

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:

Gerald and Sheila Osler
Agent Paul Lockyear

Owner/Applicant(s) Mailing Address: P.O. Box 787, Wilmington, VT 05363

Agent Mailing Address: 153 Route 9 West, Wilmington, VT 05363

Address of the subject property: **18 North Main St.**

Tax Map: # **021-20-023.000**

A copy of the request is filed in the office of the Board and is referred to as: **#2018- 008**

Date of Application: **April 16, 2018**

Zoning Ordinance Then in Effect: **Effective November 8, 2017**

Description of Case per Public Notice:

Application # 2018-008; Owner: Gerald & Sheila Osler Agent: Paul Lockyear. Application being made for Conditional Use review to allow a Food Stand (Food Truck). Village zoning district: Sections 450 B (4) & 710, 721, 722 & 730 location: 18 North Main St.

This application is made in collaboration with the Red Mill Inn owned and operated by Gerald and Sheila Osler. The Red Mill, Jerry's Deck, would provide restaurant services for Food Truck customers including beverage and alcohol. Restaurant services at the Inn are not a Change in Use (the Restaurant was last open October of 2016. This Use remains a Conditional Use under the current Zoning Ordinance and, therefore, has not expired. Restaurant Use, therefore, is a Current Use and does not require Permitting.

Notice for a public hearing was published in the Valley News on: **May 19, 2018**

Notice was posted in three public places on: **May 19, 2018**

A copy of the notice was mailed to the applicant on: **May 19, 2018**

A copy of the notice was mailed to the abutters on: **May 19, 2019**

Public hearing were held on May 7, 2018

There was no Site Visit.

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: June 17, 2018

Approval expires on: May 17, 2020

In addition to the Applicant (Paul Lockyear), the following persons heard by the Board in connection with this request, were determined by the Board to be “interested persons”:

Gerald Osler – Owner

Sheila Osler – Owner

Michele Lockyear (Shelley) – on behalf of the applicant

Copies of this decision have been mailed to those persons listed below.

EXHIBITS

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

1. Application consisting of 4 pages
2. Map of Plot 21-20-023.000
3. Tuck Placement Hand Drawing

SYNOPSIS

The applicant proposes to place the Nutmeg Food Truck in the Old Red Mill Inn and to serve food from there. Application is made for 365 days a year with approximate operating hours of 10 AM to 10 PM. Set up and closing hours would occur before 10 AM and after 10 PM. The truck would be returned daily to the Nutmeg Inn for provisioning.

APPLICABLE DISTRICT

Finding of Fact: Subject property is identified as Tax Map: # 021-20-023.000 and has an address of 18 North Main St.

Conclusions of Law: The proposed development lies in the **Village District** within the **Historic Design Review District**. The application will be reviewed under Article IV Section 450(B).

USES

Finding of Facts: The proposed Use, Food Stand, is a Secondary Use to this property, with Current Uses of Lodging and Restaurant. Food Stand is “An establishment that serves food and beverages to the public for take-out and/or outdoor consumption.” Applicant seeks approval of a Food Truck. The Board finds a Food Truck to be a type of Food Stand. The terms Food Truck and Food Stand will be used interchangeably in this decision. The Food Stand will be operational year-round.

Conclusions of Law: A Food Stand is a Conditional Use in the Village District and is allowed if meeting the requirements of a Conditional Use. The Village District for Commercial Use allows an unlimited number of Commercial Structures and Uses per Lot Section 450 B(5)

Dimensional Requirements:

Findings of Fact: the Village District: within the Historic Design Review District 450 (5a)

Density Limits: Unlimited

Structures/Uses Per Lot: Unlimited

Dimensional requirements:

- 1/8 acre Min Lot Size (lot is approximately 4 acres)
- 40 feet lot frontage (Frontage is approximately 300 feet)
- 38’ to the highest point of the ridgeline from average grade - height maximum (not applicable)
- 0 ft. front setback (0 setback met)

- 0 ft side & rear setback (0 setback met)

The proposed location of the Food Stand meets the dimensional requirements.

Conclusions of Law: Density & Dimensional requirements are met.

Article V Design Review Districts

Section 530 Development Review Board Site Plan and Design Review Required on Design Review District Development

No structure “may be erected, renovated, substantially altered, restored, moved, demolished, or changed in Use or type of occupancy without a written decisions and approval of plans by the appropriate municipal panel.”

Findings of Fact: Food Truck placement requested through this application does not involve erection, renovation, substantial alteration, restoration, movement, demolition, or change in Use or type of occupancy. Jerry’s Deck structure and Use is pre-existing and is not changing. This application is limited to the placement of a Food Truck on the property.

Conclusions of Law: Section 510 is not applicable.

Article VI Flood Hazard District

Section 602 (A-C): Lands to Which These Regulations Apply

Regulations apply to development in all areas of the town identified as special flood hazard in and on the most current flood insurance studies and maps published by the Dept. of Homeland Security, FEMA, and National Flood Insurance Program (NFIP), as provided by the ANR pursuant to 10 V.S.A. section 753. The base flood elevations and floodway limits (zones A1 – A30, AE and AH) provided by the NFIP shall be used to administer provisions of the regulation. If none is provided by the NFIP then information available from the state or federal agencies or other sources shall be obtained and reasonably utilized.

Findings of Fact: 18 North Main St has lands within the Flood Hazard District flood hazard area as defined by NFIP or FEMA flood maps. The property to be used in this application is outside of that flood hazard area.

Conclusions of Law: Flood Hazard District regulations are not applicable to the Food Stand or the area where picnic tables may be placed (Testimony of the Owner and Craig Ohlson, Zoning Administrator.) The Food Stand will be in very close proximity to a floodway and, therefore, voluntarily agrees to comply with these Flood Hazard regulations.

Section 610 (A): Development Standards

Before a permit may be granted, the Development Review Board shall require the following standards:

A. Floodway Areas

1. Development within the regulatory floodway, as determined by Section 602, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.
2. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

Findings of Fact: The proposed Food Truck is licensed, registered and safety inspected with the Department of Motor Vehicles and is roadworthy. In the event of forecasted chance of flooding the Food Truck, together with any trash receptacles, will be removed from the Flood Hazard area until risk of flooding is passed. (Applicant testimony)

Conclusions of Law: This decision is conditioned on the Food Truck being maintained with an active license, registration and safety inspection and in good working condition at all times so that it may be removed in the event of a forecasted chance of flooding. The applicant agrees to ensure the removal the vehicle and trash receptacles from the flood hazard area in the event of forecasted chance of flood. The proposed Use will not be present during risk of flooding.

B thru K not applicable.

L. Securing Floatables

All floatables in any District and in an area which has historically flooded and all Flood Fringe Areas shall be raised above the Base Flood Elevation (BFE) or firmly secured so as to ensure they are not dislodged in the event of a flood. This includes but is not limited to propane, oil and gas tanks, chemicals, explosives, flammable liquids, toxic or hazardous materials.

Findings of Fact: The area where the Food Truck will be placed did not flood during the 2011 flood of Tropical Storm Irene. Therefore, compliance with this requirement is voluntary on the part of the applicant as the proposed site is within close proximity to areas that did flood. The applicant proposes the possible placing of wooden picnic tables in the area around the Food Truck where customers may eat the products purchased. Other customers will choose to eat on “Jerry’s Deck. The picnic tables wooden to be floatable and will be secured so they do not float away. (Applicant testimony)

Conclusions of Law: As a voluntary compliance moving the Food Truck during risk of flood and securing wooden picnic tables will not be a condition of this decision.

Article VII Standards

Section 710: Use Performance Standards

A. Vibration: No continuous, permanent, ongoing, or frequent vibration that is discernible at the property line.

Finding of Facts: There will be no continuous, permanent, ongoing, or frequent vibration (Applicant testimony)

Conclusions of Law: Standard 710 A is met.

B. Noise: Continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation must not exist at the property line. Recurring periodic noise in excess of that of a normal lawn mower at the property line is allowed provided it does not occur between the hours of 9PM and 7AM and does not significantly detract from or diminish other property’s allowed use or land development.

Finding of Facts: There will be no continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation at the property line. The Food Truck will run off of main line connection to electricity at the Red Mill Inn. There will be no generator used at this location. (Applicant testimony)

Conclusions of Law: Standard 710 B is met.

C. Air Emissions for Commercial Operations: There shall be no emission of dust, ash, smoke or

other particulate matter that can:

1. Cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity.
2. Contaminate the property or beyond the property boundaries.
3. Have solid or liquid particulates in concentrations exceeding state standards.
4. Cause odorous matter in quantities as to be offensive.

Finding of Facts: There will be no emission of dust, ash, smoke or other particulate matter. (Applicant testimony)

Conclusions of Law: Standard 710 C is met.

D. Injurious or Noxious Practices: No operations or use shall create electromagnetic, liquid or solid refuse or waste, heat, cold, dampness, explosive, fire, glare, or other hazard which will cause injury or damage to human or animal health, vegetation, or property.

Finding of Facts: The Red Mill Inn has dumpsters to the rear of the building. If additional dumpsters are required to accommodate added waste, they will be added in the same discrete location. Trash containers will be placed inside the Food Truck as well as in the picnic area and emptied daily to keep the area clear of trash. The proposed Food Truck will not create electromagnetic, liquid or solid refuse or waste, heat, cold, dampness, explosive, fire, glare, or other hazard which will cause injury or damage to human or animal health, vegetation, or property. (Applicant testimony)

Conclusions of Law: Standard 710 D is met.

Section 721: General Standards

The proposed use shall protect against adverse effect on:

A: Community, Municipal or Educational Facilities

Findings of Fact: The proposed Use will have up to 3 employees working at a time. The Food Truck will be a mobile licensed, registered and safety inspected Food Truck. No burdens are anticipated for schools, police, fire, health care facilities or other community services or facilities. (Testimony of the Applicant)

Conclusions of Law: The Applicant will meet with Wilmington Police and Fire representatives and address any safety or impact concerns raised by those departments.

B. Traffic on Roads and Highways

Findings of Facts: The proposed site is accessed from Route 100 just north of the center of Wilmington. The speed limit through this area is 25 miles per hour. The stoplight at the center of town ensures traffic maintains slow speeds through this area.

There is the ability to service up to four customers at a time. Orders take approximately 20 minutes to fill. Maximum number of daily patrons is anticipated to be 50-60 on a weekend. Jerry's Deck holds up to 75 patrons. (Applicant testimony) Anticipated activity is expected to be no more than that which was present when Jerry's Deck was in operation.

To improve safety issues related to cars parking on the gravel area on the north side of the property (outside of Jerry's Deck) which is in close proximity to a blind curve in Route 100 North, the Food Truck will be parked there, blocking parking in that area for customers. Customers will park in the southern gravel parking area and in the parking area to the rear of the building. Decorative barriers

(such as planters etc.) will be placed along the roadway to prevent customers from pulling into the north parking area. Customers will be routed through the main entrance of the inn. Servers may be used to bring customers their orders on Jerry's Deck. If used, they will use the doorway to Jerry's Deck for access to the Food Truck.

Conclusions of Law: The proposed development will have minimal impact on traffic and the parking arrangements will improve current traffic safety issues for this site. Standard 721 B is met.

C: Bylaws and Ordinances in Effect

Finding of Facts: Proposed development has been shown 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. Standard 721 C is met.

D. Utilization of Renewable Energy & Natural Resources

Findings of Fact: Renewable energy or natural resource impacts anticipated for this use have been addressed through refuse management planning and the planned use of compostable packaging materials (see decision 2017-005).

Conclusions of Law: Standard 721 D is met.

E. Air Quality

Finding of Fact: See Section 710 A above

Conclusion of Law: Standard 721 E is met.

F. Character of the Area

Findings of Facts: The purpose of the Village District is:

“To retain the character of the 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 clustered village reflecting a visibly vibrant and energized community.

Development and reconstruction shall reflect the character and ambiance of the historic village. Businesses shall promote economic stability and sustainability of the town through contributing substantially to the economic viability of the community. Businesses shall provide a substantially unique retail and service experience to attract visitors and meet the needs of residents. Businesses shall reflect the special character and ambiance of the town. Businesses shall be small in scale consistent with the clustered downtown of the historic village.”

A Food Truck is an appropriate historic types of service. The presence of a Food Truck will add to the quality of life by providing an alternative informal food service option for the downtown area. ‘The presence of outdoor dining is a desirable addition, contributing to the vibrancy and energy of the downtown. The business is small in scale, consistent with the scale of the clustered village.

Hours of operation will be no earlier than 10 AM and no later than 10 PM. The Food Stand personnel will prepare the Food Truck and close up their services before and after opening hours, but will not operate before 8 AM or after 11 PM.

Conclusions of Law: The proposed development is consistent with the defined purpose of the Village District and is consistent with the mixed-use character of the area. Standard 721 F is met.

Article VII Standards

Section 722: Conditional Use - Preserving the Character of the Town

A. Preserving the Town's Character

B. Economic Development contributing to the Character of the Town: Preserves the rural, agricultural character and ambiance of the community and historic downtown.

C. Development Consistent with the Rural, Agricultural, and Historic Nature of the Town: Merchandise and services shall not detract from the historic character and nature of the town as a family destination for tourists and a family focused residential community.

D. Formula Businesses – not applicable

E. Maximum Square Footage of Retail (2000 square feet) – not applicable

F. Building Scale Conformity – Not applicable

G. Utility Placement – Not applicable

Finding of Fact: The proposed use is within the historic downtown. The proposed location utilizes a restaurant that presently is inactive. The restaurant was last in Use October of 2016. The addition of a Food Stand does not detract from the historic or rural/agricultural character of the town. The presence of a Food Stand serves the needs of tourists and residents alike, contributing to services available and character of the town.

Conclusions of Law: The proposed use preserves the character of the town consistent with the rural, agricultural, historic nature of the town as a family oriented tourist destination and a residential community. Standard 722 A, B, C and F are met. Section 722 D, E, and G are not applicable.

Article VII Standards

Section 723: Conditional Use - Preserving the Character of the Town: Historic Preservation (required in the Historic Design Review District (HDRD), recommended in all other districts)

Findings of Fact: The proposed Use puts to use a historic restaurant that is currently not in use.

Conclusions of Law: As noted above, the proposed use preserves and contributes positively to the character of the town.

Article VII Specific Standards

Section 730: Conditional Use – Specific Standards

A. Lighting and Glare: Shall be shielded and downcast. Glare and reflection is prohibited if it is a unreasonable nuisance to other property owners or tenants, does not contribute to aesthetics, scenic value or character of the area, or could impair vision of pedestrians or drivers. In HDRD and village must be consistent with historic character.

Findings of Fact: The Food Truck has downcast lighting mounted on the truck that will illuminate an area approximately 50 feet around the passenger side of the truck. Lighting is shielded and downcast. The truck will be placed between the Red Mill Inn by Jerry's Deck and Route 100. Lighting will be on the side of the truck facing the road. The Applicant agrees to ensure that lights will be directed so as to not impair the vision of pedestrians or drivers. Neighboring properties

across Route 100 are at a higher elevation. Therefore, no undue adverse impact on neighboring properties is anticipated. (Applicant testimony) Any adverse impact that may occur will be promptly addressed to resolution by the Applicant. Lighting will not interfere with aesthetics, scenic value, or the character of the area.

Conclusions of Law: Standard 730 A is met.

B. Safety: Shall minimize physical hazards where there are potential safety hazards.

Findings of Fact: A state permit to operate has been issued for the Food Truck (see decision 2017-005). Road safety issues have been addressed through directing customer parking to the southern and rear lots. A 15 foot fence on the Red Mill building prevents customers from accessing the steep embankment to the river. (Sheila Osler testimony)

Conclusions of Law: Standard 730 B is met.

C. Traffic and Pedestrian Safety: Pedestrian walkways to ensure safe and efficient navigation by foot or bicycle. Special consideration shall be made for children's safety. Traffic patterns will be review for safety, ease of flow and efficiency.

Findings of Fact: Pedestrians areas will be kept separate and safe from vehicular traffic through placement of large planting barrels or such other materials as needed to discourage passage between the Food Truck and Route 100. (Applicant testimony) Signage and traffic cones or other devices will be placed as needed to keep pedestrians and drivers aware and safe. The Food Stand will be accessible from ground level creating no ADA compliance issues. Normal Red Mill Inn plowing and sanding operations will address winter accommodations for the Food Truck and related services.

Conclusions of Law: Standard 731 C is met.

D. Commercial Parking and Loading: Commercial parking and loading areas in all districts shall:

1. Provide off-street parking (except in the HDRD)

2. Parking spaces shall be 10 x 18 (smaller allowed only if need for added spaces outweighs the risk and public inconvenience of smaller spaces). Special consideration shall be given to safety, pedestrian and disabled persons concerns when smaller spaces are allowed.

3. Minimum number of spaces: One (1) parking space for each 200 sq ft. retail.

4. Drive-up Windows: no waiting lines in public ROW

5. Minimize visual impact of parking/loading areas

6. Buffer parking areas if needed for safety or aesthetics

7. Public Road Access: minimize traffic interruption, provide for auto and pedestrian safety

8. Rainwater, Snow, and Ice Removal/Storage: Plan for snow/ice removal, runoff, safety.

9. Safety: Minimize physical hazards, provide safe pedestrian and vehicular movement with unobscured views, especially visibility at intersections, pedestrian safety, convenience, emergency access.

10. Neighboring properties: integrate circulation and parking with neighboring properties. Work to maximize for efficiency, safety, and attractive solutions.

Finding of Facts: There are approximately 15 parking spaces at the Red Mill along the southern side of the lot on the road and approximately 25 in the rear lot, of which 3 are currently utilized by Brattleboro Savings Bank on a temporary basis. In the Historic Design Review District there is no requirement for on-site parking due to the clustered nature of the downtown. While there is no requirement for parking, there is ample on-site parking available,

Conclusions of Law: Standard 732 F is not applicable.

E. Road Development: New roads, public and private, shall conform to the town's Highway Ordinance.

Findings of Fact: The proposed use does not involve road development.

Conclusions of Law: Section 730 D is not applicable

F. Landscaping, Screening and Development: Shall "preserve the rural and agricultural character and ambiance of the community". Natural features characteristic of the town's rural and agricultural nature shall be preserved. Landscaping and Screening shall be used to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties.

a. Landscaping beds, trees, shrubs and plantings: required as needed to meet the stated goals above and shall be maintained in perpetuity for general aesthetic appearance and plant health.

b. Screening and Buffer Areas: required as needed to screen all unaesthetic features to meet the stated goals above. Screening must be of natural vegetation and plantings. Fencing may be used secondary to plantings to achieve screening. (See special provisions for screening unaesthetic features, large and small.)

b1. Screening and Buffering Commercial Structures and Uses: Required when commercial development has an undue adverse aesthetic impact on surrounding properties and roads. Shall be minimum of 10 feet where reasonable and possible.

b2. Screening and Buffer of Parking: Required where reasonable and possible when parking has an undue adverse impact on the aesthetics of properties and roads.

b3. Screening and Buffer of Ground Mounted Solar Arrays: Required when ground mounted solar arrays have an undue adverse aesthetic impact on surrounding properties and roads. Shall be minimum of 10 feet where reasonable and possible.

Findings of Fact: There are no opportunities for visual barriers or buffering on this lot. Attractive planters and other such decorative devices will be utilized to manage parking lot access by cars and to keep pedestrians safe from Route 100 traffic Current and additional dumpsters shall be placed behind the Inn out of sight.

Conclusions of Law: No screening or buffer areas will be required as there are no undue impacts on the aesthetics of neighboring properties, the neighborhood, or the roadway. Decorative planters and traffic management signs/cones will be used to keep pedestrians and vehicular traffic safe. Standard 730 E is met.

G. Land and Water Management: Protect properties, transportation systems, and public safety by

a. Safe and appropriate water management including water supply/availability, stormwater retention/absorption, and impervious surface/runoff management.

b. prevent and control against water pollution

c. make provision for management of erosion, preservation of rivers & streams, river/stream bank management, wetland protection, waterway and channels management, and agricultural land protection,

Findings of Fact: The proposed Food Truck will not release any water, waste or chemicals to the property. All food products and food production byproducts, equipment and supplies will be self-contained within the vehicle and will be removed safely to protect and preserve land and water.

The Food Truck will create no pollution. There will be no impervious surfaces created to impact

stormwater absorption. The dirt parking lot will promote absorption. There will be no alteration of lands, rivers, streams, waterways. Nothing in this proposed development will create erosion.

Conclusions of Law: Standard 730 F is met.

H Wastewater and Potable Water: A permit may be issued upon receipt of evidence there is a wastewater and potable water permit. If none is received with a submitted application, the Permit will be conditioned on receipt of a wastewater and potable water permit at which time a final Permit will be issued. DRB shall instruct the applicant on their responsibility to obtain state and federal permits and may condition their decision on obtaining such permits.

Findings of Fact: The Food Truck has a self-contained clean and wastewater management system. There is a 20 gallon fresh water storage capacity and a 35 gallon wastewater storage capacity. The Food Truck, while capable of tying into main water lines, will be operating on this self-contained water system.

Conclusions of Law: Standard 730 G is met.

H. Natural Resources and Features: Existing vegetation, native species, native trees, scenic views, river access and other natural features shall be preserved to the extent possible and to the extent that they will enhance and promote the natural assets of the town. Clearing of land to create pastureland and scenic spaces/vistas is allowed provided it does not have an unreasonable impact on natural resources. Development shall blend with the topography, vegetation, and natural land features. It shall not have an undue adverse impact on natural features, natural resources or renewable energy. This includes no adverse impact on forested lands, streams and stream banks, steep slopes, wetlands, watersheds, floodplains, soil unsuitable for development, impervious surfaces essential to stormwater detention, agricultural lands, open scenic lands, scenic vistas, scenic features, unique natural or manmade features, and renewable energy sources.

Findings of Fact: The Food Stand will not alter or have an adverse impact on existing vegetation, native species, native trees, scenic views, river access or other natural features including forested lands, streams, stream beds, stream banks, steep slopes, wetlands, watersheds or floodplains. There will be no land clearing. The Food Stand will not create any impervious surfaces. It has no impact on unique natural features or renewable energy resources. 18 North Main Street is not identified on the town Natural Resources Map, Nov 2016 as having an threatened, rare or uncommon plants; a significant natural community.

Conclusions of Law: There will be no adverse impact on natural resources and features. Standard 730 H is met.

J. Wildlife Protection: No adverse impact on wildlife habitats or corridors.

Findings of Fact: 18 North Main is in the congested downtown area and is not identified on the town Natural Resources Map, Nov 2016 as having any rare or uncommon animals; a significant natural community; a deer wintering area or wildlife habitat.

Conclusions of Law: The proposed Use will not have any adverse impact on wildlife habitats or corridor. Standard 730 I is met.

K. Shoreland Protection: Compliance with Shoreland Protection Act if development is within 250 feet of a body of water greater than 10 acres.

Findings of Fact: Proposed development is not near a body of water.

Conclusions of Law: Standard 730 J is not applicable.

L. Flood Hazard Protection: Development must comply with the provisions of Article VI Flood Hazard District.

Findings of Fact: The area of 18 North Main St to be used for a Food Truck is not in a Flood Hazard area.

Conclusions of Law: Not applicable

M. Energy Resources: Commercial Development shall comply with the Commercial Building Energy Standards. Residential development shall comply with Vermont Residential Building Energy Standards. 30 V.S.A. (51 & 54)

Findings of Fact: There is no commercial or residential land development.

Conclusions of Law: Section 730 M is not applicable.

N. Technical Review Costs: Applicant may be required to pay reasonable costs of technical review.

Findings of Fact: There are no technical review costs.

Conclusions of Law: Section 730 L is not applicable.

Section 732: Conditional Use - Other Specific Standards

- A. Affordable Housing
- B. Automotive Service Station and Repair Garage
- C. Junked Vehicles
- D. Medical Marijuana Dispensaries
- E. Mobil Home Parks (Trailer Parks)
- F. Ponds/Water Impounds
- G. Quarry Operations
- H. Recreational Vehicle Storage
- I. Solar Projects
- J. Wind Turbines

Findings of Fact: The proposed development does not fall into any of the above categories.

Conclusions of Law: Not applicable

CONDITIONS:

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

1. Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with Exhibits. Any changes to the plans will require an administrative approval from the zoning administrator or a review by the Development Review Board, in conformance with the Zoning Ordinance.
2. The Food Truck shall be maintained in working condition and licensed, registered and safety inspected with the Registry of Motor Vehicles.
3. The Applicant will meet with Wilmington Police and Fire representatives and address any safety or impact concerns raised by those departments.
4. The Food Truck site shall be managed to address safety hazards and to preserve pedestrian and vehicular safety. Flower barrels and other devices shall be placed between Route 100 and the

Food Truck service area to prevent vehicular traffic from entering the northern parking area and to keep pedestrians clear of the traveled way of route 100.

5. Customer parking shall be limited to the southern side of the Inn entrance and to the rear of the building.
6. Dumpsters shall be shielded by placement behind the Inn.
7. Refuse containers to be placed in the picnic area shall be emptied daily and the picnic area shall be kept clear of trash.
8. To maintain the character of the area and the district, hours of operation are approved for 10AM – 10PM. Set up and take down of services may occur between 8 AM and 11 PM.
9. The Food Truck lighting will be shielded and downcast with the minimum lumens necessary to meet the needs of the lighting purpose of preserving pedestrian and vehicular safety. Lighting shall not generate undue or excessive glare so as to interfere with neighboring properties and will not impede the vision of drivers.
10. Water, food products and waste will be removed in a timely fashion and on a regular basis.
11. There shall be no significant air emissions of dust, ash, smoke or other particulate matter.
12. There shall be no permanent or ongoing vibrations created.
13. There shall be no ongoing or permanent noise created.

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

If unused, this Approval expires 2 years 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:

Jessie Couture
Fred Houston
Wendy Manners Seaman

OPPOSED:

none

ABSTAINING:

none

For the Board: Wendy Manners Seaman, Chairperson

Date: May 17,2018

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.