

**Town of Richmond
Selectboard
Final Decision
December 28, 2016**

IN RE: Buttermilk LLC—Application # 16-114 for PUD, Conditional Use & Site Plan Review for the construction of a 4-story, mixed-use building at parcel BR0125 and JC0074 located within the Jolina Court Interim Zoning District.

Applicant / Property Owner:	Buttermilk, LLC
Property Address:	125 Bridge Street & 74 Jolina Court
Parcel #:	BR0125 & JC0074
Size in Acres:	0.16 acres + 5.84 acres = 6 acres
Zoning District:	Jolina Court Interim Zoning District

Submittals:

- A. Planned Unit Development (PUD) Application, dated 10/18/2016
- B. Conditional Use & Site Plan Application, dated 10/18/2016
- C. Buttermilk Cover Letter, revision dated 10/26/2016
- D. Buttermilk follow-up letter (re: density, coverage, and mix), dated 10/28/2016
- E. Fees (\$300 PUD/Conditional Use Fee; \$100 Access Permit Fee; \$500 Technical Review Fee)
- F. Access Permit Application, dated 10/18/2016
- G. Existing Conditions Site Plan, dated 1/07/16
- H. Phase 1 Overall Site Plan, revision dated 11/30/2016
- I. Phase I Plan- Enlargement, revision dated 11/30/2016
- J. Phase 2/3 Plan, revision dated 11/30/2016
- K. Landscaping Plan, dated 10/25/16
- L. Preliminary Schematics, no date
- M. Floor Plans (6-pages), dated 10/12/16
- N. Summary of Corrective Actions, dated 08/03/15
- O. Letter from Police Chief, dated 10/12/2016
- P. Notes from Richmond Water Resources, dated 10/17/2016
- Q. Email comments from Highway Foreman, dated 10/17/2016
- R. Letter from Richmond Rescue, dated 10/30/2016
- S. Application Checklist, Jolina Court Zoning District, dated 9/27/2016
- T. Memo from RSG, Subject: Creamery Traffic Impact Review, dated 10/28/2016
- U. Lighting Spec Sheets, ALED20N and WPLED10DC
- V. License document, not dated
- W. Letter from Darby, Kolter & Nordle Attorneys, Re: Easement Between Parcels, dated 10/16/2016
- X. Cover letter, date 12/14/2016
- Y. Letter from Wilson Architects, not dated
- Z. Letter from East Engineering, dated 12/15/2016

Procedural Information:

Prior to the submission of the application, staff provided the Applicant with the Jolina Court Application Checklist (Submittal S) to provide guidance. Staff coordinated a meeting with the Applicant, Fire, Rescue, and Police to review plans and solicit comments. The Applicant provided the Phase I development plans.

Staff contacted Water Resources to solicit comments. The Applicant met with the Highway Foreman to solicit comments. Their comments are included within the application Submittals. The Applicant contacted the School Superintendent; staff received a forwarded email which confirms that the project will not have an undue adverse impact on the school facilities. The primary purpose of their comments is to confirm whether or not the proposed project will have an undue adverse impact on the town facilities and services, criteria of the Conditional Use Review.

As per the Notice Requirements, a Notice for Public Hearing appeared in the Burlington Free Press on October 23, 2016. The Notice was also posted at three locations within the Town. The Referral Notice and Notice Poster was sent to the applicant and notices to adjoining landowners were sent on October 20, 2016.

The Hearing was opened on Monday, November 7, 2016 and continued to Monday November 21, 2016. The applicant and staff discussed the additional information needed for the continuation of the hearing. The information was not ready for the November 21, 2016 hearing. Therefore at the November 21, 2016 hearing, the hearing was continued to Monday December 5, 2016. Staff meet with the applicants and their engineer to review the additional information requirements on Monday November 14, 2016. Staff also met with the applicant and the traffic engineer to review the findings of the traffic data on November 17, 2016. During the Monday December 5, 2016 public hearing the Selectboard continued the review of the project and identified the need for additional about the stormwater plans. The hearing was continued to Monday December 19, 2016. Following the hearing on Monday December 19, 2016, the Selectboard entered into deliberative session and finalized its decision.

Findings of Fact:

Based upon the application, testimony, submission materials and other evidence the Selectboard makes the following findings:

1. The proposed project is subject to review under the following regulations:
 - a. Jolina Court Interim Zoning Regulations (IZR)
 - b. Planned Unit Development (PUD) (see Section 5.12 of Richmond Zoning Regulations)
 - c. Site Plan Review (see Section 5.5 of Richmond Zoning Regulations)
 - d. Conditional Use Review (see Section 5.6 of Richmond Zoning Regulations)
 - e. Public Improvement Standards and Specifications for the Town of Richmond
2. The proposed project affects two parcels, BR0125 and JC0074.
3. The applicant presents a conceptual Master Plan for the unified development of BR0125 and JC0074 (Submittal J).
4. The Master Plan has been provided for context and to illustrate the approximate locations and layout of potential future buildings and parking areas.
5. The applicant is explicitly seeking approval for Phase I under this application.
6. Phase I proposes one building on parcel BR0125 and the road and parking area proposed on parcel JC0074.
7. The two parcels are both owned by the applicant, Buttermilk LLC.
8. The applicant does not intend to merge the two parcels at this time (see Submittal D.)
9. For the purpose of this application, the combined area of both parcels shall constitute the “development area.”
10. The IZ regulations provide a “Waiver” provision for dimensional standards (IZR Section E.)
11. For the review of the Phase I proposal within the development area, the internal setbacks between BR0125 & JC0074 are waived, the perimeter setbacks of BR0125 and JC0074 apply.
12. Lot coverage is calculated as 80% of the combined developable area of BR0125 and JC0074, not as 80% of BR0125 and JC0074 individually.
13. The Master Plan nor the Phase I site plans include any “cross-lot/building easements.”

14. The applicant has presented a draft License (Submittal V) agreement outlining the potential agreement language between JC0074 and adjoining property owners of JC0013.
15. The applicant has presented a letter with information regarding "Easement Between Parcels" (Submittal W) outlining the current status of easement between BR0125 and JC0074.
16. Short and Long Term Traffic Impacts have been addressed (Submittal T).
17. The redevelopment will not cause unreasonable traffic congestion nor will traffic adversely impact the road infrastructure.
18. Phase I proposes one building on parcel BR0125.
19. The proposed building will front on Bridge Street and have a footprint of 3,310 sq ft.
20. The building will have 4 floors (one sub grade) and based upon Submittal Y, the average building height around the perimeter from pre-construction grade will be 34.28 ft, and will therefore not exceed the 35 ft height requirement.
21. A patio will be constructed on the front of the building, on Bridge Street.
22. The patio will be at the same grade at the first floor elevation, and will be accessed by either steps from Bridge Street, or via a ramp along Jolina Court.
23. The patio will be elevated approximately 3.5ft from the existing grade in the front of the parcel.
24. The building meets the perimeter setbacks between BR0125 and the adjoining cemetery parcel, the interior setback between BR0125 and JC0074 will be waived.
25. The patio structure is located 5ft from the front setback and exceeds the front setback requirements (IZ section C)
26. The IZ does provide a waiver provision for the setbacks (IZR Section E.)
27. Waiving the front setback requirement from 15ft to 5ft for the patio will create a more attractive streetscape and will still allow for the construction of a future sidewalk along the eastside of Bridge Street.
28. The front setback shall be waived.
29. The mixed use building is proposed to contain a total of 4 floors.
30. The first 2 floors will be mixed commercial space totaling 6,410 sq ft (2,800 sq ft +3,610 sq ft) defined as any combination of bank, retail store, personal service, professional office, light industry, deli/take out eatery – with no seats).
31. The applicant has proposed adequate parking for any of these combinations.
32. The top 2 floor shall contain 10 dwelling units, based upon Submittal X.
33. The applicant is proposing one parking space per each dwelling unit, while the parking recommendation within the IZ is 2 parking spaces per each dwelling unit.
34. The proposed parking (1 space/dwelling unit) is not adequate.
35. In total the proposed parking area will be required to have a total of 40 parking spaces to ensure adequate parking for the mixed commercial space and the 10 dwelling units.
36. The parking requirements as contained with the IZ specify "all surfaces outside of the Flood Hazard Overlay District shall be paved" and that "surface parking shall be striped."
37. The rear portion of the parking area is proposed to be gravel, and shall be paved upon either completion of Phase II or if part of the development area or the whole development area is sold.
38. The IZ requires all mixed use projects shall contain a residential to commercial floor area ratio of 40% residential to 60% commercial.
39. Phase I is proposed to be 6,410 sq ft of commercial use and 6,520 sq ft residential use (Submittal C), which results in a 50/50 ratio.
40. The 40% residential to 60% commercial split shall not apply to Phase I, but upon competition of Phase II the entire development area shall contain 40% residential to 60% commercial.

41. The landscaping plan (Submittal K) depicts a new street tree and perennials will be planted on the corner of Bridge Street and Jolina Court. A series of low shrubs will be planted within the patio wall. The existing tree will be removed and the tree on the cemetery property shall remain.
42. A series of shrubs will be planted along the south side of the building to soften the appearance of the foundation wall. Existing shrubs along the southern property line will be removed.
43. Four street trees are proposed along the sidewalk in the parking area and evergreen shrubs are proposed as screening around the trash containers at the rear of the building.
44. The dumpster in the rear of the parking lot will not be screened.
45. There will be no landscaping beyond what is depicted on the landscaping plan. The rear of the property may be brush hogged occasionally.
46. The Google Sketch up image depicting the proposed streetscape with the new building and the Blue Seal Feeds building (which was distributed and shown by the applicant) is for illustrative purposes only. The image depicts a realistic representation of the scale of the building but the associated streetscape, including sidewalks in front of both buildings and the curbing is not being proposed as part of this project.
47. There will be five 12ft pole mounted LED street lights in the parking area. They will be down-cast and shielded and energy efficient as specified within the lighting sheet for ALED20N (Submittal U.) The lights will be on a timer.
48. The exterior of the building will contain similar down-cast and shielded, energy efficient lights above each of the exterior doors, as per sheet WPLED10DC (Submittal U.)
49. A sidewalk will be built along the northside of the building from the Bridge Street intersection eastward and along the southern boundary of the parking lot, located on JC0074.
50. The sidewalk will be built to meet the Richmond Public Improvement Standards and Specifications, as identified on Submittal I.
51. A crosswalk has been identified on the plans to provide access from the new Jolina Court sidewalk westward to the Bridge Street/Railroad Street sidewalk.
52. The applicant is not responsible for the painting/stripping the crosswalk, this will be the responsibility of the Town.
53. The majority of the road and parking area is proposed on parcel JC0074. A minor portion of the road will be located on BR0125.
54. The private road will be upgraded to meet the Richmond Public Improvement Standards and Specifications construction standards.
55. The Richmond Public Improvement Standards and Specifications require local roads to have a 60 ft right-of-way (ROW).
56. The proposed upgraded road does not have a 60' ROW.
57. The Standards and Specifications state the Selectboard does reserves the right to modify the standards for a particular project if there are unique physical conditions.
58. Requiring the 60' ROW would make the development of Phase I impossible, due to the narrow width of BR0125.
59. The 60' ROW requirement shall be waived.
60. Jolina Court is a private road and the applicant is not seeking for the town to take over ownership of the road. Therefore it will remain as a private road.
61. The Town has concerns about the location of the drywall, the treatment of stormwater and the location of water and sewer lines as depicted on Submittal I.
62. Technical review fees have been used to pay for an independent review of the utilities and infrastructure aspect of the project (including stormwater and the location of water and sewer lines.)
63. East Engineering conducted the independent review and provided comments, see Submittal Z.

64. The applicant will be required to address the comments within Submittal Z, to ensure plans are in conformance with the Richmond Public Improvement Specifications and address the comments provided by the Water Resources Department and the Highway Forman (Submittals P and Q).
65. A temporary office structure/travel trailer which has been placed on the site, is currently located on the railroad property. Once the old creamery building is fully demolished, the travel office will be moved onto JC0074 and meet the setback requirements.
66. Construction of Phase I will take place between 7am – 5pm Monday – Saturday.
67. The temporary office structure shall be moved off site upon completion of Phase I and before the issuance of a Certificate of Occupancy.

Decision:

The Selectboard approves Application # 16-114 for PUD, Conditional Use & Site Plan Review for the construction of a 4-story, mixed-use building on parcel BR0125 and JC0074 located within the Jolina Court Interim Zoning District with the following waivers:

1. The interior setback between BR0125 and JC0074 will be waived;
2. The front setback of BR0125 will be waived from 15ft to 5ft; and
3. As per the Richmond Public Improvement Standards and Specifications, the 60' ROW requirement shall be waived.

And with the following conditions:

1. Within 30 days of this decision the Applicant shall record this decision in the Richmond Land Records (cost \$10 per page).
2. The Applicant shall apply for a Zoning Permit within 6 months of the issuance of this Final Decision (based upon the date the Decision was signed by the Chair) as per Jolina Court Interim Zoning Regulations, section VII. The fee for the Zoning Permit will be \$0.20 per sq ft of residential + \$0.30 per sq ft of commercial space plus the fire impact fee (\$153.09 per unit + \$0.11 per sq ft. of non-residential) + \$10 recording fee. Estimated fee is approximately \$5,470.
3. Upon completion of Phase I (and before use or occupancy) the Applicant shall apply for a Certificate of Occupancy.
4. Phase I building is approved with 2 floors of mixed commercial space totaling 6,410 sq ft containing any combination of bank, retail store, personal service, professional office, light industry, deli/take out eatery – with no seats); and 2 floors of residential use with 10 dwelling units.
5. Any changes to the site plan shall follow the procedure as defined within RZR section 5.5.5
6. Any changes to approved uses shall require conditional use review by the Selectboard to primarily to ensure adequate parking.
7. Detailed plans for stormwater infrastructure and water and sewer utilities shall be submitted to the Town for review and approval by the Town Engineer, Town Highway Forman and Town Water Resources Superintendent prior to the issuance of a Zoning Permit. Written approvals along with the approved plans shall be provided to the Planning and Zoning Department by the Applicant.
8. The Applicant shall provide a copy of the executed License agreement between JC0013 & JC0074 to the Planning and Zoning Office before the issuance of a Zoning Permit.
9. The Applicant shall obtain Access Approval from the Town prior to the issuance of a Zoning Permit.
10. The applicant shall obtain a Water and Sewer Allocation approval from the Town Manager prior to the issuance of a Zoning Permit.
11. The Applicant shall submit a revised site plan depicting a total of 40 parking spaces to the Planning and Zoning Office prior to the issuance of a Zoning Permit.
12. During construction, and upon completion of the road upgrade, sidewalks, installation of water and sewer utilities and stormwater infrastructure the Town Engineer, Town Highway Foreman and Water Resources Superintendent shall inspect the work for conformance with the Richmond Public

Improvement Standards and Specifications. Written approvals shall be obtained by the applicant and provided to the Zoning Administrator prior to the issuance of a Certificate of Occupancy. The Applicant shall be responsible for the costs associated with these inspections. The Town Manager shall provide the applicant with a listing of contact people and inspection fees. These inspections shall include associated approvals and inspections associated with work within the Town Right of Way. A separate ROW permit shall not be required.

13. If there are any changes to the stated construction schedule, the Applicant shall provide notice to the Selectboard 48-hours prior to commencement.
14. Prior to the issuance of a Certificate of Occupancy, easement agreements between BR0125 & JC0074 will be finalized and a plat shall be filed within the land records to documents all referenced legal agreements. A copy shall be submitted to the Planning and Zoning Office.
15. All parking areas shall be paved upon completion of Phase II or if part of the development area or the whole development area is sold.
16. Phase I is approved with a 50/50 residential/commercial ratio, and upon completion of Phase II and all subsequent phases the development area must demonstrate a residential to commercial floor area ratio of 40% residential to 60% commercial.
17. If the parcels are merged the Applicant shall submit a permit for a Boundary Line Adjustment and a Final Plat shall be filed within the Land Records.
18. The project shall be developed in conformance with the above referenced survey plat, plans, and submittal documents.
19. Any other applicable zoning regulations not expressly waived in this decision must be complied with.
20. This decision shall not relieve the applicant from any obligation to obtain all other applicable required federal, state and local permits.

SELECTBOARD VOTING ON THIS MATTER (circle one for each member):

Ellen Kane, Chair	<u>in FAVOR</u>	AGAINST	ABSTAINING	RECUSED	<u>ABSENT</u>
Bard Hill	<u>in FAVOR</u>	AGAINST	ABSTAINING	RECUSED	<u>ABSENT</u>
Steve May	<u>in FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT
Lincoln Bressor	<u>in FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT
David Sander	<u>in FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT

Ellen Kane

12/30/2016

Ellen Kane, Chair
Richmond Selectboard

Date

The applicants and interested parties are hereby notified that if they disagree with this decision, they have the right, under 24 V.S.A. 4471, to appeal to the Vermont Superior Court – Environmental Division. The appeal must be filed within thirty days of the date of this decision, and be in accordance with the governing rules of procedure and rules of the Vermont Superior Court - Environmental Division.

Title 24 Vermont Statutes Annotated, Section 4471 provides that “An interested person who has participated in a municipal regulatory proceeding authorized under this title may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.