

STATE OF VERMONT

SUPERIOR COURT – ENVIRONMENTAL DIVISION

In re: Summit Distributing LLC
Town of Richmond
Parcel ID#WM1436 Permit Application

DOCKET NO.22-ENV-00091

STATEMENT OF QUESTIONS

NOW COMES Summit Distributing LLC (“Appellant”), by and through its counsel, Sheehan Phinney Bass & Green, PA, and submits, pursuant to Rule 5 of the Vermont Rules for Environmental Court Proceedings, this Statement of Questions on its appeal of the decision of the Town of Richmond Development Review Board dated August 24, 2022 (the “Decision”).

Appellant respectfully submits the following questions for determination by this Court:

1. Whether Condition 7 of the Decision limiting fast food restaurants is unlawful or unreasonable such that this Court should strike Condition 7 from the Decision.
2. Whether the Richmond Development Board exceeded its statutory authority and jurisdiction by imposing Condition 7 of the Decision as a condition of approval such that the Court should strike Condition 7 from the Decision.
3. Whether Condition 7 of the Decision unlawfully limits Appellants’ rights in the Richmond Gateway Industrial/Commercial District and constitutes an unlawful, *ad-hoc* revision of the zoning ordinance or lacks a basis in the zoning ordinance such that the Court should strike Condition 7 from the Decision.
4. Whether Condition 7 of the Decision must be stricken on the grounds that it is arbitrary, capricious, vague, internally inconsistent, and incapable of being applied.

5. Whether the Development Review Board's conclusions in the Decision regarding the effect of national chains lack sufficient evidentiary support such that the Court should strike Condition 7 from the Decision.
6. Whether the Development Review Board inappropriately applied character-based zoning initiatives to the Richmond Gateway Industrial/Commercial District such that the Court should strike Condition 7 from the Decision.
7. Whether Condition 7 of the Decision violates Appellant's rights under the Equal Protection Clause of the United States Constitution such that the Court should strike Condition 7 from the Decision.
8. Whether Condition 7 of the Decision violates the Dormant Commerce Clause of the United States Constitution such that the Court should strike Condition 7 from the Decision.
9. Whether Condition 7 of the Decision constitutes an unconstitutional condition in violation of the United States Constitution such that the Court should strike Condition 7 from the Decision.

Certificate of Service

Pursuant to Vt. R. Env. Ct. Proc. 5(f), the undersigned certifies that this Statement of Questions is being served forthwith on the Town of Richmond and on all interested parties.

Respectfully submitted,

SUMMIT DISTRIBUTING LLC

By its attorneys,

SHEEHAN PHINNEY BASS & GREEN PA

Dated: October 7, 2022

/s/ Jonathan R. Voegele
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