

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

August 12, 2012

MEMBERS PRESENT:

Phil Carter	Richard Harrison	Linda Petty
John Boehrer	Julie Nicoll	

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Ray Ahern	Ed Dunn	Jean Morrill
Steve Ankuda	Michael Dunn	Curtis Potter
Ayal Baram	Susan Dunn	Todd Rebhan
Andrew Becker	Glenn Heitsmith	Larry Slason
Betty Briggs	Mary Laramie	Michelle Snow
Ron Briggs	Eric Lever	Leslie Stuart
Robert Buchan	Leslie Lever	Claudio Veliz
Tesha Buss	Greg Mauriello	Lisha Klaiber, Recorder
Warren Eastwick	Steve Mongen	Duncan Love – LPC-TV

1. **CALL TO ORDER**

A. Meeting opened at 6:04 p.m. by Chair Phil Carter. All members present

2. **RE-OPEN THE RECESSED PUBLIC HEARING FOR RAY AHERN**

- A. Phil Carter advised that this is an application to subdivide one parcel into five (5) parcels. Property is located at 27 Sears Farm Road in the Town Residential Commercial District. This hearing was opened on May 14, 2012, June 11, 2012, July 9, 2012 and again recessed until this meeting. He advised all parties that this hearing is for new business and not the rehash previously heard comments. He asked all parties to address all comments to the board and not to other parties. He continued, advising all parties that this is a quasi-judicial hearing and testimonies are made under oath and may be used at possible future hearings. He asked people to refrain from any personal comments. He explained that the function of the DRB is to make sure that everything complies to state and local regulations. He said that the regulations are constructed by the Planning Commission and if people want to make changes to them, they should go to the Planning Commission, which, is currently working on updates for the regulations. He reminded all those who had previously spoken that they are still under oath and then administered the oath to any persons who had not previously been sworn in for this hearing.
- B. Steve Mongen said that he would answer questions from the board.
- C. Phil Carter asked his about the water supply and the effect this project would have on area wells.

- D. Steve Mongen said that he had obtained information from the Vermont ANR website GIS information and picked 3 adjacent wells and the well at Mr. Ahern's house site. There is an adequate water supply. Ray's well is 205 feet deep and provides 15 gallons per minute. The nearest other well gets 8 gpm. There are no other wells in the immediate area that are listed on the website.
- E. Eric Lever said that he lives there and his well is 20 feet from the line, 425 feet deep and he gets 1 gpm. He is very concerned about this. There is also the Rod and Gun Club to consider. Their well is 2-3 feet lower and affects fish. What will 5 more wells do to his well?
- F. Phil Carter asked if there had been a hydrology study or any test wells.
- G. Steve Mongen said that he considers Mr. Ahern's well to be a test well.
- H. Warren Eastwick said that he thought that the neighbors would be assured that this would not affect their wells. He wants definite proof from an independent person to tell him about the water table and guarantee that his well would not be affected.
- I. Eric Lever said that he would like someone from the state to do a study and not a private person. He is also concerned about the traffic and knows that Chief Billings said that this project would not pose a problem.
- J. Phil Carter said that hydrological studies are always done by a professional engineer or hydrologist. He said that in a letter dated August 10, 2012, Chief Billings said there are no issues with that intersection at Rod and Gun Club Road and Route 100 and no conditions have been imposed by him. In a separate letter, dated July 17, 2012, Ron Tarbell said that this project would have no adverse effects on Rod and Gun Club Road. Phil Carter asked Steve Mongen about well shields.
- K. Steve Mongen submitted a new plan that is a modification of the existing plan. It shows that the wells shields can be contained within the property. He said that the new plan is an exhibit as an opportunity to show that the well shields can be contained. He said that he had just become familiar in the last couple of days that this board will not allow well shields to go over property lines.
- L. Phil Carter said that the plat dated 4/3/12 has been revised to show well shields contained within the parcels. He added that this item was mentioned at the first hearing. He said that this board is not concerned if the well shields are contained in the property and cross over lots within that subdivision. When people buy these lots, they will be made aware of any encumbrances on their lots.
- M. Jean Morrill asked about the existing house well shield.
- N. Phil Carter said that for Mr. Ahern's residence, the well shield does extend onto the Lever property, but that permit did not come before this board.
- O. Julie Nicoll said that plat shows 2 new well shields.
- P. Steve Mongen pointed out that there is a shared well and there will be 2 easements areas. The wells will be offsite by easement.
- Q. Phil Carter asked about covenants.
- R. Steve Mongen said that the lots are developable as shown. If someone buys and lot and changes that arrangement, it will be at their own expense.
- S. Phil Carter said that the covenants say one house per lot. How will that be enforced?
- T. Steve Mongen it would be indicated on the plat and also in the deeds.
- U. Phil Carter asked if #3 was changed to 12 months to conform with town regulations.
- V. Steve Mongen said yes.
- W. Phil Carter asked if there were any questions or anything the board had not covered.
- X. Warren Eastwick said he would like a copy of the new drawing.
- Y. Phil Carter said it is public record and to go to the Planning office.
- Z. Eric Lever asked if they would be able make further comments.
- AA. Phil Carter said yes. He then asked the board members their opinions regarding the water supply.
- BB. Richard Harrison said it should be tested.

- CC. John Boehrer said there should be a hydrologic testing.
- DD. Julie Nicoll said that based on the disparity in the wells, she would like to see the water supply tested.
- EE. Todd Rebhan said that his well is 400 feet deep and flow is 1 gpm.
- FF. Linda Petty agreed that she also would like to see a hydrological study.
- GG. Phil Carter advised that all board members would like to see a hydrological study.
- HH. Steve Mongen said that prior to state permitting, the state would review this.
- II. Phil Carter said that this board would like to have that information.
- JJ. Steve Mongen said that he is not in the position to do that. The plans show that lots can be developed. Mr. Lever's well is not on the state website and not supported by the well log. He said that he can't retrieve that information.
- KK. Phil Carter asked if that information could be obtained with test wells.
- LL. Steve Mongen said that Mr. Lever may have mechanical problems with his well.
- MM. Phil Carter asked Todd Rebhan and Eric Lever to indicate locations of their wells on the map, along with the McGee well. It was determined that some of the wells were identified, while others were not. He clarified that it is Steve Mongen's position that this is sufficient evidence. The information is available from an outside source. The state is responsible for the information. He noted that the information provided by Steve Mongen is titled Neighboring Wells GIC 2007.
- NN. Mr. Lever said his well was built in 1999.
- OO. Warren Eastwick said his well was built in 1993 and he does not know his gpm, but said that there have been times when he has run out of water.
- PP. Steve Mongen said the owners could contact the well drillers for the information. Well drillers are supposed to file with the state. We can contact the drillers.
- QQ. Phil Carter said this board does not want to speculate about the wells. The DRB relies on experts for information. This board is interested in seeing a hydrological study. We have no information on that aquifer.
- RR. Steve Mongen said that we know what's on Mr. Ahern's lot.
- SS. **MOTION by Richard Harrison and seconded by Linda Petty to close this hearing. Motion passed unanimously.**
- TT. Phil Carter advised that the decision will be based on the evidence and will be made within 45 days of today.

3. **OPEN THE RECESSED PUBLIC HEARING FOR MARC AND LESLIE STUART**

- A. Phil Carter advised that this is an application to change the existing garage into a wine bar. Property is located at 46 Depot Street in the Village Residential Commercial District. It was recessed from the July 9, 2012 meeting and there was a question of the historic significance of the barn. He reminded all those who have previously spoken at this hearing that they are still under oath.
- B. Leslie Stuart advised 46 Depot Street is in the Vermont Site & Survey. Devon Colman said that anything constructed before 1900 does not mean that it has historic significance. She sent him the plans and pictures. He said that his department does not normally comment on local situations and sent back a vague summary. He recommended building according to the Secretary of the Interior Design specs, but that there is latitude if the property is deteriorated.
- C. Phil Carter advised that there is a letter from Devon Colman that says that there is no state or federal funding and the division does not comment on the demolition.
- D. Rose Goings said that there is a letter from L&I and the Police.
- E. Phil Carter said that Chief Billings would like material removed and an alarm. The ambulance would also like to have the material removed.

- F. Rose Goings said that Langdon Wheeler from L&I sent a letter and said that he is working with Mrs. Stuart.
- G. **MOTION by John Boehrer and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

4. **RE-OPEN THE PUBLIC HEARING FOR RITE AID**

- A. Phil Carter advised that this is an application to amend a Conditional Use permit to allow for the permanent placement of a storage container (8' x 8' x 20') in the rear of the Rite Aid store to store merchandise. Property is located at 213 Main Street in the Commercial District and the Special Flood Hazard Area. He said that this hearing was recessed from the June 11, 2012 and July 9, 2012 hearings. He said that the applicant has requested the application be dropped.
- B. Rose Goings advised that they called her on Friday to withdraw the application.
- C. **MOTION by Phil Carter and seconded by Julie Nicoll to accept the withdrawal of the application and close this hearing. Motion passed unanimously.**

5. **OPEN THE RECESSED PUBLIC HEARING FOR TESHA BUSS**

- A. Phil Carter advised that this is an application for an outdoor recreational use, including a horse farm. Property is located at 512 Rod and Gun Club Road in the Town Residential/ Residential Commercial Districts. It was recessed from the July 9, 2012 meeting. He reminded all those who previously spoke at this hearing that they are still under oath and administered the oath to all wishing to speak at this hearing who were not previously sworn in.
- B. Tesha Buss advised that the board should have received letters from Chief Billings and Ron Tarbell regarding traffic and the condition of the road, respectively.
- C. Phil Carter said that letters were received from Chief Billings and Ron Tarbell. The chief may require traffic control if an event will have over 25 cars, in addition a letter from the Select Board allowing the event. He said that, in his letter, Ron Tarbell said that road can handle the project. A letter was also received from the Ambulance Department requesting prior notification of large events.
- D. Tesha Buss said that the Chief also wants events to end by 10:00 p.m.
- E. Steve Ankuda said that he read the minutes from the last hearing and there is an issue with categorizing weddings as recreational. There is no definition of outdoor recreational uses. Indoor does have a definition. Weddings, partnering with catering and music are for commercial purposes. He also questioned 500 feet from the center of the road in Residential District. There is no definition of the extent and where the tent would be located. Accessory Buildings are defined as incidental to the home. For a restaurant, a tent would be an accessory building. For a horse farm a tent for a wedding would not be an accessory building. It is not a permitted or conditional use in either district. There should not be noise after 10 p.m. in the residential district and his clients are concerned about the bridge.
- F. Phil Carter said that the highway foreman, Ron Tarbell said the road can sustain the traffic.
- G. Steve Ankuda commented that the land would be out of the Current Use program.
- H. Tesha Buss said that if the permit is approved, she may be able to take the land out of the program
- I. Phil Carter said that this board does not act on Current Use.
- J. Steve Ankuda said that if the board sees the difference between the 2 district, the board needs to define it.

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- K. Rose Goings said it is a problem that there is no definition for outdoor recreational use. We decided at the time this was filed that it fits into that use.
- L. Phil Carter advised that they had discussed it. He added that Zoning is not perfect and the state allows the DRB to look at this as a recreational use.
- M. Steve Ankuda said that only the commercial tenting events are of concern.
- N. Ron Briggs said that he lives across the street and likes the peacefulness of the area. He is concerned about bands and noise and asked how often they would have events.
- O. Phil Carter said that the evidence is that there would be up to 15 events per year until 10 p.m.
- P. Tesha Buss said that there may be some snowshoeing events. She put 15 in and that is less than 15% of the total days per year. She does not really anticipate that many, but there is the potential for it.
- Q. Phil Carter advised that previous testimony indicated that not all events are weddings.
- R. Tesha Buss said that is correct, there may be benefits.
- S. Phil Carter said that when they were discussing traffic concerns, it was mentioned that she may be using the Good Bus to pick people up. The more use of the bus, the less traffic on the road.
- T. Tesha Buss said there are two 24 passenger busses. For 100 people, that would be about 4 crossings.
- U. Ron Briggs said that the bridge has jersey barriers on it now and asked if the town has inspected the bridge.
- V. Phil Carter said that Ron Tarbell, the highway foreman, said the road is okay and that includes the bridge. This board is limited by his information. We can't override that and put limits on the bridge.
- W. Todd Rebhan asked if the state has inspected that bridge. If the bridge is safe, why the barriers.
- X. Tesha Buss said that Ron Tarbell has said the bridge is safe.
- Y. Todd Rebhan asked if we can require state inspection.
- Z. John Boehrer suggested that they contact Ron Tarbell about this. He is available.
- AA. Curtis Potter has two young children and he is concerned about the music at night and the traffic.
- BB. Richard Harrison said the fire department would come in from Route 100.
- CC. Phil Carter asked if trucks use the bridge.
- DD. Ron Briggs said the bridge is too narrow.
- EE. Mary Laramie said she owned land across from where the road goes up.
- FF. Tesha Buss said that the Chief limited events to 25 cars. That number times 15 events is only 375 crossings per year. If someone built a house up there and had 2 cars, it would be 730 crossings per year.
- GG. Greg Mauriello said that he is an abutter and the area is a very specific place. He is in favor of Tesha Buss's project. Think what could happen if someone built condos up there. This is stewardship of the land. Think of all the potentially negative things that could happen. We are delighted with the project and support it. He thinks the town depends upon information it receives from the department heads and they say it is okay. The Rod and Gun Club have shooting up there and they make noise. This is better than condos.
- HH. Todd Rebhan asked if there could be a barrier at the 500 foot setback mark. Can she pass it between the districts?
- II. Tesha Buss said that outdoor recreation is allowed in both residential and commercial districts.
- JJ. Phil Carter said that permits follow the land and the use is allowed in both districts.
- KK. Rose Goings said that outdoor recreation is allowed in the residential district.
- LL. Mary Laramie said the area used to be a quiet place to live and it is heartbreaking to see something like this go in there.

- MM. Ayal Baram said that he is a neighbor to Tesha Buss in her Plymouth property and there had never been any noise problems.
- NN. **MOTION by Linda Petty and seconded by Richard Harrison to close this hearing. Motion passed unanimously.**

NOTE: RECESSED PUBLIC HEARINGS FOR EMERALD VEIL, LLC, AGENDA ITEMS 8 AND 9 WILL BE OPENED AND HEARD TOGETHER

6. OPEN THE RECESSED PUBLIC HEARING FOR EMERALD VEIL, LLC
7. OPEN THE RECESSED PUBLIC HEARING FOR EMERALD VEIL, LLC

- A. Phil Carter advised that these are applications to add an apartment to the existing structure at 110 Main Street, including a variance to change the entryway on the front porch and also to change the driveways for the properties at 110 and 108 Main Street. Both properties are located in the Village Residential/Commercial District. They are recessed from the July 9, 2012 meeting. He reminded all those who have previously spoken at this hearing that they are still under oath and asked if there are any others who wish to speak. There were none. He advised that there was a question about any historical significance to the rear portion of the building.
- B. Claudio Veliz said that he had received correspondence from Devon Colman and the primary portion of the structure is definitely of historical significance, but that the rear portion is not a contributor to that.
- C. Phil Carter read from the letter from Devon Colman that said, "The south portion is a non-contributing part of the building and its removal will not affect the historic integrity of the rest of the building."
- D. Claudio Veliz said that he believes that all other items are in.
- E. Rose Goings said that L&I are in and the applicants are working with Langdon Wheeler. They have updated plans.
- F. Richard Harrison asked about snow removal.
- G. Claudio Veliz said that the state inspected it and saw no circumstances where engines would go to the back of the property. The hoses are long enough.
- H. Phil Carter noted that in this letter of August 5th, Fire Chief Kolenda imposed no conditions other than egress windows in each bedroom and smoke and CO detectors.
- I. **MOTION by Julie Nicoll and seconded by John Boehrer to close this hearing. Motion passed unanimously.**

8. OPEN THE PUBLIC HEARING FOR GLENN AND DONNA HEITSMITH

- A. Phil Carter advised that this is an application for Flood Hazard Review to do repairs to the Timber Inn Motel and the home office for damages caused by Tropical Storm Irene. Property is located at 112 and 114 Route 103 South in the Residential Commercial District.
- B. Rose Goings advised that this is application 367-13-FHR. Posted in the Town Hall bulletin boards July 24, 2012, advertised in THE VERMONT JOURNAL on July 23, 2012 and abutting property owners were notified on July 23, 2012. She said that all letters have been received.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Glenn Heitsmith advised that the flood waters from Irene damaged his business and home. They have to rip it out and haul it away and put it back together. There was an

oil spill. There was no damage to the 2nd floor and they were able to reopen that floor on October 14th. There is a new CO and fire detection system. Oil tanks floated away and they now have a 1,000 gallon LP tank underground. They are converting from oil to LP for the house and business.

- E. Phil Carter asked if there would be any changes to the footprint.
- F. Glenn Heitsmith said no, everything is inside.
- G. Rose Goings said that the letter from Rebecca Pfeiffer has not been received.
- H. Phil Carter advised that in previous applications for repairs for damages due to Irene, he has asked the board for an Up/Down vote.
- I. **The board unanimously approved this application.**

9. **OPEN THE PUBLIC HEARING FOR TIMBER CREEK AT OKEMO II, LLC**

- A. Phil Carter advised that this is an application to amend an existing Planned Unit Development permit to change the start date for building and to update the phasing plan. Project is located at Trailside Road in the Mountain Recreation District.
- B. Rose Goings advised that this is application 333-11-PUD, Amendment #1. Posted in the Town Hall bulletin boards July 23, 2012, advertised in THE VERMONT JOURNAL on July 24, 2012 and abutting property owners were notified on July 23, 2012.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Larry Slason said that would like to change the sequencing plan. They are requesting a revision to the permit of April 2011 that includes 208 units, 266 acres, and 693 bedrooms. That part will not change. They were working with the ANR and Army Corps of Engineers (ACE) and the area of conserved lands will be expanded from the original 102 acres to 144.92 acres or 54% of the tract. They hope to submit to Act 250 within the next 2 weeks. They originally planned to start construction in 2013. As part of the negotiations with ANR and ACE. Sequence 1 and 2 would be the same as the original Exhibit #55. However, they were originally starting with the South then work toward the North. Now they will start with the North end and then work toward the south. They are asking for construction to start 6/1/13.
- E. Phil Carter said that 6/1/13 was finding #33 in the original permit. He asked if once they start, will they continue.
- F. Larry Slason said yes, it is a 10-year cycle that will still be the same. The marketing facility will be on the property and construction per sales.
- G. Phil Carter asked if the plan is to do 2 units, then 2 units, etc.
- H. Larry Slason said rather than apply for wastewater for each phase, the team has applied for wastewater for the entire project and also storm water discharge for the whole project.
- I. Andy Becker said in June 2013, they hope to start to put in the blue lift, one trail and the infrastructure at the base. What units are sold in the winter of 2013 will be built in 2014 etc. It is a 10-year focus with 20 units per year and they will not clear the full site at one time, but rather per site being built.
- J. Ed Dunn said that there is an entrance will be uphill from his road and asked about maintenance.
- K. Larry Slason said that is the Emergency Only entrance that will be gated and used only by emergency services. He said there is a site plan on file at the Planning Office.
- L. Phil Carter asked if that will be constructed when they start on the infrastructure.
- M. Andy Becker said yes. It will be plowed and gated and only for EMS vehicles.
- N. Phil Carter said that part of the project application is all done and people may get more information at the Planning Office.
- O. Larry Slason said he can make copies for Mr. Dunn.

- P. **MOTION by Linda Petty and seconded by John Boehrer to close this hearing. Motion passed unanimously.**

10. **OTHER BUSINESS**

- A. None

11. **REVIEW MINUTES**

- A. Phil Carter advised that the minutes from the July 9, 2012 meeting are to be reviewed.
B. Phil Carter advised that on page 6, YY should read “her” not he.
C. **MOTION by Phil Carter and seconded by Linda Petty to approve the minutes from July 9, 2012 as amended. Motion passed unanimously.**

12. **DELIBERATIVE SESSION**

- A. **MOTION by Phil Carter and seconded by John Boehrer to enter into Deliberative Session. Motion passed unanimously.**
B. Board entered Deliberative Session at 7:46 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison