

Hardwick Development Review Board
Conditional Use Hearing
Four Season Leasing, Inc.
1868 VT Route 16, East Hardwick
Application #2016-053
November 16, 2016

To consider a conditional use request by Four Season Leasing to expand an Existing Mixed Use Structure (Motor Vehicle Service and Office) in the Highway Mixed Use District. Property address is 1868 VT Route 16, East Hardwick.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: 2.3 Highway Mixed Use Table; 3.7 Height Requirements; 3.10 Parking and Loading Requirements, 3.11 Performance Standards; and 5.2 Conditional Use Review – G3 (Highway Mixed-Use District Standards).

Warnings were posted on October 31, 2016 at the Hardwick Memorial Building, the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: BCP LLC, East Hardwick Fire District #1, Manosh Properties LLC, Merilee and Donald Perrine, Leslie and Jeremy Michaud, Maurice Richardson Life Estate, and Irene and Warren Hill on October 31, 2016. It was also published in the Hardwick Gazette on Wednesday, November 2, 2016.

Development Review Board members present: Cheryl Michaels, Chair; Edward Keene; Dan Bandit, Vice Chair; Helm Nottermann; Ruth Gaillard; and John Page.

Development Review Board members absent: John Mandeville

Others present: Ryan Molleur, applicant; Kristen Leahy, Zoning Administrator; and Michael Bielawski, Hardwick Gazette reporter.

During the course of the hearing the following exhibits were submitted:

#1 Land Use Permit from the State of Vermont

Summary of Discussion

Chair Cheryl Michaels began the hearing at 7:30 PM. She noted the hearing was quasi-judicial, explained the procedure for the hearing, asked board members for any disclosures of conflict of interest and swore in all those who wished to speak at the hearing. Mrs. Michaels then asked Mr. Molleur to present the Four Season Leasing proposal.

Mr. Molleur is requested to expand the office section of his Mixed Use Structure. He is proposing to move the wall parallel to Route 16 toward the road. The aesthetics of the building will be essentially the same. A small dip in the roof will indicate the presence of the addition but the remaining external aspects will not change. The addition will not affect the side setbacks or the rear setback and will continue to be beyond the necessary 45' from the centerline of Route 16. The addition will shift 2-3 parking spaces away from the current building but will not affect the spaces which abut the landscaped strip between the parking area and Route 16. Approximately 25+ spaces will continue to be available. No additional employees will be retained due to this addition.

The project has been granted a Land Use Permit Administrative Amendment (#7C1047-A) (See Exhibit #1).

Chair Michaels reviewed the performance standards with Mr. Molleur. No adverse effects were identified.

The hearing ended at 7:42 pm. Edward Keene made the motion to enter deliberative session. Ruth Gaillard seconded the motion. All members were in favor.

Findings of Fact:

Based on the application and testimony, the Development Review Board makes the following findings:

2.3 Highway Mixed Use District – This zoning district has the stated purpose of allowing automobile-oriented businesses along major travel corridors. The proposed expansion to a Mixed Use (Motor Vehicle Service and Office) is allowed by conditional use and aligns with the stated purpose of Highway Mixed Use district.

3.7 Height Requirements – Existing building is under the maximum height of 35'. New construction would be under the maximum 35' as well as a proposed 8' height.

3.10 Parking and Loading Requirements – the current parking configuration is adequate for the existing structure. 1 space for each of the 5 employees is necessary and available. No additional employees will be added to the previously permitted change of use.

3.11 Performance Standards – The DRB reviewed each performance standard in relationship to the proposal. Overall, the proposed expansion of use is not anticipated to create or result in violations of the performance standards.

5.2 Conditional Use Review - E) General Review Standards

The proposed conditional use will not result in an undue adverse effect on any of the following:

1. **The capacity of existing or planned community facilities and services.** No adverse effects identified. Structure will not have increased water or sewer flows.
2. **Character of the area affected.** Location within the Highway Mixed Use District matches the purpose of this district and the character of the surrounding area.
3. **Traffic on roads and highways in the vicinity.** The Highway Mixed Use circulation and traffic pattern is directed by an overall framework which is already in place. No adverse effects were identified.
4. **Bylaws in effect** N/A.
5. **The utilization of renewable energy resources.** N/A

F) Specific Review Standards shall include:

1. **Siting & Dimensional Standards.** All conditional uses shall meet minimum applicable dimensional and density standards as specified for the district in which the use is located (Article 2), the particular use (Article 4), and for the protection of surface waters (Section 3.12). **Proposed expansion of use meets all standards for the Highway Mixed Use District.**
2. **Performance Standards.** All conditional uses shall meet performance standards as specified in Section 3.11. **Each Performance Standard reviewed – see above. No adverse effects identified. (See Condition #2).**

3. **Access & Circulation Standards.** All conditional uses shall meet applicable access management standards as specified in Section 6.6. **Proposed expansion meets all standards for the Highway Mixed Use District.**

4. **Landscaping & Screening Standards.** The Board may require landscaping, fencing, screening or site grading as necessary to maintain the character of the area, or to screen unsightly or incompatible uses from town highways, other public rights-of-way, or adjoining properties. **No testimony was received to indicate the need for screening.**

5. **Stormwater Management & Erosion Control Standards.** All conditional uses shall incorporate accepted stormwater management and erosion control practices as appropriate for the setting, scale and intensity of the existing and planned development. **No testimony was received to indicate the need for additional stormwater or erosion control practices.**

5.2G Highway Mixed Use Standards - Within the Highway Mixed Use District, development with frontage on state highways (Route 15, Route 14, Route 16) shall be designed in a manner that meets the following standards:

a. Within and contiguous to parking areas, landscaping shall emphasize the use of shade trees to provide a tree canopy, provide separation between parking spaces to avoid large expanses of parking and minimize the visibility of parking areas from off-site. Suitable locations for shade trees include along walkways, in center islands, in between parking spaces and clustered in appropriate locations. **Parking is pre-existing at this location. Applicant will be planting cedar trees in the strip parallel to the road.**

b. A landscaped strip of at least twenty (20) feet shall be provided parallel to the road, which may be crossed by driveways and sidewalks. Form, location, and composition of the landscaped strip shall be shown on the siteplan and approved by the Board of Adjustment. **Landscaped strip is pre-existing at this location. Expansion of the structure does not impact this strip.**

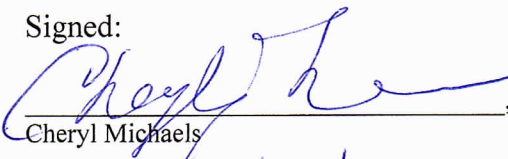
Decision and Conditions

Based upon these findings, the Development Review Board voted unanimously 6-0 to approve the application as presented with the following conditions.

Conditions:

1. Any and all necessary state and federal permits must be in place prior to construction of the proposed development.
2. All occupants of the structure will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11 (Attached).

Signed:

 _____, chair
Cheryl Michaels

 _____, acting clerk
Kristen Leahy

date 11/21/16

date 11/21/16

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Hardwick Unified Development Standards

Section 3.11 Performance Standards

- (A) The following performance standards must be met and maintained for all uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Zoning Administrator alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No use, under normal conditions, shall cause, create or result in:
- (1) **regularly occurring noise**, which:
 - i. represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or
 - ii. in excess of 65 decibels, or 70 decibels within the Industrial District.
 - (2) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;
 - (3) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);
 - (4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;
 - (5) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;
 - (6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.
 - (7) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or
 - (8) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;

State of Vermont



LAND USE PERMIT ADMINISTRATIVE AMENDMENT

CASE NO #7C1047-A
APPLICANT Four Seasons Leasing Inc.
ADDRESS P.O. Box 628
 Hardwick, VT 05843

LAWS/REGULATIONS INVOLVED
 10 V.S.A., §§ 6001 - 6093 (Act 250)
 Act 250 Rule 34(D)

District Environmental Commission #7 hereby issues Land Use Permit Administrative Amendment #7C1047-A, pursuant to the authority vested in it by 10 V.S.A., §§ 6001-6093. This permit applies to the ± 8 acre parcel of land identified in Book 121, Page 209 of the land records of the Town of Hardwick, Vermont as the subject of a deed to Four Seasons Leasing Inc. This project is located at 1868 Vermont Route 16, East Hardwick, Vermont.

This permit specifically authorizes construction of a building addition (16' x 70'), heated, without plumbing, and with finishes to match the existing building.

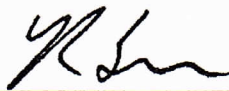
The Permittee and its assigns and successors in interest are obligated by this permit to complete, operate and maintain the project as approved by the District Commission in accordance with the following conditions:

1. All conditions of Land Use Permit #7C1047 and amendments are in full force and effect except as amended herein.
2. The project shall be completed, operated and maintained in accordance with:
 - (a) the conditions of this permit and (b) the permit application, plans, and exhibits on file with the District Commission and other material representations.
3. No change shall be made to 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.
4. No further subdivision, alteration, and/or development on the tract of land 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.
5. Pursuant to 10 V.S.A. § 8005(c), the District Commission may at any time require that the permit holder file an affidavit certifying that the project is in compliance with the terms of this permit.
6. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittee and its successors and assigns.
7. Permittee shall obtain any required approval from the Department of Public Safety prior to occupancy of the facility permitted herein.
8. The installation and/or use of electric resistance space heat is specifically prohibited without prior written approval from the District Commission.
9. The Permittee shall not erect exterior lighting without prior written approval from the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules. 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.

10. The Permittee shall not erect exterior signage without prior written approval from the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules. Signage includes banners, flags, and other advertising displays, excepting temporary real estate marketing signs and temporary Grand Opening signs.
11. The exterior finishes and exterior colors of the building addition shall be aesthetically compatible with the finishes and colors of the existing building permitted under #7C1047.
12. The Permittee shall reference the requirements and conditions imposed by Land Use Permit #7C1047-A in all deeds of conveyance and leases.
13. All site work and construction shall be completed in accordance with the approved plans by October 15, 2017, unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without public hearing.
14. The Permittee 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 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 Permittee 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, Dewey Building, 1 National Life Drive, Montpelier, VT 05620-3201; Attention: Certification.
15. 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 St. Johnsbury, Vermont, this 8th day of November, 2016.

By 
Kirsten Sultan, P.E., Coordinator
District #7 Environmental Commission
1229 Portland Street, Suite 201
St. Johnsbury, VT 05819
(802) 751-0126
kirsten.sultan@vermont.gov

This permit is issued pursuant to Act 250 Rule 34(D), Administrative Amendments, which authorizes a district coordinator, on behalf of the District Commission, to "amend a permit without notice or hearing when an amendment is necessary for record-keeping purposes or to provide authorization for minor revisions to permitted projects raising no likelihood of impacts under the criteria of the Act." The rule also provides that all parties of record and current adjoining landowners shall receive a copy of any administrative amendment. Prior to any appeal of this Administrative Amendment to the Superior Court, Environmental Division, the applicant or a party must file a motion to alter with the District Commission within 15 days from the date of this Administrative Amendment, pursuant to Act 250 Rule 34(D)(2).

CERTIFICATE OF SERVICE

I hereby certify that I, Gina St Sauveur, Natural Resources Board Technician, District #7 Environmental Commission, sent a copy of the foregoing document **Administrative Amendment #7C1047-A for Four Season Leasing, Inc.** by U.S. Mail, postage prepaid to the following individuals without e-mail addresses and by e-mail to the individuals with e-mail addresses listed, on this 8th day of November, 2016.

Note: Any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or e-mail below. If you have elected to receive notices and other documents by e-mail, it is your responsibility to notify our office of any e-mail address changes.

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Hardwick, VT 05843
net.ryan@myfairpoint.net

Adjoiners:
On file with the District
Commission.

Town of Hardwick Select
Board
c/o Town Clerk
PO Box 523
Hardwick, VT 05843
alberta.miller@hardwickvt.org

Karen Holmes
Zoning Administrator
c/o Town Clerk
PO Box 523
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Northeastern Vermont
Development Association
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St. Johnsbury, VT 05819
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Keith Johnson, Nicole
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Gina St Sauveur
Natural Resources Board
Technician