

TOWN OF RANDOLPH, VERMONT
DEVELOPMENT REVIEW BOARD
MEMORANDUM OF DECISION
(Findings of Facts, Conclusions, and Decision)

PERMIT: **#Z16-7**
PROPERTY ADDRESS: **44 South Main Street**
PARCEL NO.: **248028**
PARCEL SIZE: **6.2 acres**

PROPERTY OWNER: **Gifford Medical Center**
PO Box 2000
Randolph, VT 05060

APPLICANT: **Lisa Gray**
Randolph Farmers Market
PO Box 33
Randolph, VT 05060

I. INTRODUCTION

On January 20, 2016, Lisa Gray, on behalf of the Randolph Farmers Market ("Applicant") filed an application for a zoning permit to relocate the farmers market to the green at Gifford Medical Center. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on February 4, 2016.

Under the Randolph Zoning Regulations (RZR or "Regulations"), projects are reviewed based on the site plan, conditional use and/or any other applicable criteria of the RZR. Before the Administrative Officer ("Administrator") may grant a permit, the Board must find that the project complies with all applicable criteria and approve the site plan, the conditional use and/or provide any other approval, as required.

Decisions must be stated in the form of Findings of Facts and Conclusions of Law. In rendering this decision, the Board relied on the following:

1. Sworn testimony presented to and evidence received by the Board during the first and final public hearing held on February 23, 2016;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records.

The Board closed the public hearing on February 23, 2016 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1309 and supersedes the oral decision.

II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Civic Tourist (CT) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The use is categorized as "retail sales". Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.

On February 4, 2016, the Administrator referred the application to the Board for review and approval as determined.

III. PARTICIPANTS

For the purposes of this application, “interested persons” are those who fulfill the requirements of 24 VSA ch. 117 §4465. Applicant Lisa Gray and property owner representative Doug Pfohl were the only participants in this proceeding. Participating Board members¹ were Trini Brassard, Thomas Malanchuk, Michael Hildenbrand, David Miles and Joel Tillberg.

IV. FINDINGS OF FACTS

The following findings are facts that were entered into the record for this application and relied upon by the Board in formulating its conclusions and decisions. While other evidence may have been or is also entered into the record, if it is not included herein, the Board has determined that it is either not relevant evidence or that it is not a fact.

Project Description

1. The applicant has filed an application to relocate the Randolph Farmers Market to the greenspace between Gifford Medical Center and the Gifford Thrift Store at 44 and 52 South Main Street, respectively, as shown on Exh. #1. No changes to the existing site plan are proposed. (application and Exh. #1)
2. The farmers market will be open to the public on Saturdays from 9 AM to 1 PM from mid-May through mid-October. Vendors will be setting up as early as 7 AM and should be off the premises by 3 PM. Some entertainment in the form of music, dancers, etc., may be provided when the market is open. (application)

Consistency and compliance with Town Plan and ordinances. (SP criterion A and CU criteria A and H,)

3. The required off-street parking shall be as set by the Board. The existing parking at the property accommodates over 172 vehicles. Weekends are off-peak periods for Gifford, therefore, the current need for parking on Saturday mornings is for approximately 50 staff members. (application, RZR and testimony of D. Pfohl)
4. The development standards for setbacks and coverages are not affected by this project as no increase in building footprint is proposed. (application)
5. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. However, the farmers market does support some general goals of the Plan, including retail sales that is pedestrian-friendly, support of local farmers, etc. (application and Town Plan)

Traffic and nuisance considerations (SP criterion C and CU criteria B, C and G)

6. The proposed use will not generate any of the following: dust, odor, glare, vibration or radiation. (application)
7. The proposed use will generate some noise, but not at a level significant enough to cause a hazard to health or property. Additionally, patients in the medical facility are not likely to be

¹ Members John Becker and Christopher Recchia, present for other applications on the agenda, did not participate in this proceeding due to conflicts of interest.

affected by the entertainment at the farmers market. There already is entertainment on the green on Tuesdays in the summer. (application and testimony of D. Pfohl)

8. There will be a grill and other cooking vendors. This will increase the potential for a fire but does not rise to the level of creating a hazard. (application)
9. The proposed use does increase the traffic in the area but it will not create a hazard, as this location has improved access, parking and visibility compared to its former location on Central Street. (application)
10. The proposed use does not have the potential to cause a hazard through accident or unsanitary conditions. (application)
11. Vendors and patrons of the market will not be allowed to park or load/unload on South Main Street. (testimony of L. Gray and condition of approval)

Continuous strip (CU criterion D)

12. The green itself is over 50 feet wide and is considered the "continuous strip" between the street line and the balance of the lot. (application)

Municipal services (CU criterion E)

13. As the proposed use is not a residential use, it will not increase the enrollment in local public schools. (application)
14. The minimal needs for solid waste disposal and public restrooms will be met by Gifford as will any emergency services. (application)
15. There are no planned community services that are affected by this project. (application)

Character of and effects on the area (SP criteria B and D and CU criterion F)

16. The uses directly adjacent to the proposed site of the farmers market is a thrift shop, the parking lot for Gifford Medical Center, the hospital, a residence with a taekwon do studio, a multi-family dwelling and undeveloped wooded land. (Exh. #2)
17. No buildings, walls or fences are proposed. No changes to the existing parking, loading or landscaping are proposed. (Exh. #1)
18. The farmers market is limited in duration (4 hours, one day a week for 5 months a year). (application)
19. The Town Plan calls for this property to be zoned "Gateway Commercial Retail" which allows for medium-scale retail development. (Town Plan)

Renewable energy resources (CU criterion I)

20. The proposed use will not affect the utilization of renewable energy resources. (application)

V. CONCLUSIONS

Based on the foregoing Findings of Fact, it is the conclusion of the Board that the project described in the application referred to above and including the Applicant's representations at the public hearing, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the following criteria:

1. Conditional Use Criteria²

- A. The proposed use is consistent with the objectives of the Town Plan and is consistent with the purposes of the Randolph Zoning Regulations.
- B. The proposed use will not cause any hazard to health or property through fire, traffic (with condition of approval), accident, unsanitary conditions, excessive noise, vibration, odor or other nuisances.
- C. The proposed use will not add a volume of traffic to the highways beyond their reasonable capacity.
- D. A continuous strip of not less than six (6) feet wide will be maintained between the right-of-way line and the balance of the lot which will be suitably landscaped.
- E. The proposed use shall not have an undue adverse effect on the capacity of existing or planned community facilities.
- F. The proposed use shall not have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards in the Town Plan.
- G. The proposed use shall not have an undue adverse effect on the traffic on roads and highways in the vicinity.
- H. The proposed use shall not have an undue adverse effect on the bylaws in effect.
- I. The proposed use shall not have an undue adverse effect on the utilization of renewable energy resources.

2. Site Plan Criteria

- A. The proposed use, design and layout meets the provisions of the zoning ordinance, other regulations and ordinances of the Town and is not in non-conformance with the Town Plan.
- B. The proposed use, design and layout is of such a location and in such a size and character that it will be in harmony with the appropriate and orderly development of the surrounding area.
- C. The proposed use and layout is of such a nature that it will not make vehicular or pedestrian traffic hazardous when considering turning movements, relationship to intersections, sight distances, location and access of off-street parking, pedestrian traffic and pedestrian-vehicular contact points.
- D. The proposed height and location of buildings, walls, fences, parking, loading and landscaping will not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use.

VI.

DECISIONS³

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the relocation of the farmers market to the green on the Gifford Medical Center campus as applied for in zoning permit application #Z16-7:

² Criteria A – D are from the RZR. Criteria E – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

³ An interested party (as defined in 24 VSA §4465) who participated in this proceeding may appeal this decision to the Vermont Environmental Court within 30 days of the date of the decision, for a fee of \$262.50

- A. The site plan approval is granted with the following conditions:
1. The project shall be constructed as shown on the exhibits and completed and operated in accordance with the application and the findings of fact which are incorporated herein.
 2. Use of the green shall be as shown on Exh. #1.
 3. Parking, standing and loading/unloading along South Main Street is not allowed. Movable signage (i.e. sandwich board signs or the like) shall be placed along South Main Street indicating that these activities are prohibited. Such signage shall be in place prior to when vendors arrive for the market and until they leave afterwards and shall be placed such that they do not interfere with pedestrians on the sidewalk or traffic on South Main Street.
 4. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 5. Any significant modifications to the approved site plan shall require re-approval by the Board pursuant to the regulations in effect at the time of re-application.
- C. The conditional use approval is granted with the following conditions:
1. The project shall be operated in accordance with the application and the findings of fact which are incorporated herein.
 2. Any expansion of the use shall require approval pursuant to the regulations in effect at the time of re-application.

Dated at Randolph, Vermont this 14th day of March 2016.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



Joel Tillberg, Chair



Michael Hildenbrand



Trini Brassard



Thomas Malanchuk



David Miles

and a notice in writing, certified mailed to the Environmental Court, giving reasons for the appeal, and a copy mailed to the Zoning Administrator. Failure to appeal this decision may prevent any party from arguing against its elements in a future hearing or appeal. 24 VSA §4472.