



**Notice of DRB Decision  
Town of Stowe Zoning Office  
PO Box 730  
Stowe VT 05672**

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Please note that there are conditions of approval required to be met before your Zoning Permit can be issued. Once you fulfill these conditions your zoning permit will be sent to you

Please contact the Planning and Zoning Office at 253-6141 if you have any questions.

**APPLICATION INFORMATION**

Project Number 6191  
Application Date 2/12/2020  
Physical Location 1799 MOUNTAIN RD  
Map ID 06-086.000 Tax ID 26053  
Project Description FARMERS MARKET RENEWAL FOR 2020 & 2021 SEASONS  
Owner CONCERTO LLC  
Applicant CS CONSULTING COLLEEN SHEPARD  
Applicant Address 1799 MOUNTAIN ROAD  
STOWE VT 05672

**APPROVALS ON RECORD**

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	5/5/2020	6/4/2020	6/4/2022

*Sarah McShane*

Zoning Office



**TOWN OF STOWE**  
**DEVELOPMENT REVIEW BOARD**  
Findings of Fact & Conclusions of Law



**PROJECT:** 6191

**SUBJECT PROPERTY:** 1799 Mountain Road; #06-086.000

**PROPERTY OWNER:**

Concerto, LLC  
1799 Mountain Road  
Stowe, VT 05672

**APPLICANT:**

Colleen Shepard/Pall Spera  
CS Consulting  
1799 Mountain Road  
Stowe, VT 05672

**APPLICATION:**

The Applicant, Colleen Shepard, on behalf of property owner Concerto LLC (herein referred to as the "Applicant"), requests conditional use review for renewal of the Stowe Farmers Market for the 2020 and 2021 seasons. No changes to the prior approval are sought under this application.

The subject parcel, consisting of ±4.9 acres and located at 1799 Mountain Road [#06-086.000], is in the Mountain Road Village (MRV) Zoning District and Source Protection Overlay District with portions also lying within the Fluvial Erosion Hazard (FEH) and Flood Hazard Overlay Districts (FHOD). No development is proposed within the FEH or FHOD areas. The parcel contains an existing commercial building with retail uses and is generally bound to the north by Mountain Road (VT-108), to the east by a ±1.35-acre parcel currently owned by Donkey Barn LLC containing a restaurant, to the south by the West Branch of the Little River, and to the west by property currently owned by Gold Hill LLC (1813 Mountain Road). The application has been reviewed by the Stowe Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of conditional use review.

The Development Review Board's procedural history and relevant findings are attached.

**REVIEW PROCESS:**

An application for conditional use review was filed by Applicant Colleen Shepard on January 31, 2020. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the DRB was scheduled for March 17, 2020 and warned by the Zoning Director in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on February 27, 2020.

The public hearing to consider the application convened on March 17, 2020 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Pall Spera, 1799 Mountain Road, Stowe, VT 05672
- Hannah Sterns & Heather Mallory, Stowe Farmers' Market, 112 S. Main Street Suite 185, Stowe, VT 05672
- Police Chief Donald Hull, 350 South Main Street, Stowe, VT 05672

The following materials were submitted in support of the application and entered into the hearing record:

1. Town of Stowe Development Application, dated 1/9/2020;
2. Letter from JCOGS, dated 1/27/2020;
3. Aerial photograph with parking highlighted, no date;
4. Email from David Wolfgang, dated 2/5/2020;
5. Prior DRB Decision Project 5730, dated 12/26/2017;
6. Letter from Police Chief Donald Hull, dated 3/6/2020.

The Applicant did not attend the March 17<sup>th</sup> meeting. The Board therefore continued the hearing to April 21, 2020. The April 21<sup>st</sup> public hearing to consider the application convened remotely via 'Go To Meeting' with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

*(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)*

### **PROCEDURAL HISTORY**

The Stowe Farmers Market operates an open-air summer farmers market on the lawn adjacent to the southeastern edge of the Red Barn Shops. The Board originally approved the market operations on May 24, 1994. In 2004, the Applicant received approval (BA 6-086-2) to operate the market from May 16, 2004 to October 17, 2004 and to increase the number of vendors from twenty (20) to forty (40). The Applicant received subsequent approval (BA 6-086-3) on April 20, 2005 to continue operations from May 15, 2005 to October 16, 2005 and again from May 15, 2006 to October 16, 2006. The approval dated February 13, 2007 (Project 3288) approved the operations until October 16, 2008. On April 22, 2008, the Board approved a modification of the Project 3288 by allowing the use Jewish Community of Greater Stowe Center (JCOGS) parking lot rather than parking originally approved at Mud City Adventures (Project 3695). On April 14, 2009 the Board approved continued operations from May 17, 2009 to October 18, 2009 (Project 3968). On October 27, 2009 the Board approved continued operations through October 31, 2011. On November 22, 2011 the Board approved continued operations through 2013 (Project 4496). On November 12, 2013 the Board approved continued operations through 2015 (Project 4852). On September 15, 2017 the Board approved continued operations through 2017 (Project 5197). On December 26, 2017 the Board approved continued operations through 2019 (Project 5731). The Applicant now seeks renewal of the Stowe Farmers Market for the 2020-2021 seasons. The market runs from May-October from 10:30 am-3:00 pm every Sunday.

**FINDINGS OF FACT & CONCLUSIONS OF LAW:** The Applicant's request for conditional use review was reviewed by the Stowe Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) including the following:

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 12- Source Protection Overlay District
- Section 15- Parking Regulations

**Section 3.7(2)(A) – Standards of review (Conditional Use Applications):** The Development Review Board must determine that the use will conform to the following set of standards and will not result in an undue adverse effect on the following:

1. **Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services:** Staff requested comments on the proposal from respective Town departments including the Department of Public Works, Fire Department, Stowe Electric, Police Department, EMS, and Parks and Recreation.

Police Chief Donald Hull provided written comments dated March 6, 2020 with general concerns regarding pedestrian circulation, traffic, and parking. In the written comments he indicates that the Stowe Police Department cannot commit to providing officer traffic control.

No other Municipal Department review forms returned indicated that the proposal would have any adverse impact on existing or planned community facilities and services.

**Conclusion:** The Board concludes the proposal will not result in an undue adverse effect on the Town's existing or planned facilities or services.

2. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant requests renewal of the Stowe Farmers Market for the 2020-2021 seasons. The market runs from May-October from 10:30 am-3:00 pm every Sunday. No changes to the prior approval are sought under this application. The prior approval granted approval for fifty (50) vendors. During the hearing the Applicant testified that there is not adequate space for fifty (50) vendors and typically there are between forty (40) and forty-five (45) vendors.

The Board's prior decision notes the following:

*The Stowe Police Chief previously expressed concerns regarding the traffic impact due to the large number of attendees at the market. As a condition of the April 14, 2009 decision, additional traffic cones were to be installed along Route 108 running from the telephone pole on the property to the south up to the Red Barn driveway entrance as per the instructions of the Police Chief. This was completed in the 2009 season and has eliminated parking on this side of Route 108 which has helped with traffic congestion. With the 2014-2015 extension approval, the Board expressed concerns about the perceived increases in traffic congestion on Mountain Road due to the market operations. They encouraged the applicant to better address traffic congestion related to the market and to suggest possible mitigation measures to reduce the impact. The applicant previously submitted a traffic report prepared by Conley Associates dated 9/10/2014 as part of the 2016-2107 approval. The traffic study recommended traffic control personnel during peak hours of operation. The applicant previously testified that they have hired traffic control personnel for certain peak weekends and would like to hire additional traffic control personnel. However, the Stowe Police have indicated that only Stowe Police Officers can be used for traffic control and that they are not always available when desired.*

Police Chief Hull indicates that Stowe Police Department cannot commit to providing officer traffic control but suggests another law enforcement agency provide traffic control services. During the hearing the Applicant testified that the market may be scaled back this year given the COVID-19 pandemic and restrictions on non-essential services. The Applicant testified that the governor will be providing further guidance soon but expects that there may not be any outdoor music, picnic

tables, or food vendors, and goods might only be available for pre-order and pick-up. Given these restrictions, the Applicant reported that it is likely that traffic will be less of a concern for the coming season. The Applicant also indicated that they intend on continuing to place traffic cones at all of the same locations as in past years but noted that it may not be necessary this year given the expected reduced offerings and scaled back market.

**Conclusion:** The Board concludes the existing traffic controls are adequate and the proposal does not create an *undue* adverse impact on traffic on roads and highways in the vicinity.

3. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the MRV zoning district. The purpose of the MRV district is *“To foster a development pattern along the Mountain Road (Route 108) corridor comprised of compact, mixed-use settlements separated by rural countryside. The MRC district is intended to serve as a relatively small, concentrated mixed-use settlement with good pedestrian circulation between uses and properties and a village streetscape; the MRV District is intended to serve as a larger commercial village characterized by an integration between land uses, pedestrian accessibility, a mix of uses compatible with a four-season resort community and a village streetscape defined by narrow streets, street-trees, curbing and sidewalks.”*

**Conclusion:** The Board concludes the proposal will not adversely affect the character of the area as defined under the town’s zoning regulations.

4. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under applicable Conditional Use criteria. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. No other known or identified municipal bylaws or ordinances apply to this project.

**Conclusion:** The Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted October 9, 2018.

5. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

**Conclusion:** The Board concludes the project is not expected to interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources.

**Section 3.7(2)(B) – Other Standards of Review:**

6. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The Applicant seeks renewal for the Stowe Farmers Market for the 2020 & 2021 seasons. No permanent changes or improvements to the building or site are proposed under this application.

**Conclusion:** The Board concludes the proposal will not adversely affect the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

7. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant seeks renewal for the Stowe Farmers Market for the 2020 & 2021 seasons. The proposal is not expected to create any impacts on water, noise, or air pollution.

**Conclusion:** The Board concludes the proposal will not result in undue water, noise, or air pollution.

8. **Section 3.7(2)(B)(3) – Access Management:** The parcel is served by Mountain Road (VT-108). No expansions or improvements to the existing curb cut are proposed under this application.

**Conclusion:** The Board concludes that no changes to the existing access are proposed under this application.

9. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Mountain Road and is shared by the existing commercial uses on the property. No changes are proposed to the existing shared access.

**Conclusion:** The Board concludes that no changes to the existing access are proposed under this application.

10. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 15 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The farmers market utilizes a shared parking agreement with nearby businesses. The Applicant provided written permission from JCOGs and the Pinnacle Sports building across the street. An aerial photograph/parking plan provided with the application shows available shared parking. The Board's prior decision concludes the following:

*The Board concludes that as long as the agreements with the adjacent property owners remain in effect, the applicant has addressed the parking needs and that the existing parking signage was adequate to direct patrons to the approved parking areas. The applicant would need to return to the Board immediately for further review of this issue should those agreements be terminated. Copies of the parking agreements shall be submitted to the Zoning Administrator before the start of the each season.*

Prior approvals prohibit parking on Mountain Road and Cape Cod Roads. As noted in Police Chief Hull's written comments, traffic cones along these roads should be used during regular market hours. The aerial image provided with the application indicates approximately thirty-five (35) spaces at JCOG, thirty (30) spaces at Pinnacle Sports, and farmers market customer parking in front of and in the rear of the Red Barn Retail shop building.

**Conclusion:** The Board concludes that so long as the existing parking agreements with the adjacent property owners remain in place, the Applicant has addressed the parking needs for the market. Additional review is required should those parking agreements ever be terminated in the future.

11. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided. As noted above, the Applicant plans on utilizing existing traffic control measures and signage to assist in pedestrian circulation. Given the global COVID-19 pandemic, it is likely that the market will be reduced in scale for the coming season and will have a reduced number of visitors.

**Conclusion:** The Board concludes that no changes to the existing pedestrian circulation and access are proposed under this application.

12. **Section 3.7(2)(B)(7) – Landscaping and Screening:** The regulations require landscaping details and screening of garbage collection areas, outdoor storage, commercial ventilation systems over

two square feet; loading and unloading areas and other outdoor utilities, including solar installations, be provided as part of proposed site development plans. No changes to the existing landscaping or screening are proposed under this application.

**Conclusion:** The Board concludes that no changes to the existing landscaping and screening are proposed under this application.

13. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant requests approval for a seasonal farmers market. No change to drainage patterns or increases in impervious surface are proposed under this application.

**Conclusion:** This provision does not apply.

14. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the Board shall be guided by the following standards when reviewing all site development plans in the designated zoning district. These standards apply to all site development plans, including those involving new construction, expansion, alteration or change of use. The Board may waive the specific requirements of this section when it is found that mitigation through design, screening or other mitigation will accomplish the objectives outlined for the designated districts.

Additional MRV, MRC, VC, VR, MC and LVC Standards: Within the **MRV**, MRC, VC, VR, MC and LVC Districts, site plans shall re-enforce a compact development pattern defined by a pedestrian orientation, the functional and visual integration of neighboring properties, well defined streetscapes and a mix of uses. To help achieve these objectives, the following standards shall apply:

- a. **Driveways and Road Edge Treatment:** The Board shall require curbing or other appropriate treatment along all road frontage(s) and to define driveway entrances. Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
- b. **Front Yard Treatment:** Required front yards shall be limited to landscaping and yard area, sidewalks and public spaces and shall not be used for parking or outdoor storage. Projects involving the upgrade and expansion of motels and lodges built prior to January 1, 1997, and designed with outside access to individual rooms fronting on parking areas, may continue locating parking within front yards.
- c. **Parking:** Parking shall be designed to re-enforce an internal street network by maximizing the use of parallel or diagonal parking on internal driveways and streets.
- d. **Pedestrian Circulation and Sidewalks:** Adequate provision for pedestrian circulation within the site, and for pedestrian access to adjacent properties, shall be required. In addition to internal pedestrian circulation, all site plans shall be designed in a manner, which allows a minimum five feet (5') wide sidewalk along all frontage roads.
- e. **Internal Road Network and Traffic Mitigation:** Site plans shall be designed in a manner that facilitates the development of an interconnected network of village streets. In instances where a connector ("side") street is deemed appropriate, internal driveways shall be designed as side streets, shall be separated from parking areas with curbing, sidewalks, landscaping, buildings or other physical features, and shall be configured to provide access to adjacent properties. In instances where driveways will not touch upon adjacent properties, a condition of site plan approval

may be the establishment of a right-of-way to provide access to and through adjacent properties; in instances where such access has been provided on adjacent properties as part of a prior permit condition, the DRB may require the applicant to connect to the existing driveway (side street).

- f. Orientation of buildings within the site: Buildings shall define a streetscape through a consistent building line and setbacks. Buildings shall front towards and relate to public streets, both functionally and visually, and shall not be oriented toward a parking lot. The Board may impose a maximum setback to achieve a consistent streetscape. The front elevation shall include a main entryway, pedestrian access and appropriate front-yard landscaping. Drive-thru lanes and drive-up windows, where allowed, shall be located in the rear of buildings. Buildings may be clustered around a common focal point, such as a green or public courtyard, providing that an appropriate visual and functional relationship with public roads is maintained.

**Conclusion:** The Board concludes no permanent changes or improvements to the building or site are proposed under this application. Does not apply.

## **DECISION**

On a motion by Chris Walton, seconded by Tom Hand, the Stowe Development Review Board hereby approves the Applicant's request for the Stowe Farmers Market 2020 & 2021 seasons (Project 6191) on parcel #06-086.000 as described in the application dated 1/9/2020 and associated supporting materials subject the following conditions of approval:

1. The project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Prior to the issuance of a zoning permit, the Applicant shall submit to the Zoning Administrator documentation from the property owner or property owner agent allowing for on-site parking of vehicles.
4. The zoning permit shall expire on October 31, 2021.
5. Copies of parking agreements shall be submitted to the Zoning Administrator prior to the start of each farmers market season.
6. Vehicular parking is prohibited along Mountain and Cape Cod Roads. These areas shall be clearly marked with traffic cones restricting vehicular parking.
7. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the required traffic mitigation measures and/or traffic and pedestrian circulation improvements for the 2020 season should the measures not be necessary or need to be altered given a reduced number of visitors due to the COVID-19 pandemic and orders of the Governor. Upon approving any non-material modifications, the Zoning Administrator must find that the measures are temporarily not necessary and will not have an adverse impact on traffic on the roads and highways in the vicinity.
8. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of a permit, the permittee agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting favor: D.Clymer, A. Volansky, L.Wasserman, T. Hand, P.Roberts, C.Walton, F.Aumand III

Voting to deny: None

Motion PASSED 7-0

Dated at Stowe, Vermont this the 5 day of May 2020

By:   
Drew Clymer, Chair

**NOTICES:**

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #5 (802-505-5367) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken 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 Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke a permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.