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## **Town of Richmond Development Review Board Staff Notes, 05/14/2025**

RE: SKP2024-04 The Applicants, Jessica & Michael Sipes, are applying for preliminary subdivision review. They are proposing a two-lot residential subdivision. One lot of the subdivisions would consist of 1.74 acres known as Lot 8 and would include the existing house. The second, Lot 15, would consist of 13.05 acres and would contain an existing studio barn that would be converted to contain a dwelling unit. The proposed second lot currently has a restriction on it noting that residential uses are prohibited. The applicants are seeking to remove this restriction.

LOCATION: 60 Wolf Lane

PARCEL HISTORY:

- A. Subdivision Application 05-057, Approved 7/21/2006
- B. Subdivision Amendment Application 08-074, Approved 9/10/2008
- C. Conditional Use Application 15-100, Approved 11/11/2015
- D. Zoning Permit 17-019, Approved 4/6/2017
- E. Zoning Permit 17-058, Approved 6/7/17
- F. Zoning Permit 17-138, Approved 12-22-17
- G. Zoning Permit 2019-030, Approved 4/24/2019
- H. Sketch Plan Review SKP2024-04, 11/22/2024

EXISTING ZONING: Agricultural Residential District

SUBMITALS:

- A. Narrative
- B. Subdivision Plan
- C. Sipe Subdivision Plat
- D. Master Development Plan
- E. Environmental Court Order
- F. Plat Map
- G. 2016 Staff Notes
- H. Wolf Lane HOA
- I. Andra Blak
- J. Biesadecki
- K. Harrington
- L. Application
- M. Bill Lockwood
- N. Sipe Proposal
- O. Sipe Kings
- P. Nusbaums

#### PROCEDURAL INFORMATION:

1. Application received 4/25/2025
2. Warning and agenda sent to Seven Days 4/29/2025
3. Hearing notice sent to applicant 4/29/2025
4. Abutters letter sent 4/29/2025

#### STAFF NOTES (In Bold):

1. The Applicants, Jessica & Michael Sipes, are applying for preliminary subdivision review. They are proposing a two-lot residential subdivision. One lot of the subdivisions would consist of 1.74 acres known as Lot 8 and would include the existing house. The second, Lot 15, would consist of 13.05 acres and would contain an existing studio barn that would be converted to contain a dwelling unit. The proposed second lot currently has a restriction on it noting that residential uses are prohibited. The applicants are seeking to remove this restriction.
2. The project is located in the Agriculture Residential District and is subject to the regulations noted in Section 3.1
3. Section 3.1.1 notes that single family homes are an allowed use.
4. The project is subject to the dimensional requirements noted in Section 3.1.3
5. The Applicant's project is in compliance with Section 3.1.3.
6. The project is subject to the Regulations noted in Section 4 of the Richmond Zoning Regulations.
7. The project is subject to the driveway standards noted in Section 6.2 of the Richmond Zoning Regulations
8. Proposed lot 15 would be served by an existing access. ( **Applicants will need to confirm that the existing access meets the driveway regulations noted in Section 6.2**)
9. The Applicants will need to comply with the Regulations noted in the Richmond Subdivision Regulations.
10. The Applicants project will be subject to the regulations noted to Article III of the Richmond Subdivision Regulations.
11. The Applicants are required to submit all the information noted in Section 310.1 of the Richmond Subdivision Regulations.
12. The Applicant's subdivision does not note a subdivision name as is required per Section 310.1.1
13. The Applicants plat has a location map. However, it is unclear whether the map has been made to the scale required by Section 310.1.3.
14. The Applicants have supplied the following information required by Section 310.1: .1, .4, .5, .6, .7, .8, .9, .10, .11,
15. The Applicant is required to submit the information noted in Section 310.2
16. The applicants have supplied the following information to comply with the following sections of 310.2 : 1, 2, 3, 4, 5, 6, 7, 9, 10, 12,
17. The Applicants have not indicated the intervals for the contour lines on the site plan per Section 310.2.8 of the Richmond subdivision regulations.
18. The Applicants have not provided field markers per Section 320 of the Richmond subdivision regulations.

#### STOWE CLUB HIGHLANDS TEST :

1. When the Applicants original lot was created in 2006 with subdivision application 05-057 and was part of an 8 lot subdivision.
2. The original number of this lot is lot 7.
3. Number 3. of the DRBs decision on application 05-057 notes that a portion of lot 7 Is prohibited from being developed due to the location of proposed septic systems. The only area that can be developed is inside of the approved building envelope. All buildings inside of this envelope are restricted to agricultural purposes only. No other development was allowed outside of the building envelope.
4. Condition 4. of 05-057 notes that you must obtain all state permits prior to subdividing lot 7.

5. Condition 5 of 05-057. notes that all structures for lot 7 must be located inside of the building envelope.
6. Condition 6. of 05-057 notes that there shall be no trees removed between the edges of the deer wintering area. Without a written management plan.
7. Application 05-057 was appealed to state environmental court and is subject to the judgment order dated 4-19-06.
8. Letter 3 of Judgment Order noted on docket 268-12-05 Vtec upheld the restrictions noted on Number 3 of the DRBs decision on 05-057 which noted that all buildings in the building envelope are restricted to agricultural uses without any residential use.
9. Letter 4 of the Judgment Order notes that the applicant shall be required to obtain any required state permits prior to subdividing as noted in condition 4 of the DRBs decision on 05-057.
10. To remove a previously approved condition on a lot the DRB have to use the Stowe Club Highlands Analysis.
11. The DRB must consider the following factors:
  - a. Is the Applicant proposing to change a condition that was critical to the original approval? (**In this case would this lot been approved without this condition?**)
  - b. If the Applicant is seeking to relitigate a condition, then the following must be taken into consideration:
    - i. Changes in facts laws and regulations that are outside the applicants control.
    - ii. Changes in technology construction or operations which necessitate the need for an amendment.
    - iii. Invitation to alternative design which provide for a more efficient or effective means of mitigation.
    - iv. The importance of policy consideration including the proposed amendments furtherance of municipal plans.
    - v. Manifest error on the part of the reviewing body.
    - vi. The degree of reliance on prior permit conditions to protect the interests of other neighboring properties and interested parties.
12. **Based on the DRB decisions on 05-057, 08-074, 15-100 and the Vermont Environmental Court Judgment order dated 4/1/06 and the standards noted in the Stowe Club Highlands Analysis I do not feel that the applicants have met the standards for removing the restrictions on the building envelope for lot 7 as required by the Stowe Club Highlands Analysis based on the following:**
  - a. **The first step in the process is to determine if as noted in item 11.b.vi that the interest of other neighboring properties and interested parties have to be taken into consideration.**
  - b. **Given that the court is subject to a Vermont Environmental Court Judgment Order the court is an interested party.**
  - c. **Both the DRB and the court found that the building envelope for lot 7 can only be used for agricultural structures.**
  - d. **While the Applicants narrative notes that the agricultural restriction was omitted from some subsequent documents the conditions imposed by both the board and the court were never removed.**
  - e. **In a subsequent conditional use application 15-100 dated 11/24/15 the board noted in number 4 of the findings of fact that the structure would be used for agricultural purposes and that the photography business that would be operated out of the structure could be considered agriculture. This would allow it to comply with both the DRB decision and Court order requiring all structures on lot 7 be contained to the building envelope and be restricted to agricultural uses only. In addition, a subdivision amendment application 08-074 never removed the previously approved agricultural restriction on Lot 7.**
  - f. **While the Applicant has garnered support from abutting property owners indicating support for the project it does not negate the court order and prior DRB decisions that restricted the building envelope to agricultural uses only.**

- g. **In summary the agriculture restrictions on the building envelope on existing lot 7 were imposed by both the DRB and Vermont State Environmental court and as such are critical to the original approval of lot 7. This condition was never challenged by the applicant or removed by the DRB and was subsequently reinforced by the DRB in subsequent approvals. Any failure on the part of the town to consistently note this restriction in various documents does not negate the fact that the restriction exists and was critical to the original approval of the lot and therefore should run with the property.**

**OUTSTANDING ITEMS:**

1. No subdivision name on plat as noted in Section 310.1 of the Richmond Subdivision Regulations
2. Location Map not to scale as noted in Section 310.1.3. of the Richmond Subdivision Regulations
3. Information noted in Section 310.2.8 of the Richmond Subdivision Regulations
4. Any outstanding state permits as required by the DRB decision on 05-057

**RECOMMENDATIONS TO THE DRB:**

1. Deny the application as removing the agricultural restriction on the existing building envelope would violate prior DRB approvals and Environmental Court Judgement Orders.

