



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. Any conditions of approval required to issue a zoning permit have been met and your zoning permit will be issued without any further action required from you.

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

APPLICATION INFORMATION

Project Number 6905
Application Date 5/26/2022
Physical Location 100 COTTAGE CLUB RD
Map ID 06-062.000 Tax ID 28001-010
Project Description REQUEST FOR OUTDOOR MUSIC & EVENTS
Owner ALCHEMY HOLDING STOWE LLC
Applicant ALCHEMY HOLDING STOWE LLC JEN KIMMICH
Applicant Address 100 COTTAGE CLUB ROAD
 STOWE VT 05672

APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	7/19/2022	8/18/2022	8/18/2024

Sarah McShane

Zoning Office

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



PROJECT: 6905

SUBJECT PROPERTY: 100 Cottage Club Road; #06-062.000

PROPERTY OWNER:
Jennifer Kimmich
100 Cottage Club Road
Stowe, VT 05672

APPLICANT:
Jen Kimmich – The Alchemist
100 Cottage Club Road
Stowe, VT 05672

APPLICATION:

The Applicant/Property Owner, Jen Kimmich/The Alchemist (herein referred to as the “Applicant”), requests conditional use review to host outdoor music and events near the facility’s outdoor beer garden. In 2014 the Applicant received approval for the construction of a beer production facility with associated retail sales. Under Project 5603, the Applicant received approval to host outdoor special events but that approval expired in October 2018. The Applicant now seeks approval for a similar outdoor use to complement the existing brewery and accessory uses.

The subject parcel, consisting of ±4.19-acres, and located at 100 Cottage Club Road (#06-062.000), is in the Mountain Road Village (MRV) Zoning District. The application has been jointly reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018 & May 23, 2022 - 24 V.S.A. § 4449(d)) for the purpose of conditional use review. The DRB’s procedural history and relevant findings are attached.

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

A development application was filed by Applicant Jen Kimmich on May 26, 2022. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for June 21, 2022 and warned by the Zoning Administrator 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 June 2, 2022.

The public hearing to consider the application convened June 21, 2022 with a quorum of the DRB present. The public hearing was held at the Stowe Town Office with remote participation available via Zoom. No *ex parte* communications or conflicts of interests were reported. Members who participated in the review included: D. Clymer, T. Hand, P.Roberts, C.Walton, L. Wasserman, D.Kelly, and M. Black.

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

- Jennifer & John Kimmich, 100 Cottage Club Road, Stowe, VT 05672
- John Walsh, 100 Cottage Club Road, Stowe, VT 05672

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

- a) Town of Stowe Development Application, received 5/26/2022;
- b) Various images and overview plans.

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.

FINDINGS OF FACT & CONCLUSIONS OF LAW- *During its review of the application, the DRB made the following Findings of Fact and Conclusions of Law:*

The Applicant's request for conditional use approval was reviewed by the DRB for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018 & May 23, 2022 - 24 V.S.A. § 4449(d)) 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 15- Parking Regulations

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The subject parcel is located in the Mountain Road Village (MRV) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018 & May 23, 2022 - 24 V.S.A. § 4449(d)).
2. **Use.** The subject property contains a beer production facility with associated retail sales.

Section 3.7(2)(A) – Standards of review (Conditional Use Applications): The DRB 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:

3. Upon review, the DRB concludes the following standards not applicable to the application:
 - Section 3.7(2)(A)(4) – Regulations and ordinances in effect
 - Section 3.7(2)(A)(5) – Utilization of renewable energy sources
 - 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.
 - Section 3.7(2)(B)(3) – Access Management
 - Section 3.7(2)(B)(4) – Shared Access
 - Section 3.7(2)(B)(5) – Circulation and Parking
 - Section 3.7(2)(B)(6) – Pedestrian Circulation and Access
 - Section 3.7(2)(B)(7) – Landscaping and Screening
 - Section 3.7(2)(B)(8) – Stormwater Management
 - Section 3.7(2)(C) – Additional MRV Standards
4. **Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services:**
 - a) 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.

- b) No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services.
- c) Nothing within the application materials indicate the proposal would result in the need for additional community facilities or services.

Conclusion: Based upon the above findings, the Board concludes the proposal will not result in an undue adverse effect on the Town's existing or planned facilities or services.

5. Section 3.7(2)(A)(2) - Traffic on roads and highways in the vicinity

- a) The Applicant proposes to host weekly outdoor events throughout the year. The events will be held on the existing outdoor patio and will consists of acoustic music sets.
- b) The Applicant testified the events are not promoted or advertised and are family friendly.
- c) The anticipated number of attendees was not provided, however the property received similar approval in 2018 and there were no known traffic impacts from these smaller ancillary events.
- d) Larger events are applied for under the Special Events Ordinance and require approval by the Town Selectboard.

Conclusion: Based on the above findings, the Board concludes the proposal may generate a nominal increase in traffic; however, the nominal increase will not have an adverse impact on traffic on roads and highways in the vicinity.

6. Section 3.7(2)(A)(3) - The character of the area affected

- a) The property is located within the MRV zoning district.
- b) The regulations set forth the following purpose for the MRV/MRC district: *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: Based on the above findings, the Board concludes the proposal will not adversely affect the character of the area as defined under the town's zoning regulations.

Section 3.7(2)(B) - Other Standards of Review:

7. Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution:

- a) The Applicant requests conditional use review to host outdoor music and events on throughout the year but primarily in warm weather.

- a) Nothing within the application indicates the proposal will result in undue water or air pollution.
- b) The application states: *"2 hour live music sets every Friday and Saturday from 4-6:00 pm from June 24th through August 27th (with the exception of August 5-7 weekend). Acoustic sets: jazz/blues/folk. Acoustic sets amplified using a couple small speakers. Light background music for people to listen to while they lounge on the lawn. The music is quiet enough to have casual conversation over. The musician will be standing/sitting in front of the brewery's doors, inside our outdoor beer garden (roped off area on the lawn, following DLC guidelines). Free to attend, family friendly."*
- c) During the hearing the Applicant requested approval to extend the number of days special events are allowed to provide flexibility. Events are generally held in the afternoon from 2:00 pm-4:00pm or 3:00-6:00pm during warmer weather months. Regular business hours are 11:00 AM- 6:00 pm.
- d) The Applicant testified the music events primarily take place under a temporary umbrella-like structure but are sometimes situated under the building overhang.
- e) The Applicant described the events as acoustic music plugged into a small speaker. The events are not advertised or promoted and are intended to support local artists.
- f) Staff is unaware of any related noise complaints during prior events held at the Alchemist.

Conclusion: Based upon the above findings, the Board concludes the project, as conditioned, will not result in undue water, noise, or air pollution.

DECISION

On a motion by C.Walton, seconded by T.Hand, the Development Review Board hereby approves the Applicant's request for conditional use, as outlined in the development application dated 5/26/2022 and supporting plans and drawings, subject to the following conditions of approval:

1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Zoning Office and other material representations. 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. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Special outdoor music events are allowed during regular business hours. Outdoor music events must end no later than 6:00 pm.
4. Amplified electric music is prohibited. Sound levels generated by the events shall remain low enough for patrons to maintain a normal conversation.
5. At all times, the outdoor events must operate in such a manner as to not cause any noise disturbances across a property line boundary. Any noise emanating from outdoor events, including, but not limited to, music, voices or other sounds caused or emitted by humans, instruments, machines, or equipment, shall not be audible beyond the property line of the premises.

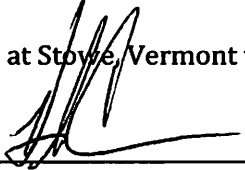
6. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting in favor: D. Clymer, T. Hand, P.Roberts, C.Walton, L. Wasserman, D.Kelly, and M. Black

Voting to deny: None

Motion PASSED 7-0.

Dated at Stowe, Vermont this the 19 day of July 2022

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.