of 10 persons
Craig Ohlson	Zoning Administrator

EXHIBITS

The following Exhibits were placed in evidence by the Applicant or Interested Person:

1. Application (3 Pages)

2. Exhibit A - Floor Plans and Elevations Dated 6/1/2015 - WORKSHOP 48, LLC
3. Exhibit B - Elevations Dated 7/15/2015 - WORKSHOP 48, LLC
4. Exhibit C - Elevations Dated 9/14/2015 - WORKSHOP 48, LLC
5. Exhibit D - Elevations - no date as drawn by Sheila Osler
6. Exhibit E - Color Chart, Lighting Example by Mike Riccio
7. Exhibit F - Petition of 10 persons for Liliias MacBean Hart, Spokesperson
8. Exhibit G - Petition of 10 persons for Sheila Osler, Spokesperson
9. Exhibit H- Letter dated, 9/1/2015 from Sheila Osler and Liliias MacBean Hart
10. Exhibit I - Letter dated, 9/8/2015 from Sheila Osler
11. Exhibit J - Letter dated, 9/8/2015 from Liliias MacBean Hart
12. Exhibit K - Photos taken by Meg Streeter dated 8/17/2015

APPLICABLE DISTRICT

Finding of Fact: Subject properties are in the Flood Hazard District, the Historic Review District and the Village District of the Town of Wilmington. The buildings are known as DCD #12.

Conclusions of Law: The proposed development lies in the Flood Hazard District, the Historical Review District and the Village District pursuant to Article II, Section 270 B.

USES

Finding of Facts: Subject properties were most recently; 1 East Main Street, a Home Center retail store with offices on second floor; 3 East Main Street, a Professional Building with a surveyor office; and 5 East Main Street, a retail store with apartment.. Revised uses will include Retail and Lobby on first floor and 13 Guest Rooms on the second and third floors.

Meg Streeter, Abutter, asked the board to consider if the new changes would effect the Criteria in Section 620.

Conclusions of Law: The proposed development is for approved uses for this district.

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LEGAL NONCONFORMITIES SECTION 230, 234

Finding of Facts: Section 230 defines a Legal Nonconformity as a Structure or Use that does not conform to current regulations of the Zoning Ordinance but did conform to current regulation in existence at the time the Structure or Use was established . Section 234 allows that any Legal Nonconforming Use may be a) altered, changed, or enhanced for any reason so long as it does not increase the degree of non-conformity and b) any nonconforming use that is not actively engaged in for a period of twelve (12) months shall be considered a discontinued Use and the property will become subject to the of the Ordinance, unless extension is granted by the Development Review Board.

Conclusions of Law: N/A

DIMENSIONAL REQUIREMENTS

Findings of Fact: Section 270 B(5.a) the Village District inside the Historic Review District District dimensional requirements require:

- Min Lot Size 1/8 acre
- 40 feet lot frontage
- 35 height maximum
- 0 front setback
- 0 side & rear setback

Applicant dimensions are as follows:

- Lot Size .25 acres (meets Village District standard)
- Frontage 64.63 (meets Village District standard)
- Proposed building height is 35 (meets height maximum)
- Front Setback of building is 0 front, (meets front setback)
- East Side Setback is 12 (meets side setback)
- West Side Setback is 0 (meets side setback)
- Rear Setback is 30.96 (meets rear setback)

Conclusions of Law:

Dimensional requirements of lot size, frontage, building height, and setbacks are met for the Village District inside the Historic Review District.

GENERAL STANDARDS FOR CONDITIONAL USES SECTION 320 A

The proposed development shall not have an undue adverse effect on:

A1: Community Facilities

Findings of Fact: Condition 1 from DRB case # 2014-032 stands and states – Applicant will provide evidence of approval from the Town of Wilmington Fire Marshall that all concerns regarding safety equipment access to the project is met with his satisfaction. No EMS safety plan agreement has been presented by the applicant. There will be no expected impacts on local Schools, community services, health care facilities, or other community facilities.

Conclusions of Law: Conditions from DRB case #2014-032 are still in effect and a EMS safety plan agreement will be conditioned in this decision to ensure there is a plan for emergency services and public safety.

A2: Character of the Area

Findings of Facts: The purpose of the Village District is to retain the character of there existing village, provide for future residential and commercial development through historically appropriate structures and business types at appropriate densities, and promote residential and tourist quality of life by preserving and developing a custard village reflecting a visibly vibrant and energized community. The proposed development is accurate for the character for this district purpose. To maintain the character of the area and the purpose of the district, the applicant testified the proposed development will have:

1. One East Main Street is proposed to have – 2 over 2 windows on second and third floor, triple protruding display windows on first floor West Elevation, slate roof and will be painted gray/green with a lighter shade of green trim.
2. Three East Main Street is proposed to have – 12 over 12 windows, faux slate roof and will be painted white.
3. Five East Main Street is proposed to have – 6 over 6 windows, black asphalt shingles, roof pitch to match Three East Main Street and will be painted grey with a darker shade of grey trim.
4. Connector building is proposed to have 6 over 6 windows to match Three East Main Street, dormer roof pitch to match Three East Main Street with black asphalt shingles and will be painted grey with a darker shade of grey trim.

Interested Parties, Sheila Osler and Liliias MacBean Hart, offered a tremendous amount of input on the final determinations set forth by the applicant. All parties worked diligently together to finalize the plans that enhances and protects our valuable Historic District.

Conclusions of Law: The proposed development as shown on Exhibit C dated 09/14/2015 is consistent with the defined purpose of the Village District and is consistent with the character of the area.

A3: Traffic on Roads and Highways

Findings of Facts: Current traffic congestion pre-exists in this area. The proposed development will impact the current traffic, highway, and roadway conditions by offering a Valet Parking Program as testified by Rob Aubin at the DRB hearing July 14th, 2014, case # 2014-032.

Conclusions of Law: The proposed development will satisfying the standard requiring safe traffic, highways, and roadways.

A4: Bylaws and Ordinances in Effect

Finding of Facts: Proposed development has been proven to be conforming to all bylaws and ordinances in effect at the time of this decision including the Zoning Ordinance and the Town Plan.

Conclusions of Law: This application is in conformity with all bylaws and ordinances.

A5. Utilization of Renewable Energy & Natural Resources

Findings of Fact: High efficiency lighting at the minimum lumens necessary to achieve the functional purpose will be used. No other renewable energy or natural resource impacts are anticipated for this development.

Conclusions of Law: The application is in conformity with having no undue adverse impact on utilization of renewable energy and natural resources.

SPECIFIC STANDARDS FOR CONDITIONAL USES SECTION 320

B. Must satisfy General Standards and Flood Hazard Regulations

Finding of Fact: This development is in the flood hazard area.

Conclusions of Law: All conditions from case #2014-032 will be carried forward.

Dimensional, density, coverage and purpose of the district.

Findings of Fact: N/A Historic Review District – zero setbacks.

Conclusions of Law: N/A

Traffic and parking safety

Findings of Fact: See Section 320 A.3 above.

Conclusions of Law: See Section 320 A.3 above.

Snow removal, the maintenance of parking areas, internal roads

Findings of Fact: Applicant testified on DRB case #2014-032 that snow stops will be installed and that snow will be removed on public walkways. The rear of the building, the right-of-way will be maintained as a permeable surface.

Conclusions of Law: Applicant will promptly clear public walkways of snow and ice and treat the surface as need to maintain safe conditions during all hours of use. This meets the requirements of this condition.

Landscaping and screening

Findings of Fact: DRB case # 2014-032 Applicant testified there will a courtyard between One and Three East Main Street that will be hard-scaped with stone and landscaped with plantings. Although the new application will make this court yard smaller this decision will condition similar landscaping. Applicant also testified that a fenced area behind the lobby will house outside utilities like heat pumps and refuse dumpsters from public view.

Conclusions of Law: The proposed development meets this standard.

Allowance for Conditions. (see conditions section of this document)

Independent Technical Review (the Board finds no reason to convene an Independent Technical Review.

Any substantial alteration, extension or other change to a Conditional Use affecting one or more of the Conditional Use criteria shall require reapplication to the Development Review Board.

Section 340: General Performance Standards (for Conditional Uses and PUDs)

For Conditional Uses and PUDs, the following general performance standards must be met and maintained for all uses, except for agriculture and forestry, in all districts. All applicable criteria shall be determined or measured at the property line.

A: See Article II for District Requirements see dimensional Findings of Fact in prior sections.

B: Air Emissions for Commercial Operations: There shall be no emission of dust, ash, smoke or other particulate matter

Which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity;

Which can cause contamination of the subject property or beyond the property boundaries;

Which is composed of solid or liquid particles in concentrations exceeding current state authority standards;

Which causes emission of non-farming, odorous matter in such quantities, as determined by the current state authority standards to be offensive.

Findings of Fact: N/A

Conclusions of Law: N/A

C: Buffer Areas: No industrial or commercial buildings or uses shall be established abutting a residential use (except in the Village District) unless a landscaped buffer strip of at least twenty (20) feet in depth is provided to visually screen the buildings or uses. Where no natural vegetation can be maintained or where necessary due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffer areas shall be maintained and vegetation replaced to insure continuous year-round screening.

Finding of Facts: This property does not buffer a residential use. There are residential uses

across the right-of-way, however no buffers are possible due to the right-of-way.
Conclusions of Law: Not applicable.

D: Landscaping: See Section 320.D.

E: Lighting and Glare: Exterior lighting on the site shall be shielded and downcast and shall not impair motor vehicles, aircraft or provide undue glare in surrounding areas. Lighting will not exceed 5 foot candles at abutting properties.

Findings of Fact: Applicant testified all lighting will be shielded and downcast, it not create undue glare of interfere with motor vehicles or aircraft. Applicant testified that each building will have a historically correct lighting package to match each building s style and circa.

Conclusions of Law: The proposed development meets this standard.

F: Parking: Required off-street parking (except in the HRD)

A parking space shall be at least ten (10) feet by twenty (20) feet.

Retail Business: One (1) parking space for every two hundred (200) square feet of floor area. Restaurant, bar, lounge, Entertainment / Cultural Facility: One (1) parking space for every three (3) persons permitted for occupancy by the Vermont Department of Labor and Industry Parking and loading docks should not be a predominant aspect of the site viewed from the road. Some visible parking is appropriate. However, front parking should not exceed the front width of the building and have no more than 5 spaces. If significant volume is needed, should be located toward the rear of the building and screened.

Findings of Fact: Project is in the HRD.

Conclusions of Law: N/A

G: Shared Access: The applicant may be required to provide for shared access between adjoining properties.

Findings of Fact: Case #2014-032 Exhibit B working plans, sheet A1.0 Dated 6/19/2014 shows a proposed 20' easement along the South side boarder. This easement is required for emergency vehicles and fire fighting apparatus.

Conclusions of Law: The 20' easement must be in place to provide access for emergency vehicles and fire fighting apparatus for public safety.

H: Setbacks and Screening: Storage area setbacks and screening are required to provide a visual buffer and minimize visual impact. Minimize any potential physical hazards.

Findings of Fact: Applicant testified storage and utility facilities will be visually buffered by a screened are behind lobby. Case #2014-032.

Conclusions of Law: Storage, Loading Dock, Utility screening meets this standard.

J: Traffic Impacts and Street Access Control: traffic circulation must safeguard against hazard to vehicles and pedestrians to avoid traffic congestion, and provide safe and accessible circulation.

Findings of Fact: See sections 320 A.3

Conclusions of Law: Proposed development meets this standard.

K: Road development: Any new roads, whether Town or private, shall conform with the Town of Wilmington Town Highway Ordinance 2011, adopted September 27, 2011

Findings of Fact: No road development in this proposed development.

Conclusions of Law: Not applicable.

L: Vibration: There shall be no permanent, ongoing vibration discernible at the property line

Findings of Fact: N/A

Conclusions of Law: N/A

M: Noise: No Continuous, permanent or ongoing noise > 70 decibels at the property boundary line.

Findings of Fact: N/A

Conclusions of Law: N/A

N: Water Quality: Stormwater management and detention.

Findings of Fact: The proposed development is not anticipated to increase stormwater runoff from this property. Case #2014-032, condition #7 states that the rear driveway/right-of-way will be of a permeable surface to promote stormwater absorption and minimize runoff.

Conclusions of Law: Proposed development meets this standard.

CONDITIONS:

The application for development is approved with the following conditions, restrictions, requirements, limitations and specifications.

1. All exterior lighting will match each buildings architectural style and circa to enhance and preserve the historic nature of our Historic Review District.
2. Exterior paint will match each buildings architectural style and circa to enhance and preserve the historic nature of our Historic Review District.
3. Windows will be true divided lights, 2/2 in one East Main, 12/12 in three East Main and 6/6 in the connector building and lobby.
4. The roof material on the connector building will be the same as 3 East Main Street, The Professional Building, faux slate.
5. The roof material on 1 East Main Street shall be faux wood shakes.
6. Courtyard between one and three East Main Street will be seasonally landscaped and provide seating for pedestrians and encourage public foot traffic through the connector towards South Main Street
7. A safety plan must be set up with EMS for public well being.
8. All conditions from Case # 2014-032 are still in effect.

The applicant is responsible for obtaining all state and federal permits.

If unused, this Approval expires one year from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit must be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval does not relieve you, as applicant, from obtaining any and ALL applicable State and other local permits.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Peter Wallace
Wendy Manners
Tim Hall
Allen Taylor

OPPOSED:

None

ABSTAINING:

None

For the Board: Peter Wallace, Chairperson

Date: _____

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.