



Planning & Zoning Office
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MEMORANDUM

Date: April 6, 2021

To: Town of Richmond Selectboard

From: Keith Osborne, Zoning Administrator

RE: Clarification concerning seating for commercial uses

Background

During the April 5, 2021 Selectboard meeting public comment it was stated that a Zoning Permit is required for patron seating in the Village Downtown Zoning District. This is not the case.

Staff Comments

Although a Zoning Permit is required for any development in the Village District Zone as per **§1.2 Application for Zoning Requirements (see below)**, seating is not under the purview of this office. There is no provision in the Town of Richmond's Zoning Regulation that requires any commercial use to gain seating approval from the Development Review Board (DRB) or the Zoning Administrator and as such a permit is not required.

With concern to 39 Bridge Street, the use of both covered and uncovered outdoor seating was approved for Gabriel Firman/Nakatomi Plaza, LLC by the DRB under application CUR 2019-126 on January 22, 2020 with the findings of fact #12, #14 and #17 respectively (see attached approval).

With concern to the approved covered porch associated with the restaurant use (#12 & #14), a permit was issued on July 1, 2020 for the replacement and expansion of a covered porch. However, the permit was not signed nor the word "Approved" circled on the application by my predecessor. After a reasonable and thorough assessment of the application and supporting materials, and in view of the fact that the permit fee was paid and a Certificate of Occupancy issued, I consider this permit valid.

With concern to the approved uncovered outdoor seating area associated with the restaurant use (#17), an excavation and zoning permit with supporting documentation has been submitted and has been processed by my office.

§1.2 A Zoning Permit must be issued prior to the commencement of any land development, unless regulated by 24 VSA §4413 as described in section 5.1.2 of these regulations.

**Town of Richmond
Development Review Board
Final Decision
January 22, 2020**

Gabriel Firman/ Nakatomi Plaza, LLC- Application 2019-126 for Conditional Use Review for a Mixed-use Planned Unit Development to add four apartments on the second level, located at 39 Bridge St, Parcel ID BR0039, in the Village Downtown Zoning District.

SUBMITTALS:

- A. Site Plan & Conditional Use Application, dated 11/14/2019
- B. Narrative, undated
- C. First floor plan, dated 11/25/2019
- D. Second floor plan, dated 11/20/2019, revised 1/8/2020
- E. Elevation North/South, dated 11/20/2019
- F. Elevation East/West, dated 11/20/2019
- G. Site Plan of the Toscano Restaurant Building, dated 6/22/2005
- H. Email from Gabriel Firman regarding lot coverage, received 12/6/2019
- I. Email from Gabriel Firman regarding dwelling unit change and parking plan, received 1/9/2020
- J. Water & Sewer Service Capacity Letter, dated 12/11/2019

PROCEDURAL INFORMATION:

As per the Notice Requirements, a Notice for Public Hearing appeared in the Burlington Free Press on November 24, 2019 and was posted at 5 locations in Town and on the municipal website. The Referral Notice was sent to the Applicant and a copy of the Notice was sent to all adjoining landowners on November 20, 2019.

The hearing was continued to the January 22, 2020 DRB meeting. Continuance was included in the Notice for Public Hearing that appeared in the Burlington Free Press on December 21, 2019. The Notice was posted at 5 locations within Town and on the municipal website.

FINDINGS OF FACT:

- 1. The Applicant is now seeking approval to add three dwelling units (one 1-bedroom unit and two 2-bedroom units) to the second floor of BR0039 and two office spaces, the first floor will remain a restaurant although a complete renovation of the interior systems will take place.
- 2. The current Zoning Regulations (RZR) do not allow for a rounding for acreage when calculating the number of dwelling units, the Applicant has submitted a revised second floor plan, Submittal C that shows the new layout of three dwelling units.
- 3. Section 3.10.3a) states that the density for each residential unit shall require 1/24 acre of developable land located on the same lot as the unit. According to the Property Card BR0039 is 0.15 acres, which would mean 3.6 dwelling units are allowed.
- 4. The Applicant plans to return to the DRB in the future to increase the number of dwelling units when the RZR have been modified.
- 5. The new Village Downtown Zoning District allows for residential dwelling units only on the second level of a parcel in the district.

RICHMOND, VT TOWN CLERK'S OFFICE
RECEIVED FOR RECORD
JANUARY 24 A.D. 2020
At 11 o'clock 50 minutes A.M. and recorded in
Book 252 Page 69-71 of Land Records
Attest: Marilyn Aiso Town Clerk

19856

6. Generally, interior renovations do not require a Zoning Permit per the definition of Land Development in the Richmond Zoning Regulations (RZR). The change in use to a Mixed-use PUD would require a zoning permit and the payment of impact fees.
7. The change in use from a commercial building on both levels to a mixed-use building requires Conditional Use approval for a Mixed-use PUD per Section 3.10.3b).
8. Per Section 3.10.6b) Lot BR0039 is exempt from standard parking requirements. However, they are required to provide a descriptive plan for where they intend to have tenants and patrons park, whether that be providing a copy of a private parking agreement between landowners or use of public parking. Use of public parking requires Selectboard and Road Foreman approval in the form of a public parking permit.
9. The Applicant plans to lease the required spaces from Buttermilk at BR0125. (Submittal I)
10. The Applicant is retaining the general façade of the building but is relocating the stairs to the second floor, currently on the west façade, to the east façade. (Submittal B & F).
11. The second level will be accessed from the relocated stairs on the west façade. The second level will have three dwelling units and two offices.
12. The Applicant will be replacing the roof of the covered porch and extending the cover porch along the south façade. The main entrance will be relocated to the south façade for the restaurant. (Submittal B & E)
13. Town Water & Sewer Department has met with Applicant to move the curb stop for BR0039 to an alternate location that will allow Town access to curb stop and allow applicant to construct porch.
14. There will also be seasonal outdoor seating under this covered porch and a second area that abuts PS0023 (TD Bank Parcel). There will be a 0' setback between BR0039 and PS0023.
15. The Applicant has submitted lot coverage calculation that the existing impervious coverage is 3324 sq. ft. of 6623 total. The additional impervious added for the new side deck would add another 900 sq. ft. The total coverage would be 64%.
16. The VD Zoning District allows for up to 80% lot coverage.
17. There is also an open seasonal seating area that will not add to the lot coverage due to the use of pervious pavers or gravel.
18. The VD Zoning District allows for 0' setbacks within the district and 5' between neighboring zoning districts. BR0039 borders the Residential/ Commercial Zoning District to the east. The plan for the east façade does not impinge on this setback.
19. Section 3.10.6f)-Compatibility requires applicants that are changing the façade of a parcel in the VD Zoning District to submit a visual rendering to the DRB as part of a Site Plan or Conditional Use application.
20. The Applicant stated that the color will be Benjamin Moore, Army Green
21. The Applicant does not address Site Plan or Conditional Use Standards in his narrative. No landscaping plan or lighting plan were submitted. The size of the lot may preclude any landscaping.
22. The Applicant has submitted a Town Water and Sewer Service letter. (Submittal J)
23. The Applicant has not received a State Water & Wastewater Permit.
24. The application is subject to review under the following sections of the Richmond Zoning Regulations:
 - a. Section 5.12 PUD
 - b. Section 5.5 Site Plan Review
 - c. Section 5.6 Conditional Use Review
 - d. Section 3.10 Village Downtown Zoning District

DECISION:

The Richmond Development Review Board approves Application # 2019-126 for a Mixed-Use PUD for the addition of **three** dwelling units on the second level and outdoor seating at Parcel ID # BR0039, located at 39 Bridge Street, Richmond, located within the Agricultural/Residential Zoning District with the following conditions:

1. Revised State Water & Wastewater Permit shall be issued **prior** to the issuance of any zoning permit.
2. The Water & Sewer connections shall be installed to satisfaction of the Town Water & Sewer Department.
3. All exterior lighting shall meet Section 4.11 of RZR guidelines.

4. The project shall be developed in conformance with the above referenced survey plat, plans, and submittal documents.
5. Any other applicable zoning regulations not expressly waived in this decision must be complied with.
6. This decision shall not relieve the applicant from any obligation to obtain all other applicable required federal, state and local permits, including wastewater permits.

The application as approved shall be in conformance with the decision, referenced items, the findings of facts, and conditions. 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.

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

| | | | | | |
|-------------------------|-----------------|---------|------------|----------------|---------------|
| David Sunshine, Chair | in FAVOR | AGAINST | ABSTAINING | RECUSED | <u>ABSENT</u> |
| Matt Dyer, Vice-Chair | in FAVOR | AGAINST | ABSTAINING | RECUSED | <u>ABSENT</u> |
| Roger Pedersen, Member | <u>in FAVOR</u> | AGAINST | ABSTAINING | RECUSED | ABSENT |
| Gabriel Firman, Member | in FAVOR | AGAINST | ABSTAINING | <u>RECUSED</u> | ABSENT |
| Padraic Monks, Member | <u>in FAVOR</u> | AGAINST | ABSTAINING | RECUSED | ABSENT |
| Alison Anand, Alternate | <u>in FAVOR</u> | AGAINST | ABSTAINING | RECUSED | ABSENT |

The above votes occurred at a DRB meeting on 22nd day of January, 2020.

 Roger Pedersen
 Richmond Development Review Board

DATED this 1/24/2020