

TOWN OF CHESTER
DEVELOPMENT REVIEW BOARD

CONDITIONAL USE PERMIT (Application No. 430)

IN RE: ZACHARY'S/The ZAREMBA GROUP

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On August 8th 2011 the Chester Development Review Board (DRB) convened a properly warned public hearing at the Chester Town Office to consider a Conditional Use request (#430) submitted by Theodore Zachary and The Zarembo Group. The public hearing followed a properly warned public notice. A quorum of DRB members was present; they being Peter Hudkins, Chairman, Dan Ferguson, Vice Chairman, Harry Goodell, Bruce McEnaney and Scott Wunderle.

Visitors include: Michael Normyle, Zoning Administrator, Chris Ponessi with Speath Engineering & Matt Casey representing The Zarembo Group, Attorney David Cooper representing The Zarembo Group and Attorney Sarah Vail representing Zachary's, along with the following interested citizens: Marilyn Ledaux, Karen Zupping, Phillisa Jones-Prescott, Judy & Mark Verespy, Scott Morgan, Mary & George Bittner, Tom Hildreth, Lew Watters, Dave Willis Sr., Michael Alon, Richard Farnsworth, Laurie & Palmer Goodrich, Robert Record, Donna Whitney, Cynthia Prairie, Shawn Cunningham, Donald Payne, Stephanie Whitney-Payne, Christine Anderson, William Lindsay, Sarah & John Yake, Catherin Russet, Donna & Ron Czasipa, Lillian Willis, Lynne Reed, John McAllery, Carrie King, Kathleen Willis, Claudio Veliz, John & Jean Penny, Sean Whalen, Mary Lou Farr, Kate Heaton, Greg Burkland, Cary Coger, Tom McLean, Ron Patch, Freddie Greene, Wendy Svec, Thomas Bock and several more names, whose signatures were not readable.

The following people were sworn in Matt Prescott, Karen Zupping, Scott Morgan, Mary & Tom Bittner, Tom Hildreth, Michael Alon, Richard Farnsworth, Robert Record, Cynthia Prairie, Donald Payne, Christine Anderson, Sarah & John Yake, Donna Czapipa, Lillian & Kathleen Willis, Lynne Reed, Claudio Veliz, John & Jean Penny, Mark Verespy, Sean Whalen, Mary Lou Farr and Ron Patch.

Initial P# / Bwm / DJF, ASB, SW

This meeting was recessed and subsequent meetings were held on:

- Sept 12th (which was postponed at the request of Mr. Ponessi)
- Oct. 10th, where the five (5) DRB members were in attendance: Chairman Hudkins, Vice-Chairman Ferguson, Scott Wunderle, Harry Goodell and Bruce McEnaney, along with the Zoning Administrator Michael Normyle.
- Nov. 14th which was attended by the five (5) members of the DRB; Chairman Hudkins, Vice-Chairman Ferguson, Scott Wunderle, Harry Goodell and Bruce McEnaney, along with the Zoning Administrator Michael Normyle. The following people were sworn in: Chris McNulty, Diane Holm, Brian Morris, Ryan Dowling, Ellis Speath and Ruth Douglass
- Dec. 12th with DRB members including Chairman Hudkins, Vice-chair Ferguson, Harry Goodell, Bruce McEnaney and alternate Mark Curran filling in for Scott Wunderle, along with the Zoning Administrator Michael Normyle. The following two people were sworn in: Bob Parker and Brook Decker. Scott Wunderle has listened to the audio of the meeting.
- Jan 9th, with DRB members including Chairman Hudkins, Vice-chair Ferguson, Harry Goodell, Bruce McEnaney, Scott Wunderle and alternate Mark Curran, along with the Zoning Administrator Michael Normyle; and during which the following people were sworn in: Leonard Lisai, Diana Ashworth and Michele Bargrede.
- Feb 13th, which was postponed by mutual agreement
- March 12th 2012 with all five (5) members of the DRB: Chairman Hudkins, Vice-Chairman Ferguson, Scott Wunderle, Harry Goodell and Bruce McEnaney in attendance along with the Zoning Administrator Michael Normyle.

Initial / H / BWM / DF / AS, SW

Based upon the testimony of the witnesses appearing during the Hearing and the documents introduced at the hearing, the Development Review Board hereby finds, concludes and orders as follows:

FINDINGS OF FACT

1. That an application has been filed by The Zaremba Group to build a retail store.
2. That the property is owned by Theodore Zachary. The Applicant is The Zaremba Group.
3. That the property is located at 319 South Main Street in Chester, Vermont.
4. That the property is subject to Subdivision Permit Number 429, approved on 10/11/11.
5. That the proposed building will be constructed on Lot 2 as depicted on said subdivision plan, estimated to contain 1.37 acres.
6. That the property is located in the Residential/Commercial District.
7. That a retail store is an allowed use in the Residential/Commercial District.
8. That the proposed retail store will be owned and operated by Dollar General Corporation.
9. That in order to facilitate their decision, the Development Review Board incorporates as part of the permanent record of this hearing, the following:
 - a. Subdivision plans entitled, "Lands for Theodore Zachary FP1" and Easement Plan entitled, "FP2", both prepared by Speath Engineering, dated 10/3/11. Entered into evidence and labeled as Exhibit A.
 - b. Application, presented in a 3 ring binder, prepared by Attorney Cooper, representing The Zaremba Group dated 10/10/11. Entered into evidence and labeled as Exhibit B. Intended to include all revisions presented, the final revision being dated 3/5/12.
 - c. Copy of the Town Plan of the Town of Chester dated 7/21/10. Entered into evidence and labeled as Exhibit C.
 - d. Copy of the Zoning Regulations for the Town of Chester dated 12/13/07. Entered into evidence and labeled as Exhibit D.
 - e. Future Land Use Plan of the Town of Chester dated 7/21/10. Entered into evidence and labeled as Exhibit E.
 - f. Article relating to tree planting prepared by the Vermont Division of Forestry dated 10/7/11. Entered into evidence and labeled as Exhibit F.
 - g. Photographs presented by Attorney Cooper of nine businesses dated 10/4/11, located near the proposed project. Entered into evidence and labeled as Exhibit G.
 - h. Traffic Study prepared by David Saladino of RSG Associates, dated 10/10/11 entered into evidence and labeled as Exhibit H.

Initial PH/BWM/DTT, ASO, SW

- i. Written testimony of Jean Vissering, with Jean Vissering Landscape Architecture dated 11/11/11. Included with this testimony is a copy of a Power Point presentation, photographs and testimony of Smart Growth Chester. Entered into evidence and labeled as Exhibit I.
- j. Written testimony of Ellis Speath of Speath Engineering dated 11/14/11. Entered into evidence and labeled as Exhibit J.
- k. Building Elevations (EL-1) prepared by GPD Group dated 10/24/11 and (EL-1.1) 12/16/11. Entered into evidence and labeled as Exhibit K & K.1 This is to include all revisions presented.
- l. Three-dimensional drawing of proposed building prepared by Trudell Consulting Engineers (TCE) dated 10/5/11. Entered into evidence and labeled as Exhibit L. intended to include all revisions presented, the final revision being dated 1/4/12.
- m. Drawings of brick façade prepared by Speath Engineering, dated 12/ 12/11. entered into evidence and labeled as Exhibit M.
- n. Interior Floor Plan prepared by The Zaremba Group dated 12/12/11. Entered into evidence and labeled as Exhibit N.
- o. Letter of Gary Schumacher, Professional Engineer with Chief Building, dated 11/12/11. Entered into evidence and labeled as Exhibit O.
- p. Traffic Study supplement prepared by David Saladino of RSG, Associates dated 11/14/11. Entered into evidence and labeled as Exhibit P.
- q. Testimony of Chris Ponessi, with Speath Engineering. Entered into evidence and labeled as Exhibit Q.
- r. Resume of Shawn Cunningham, representing Smart Growth Chester. Entered into evidence on 12/12/11 and labeled as Exhibit R.
- s. Photographs presented by Smart Growth Chester of five businesses located near the proposed project, along with respective permits. Entered into evidence and labeled as Exhibit S.
- t. Fact sheet regarding the S-5 roof guards prepared by Matt Casey with The Zaremba Group, dated 12/12/11. Entered into evidence and labeled as Exhibit T.
- u. Fact sheet regarding CertainTeed siding, prepared by Matt Casey with The Zaremba Group, dated 1/3/12. Entered into evidence and labeled as Exhibit U.
- v. Information sheet demonstrating proposed front yard and building signs, prepared by Matt Casey with The Zaremba Group, dated 1/3/12. Entered into evidence and labeled Exhibit V.
- w. Cover page prepared by Shawn Cunningham representing Smart Growth Chester dated 1/9/12. Entered into evidence and labeled Exhibit W.
- x. Letter of Michael Rubino of GPD Group regarding sprinkler system dated 3/2/12. Entered into evidence and labeled as Exhibit X.
- y. Traffic Study supplement prepared by David Saladino of RSG Associates dated 3/2/12. Entered into evidence and labeled as Exhibit Y.
- z. Letter of Richard Cloud, Police Chief for the Chester Police Department, dated 8/17/11 and addendum dated 2/12/12. Entered into evidence and labeled as Exhibit Z.
- aa. Letter of Les Lockhart, Senior Manager for Dollar General, regarding their provisions for de-commissioning of building dated 3/5/12. Entered into evidence and labeled as Exhibit AA.

Initial PK/Bwm/DFF/HES/GW

- bb. Spandrel glass faux windows, additional information, prepared by Matt Casey with The Zaremba Group dated 3/12/12. Entered into evidence and labeled as Exhibit AB.
- cc. Vermont State Storm Water Permit number 3280-9015, dated 1/26/ 12. Entered into evidence and labeled as Exhibit AC.
- dd. Letter of David Cooper, Attorney for The Zaremba Group, dated 3/6/12. Entered into evidence and labeled as Exhibit AD.
- ee. Letter of Jeffrey Holden, Water & Sewer Superintendent for the Town of Chester, dated 9/26/11. Entered into evidence and labeled as Exhibit AE.
- ff. Sample of matte black standing seam roofing, presented by Chris Ponessi, dated 3/5/12, with Speath Engineering . Entered into evidence and labeled as Exhibit AF.

It is intended to include any and all revisions made, prior to the date of adjournment, to any exhibits stated above.

- 10. The hours of operation for the proposed retail store will be 8:00 a.m. until 9:00 p.m.
- 11. That the proposed retail store will be open 7 days per week.
- 12. That the applicant is estimating there to be one store Manager who will be supplied benefits.
- 13. That the applicant is estimating two key holders/assistant managers who will not be supplied benefits.
- 14. That the applicant is estimating 7 to 10 part time employees who will not be supplied benefits.
- 15. That the proposed building is 9,100 square feet in size.
- 16. That the proposed structure will be a one story building.
- 17. That the height of the proposed building will not exceed 35 feet, including the proposed cupola.
- 18. That the proposed building will be a metal frame structure.
- 19. That the exterior materials of the proposed building will be horizontal clapboards, cornice boards, corner boards, rake boards, window and door casings.
- 20. That the exterior wooden components of the proposed building will be either painted or stained in neutral earth tones.
- 21. That there will be a natural brick knee wall on the main entry side of the building.
- 22. That there will be faux windows on the front gable end of the proposed building.

Initial PH/BWM/STF, HEG, SW

23. That there will be a hayloft style door on the front gable end of the proposed building.
24. That there will be a cupola on the roof of the proposed building.
25. That the proposed building will have a peaked roof constructed at a 5/12 pitch.
26. That the proposed building will have a metal standing seam roof.
27. That there will be no mechanicals located on the roof of the proposed building.
28. That there will be a gutter system and downspouts installed on the proposed building for the purpose of collecting storm water drainage.
29. That there will be snow guards installed on the full length of the left side, the northwest side of the proposed building.
30. That there will be no snow guards installed on the right side of the proposed building.
31. That the foundation of the proposed building is designed to be a slab on grade with a finished floor at an elevation of 591 feet.
32. That the elevation of 591 feet is approximately 2 feet above the Base Flood Elevation of the 100 year flood.
33. That all utilities for the proposed new building and structures will be located underground.
34. That there will be two water lines installed in accordance with the Town of Chester water/sewer regulations.
35. That one of the two water lines stated in #34 will be used for fire suppression and the other line for potable water supply.
36. That the proposed building will be connected to the Chester municipal sewer system.
37. That the installation and connection of the water lines and sewer lines will be approved by the Town of Chester Water/Sewer Superintendent.
38. That the proposed building will have a fire suppression system which will include a sprinkler system.
39. That a new fire hydrant will be installed near the front left (west) corner of the building.
40. That there will be two 500 gallon propane tanks.
41. That the proposed 500 gallon propane tanks will be installed sub-surface.

Initial PH/BWM/DTF/HES,GN

42. That the proposed 500 gallon propane tanks will be located on the south east corner of the building
43. That the lines from the propane tanks will be located underground and run to the rear of the building.
44. That in accordance with the Chester Sign Regulations, there shall be no more than two signs located on the property.
45. That there will be one wall-mounted sign located on the front gable end of the proposed building.
46. That the wall-mounted sign's maximum height will not exceed 605 feet in elevation.
47. That there will be one free-standing sign located near the front entrance to the property.
48. That the free-standing sign will have a brick base with black lettering on a yellow background.
49. That the free-standing sign's maximum height will not exceed 606 feet in elevation.
50. That there will be no outdoor storage or display of any products, merchandise or materials.
51. That there will be downward facing lights located in the parking lot, for walkway and rear service area of the proposed building, per photometric drawings.
52. That all lighting, including signage, will be shielded downward.
53. That the proposed lighting, including signage, will come on no sooner than ½ hour before opening and will be turned off no later than ½ hour after closing.
54. That the proposed lighting plan includes zero sum candle power at the property boundary.
55. That the subject property is located adjacent to the existing Zachary's Restaurant.
56. That the subject property shares an access with the adjacent Zachary's Restaurant.
57. That the existing access will be relocated approximately 90 feet to the south.
58. That the access will remain a shared access with Zachary's Restaurant.
59. That there will be 31 parking spaces provided for the proposed building.
60. That the standard for parking spaces is currently 10 feet by 20 feet.

Initial PA/BWM/DF, HES, GW

61. That delivery trucks will drive forward into the property and then back into the unloading area.
62. That all deliveries will occur during normal hours of operation.
63. That delivery trucks will leave the property in a forward motion when re-accessing the main road.
64. That all new drainage from the proposed project area will be diverted to the detention structure.
65. That the storm water outlet from Zachary's Restaurant will bypass the detention structure.
66. That the spillway will be approximately 0.75 feet above the 100 year flood.
67. That the applicant has testified that all of the current vegetation which is screening the wetlands will not be removed.
68. That there will be two berms constructed with one around the back of the proposed building and the other on the south side of the detention pond.
69. That the new access will disrupt the existing sidewalk system at the front of the property.
70. That the applicant will replace all sidewalk and granite curbing located along the entire length of the front boundary of the property (Cummings to Whitham).
71. That all sidewalks constructed will be a minimum of five (5) feet in width.
72. That there will be a sidewalk on the west side of the building.
73. That there will be a sidewalk located on the front side of the building.
74. That there will be a pedestrian walkway connecting the roadside sidewalk with the front entrance to the proposed building.
75. That there will be a painted crosswalk across the new entrance to the property.
76. That landscaping will include the planting of deciduous and evergreen trees, in addition to shrubbery.
77. That all landscaping will be consistent with the existing island tree concept on the adjacent Zachary's Restaurant property.
78. That all landscaping will be maintained long term, including the replacement of trees and plants as needed.

Initial JH/BWM/DVF/ESS/LW

79. That, in accordance with the testimony of Bartlett Tree Experts, the large tree to the south of the entrance will be significantly trimmed.
80. That there will be Arborvitae planted around the dumpster and HVAC equipment.
81. That the dumpsters will be located at the north rear corner of the property.
82. That all mechanicals will be located behind the proposed building.
83. That all HVAC equipment will not exceed 55 decibels dB(A) at the property line.
84. That, in accordance with the presented traffic study, the peak vehicular trips expected will be 47 primary and 24 pass-by during the midweek; 68 primary and 24 pass-by mid-day on Saturdays.
85. That the traffic study presented did not include statistics for Sundays.
86. That Sunday afternoons typically demonstrate high traffic volumes during the winter months due to ski traffic.
87. That the site plan (EC-1) does not reflect the crown at the center of South Main Street.
88. That in the event of a business closure Dollar General will remove its inventory and signage, secure the building, and cause the property to be maintained.
89. That Development Review Board member Scott Wunderle listened to the tape from the hearing on 12/12/11, which he missed.
90. That exterior paint or stain will be neutral earth tones.

Conclusions of Law:

Based upon the above findings of facts, the Chester DRB hereby concludes that the project was presented by the applicants, in accordance with section 9.2 of the Chester Zoning By-Laws:

1. General Standards

1 A. THE CAPACITY OF EXISTING OR PLANNED COMMUNITY FACILITIES:

The applicant shall connect to the town's water and sewer system(s). This shall include new underground lines and connections.

The complete existing drainage system on the adjoining property shall be cleaned and inspected. If the life expectancy of drainage system is less than 10 years, as determined by a Vermont licensed engineer, the system shall be replaced.

All municipal water hydrants, valves, etc. shall be functional including those located on the adjoining Zachary property.

The applicant shall replace and add granite curbing and sidewalk for the entire length of the front boundaries of the existing Zachary property (Cummings to Whitham).

The utilities for the proposed building will be run underground.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

1 B. THE CHARACTER OF THE AREA AFFECTED: *The new project is a (9,100 square feet) retail store. A retail store is an allowed use in the Residential Commercial District.*

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

1 C. TRAFFIC ON ROADS AND HIGHWAYS: *The applicant shall be responsible for the costs of a detail traffic officer if it is determined that traffic problems are originating from their entrance onto South Main Street.*

The applicant shall install a stop sign at the exit of the joint access as directed by the Police Chief.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

1 D. BYLAWS IN EFFECT: *A retail space is a permitted use in the Residential/ Commercial (RC) District.*

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

Initial *PK/BWM/DF/HBS/SW*

1 E. UTILIZATION OF RENEWABLE RESOURCES: *The new project is not expected to affect this criterion.*

2 **Specific Standards** as follows may also apply to this Application:

2 A. MINIMUM LOT SIZE: *The minimum lot size in the Residential Commercial District is 20,000 square feet. The subject property was recently created by subdivision number 429 and contains 1.37 acres.*

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

2 B. DISTANCE FROM ADJACENT OR NEARBY USES: *This lot is surrounded by several commercial buildings with private residences close by and across the street.*

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

2 C. MINIMUM OFF-STREET PARKING AND LOADING FACILITIES: *It is agreed that the applicant shall include 31 off-street parking places. The parking curbing shall be granite. There shall be a painted crosswalk across the new entrance.*

All delivery trucks shall drive forward into the property and then back into the unloading area. The delivery trucks shall leave the property in a forward motion when re-accessing the main road. All delivery trucks shall enter the property only during normal hours of operation; 8:00am to 9:00 pm. There shall be no overnight parking of delivery trucks.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

2 D. LANDSCAPING AND FENCING: *The project shall include a mixture of species. The applicant shall have a long term plan and budget to maintain the landscaping plan. In addition, a wooden privacy fence shall be constructed around the mechanical pad and dumpster locations.*

The applicant shall trim the large Silver Maple, to the right of the entrance to the property on South Main Street, as needed to keep the tree in good health. The applicant shall remove the tree when it dies and replace the tree with 6 inch caliper minimum of an appropriate variety.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

2 E. DESIGN AND LOCATION OF STRUCTURES AND SERVICE AREA: *The entire building shall be covered by a fire suppression system, including sprinklers.*

Initial PH / BWM / DJF / AS / GW

There shall be a pad built at the rear of the building for all mechanicals. There shall be a pad built to the north of the mechanical pad at the rear of the building for a dumpster. In addition, the mechanicals and dumpster shall be screened with plantings and fencing. There shall be no outdoor storage or display of any products, merchandise or materials. The owner shall store all shopping carts inside the building when not in use.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

2 F. SIZE, LOCATION, AND DESIGN OF SIGNS: *The applicant shall have no more than two permitted signs: one sign by the entrance and another wall sign on the gable end of the building. The entrance road sign's maximum height shall not exceed 606 feet in elevation; and the maximum height for the wall sign shall not exceed 605 feet in elevation.*

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

2 G. SUCH OTHER FACTORS AS THE ZONING REGULATIONS MAY INCLUDE: There were no other factors discussed.

3 Performance Standards:

3A. Performance standards shall include acceptable standards and levels of performance which are not likely to adversely affect the use of the surrounding area by the emission of such dangerous or objectionable elements as noise, vibration, smoke, dust, odor or other forms of air pollution, heat, cold, dampness, electromagnetic or other disturbance, glare, liquid or solid fuel, refuse or wastes, or create any dangerous, injurious noxious fire, explosive or other hazard.

The noise levels at the property lines for the HVAC and mechanical equipment shall not exceed 55 dB(A). There shall be no mechanical equipment on the roof of the building.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

3B. Performance standards also include standards for signage lights, security lights, street lighting, parking lot lighting, or any lights so that any artificial lighting does not disturb the traffic, or be objectionable to adjacent property owners.

The applicant's lighting shall have zero sum candle power at the property boundaries. All exterior lighting fixtures shall be shielded downward. All exterior lighting, including signage, shall come on no sooner than one half (1/2) hour before opening and turn off within a half (1/2) hour after closing. The lighting shall conform to the photometric drawings.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

Initial *YK/BWM/ST/BS/GW*

4 Special criteria The following special criteria should be considered by the Development Review Board when considering an application for a conditional use permit in the (R-C) Residential-Commercial, Commercial (C), and (R20) Residential 20,000 districts:

4A That all construction of new buildings, as well as any exterior alteration, fencing, lighting, reconstruction or renovation of existing buildings adhere harmoniously to the over-all New England architectural appearance which give Chester it's distinct regional character and appeal.

The exterior materials of the building shall be horizontal clapboards, cornice boards, corner boards, rake boards, window & door casings all of natural wood; painted or stained. Privacy fencing shall be natural wood; painted or stained. The fencing shall face the abutting properties. All light fixtures & associated structures shall have a flat finish, dark in color.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

4B That the inclusion of certain features of exterior trim, such as shutters or eave trim, or other decorative features be encouraged, in order to insure that new construction blends comfortably with the existing buildings in the district.

The building shall have a cupola and hayloft door, both of natural wood; painted or stained in neutral earth tones.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

4C That the use of native, traditional building materials commonly used for construction in Chester in the past be encouraged. Such desirable materials would include wood siding, natural stone and brick masonry and be in keeping with the buildings in the area.

The exterior materials of the building shall be horizontal clapboards, cornice boards, corner boards, rake boards, window and door casings all of natural wood; painted or stained. The brick knee wall and sign base shall be real brick / mortar similar in color, size and texture of the existing Zachary's building. The roofing material shall be metal standing seam with a matte black finish.

Based on the conclusions stated above, it is the opinion of the Development Review Board that this application does not adversely affect this criterion.

4D Based on the esthetics of the area and the preservation of Historical Sites

There is no structure in the immediate area that has been introduced with a Historical classification

Initial *PK/RWM/DJF/ACS/LW*

Order

The Chester Development Review Board hereby approves the Conditional Use Application # 430, to allow for a retail store to be built and operated at 319 South Main Street in Chester, subject to the following conditions:

1. The project shall be constructed, completed and operated in accordance with the application, plans and exhibits on file and the findings of facts incorporated herein.
2. This permit shall run with the land and will be binding upon and enforceable against the permittee and all successors and assignees.
3. Prior to commencement of any construction, the permittee shall obtain any state or local permits required for this project. Copies of all permits shall be recorded in the town zoning office before construction commences.
4. There shall be no changes, modifications or alterations to the project without submission of an application for an amendment duly reviewed and approved by the Development Review Board.
5. By acceptance of this Conditional Use permit, the permittee authorizes the officer of the town to access the property at reasonable times for the purpose of ascertaining compliance with the town zoning regulations and conditions of this permit.
6. The project shall be built in accordance with the final adopted version of all drawings submitted, including but not limited to the following:
 - C-1 Cover Sheet Revision 5. 3/5/12
 - EC-1 Existing conditions and Demolition Plan Revision 5. 3/5/12
 - SP-1 Dollar General Site Plan Revision 5. 3/5/12
 - UP-1 Utility and Landscape Plan Revision 5. 3/5/12
 - GD-1 Grading and Drainage Plan Revision 2. 3/5/12
 - DT-1 Site Details Revision 4. 3/5/12
 - DT-2 Site Details Revision 5. 3/5/12
 - ES-1 Electrical Site Lighting Photometric Plan 8/17/11
 - EL-1 Building Elevations including all revisions.
 - EL-1.1 Building Elevations including all revisions.
 - FP-1 Lands for Theodore Zachary 10/3/11.
 - FP- 2 Easement Plan 10/3/11.
7. The applicant shall be responsible for building a wooden fence around the mechanical pad and dumpster, at least 6' high. The fencing shall face the abutting property. (SP-1 3/5/12, EL-1.1 12/16/11)
8. The applicant shall replace the sidewalk, along with granite curbing the entire length of the existing Zachary's front boundary line (Cummings to Whitham). (UP-1 3/5/12, GD-1 3/5/12, DT-2 3/5/12)

Initial PA/BWM/DT/AS, GW

9. In the event future problems arise requiring a traffic or safety officer, the owner shall be required to reimburse the Town for this expense for Police Officer acting as a traffic detail. Exhibit Z
10. The Landscaping plan (UP-1 3/5/12, DT-1 3/5/12) shall be amended to include the perpetual care and replacement of seeded lawn areas, trees and shrubbery.
11. The exterior material of the building shall be horizontal clapboards, cornice boards, corner boards, rake boards, window and door casings all of natural wood, painted or stained in a neutral earth tone color.
12. The Cupola and hayloft door shall be of natural wood painted or stained in a neutral earth tone color.
13. The roof material shall be metal standing seam: Matte Black. (exhibit AF)
14. The front knee wall and sign base brick/mortar shall be similar in color, size and texture of the existing Zachary's restaurant.
15. The mechanical and dumpster privacy fencing shall be natural wood painted or stained a neutral earth tone color.
16. All lighting fixtures and associated lighting structures shall have a flat finish, dark in color.
17. All lighting, which shall include the signage, walkways & building, shall be directed downward and shall not create any undue glare. (ES-1 8/17/11, UP-1 3/5/12).
18. There shall be zero sum lighting at the property lines.
19. All lighting, including signage, shall come on no sooner than ½ hour before opening and will be turned off no later than ½ hour after closing.
20. There shall be no outdoor storage or display of any products, merchandise or materials of any kind.
21. All shopping carts shall be stored inside at all times and collected from the parking lot when not in use.
22. The store hours shall be from 8:00am - 9:00pm seven days a week
23. The maximum height of the freestanding entrance road sign shall not exceed 606 feet in elevation, and the maximum height for the wall sign shall not exceed 605 feet in elevation.
24. The entire building shall be covered by a fire suppression sprinkler system.

Initial PK/BWM/DT/HES, GW

25. There shall be no HVAC or mechanical equipment on the roof of the building.
26. There shall be no noise levels exceeding 55dB(A) at the property lines. (Matt Casey testimony on 3/12/12)
27. The fire department connection, used to charge the sprinkler system, shall be located by the Fire Chief.
28. There shall be two separate water services, one for the fire suppression sprinkler system (with a post indicator valve protected by bollards) and one for potable water.
29. The Landscaping plan (UP-1 3/5/12, DT-1 3/5/12) shall provide for perpetual care of lawn, trees and shrubbery.
30. The owner of the property shall remove all inventory and signage within thirty (30) days of any business closure. (Matt Casey testimony on 3/12/12)
31. The owner of the property shall secure the building and maintain the property immediately following a business closure, (Exhibit AA 3/5/12)
32. The delivery trucks shall drive forward into the property and then back into the unloading area.
33. The delivery trucks shall leave the property in a forward motion when re-accessing the main road.
34. Delivery trucks shall enter the property only during normal hours of operation; 8:00am to 9:00 pm. There shall be no overnight parking of delivery trucks.
35. The applicant shall install a stop sign at the exit of the joint access as directed by the Police Chief.

DECISION:

If the provisions listed above are complied with, the applicant may proceed with their project.

*** 24 VSA §4448(c) The administrative officer shall inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.*

APPEAL PROCEDURE:

An interested person may appeal a decision of the Development Review Board to the Environmental Court within thirty (30) days of this decision under Section 1001(b), Title 4, Vermont Statutes Annotated.

DEVELOPMENT REVIEW BOARD
MEMBERS against the decision

Bruce W. McEnany
Samuel

DEVELOPMENT REVIEW BOARD
MEMBERS for the decision

Peter Hill
~~_____~~
Harry S. Gurdell

Dated at Chester, Vermont, this 16 day of April 2012.

Copy to: Matt Casey on behalf of The Zarnba Group (Certified Mail)

Initial PK/BWM/WN