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APPLICATION: CU2022-05

APPLICANT: David Miskell

REQUESTED ACTION: Conditional Use Review

LOCATION: 88 Rodgers Lane

EXISTING ZONING: Industrial/ Commercial (I/C)

Act 250 STATUS: Under Act 250 Jurisdiction

PROJECT DESCRIPTION: A proposed expansion of a conditionally approved use of a business yard inside of the Special Flood Hazard Overlay District. Proposed expansion consists of a 2-story addition which will be connected on the north side of the existing office/shop building. The dimensions are 30 feet wide, 40 feet long and new roof peak is 26 feet and existing roof peak is 30 feet high. Application will also make a technical correction and amend the use from a Contractor Yard to a Business Yard.

PARCEL HISTORY:

1. Approved conditional use for a contractor's yard, May 31, 2000
2. Planning Commission approved amendments to sight plan, February 7, 2001
3. DRB approved changes to sight plan and additional accessory structures, June 19 2007
4. Approved for construction of storage sheds, April 14 2008
5. Approved Subdivision amendment to relocate a right of way, April 22 2009
6. Approved 1380 square foot addition of office space April 16 2015
7. Approved Certificate of occupancy issues on February 17 2018

LIST OF SUBMISSIONS:

- A. Narrative, Submitted May 19, 2022
- B. Preliminary Subdivision Application, Submitted May 19, 2022
- C. Abutters list, Submitted May 19, 2022
- D. Site Plan, Dated May 18, 2022

PROCEDURAL INFORMATION:

1. Application submitted on May 19<sup>th</sup> 2022
2. Notice placed on Town website and at three locations in town on May 23, 2022
3. Abutters notified on May 23, 2022
4. Agenda placed in Seven Days June,1, 2022

**STAFF COMMENTS (In Bold):**

1. Property is located within the Industrial/Commercial district.
2. Project will be subject to Section 3.7
3. The property's current use is a Contractor Yard. The Richmond Zoning Regulations prior to 2009 listed "Contractor Yard" uses as a Conditional Use in the Industrial/Commercial District. The current zoning regulations do not mention this use. **Staff determines the current use to be nonconforming**
4. Business is defined as "A business which operates out of a yard which may include structures, indoor and outdoor storage of materials, equipment or vehicles. Customary accessory uses for the business are small office space and vehicle and equipment repair. A majority of the business activity shall take place off-site. No assembly is involved or allowed."
5. Business Yard uses are an allowable use upon Conditional Use Review under Section 3.7.2 subsection e . **Staff concludes that based on the current operations on the subject property, it may be considered a "Business Yard" use. To move the property towards conformance with the current regulations, staff recommends changing the use from a "Contractors Yard" use to a "Business Yard" use**
6. 3.7.3-Dimensional Requirement For Lots in the I/C District - No Zoning Permit may be issued for Land Development in the I/C District unless the lot proposed for such Land Development meets the following dimensional requirements:
  - a. Lot Area - Except as provided under Section 4.6.1, no lot shall be less than 1 acre. The purchase of additional land by the owner of a lot from an adjacent lot owner shall be permitted, provided such purchase does not create a lot of less than the minimum area required in the Zoning District on the part of the seller. **Lot size is 25.51 acers this satisfies the minimum lot area requirement**
  - b. Lot Dimensions - Each lot must contain a point from which a circle with a radius of fifty (50) feet can be described within the boundary of the lot. Richmond Zoning Regulations. **The subject property has a point from which a circle with a radius of 50 feet can be inscribed within the boundary of the lot**
  - c. Lot Frontage - No lot having frontage on a public or private road shall have less than one hundred (100) feet of continuous uninterrupted length of said frontage or the lot must have access to a public or private road with approval by the DRB pursuant to Sections 4.2 and 4.3. **Lot has access to public road**
  - d. Lot Coverage - The total ground area covered by all structures, parking areas, walkways, driveways and areas covered by impervious materials shall not exceed sixty percent (60%) of the total ground area of the lot. If it can be demonstrated that all storm water will be retained on the lot, coverage may be increased to a maximum of 80% **Total lot coverage is 8.1%.**
7. 3.7.4 Dimensional Limitations for Structures on Lots in the I/C District - No Zoning Permit may be issued for a structure in the I/C District unless the structure proposed for the lot meets the following dimensional requirements:
  - a. Building Height - The height of any structure shall not exceed thirty-five (35) feet, except as provided in Section 6.6 **Building will be under 35 feet**
  - b. Front Yard Setback - All structures shall be set back at least fifty (50) feet from the edge of public or private Road or Highway right of way contiguous to the lot. **Project will be outside of the 50 ft setback**

- c. Side Yard Setback - A principal structure shall be set back at least fifteen (15) feet from the side lot line unless the side walls of such principal structure are of masonry construction and contain no opening in which event the principal structure need not be set back from the side lot lines. An accessory structure shall be set back from the side lot line at least ten (10) feet. **Project will be outside of the side yard setback**
  - d. Rear Yard Setback - A principal structure shall be set back at least fifteen (15) feet from the rear lot line. An accessory structure shall be set back at least ten (10) feet from the rear lot line. **Project will be outside of rear yard setback**
8. 3.7.5 Other Requirements Applicable to Lots in the I/C District - No Zoning Permit may be issued for Land Development in the I/C District unless the Land Development meets the following requirements:
- a. Parking Requirements - Parking Requirements shall be regulated as provided in Section 6.1. **Existing parking noted in the sight plan is sufficient to satisfy the minimum parking requirements. Minimum requirements would be 6.8 there are 27 spaces.**
  - b. Loading Requirements - Off-Road or Highway loading requirements shall be regulated as provided in Section 6.1. **NA**
  - c. Signs - Signs shall be regulated as provided in Section 5.7. **No Changes or additions to signage noted in the application**
  - d. Traffic Impact - No permit or approval shall be issued for a use which generates more than 70 vehicle trips ends during the P.M. peak hour for the first 40,000 square feet of lot area or fraction thereof, plus 1 vehicle trip end for each additional 1,000 square feet of lot area. In making the determination of traffic impact, the Administrative Officer or DRB shall utilize "Trip Generation - Seventh Edition - 2003", Institute of Traffic Engineers, or its equivalent, or any subsequent and most recent publication thereof, and may use estimates from other sources, including local traffic counts, if the above publication does not contain data for a specific use or if a use contains unique characteristics that cause it to differ from national traffic estimates. **Development will not cause a significant increase in traffic**
9. Development is in the Flood Hazard Overlay District and will be subject to section 6.8
10. Pursuant to Section 6.8.7 Substantial Improvement Determinations, **Staff has determined that the proposed development would be a Substantial Improvement. Estimated cost of proposed addition would be \$200,000. Total cost to replace building is \$745,700**
11. 6.8.9 Required Permits in Flood Hazard Overlay District- If any portion of proposed development is within the FEMA Special Flood Hazard Area, the entire development is considered to be within the FEMA Special Flood Hazard Area. Except for exempt activities, per Section 6.8.10, a Zoning Permit is required from the Administrative Officer for all Development in all areas within the Flood Hazard Overlay District. Development that requires a conditional use approval, change or expansion of non-conforming structures or use approval, or a variance from the DRB under Section 6.8 must have such approvals prior to the issuance of a Zoning Permit by the Administrative Officer. Any Development subject to municipal jurisdiction in the Flood Hazard Overlay District shall meet the development standards in Section 6.8.16. See Section 6.8.17.c) regarding state and federal permits. **Property is located entirely in the Flood Hazard Overlay District. Therefore the project is subject to the regulations governing the Flood Hazard Overlay District. Proposed project is an expansion to a principal structure**

**Expansions to a principal structure are subject to conditional use review under this section.**

12. Proposed development will be subject to 6.8.16 Development Standards. Subsection f will be applicable as this is a non-residential structure.
13. Subsection f notes that: All existing non-residential Structures to be substantially improved or replaced, and all additions to nonresidential structures shall:
  1. Be reasonably safe from flooding
  2. Have either:
    - i. The Lowest Floor elevated to a minimum of one foot above the Base Flood Elevation; or
    - ii. Be dry flood proofed at least two feet above the Base Flood Elevation; or
    - iii. If solely used for parking of vehicles, storage, be wet flood proofed as per 6.8.16 d) 2.
  3. Have structural designs, specifications, and plans prepared and certified by a registered professional engineer or architect. Designs and proposed methods of construction shall be in accordance with accepted standards of practice for meeting all FEMA Flood proofing and elevation provisions. **Applicants have provided documentation noting plans for dry floodproofing supplied by an architect. Dry floodproofing will be 2.5 feet above the base flood elevation. Plans also include documentation of flood restraint doors that will be use on the expansion.**
14. 6.8.17 subsection b submission requirements - Any application for Development within the Flood Hazard Overlay District requires:
  - a. Site plans drawn to scale as specified in Section 5.5.2.c),with accurate measurements of survey quality or prepared by a Vermont licensed surveyor or engineer showing
    - i. All proposed Development and existing structures, including locations of any existing and proposed driveways, road and parking areas; **This is mapped in the provided site plan**
    - ii. All water bodies, Special Flood Hazard Areas, Floodways **noted on map**
    - iii. The Base Flood Elevations at the site **Base flood elevation is noted on the map**
    - iv. The shortest distance from the proposed Development to the top of bank of any stream; **NA**
    - v. Any existing and proposed drainage; **Drainage noted on sight plans provided**
    - vi. Any pre- and post-Development grades; **NA**
    - vii. Any proposed areas and extent of dredging or grading;**NA**
    - viii. The elevation of the proposed Lowest Floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps if applicable; **Elevations of lowest floor noted**
    - ix. ix. Any storage locations showing materials proposed for outdoor storage, including types of materials; **Storage areas and materials noted**
  - b. Plan for meeting applicable provisions of Section 6.8.16a) **Documentation of moving storage tanks. Anchoring noted**
  - c. FEMA Elevation Certificate for Existing Structures depicting their Lowest Floor Elevation in relation to mean sea level (a FEMA Elevation Certificate) if applicable;

- d. A Vermont Agency of Natural Resources Project Review Sheet for the proposal identify all state and federal agency permits from which permit approval is required (this is not required for no substantial improvements or minor accessory structures)
- e. Any proposed structural elevation or Flood Proofing measures as certified by a registered professional engineer or architect. **Structural elevations and floodproofing noted. Architect noted on documentation**
- f. A profile showing the slope of the bottom on the Channel of the flowline of the stream and the extent to which the Channel is to be relocated shall also be provided for channel relocation projects **NA**
- g. Information that demonstrates that the proposed Development meets the requirements for the underlying zoning district in effect, in addition to the requirements imposed within the Flood Hazard Overlay District. These requirements include but are not limited to permitted and conditional uses, Building setbacks, Lot coverage, Building Heights, etc. for the underlying zoning district. **Proposed development meets the requirements for the I/C district**

**Draft Motion: Motion to approve application CU2022-05 with the following condtions**

- 1. That the Base Flood Elevation Level Be provided when applying for a CO**

**Any conditions of approval?**