**TOWN OF SOUTH HERO, VERMONT**

**DEVELOPMENT REVIEW BOARD**

**DECISION DATED June 29, 2022**

**APPLICANT**

**Name: LPD Holdings, LLC**

**Address: 27 Point Farm West, Grand Isle, VT 05458**

**LANDOWNER**

**Name: same**

**APPLICATION**

**Type: Final Site Plan review for a Mixed-Use Development – Restaurant and 9-Unit Multi-Family Housing**

**Number: 22-44-RT059**

**PROPERTY**

**Location: 59 US RT 2**

**Hearing Dates: April 27, May 11, and June 8, 2022**

LPD Holdings, LLC submitted an application on March 31, 2022 requesting a final site plan review for the redevelopment of the Sand Bar Inn location at 59 US RT 2. The proposed development includes a restaurant and 9 residential units. Per Section 805 of the 2021 amended South Hero Development Regulations, a warning for the public hearing appeared in the April 6, 2022 issue of the Islander and was posted in the Town Office, the Post Office, and the Town Library, and abutters to the property were notified. A hearing was held on April 27, 2022, continued to May 11, and continued again to June 8, 2022. A list of those present and participating in the hearings is included in the minutes.

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

* Town of South Hero Development Regulations, effective September 13, 2020
* Cover Letter and Narrative, dated and received March 31, 2022.
* Site plan set, dated March 30, 2022; rec’d March 31, 2022 --

a. Architectural Elevations

b. C0-00 Cover

c. C1-00 Legend and Notes

d. C1-01 Existing Conditions Plan + Demolition Plan

e. C2-01 Site Plan

f. C3-01 Sanitary Plan

g. C3-02 Utility Plan

h. C4-01 Stormwater Plan

i. C5-01 EPSC Plan

j. C8-01 Site Details

k. C8-01 Stormwater Detail

l. C8-03 Stormwater Details

m. C8-04 Water Details

n. C8-05 Sanitary Details

o. C8-06 Sanitary Notes

p.C8-08 Low Risk

q. LA-01 Landscaping Plan

r. LA-02 Landscaping details

s. LI-01 Lighting Plan

* Amended Wastewater and Potable Water permit #WW-6-1271-1
* Restaurant Floor Plans – A1-01, A1-02, dated March 28, 2022; rec’d March 31, 2022
* Restaurant Elevations (4 Sheets), dated March 21, 2022; rec’d March 31, 2022
* Warning Ad, Abutters’ Notice, and Hearing Letter for April 27, 2022 Conditional Use/Site Plan review.
* Staff report by Zoning Administrator for April 27, 2022 hearing.
* The Following were rec’ at the June 8, 2022 continued hearing:
  1. Updated site plan C2-01 by TCE Engineering, no revised date from March 30, 2022.
  2. Floor Plan and Elevation -- Sandbar Cottage by Wiemann Lamphere Architects, dated June 6, 2022.
  3. Elevations -- Sandbar Townhouses by Weimann Lamphere Architects, dated May 9, 2022.
  4. Sandbar Townhouse floor plans by Weimann Lamphere Architects, dated May 9, 2022.
  5. Updated Lighting Plan LI-01 by TCE Engineering, no revised date from March 30, 2022.
  6. Letter from Al Getler, South Hero Volunteer Fire Department, dated May 31, 2022.
  7. Technical Memorandum by Lamoureax and Dickinson, date May 7, 2022, re Traffic Safety.

Based on the application, supporting documents, and testimony of Jennifer Desautels and Pierre LeBlanc, **the Development Review Board makes the following Findings and enters the following decision:**

**Findings:**

1. 59 US RT 2 is a 4.7-ac. lot on the south side of RT 2, between the road and Lake Champlain. This is the location of the old Sand Bar Inn and Motel.
2. The lot is in the Shoreland Zoning District. A portion of the lot along the lake is a Class 2 wetland.
3. The Applicant is proposing to remove the remaining motel units and cottage on the lot and build a 5500sf, 2-level restaurant and 9 residential units. The residential units will be four 2-household townhouses and a single cottage. The townhouse units will have 3 bedrooms and the cottage will have 1 bedroom.
4. The cottage will be the same footprint size as the existing cottage but will be moved away from the east boundary into conforming space.
5. The Board agreed to review the proposal as a Planned Unit Development.
6. The number of curb cuts to the property will be reduced from the current 4 to 1. The single access will serve both the restaurant and the dwellings. The drive will split upon entering the development, with the driveway to the left accessing the dwelling units and the right drive accessing the restaurant and marina parking.
7. A total of 78 parking spaces are shown on the site plan. Allocations include 2 per dwelling unit (total 18), 14 designated for the marina on the other side of RT 2 by agreement between LPD Holdings and Near Coastal Holdings, 17 spaces for the restaurant (1 space per table – 17 tables), 5 spaces for 18 bar seats, and 10 spaces for employees. The 14 marina spaces are not identified.
8. Three handicap spaces are included, adjacent to the restaurant on the southwest side. Curb stops are shown on the site plan between the spaces and the sidewalk.
9. No renewable energy (solar panels) is proposed at this time.
10. The Applicant anticipates that power poles along the south side of RT 2 will be removed and the lines will be buried.
11. The construction sequence will be to clean up the site first. Construction will begin once all required State and local permits have been obtained. It is expected to begin in the summer/fall of 2022 and extend into spring/summer 2023. Construction start-and- completion dates may be impacted by market conditions, including material costs and availability. The Applicant stated that the restaurant is the priority.
12. Restaurant hours are proposed to be 11am to 9pm. Ten employees are proposed. There may be music indoors, but none is proposed outside.
13. Based on the technical memorandum by Lamoureux and Dickinson, this development does not meet the VTrans criteria for a crosswalk across RT 2 between this location and Near Coastal Holdings marina.
14. The original 2007 State Wastewater and Potable water permit #WW-6-1271-1 is for 78 restaurant and bar seats, 8 residential units, and 26 sleeping spaces. The Applicant stated that they are submitting an amended wastewater plan for the proposed uses.
15. The South Hero Volunteer Fire Department reviewed and accepted the site plan.
16. The lighting plan includes 6 building mounted lights on the restaurant, 1 building mounted light for each dwelling unit, 5 free-standing lights along the entrance and restaurant drive, and 4 free-standing lights in the south parking lot.
17. Landscaping will include a mix of deciduous and evergreen plants, ornamental plantings, and maintained lawn.
18. Stormwater management and treatment will be via 2 bio-retention areas – one in the south parking lot and another between the dwelling units’ driveway and entrance to the development. Both areas will be delineated by split rail fencing.
19. Erosion Control best practices are proposed to ensure that construction does not impact neighboring properties, the Class 2 wetlands, or the lake.
20. Weekday total trips are estimated to be 269, with peak AM trips estimated to be 9/hr and peak PM trips to be 27/hr.
21. A drilled well is located at the northwest corner of the lot, adjacent to the road.
22. A 3000-gal. water tank is proposed to meet peak demand. No fire sprinkler system is proposed.

The site plan was deemed complete and T. Maxham closed the hearing on June 8, 2022.

**Conclusions of Law:**

1. Per Table 2.1, restaurants and multi-family dwellings require conditional use and site plan review.
2. The application meets the requirements of Sec. 302.D (Conditional Use Review – Review Standards).
3. Per Figure 3.2, the Development Review Board finds no undue adverse effect will be created.
4. The number of proposed parking spaces exceeds the requirements of Table 5.1 (Minimum Parking Ratios).
5. Per Sec. 302.D.1-6 (Conditional Use Review Standards), the application:
   1. Is within the capacity of the facility.
   2. Does not result in an undue adverse effect on the character of the area.
   3. Does not create an undue adverse effect on traffic on US RT 2.
   4. Conforms to Applicable standards in Article 5 -- Sec. 506 (Outdoor Lighting), and Sec. 508 (Performance Standards).
   5. Does not violate other Town bylaws.
   6. Will not interfere with the current or future use of renewable energy resources.
6. The plan, as presented, meets the requirements of Table 3.2 (Final Site Plan Requirements) and Sec. 303.D (Final Site Plan Review).

**On June 29, 2022, M. Welch moved to approve the application, with the findings of fact listed and with the following Conditions; N. Hayward second.**  **Whereas, Final Approval was granted to the application with Conditions,** with the following people voting in the affirmative: T. Maxham, D. Patterson; G. Hunt; N. Hayward; L. Kilcoyne, M. Welch, J. Brightwell and E. Reid (Alternate).

**Conditions:**

1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.
2. Roads shall meet the standards of Sec. 605.B.
3. Erosion control plans shown on Sheets C5-01, C8-08, and C8-09 and best practices per State regulations shall be followed.
4. All construction shall be slab on grade and above ground. Height of structures shall be measured from the natural grade.
5. All structures shall meet setbacks as shown on the site plan.
6. All utility vaults shall be marked with reflective material.
7. An as-installed plan of utilities shall be provided to the ZA after installation is complete.
8. Based on testimony, no outdoor music is contemplated at this time. The Applicant is required to return for additional review if outdoor music is desired.
9. Lighting will be installed per Lighting Plan LI-01 as presented at the June 8, 2022 hearing.
10. Signage shall meet the requirements of the South Hero Sign Ordinance.
11. Association Covenants/Bylaws are required.
12. There shall be no trailers allowed in the restaurant parking lot.
13. No development parking shall be allowed on RT 2.
14. It will be the Applicants’ responsibility to obtain all required State permits. Prior to the beginning of construction, copies shall be submitted to the Zoning Administrator.
15. The Town of South Hero’s responsibilities are limited to ensuring compliance with the approvals and permits issued by the Town of South Hero. The Town accepts no responsibility for compliance with the conditions of any permits or approvals issued by any other entity. The Town of South Hero will not be liable for the failure of the applicants to carry out their duties and responsibilities.

**Dated: June 29, 2022**

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**For the Development Review Board**

## APPEAL RIGHTS

Any appeal of this decision must be filed with the Superior Court, Environmental Division (located at 2418 Airport Road, Suite 1, Barre, VT 05641-8701) 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. §1434a(a), which is $262.50 as of January 2011. A copy of this appeal must be filed with the Zoning Administrator or the Town Clerk within thirty (30) days from the date of issuance.