



LAND USE PERMIT

CASE NO: 2S0699-3
PERMITTEES: Zaremba Program
ADDRESS: Development, LLC
f/k/a Zaremba Group, LLC
14600 Detroit Avenue, #1500
Lakewood, Ohio 44107
and
Theodore Zachary
25 Mountain Brook Drive
Cheshire, CT 06410

LAWS/REGULATIONS INVOLVED:
10 V.S.A. §§ 6001 - 6093 (Act 250)
and Vermont State Environmental
Protection Rules

District Environmental Commission #2 hereby issues Land Use Permit Amendment #2S0699-3, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6093. This permit amendment applies to the lands identified in Book 62, Page 269, of the land records of the Town of Chester, Vermont, as the subject of a deed to Theodore Zachary and a contract to purchase with the Zaremba Program Development, LLC, the Permittees as grantees.

This permit specifically authorizes the Permittees to create two lots consisting of Lot 1 with 8.72 +/- acres and the existing, permitted 3,000-square foot restaurant; and Lot 2 with 1.37 +/- acres and the construction and operation of a 9,100-square foot retail store. The project is located at 319 South Main Street (Route 103) in Chester, Vermont.

A Project Review Sheet dated November 30, 2011, established jurisdiction over this project because the project is a material change to an existing permit. Act 250 Rule 2(C)(6).

The Permittees, and their assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Environmental Commission in accordance with the following conditions:

1. The project shall be completed, operated and maintained in accordance with: (a) the conditions of this permit; (b) Findings of Fact and Conclusions of Law #2S0699-2; and (c) the permit application, plans, and exhibits on file with the District Environmental Commission and other material representations.

The approved plans, prepared by Speath Engineering, are:

Sheet 1B - "Site Plan, Existing and Demolition," dated 6/8/12, last revised 11/7/12 (Exhibit 64);
Sheet 1C - "Site Plan, Utility and Landscaping," dated 6/8/12, last revised 11/7/12 (Exhibit 65);
Sheet 1D - "Site Plan, Grading and Drainage," dated 6/8/12, last revised 11/7/12 (Exhibit 66);
Sheet 2 - "Soils Plan," dated 5/22/12, last revised 11/7/12 (Exhibit 67);

Sheet 3 - "Dollar General Layout Plan with Traffic Circulation," dated 8/3/12, last revised 11/7/12 (Exhibit 68);
Sheet 4 - "Site Plan, Buffers, Flood Zones & Disturbance," dated 9/6/12, last revised 11/7/12 (Exhibit 69);
Sheet 5 - "Flood Mitigation Areas," dated 10/31/12, last revised 11/7/12 (Exhibit 70)

2. All conditions of Land Use Permit #2S0699 and amendments are in full force and effect except as further amended herein.
3. The Permittees shall comply with all of the conditions of the following Agency of Natural Resources (ANR) Permits:
 - a. Wastewater System and Potable Water Supply Permit #WW-2-2637-1 issued on October 7, 2011 (Exhibit 9), by the Department of Environmental Conservation; and
 - b. Authorization of Notice of Intent #3280-9015.A under General Permit #3-9015 (Stormwater Discharge General Permit), issued on August 23, 2012, (Exhibit 6), by the Stormwater Management Program.
4. Any nonmaterial changes to the ANR permits listed in Condition 3 shall be automatically incorporated herein upon issuance by the Agency of Natural Resources.
5. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
6. A copy of this permit and plans shall be on the site at all times throughout the construction process.
7. No changes shall be made in the design, operation or use of this project without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
8. No further subdivision, alteration, and/or development on the tracts approved herein shall be permitted without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
9. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittees and their successors and assigns.

10. Pursuant to 10 V.S.A. § 8005(c), the District Commission may at any time require that the permit holders file an affidavit certifying that the project is in compliance with the terms of this permit.
11. The Permittees shall apply and maintain calcium chloride and/or water on all roadways or disturbed areas within the project during construction as needed and until pavement and/or vegetation is fully established to control dust.
12. The building approved herein is not approved for any manufacturing use or the on-site disposal of any process wastes. The Permittees shall apply and receive amended approval from the District Environmental Commission for any change in the use of the buildings which involves the storage or handling of any regulated substances or the generation of hazardous wastes.
13. The Permittees shall comply with Exhibits #D, 6 and 66 for erosion prevention and sediment control. The Permittees shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion prevention and sediment control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas.
14. All mulch, hay bales, siltation dams, water bars and other temporary devices shall be installed immediately upon any soil disturbance and shall be maintained until all roads are permanently surfaced and all permanent vegetation is established on all slopes and disturbed areas. Topsoil stockpiles shall have the exposed earth completely mulched and have siltation checks around the base.
15. In addition to conformance with all erosion prevention and sediment control conditions, the Permittees shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the Permittees from compliance with 10 V.S.A. Chapter 47, Vermont's Water Pollution Control Law.
16. The Commission reserves the right to review erosion prevention and sediment control and to evaluate and impose additional conditions with respect to erosion prevention and sediment control as it deems necessary.
17. The Permittees shall not clear, cut, mow, or otherwise disturb the land along Lovers Lane Brook (the stream), from the water's edge to the top of the bank or top of slope, and in the adjacent riparian buffer, which is 50 feet wide as measured inland and perpendicular from top of bank or top of slope except for regrading a previous man-made outlet ditch as indicated on Exhibit #69. The Permittees shall maintain this land as undisturbed and naturally vegetated on both sides of the stream. Snowplowing or storage of any materials within the stream buffer is prohibited.

18. The stream buffer, on the project side of the stream, shall be permanently marked with signs in order to prevent inadvertent disturbance of the buffer by construction equipment and property managers. The signs shall be 9 inches by 12 inches and mounted on posts at 50-foot intervals and shall state, "Stream Buffer Do Not Disturb." Upon written approval by the Commission, an alternative sign design and message may be allowed.
19. Prior to the commencement of any site work, the Permittees shall conduct a pre-construction conference on the site with the Compliance Officer of the Natural Resources Board, the Permittees' engineer and the contractor to review the details of the erosion prevention and sediment control plan. In preparation for the pre-construction conference, the Permittees shall clearly delineate the construction limits and the stream buffer with flagging or snowfencing.
20. The Permittees and all assigns and successors in interest shall continually maintain the planting as approved in Exhibit #65 by replacing any dead or diseased plantings within the season or as soon as possible after the ground thaws, whichever is sooner.
21. The Permittees shall execute and adhere to the terms of the Primary Agricultural Soils Off-Site Mitigation Agreement (Mitigation Agreement - Exhibit #32) attached to the Stipulation (Exhibit #34), entered into on October 23, 2012, by the Permittees and the Vermont Agency of Agriculture, Food and Markets. The Mitigation Agreement and the Stipulation are incorporated herein by reference. Pursuant to the Mitigation Agreement, the Permittees shall pay an off-site mitigation payment to the Vermont Housing and Conservation Board in the total sum of \$11,616.74, prior to commencement of construction of the Project. Upon such payment, Criterion 9(B) requirements shall be forever satisfied with respect for past, present, and future impacts to soils on the property.
22. The installation of exterior light fixtures is limited to those approved in Exhibits #36 and #65, and shall be mounted no higher than 16 feet above grade level. All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.
23. Any exterior lighting, including lighting for the signs, shall be turned on no sooner than one-half hour before opening and shall be turned off no later than one-half hour after closing. At a maximum, the hours of operation for the retail building will be every day, 8:00 a.m. to 9:00 p.m.
24. The Permittees shall not erect additional exterior signage without first obtaining approval from the District Environmental Commission. Signage includes banners, flags, and other advertising displays, excepting temporary real estate marketing signs. Temporary "grand opening" signs will be allowed for a reasonable length of time, but not to exceed two months.

25. The installation and/or use of electric resistance space heat is specifically prohibited, except in the case of an emergency, without prior written approval of the District Environmental Commission.
26. At a minimum, energy design and construction shall comply with the *2005 Vermont Guidelines for Energy Efficient Commercial Construction*.
27. Prior to occupation of the retail building, the Permittees shall place a "stop ahead" warning sign along southbound Route 103 in advance of the Maple Street intersection; and to stripe the caution "STOP AHEAD" on the southbound Route 103 approach to the Maple Street intersection.
28. At one and five years following the build-out of the retail building, the Permittees shall monitor traffic volumes and queuing at the site driveway during a ski season Saturday peak hour. The Permittees shall submit the results of this monitoring to the Vermont Agency of Transportation and the District 2 Environmental Commission for review. The Commission reserves the right to evaluate and impose additional conditions with respect to Criterion 5 Traffic Safety and Congestion including the installation of a turn lane, if warranted.
29. The Permittees shall provide bicycle racks for easy parking at the retail building.
30. The Permittees shall install a sidewalk adjacent to the parking lot connection between the retail building and the existing restaurant. A striped crosswalk shall be added to the retail building's side parking area to provide safe passage for pedestrians to access the sidewalk.
31. The Permittees shall reference the requirements and conditions imposed by Land Use Permit #2S0699-3 in all deeds of conveyance and leases.
32. The Permittees shall file a certificate of actual construction costs, on forms available from the Natural Resources Board, pursuant to 10 V.S.A. § 6083a(g) within one month after construction has been substantially completed or two years from the date of this permit, whichever shall occur first. Application for extension of time for good cause shown may be made to the District Environmental Commission. If actual construction costs exceed the original estimate, a supplemental fee based on actual construction costs must be paid at the time of certification in accordance with the fee schedule in effect at the time of application. Upon request, the Permittees shall provide all documents or other information necessary to substantiate the certification. Pursuant to existing law, failure to file the certification or pay any supplemental fee due constitutes grounds for permit revocation. The certificate of actual construction costs and any supplemental fee (by check payable to the "State of Vermont") shall be mailed to: Natural Resources Board, National Life Records Center Building, National Life Drive, Montpelier, VT 05620-3201; Attention: Certification.

33. Pursuant to 10 V.S.A. § 6090(b), this permit amendment is hereby issued for an indefinite term, as long as there is compliance with the conditions herein.
34. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the Permittees have not commenced construction and made substantial progress toward completion within the three-year period in accordance with 10 V.S.A. § 6091(b).
35. All construction shall be completed in accordance with the approved plans by October 15, 2016, unless an extension of this date is approved in writing by the District Environmental Commission.

Failure to comply with all of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A. § 6027(g).

Dated at Springfield, Vermont, on February 27, 2013.



By _____
Michael Bernhardt, Chair
District #2 Environmental Commission
Natural Resources Board

Members participating in
this decision:

Stephan Morse
Stanley Borofsky

Any party may file a motion to alter with the District Environmental Commission within 15 days of the date of this decision, pursuant to Act 250 Rule 31(A). Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 and the 5% surcharge required by 32 V.S.A. § 1431a(a), which is \$262.50 as of January 2011. The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Center Building, Montpelier, VT 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the VRECP. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8540(k). For additional information on filing appeals, see the Court's website at: www.vermontjudiciary.org or call (802)828-1660. The Court's mailing address is: Superior Court, Environmental Division, 2418 Airport Road, Suite 1, Barre, VT 05641-8701.