



**WAITSFIELD DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND NOTICE OF DECISION**

Application #:	3741-CU
Land Owner:	Glentoran Corp.
Applicant:	Joey Nagy, The Mad Taco
Property Address:	5123 Main Street Unit 4
Parcel Number:	99131.000 in the Irasville Village District
Meeting Date(s):	April 25 and May 23, 2017
Proposal/Type:	The applicant requests change of use approval to convert an existing vacant space, formerly a retail shop, to a kitchen prep and storage area for the restaurant staff.

A. GUIDING ORDINANCE and POLICY PROVISIONS

1. Waitsfield Town Plan, as adopted on October 22, 2012.
2. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through September 26, 2016:
 - a. Table 2.03 Irasville Village District (IV).
 - b. Section 3.03 Conversion and Change of Use.
 - c. Section 4.08 Mixed Uses.
 - d. Section 5.03 Conditional Use.

B. MATERIALS SUBMITTED

1. On March 31, 2017, the applicant submitted a completed zoning permit application, conditional use application, and fee.
2. On May 19, 2017, the applicant submitted an interior floor plan sketch and photo of the exterior hood venting work.

C. FINDINGS OF FACT

1. The property is a 3.8-acre lot identified as parcel #99131.000 and located at the Village Square shopping center on Route 100/Main Street. The property is a mixed use shopping center with residential units.
2. The existing mixed use is comprised of the following tenants:
 - a. 6 one-bedroom apartments;
 - b. Restaurant and bar (Mad Taco);
 - c. Retail (formerly Shades of Winter; vacant);
 - d. Personal service (Appearances);
 - e. Retail (Mix Cupcakerie);

- f. Retail (Kinney Drug);
 - g. Retail (Infinite Sports);
 - h. Restaurant (Country Creemee);
 - i. Professional (MRVTV);
 - j. Retail (vacant);
 - k. Professional (Valley Arts Foundation);
 - l. Retail (Tempest Bookstore);
 - m. Professional (Dr. Sean Mahoney);
 - n. Professional (Sheila Getzinger, Esq.);
 - o. Retail (formerly Sweet Pea; vacant);
 - p. Restaurant (formerly China Fun; vacant);
 - q. Personal service (Dirty Paws);
 - r. Professional (Sugarbush Real Estate).
3. The applicant proposes to change the use of the existing vacant Unit 4 from retail (formerly Shades of Winter) to a prep kitchen and storage space for The Mad Taco.
 4. The proposed change of use will not increase the existing restaurant or catering operations and the space will only be used by staff. It will not be connected on the interior to Units 1-3 which is the restaurant and bar space. Therefore, it is deemed to be light industry versus an expansion of the restaurant.
 5. The hours the prep kitchen and storage space will be used is 8am to 8pm.
 6. The public hearing was held on Tuesday, April 25, 2017. The abutting property owners were sent notice on April 6, 2017 and the notice appeared in the April 6, 2017 issue of *The Valley Reporter*.
 7. The applicant was unable to attend the hearing unexpectedly. The PZA stated that she had clarified with him beforehand that the new space would not create any change in restaurant hours or in staffing levels. There are no plans for interior access from the existing restaurant. She noted that the Fire Marshal was aware of the proposed change and has been on-site, and that Mr. Nagy had reported that all state permitting is in progress.
 8. The board members had questions about access if no interior doorways were added, location of exterior exhaust venting, and wastewater capacity.
 9. The PZA attempted to call the applicant but he could not be reached. The board continued the hearing and requested that the PZA follow up with the applicant for more information.
 10. On May 19, 2017, the applicant submitted an interior floor plan sketch identifying equipment that has been installed. The applicant also submitted a photo of the rear exterior wall of the space, indicating the venting that has been installed.
 11. The board continued the hearing on this application on Tuesday, May 23, 2017. The applicant's representative and Mad Taco General Manager, Chris Perrault, presented the information that was requested at the prior hearing.

12. Mr. Perrault clarified that the electrician, plumber, Fire Marshal, and health inspector have all inspected the property and advised the applicant of state permitting requirements. He also stated that there is a compressor inside the space for the walk-in cooler and there is no open vapor cooking occurring here so other fire suppression devices would not be required.
13. Mr. Perrault reiterated that there is only a front door and a back door for staff access; there will be no interior access between this space and the restaurant.
14. The board closed the hearing and stated that they will issue a written decision within 45 days.

D. CONCLUSIONS OF LAW

Based on its review of the application materials, submitted site plans, presented testimony, and Findings of Fact above, the Waitsfield Development Review Board hereby concludes this application as proposed, and when finalized and implemented in accordance with the Conditions of Approval listed below, does meet the Conditional Use criteria of the Town of Waitsfield Zoning Bylaws and is in conformance with the Waitsfield Town Plan.

E. DECISION

Application #3741-CU is hereby APPROVED, subject to the following conditions:

1. There shall be no public access to this light industrial unit.
2. Prior to issuance of any zoning permit, the applicant shall submit to the PZA either a determination that state permit(s) are not required or proof of receiving applicable state permit(s).

Dated at Waitsfield, Vermont this 2 day of June, 2017 for the Town of Waitsfield Development Review Board by:



Brian Shupe, Development Review Board Acting Chair

Voting in the Affirmative: John Donaldson, Gib Geiger, Chris Jernigan, Michael Kingsbury, Rudy Polwin, and Brian Shupe.

Voting in the Negative: None.

Absent: Chris Cook.

Appeal

Pursuant to Title 24 VSA §4471 and §4472, an interested person who has participated in the review of this application may appeal this decision to the Environmental Division of the Vermont Superior Court by filing a Notice of Appeal directly to the Court, 32 Cherry Street, Suite 303, Burlington, Vermont 05401, by certified mail within thirty (30) days of the date this decision is issued. A copy of the notice must also be sent to the Zoning Administrator or the Municipal Clerk who is required to provide a list of interested persons to the appellant within five days of receipt of the Notice. The appellant is required to send a copy of the Notice, via certified mail, to each interested person.

