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Permit number: 4C0399-2

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Exempt in this batch:



State of Vermont

LAND USE PERMIT

AMENDMENT

CASE No. 4CO399-2
APPLICANT Gary T. Bressor
ADDRESS P.O. Box 94
Richmond, Vermont 05477

LAWS/REGULATIONS INVOLVED

10 V.S.A., Chapter 151 (Act 250) and
Environmental Protection Rules
Chapter 3, Subdivisions and
Chapter 7, Sewage Disposal

District Environmental Commission #4 hereby issues a Land Use Permit Amendment pursuant to the authority vested in it in 10 V.S.A., Chapter 151. This permit applies to the lands identified in Book 35, Page 330, of the Land Records of the Town of Richmond, Vermont, as the subject of a deed to Gary T. Bressor, the "permittee" as grantee. This permit specifically authorizes the permittee to improve approximately 3,400 feet of roadway and revise the previously approved subdivision (4CO399) to a nine lot subdivision, off of Town Road #22 in Richmond, Vermont. The subdivision of lots #1 through #8 are not approved at this time.

The permittee, his assigns and successors in interest, are obligated by this permit to complete and maintain the project only as approved by the District Commission in accordance with the following conditions:

1. The project shall be completed as set forth in Findings of Fact and Conclusions of Law #4CO399-2, in accordance with the plans and exhibits stamped "Approved" and on file with the District Environmental Commission, and in accordance with the conditions of this permit. No changes shall be made in the project without the written approval of the District Environmental Commission.
2. By acceptance of the conditions of this permit without appeal, the permittee confirms and agrees for himself and all assigns and successors in interest that the conditions of this permit shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the permittee and all assigns and successors in interest.
3. Prior to the sale of or the construction on Lots #1, #2, #3, #5, #6, #7 and #8, the permittee shall receive a written Certification of Compliance from the Agency of Environmental Conservation, which shall be incorporated into this Land Use Permit by Amendment. Prior to the sale of Lot #4, the permittee shall file a written statement from the District Administrator, Division of Water Resources and Environmental Engineering, Agency of Environmental Conservation, with the District Environmental Commission certifying that the previously constructed wastewater system on Lot #4 meets the Environmental Protection Rules for on-site disposal.
4. The District Environmental Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permit holder file an affidavit certifying that the project is being completed in accordance with the terms of the permit.

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5. The permittee and all assigns and successors in interest, shall install and maintain water-conserving plumbing fixtures in all residences, including but not limited to low-flush toilets, low-flow showerheads, and aerator-type or flow-restricted faucets. All deeds for said lots shall require the maintenance of the same. The District Environmental Commission retains the right to waive this requirement upon written request for reconstructed homes.
6. All heated structures erected on lots approved herein shall be constructed with double-glazed windows and with insulation with an R-Value of at least R-19 in the exterior walls, at least R-38 in the roof or cap, and at least R-10 around the perimeter of the foundation and shall have water-heater jackets.
7. For temporary erosion control the permittee shall stake hay bales every 200' in roadside ditches above a 5% grade. The ditches shall be seeded and mulched within 24 hours of final grading and not later than October 1st of any construction season. The permittee shall install filter fabric in the stream bed prior to commencement of construction. All erosion control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas. The Commission reserves the right to schedule hearings and site inspections to review erosion control, and to evaluate and impose additional conditions with respect to erosion control, as they deem necessary.
8. Prior to construction of road improvements and/or sale of or construction on any lot, the permittee shall supply final plans for the culvert size, headwalls and outfalls with substantiation that such designs meet the recommendations of the District Conservationist, Soil Conservation Service. The District Environmental Commission shall review these plans and reserves the right to impose additional conditions with respect to temporary and permanent erosion control.
9. The permittee and all assigns and successors in interest shall maintain a minimum of 25 acres of Lot #9 for agricultural use and a minimum of 175 acres of Lot #9 for forestry production under the continued recommendations of the County Forester. No development or subdivision of Lot #9 is permitted without prior written approval of the District Environmental Commission.
10. Prior to any dedication of the private road approved herein to the town, the permittee and/or homeowners association shall improve the road to town standards. The permittee and/or homeowners association shall at all times maintain, repair and replace the road and turnouts as approved.
11. Each prospective purchaser of any lot shall be shown a copy of the approved plot plan, the Certification of Compliance, and the Land Use Permit before any written contract of sale is entered into.
12. The construction of any improvements within 20 feet of the centerline of the stream is prohibited.

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13. No further subdivision of any parcels of land approved herein shall be permitted without the written approval of the District Environmental Commission.
14. The permittee shall reference the requirements and conditions imposed by Land Use Permit #4CO399 in all deeds to said lots.
15. Clearing shall be restricted to that necessary for construction of the roadway and homes. Stumps shall be disposed of above the seasonal high water table.
16. Removal of topsoil from the site is prohibited.
17. All construction on roadway approved herein must be completed by May 30, 1986 and, prior to the sale of any lot the road shall be completed to the driveway of that numbered lot.
18. This permit shall expire on May 30, 2003, unless extended by the District Commission.
19. Notwithstanding, this permit shall expire one year from date of issuance if the permittee has not demonstrated an intention to proceed with the project.
20. Failure to comply with any of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A. §6090(b).

Dated at Essex Junction, Vermont, this 26th day of May, 1983.

Commissioners participating
in this decision:

BY *KMP*
Katherine M. Powers
Environmental Board Coordinator
for the District Commission #4

Lincoln C. Brownell

Helen B. Lawrence
Helen B. Lawrence

Richard H. Wadhams
Richard H. Wadhams

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STATE OF VERMONT
DISTRICT ENVIRONMENTAL COMMISSION

RE. Gary T. Bressor
P.O. Box 94
Richmond, Vermont 05477

) Amendment Application #4CO399-2
) Findings of Fact and
) Conclusions of Law and Order
) 10 V.S.A., Chapter 151 (Act 250)

I.

INTRODUCTION

On March 22, 1983, an application for an Act 250 permit amendment was filed by Gary T. Bressor of P.O. Box 94, Richmond, Vermont, for a project generally described as the revision of a subdivision previously approved in Land Use Permit #4CO399 to a nine lot subdivision with on-site water and disposal and improvement to approximately 3,400 feet of roadway. This project is located at the end of Town Road #22 in Richmond, Vermont.

The tract of land consists of approximately 227 acres with 22.56 acres involved in the project area. The applicant's legal interest is ownership in fee simple.

Under Act 250, projects are reviewed based on the 10 criteria of 10 V.S.A., §6086(a). Before granting a permit, the District Commission must find that the project complies with these criteria and is not detrimental to the public health, safety, or general welfare.

Decisions must be stated in the form of findings of fact and conclusions of law. The facts the Commission has relied upon are contained in the documents on file identified as Exhibit #1 through #2, and the evidence received at a hearing held on April 12, 1983.

The April 12, 1983 hearing was recessed pending the receipt of additional information. The hearing was adjourned on May 17, 1983 upon receipt of such information.

Parties to this application are the applicant, by Gary T. Bressor; the Town of Richmond, Vermont; the Richmond Planning Commission; the Chittenden County Regional Planning Commission; and the Agency of Environmental Conservation by Dana Cole-Levesque, Land Use Administrator.

II.

FINDINGS OF FACT

In making the following findings the Commission has summarized the statutory language of the 10 criteria of 10 V.S.A., §6086(a):

1. Water and Air Pollution.

AIR POLLUTION:

- (i) The eight new homes and the existing home will be heated with combination wood/oil burners and each home will have two parking spaces (Exhibit #8) and open burning will be prohibited in the deeds to the lots (Exhibit #17).

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- (ii) The Commission finds that this project, as proposed, will not result in undue air pollution.

WATER POLLUTION

(A) Headwaters:

- (i) The Commission finds that this project may be located in a headwaters area of the Huntington River and therefore, will require that, prior to construction on any lot or the sale of any lot, the applicant obtain a Certification of Compliance approving the wastewater systems. A Temporary Pollution Permit will not be required for the roadway (Exhibit #20). Additionally, the Commission will prohibit the use of salt on the road.
- (ii) The Commission finds that this project will meet applicable health and water resources regulations regarding the reduction of the quality of ground or surface waters as will be evidenced by the issuance of Certification of Compliance(s) prior to construction or sale of any lot.

(B) Waste Disposal:

- (i) Lots #1 - #3 and #5 - #8 will be served by individual on-site wastewater systems. The soils on the project site are generally topsoil underlain by sands and then by molted fine sands (Exhibit #12). All of these lots will require ditching and mound type wastewater disposal systems. Lot #4 has an existing system. The Commission will require that prior to the sale of or construction on lots #1 - #8 the applicant obtain a Certificate of Compliance which the Commission will accept as evidence that the disposal of wastes meets the applicable Environmental Protection Rules for on-site disposal and will not result in the injection of waste materials or harmful substances into groundwater or wells.
- (ii) A Temporary Pollution Permit will not be required for this road (Exhibit #20). Stormwater runoff from the gravel road will be directed into roadside ditches and through culverts which direct the water toward the Beaver Pond (Exhibit #9 and testimony of applicant). The District Conservationist has suggested that larger culverts be used and the Commission will require that, prior to construction on Lots #1 - #3 and #5 - #8, or the sale of any lot, the final culvert, headwall and outfall size and design be submitted to the Commission for approval and the roadway be constructed as approved.
- (iii) The Commission finds that this project will meet applicable water resources department regulations and will not result in the injection of waste materials or harmful or toxic substances into ground water or wells.

(C) Water Conservation:

- (i) The deeds will require the installation and maintenance of water conserving plumbing fixtures in all new houses constructed on these lots (Exhibit #17) and will require that the applicant notify the Commission in the event a house is to be reconstructed on any lot in which the installation of water conserving devices will interfere with the architectural integrity of such a reconstructed house.
- (ii) The Commission finds that this project, as conditioned, will utilize the best available technology for water conservation.

(D) Floodways:

- (i) The Commission finds that this project will not be located in a floodway or a floodway fringe because no subdivision will occur near to the beaver pond.

(E) Streams:

- (i) The applicant has agreed to require a 20 foot buffer strip between construction and the centerline of the stream. The Commission will require that such a buffer strip be included in the deed restrictions to each lot. This stream passes under the road between Lots #3 and #4 (Exhibit #8) and the Commission will require that the applicant submit the final culvert size for approval.
- (ii) The Commission finds that the project, as conditioned, will maintain the natural condition of the stream and will not endanger the health, safety or general welfare.

(F) Shorelines:

- (i) The Commission finds that this project will not be located on a shoreline.

2-3. Water Availability and the Impact on Existing Supply:

- (i) Each lot will be served by an individual on-site well. A well has been driven on Lot #4 which yields 15 gallons per minute at a depth of 185 feet, which indicates that there appears to be sufficient water available in the area (Exhibit #6).
- (ii) The Commission finds that there should be sufficient water available to meet the needs of these lots and that this project will not place an unreasonable burden on an existing supply.

4. Soil Erosion and the Capacity of the Land to Hold Water:

- (i) The project site has an average slope of 10% to 15% and the soils are generally topsoil underlain by sandy loam and silty fine sands (Exhibit #12 of 4CO399 and #12). The applicant will install staked

FINDINGS OF FACT

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haybales every 200 feet along the roadside ditches as originally approved, will install filter fabric in the stream bed, and will seed and mulch the ditches (testimony of applicant),

- (ii) The Commission finds that it must require additional measures regarding soil erosion by condition to insure that undue erosion should not result and that the project will not increase runoff significantly.

5. Transportation:

- (i) Except for highways, no other means of transportation will be involved.
- (ii) The applicant will improve the old Town Road #22 to a 14 foot width with turnouts every 300-400 feet. The Town Fire Chief has determined this width to be satisfactory width in which to maneuver equipment (Findings of Fact #4CO399). The applicant estimates that the eight residential lots will generate approximately 18 trips per day (Exhibit #8). Additionally, the Commission finds that the applicant or homeowners shall be responsible for improving the road to Town standards prior to any dedication of this road to the Town.
- (iii) The Commission finds that this project may generate more than eighteen trips per day but that this project will not cause unreasonable congestion or unsafe conditions with respect to transportation.

6-7. Educational and Municipal Services:

- (i) Superintendent of Schools has indicated that, with the construction of three homes a year, this project will not unduly burden the system (Exhibit #11).
- (ii) The Richmond Fire Chief of 1979 has stated that this department can provide services to a road which is 14 feet wide with areas in which cars can pass (Exhibit #17 of 4CO399).
- (iii) The Commission will require that the applicant or homeowners construct the road to Town specifications prior to any dedication of this road to the Town.

8. Aesthetics, Scenic Beauty, Historic Sites and Natural Areas:

- (i) Historic sites, necessary wildlife habitat, and rare and irreplaceable natural areas will not be affected by this project. The beaver pond is located on Lot #9. This lot, approximately 203 acres, will not be developed (Exhibit #8).
- (ii) The present site is meadowland and wooded land and this project site will disturb less than 23 acres of the 227 acre tract (Exhibit #1).

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- (iii) The exterior of the single family homes will be reviewed under the Williams Hill Landowners Association, "The Facade Covenants."
- (iv) There will be no sign and no exterior street lighting and the power will be located underground (testimony of applicant).
- (v) The Commission finds that this project 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.

9. Conformance with the Capability and Development Plan:

(A) Impact of Growth:

- (i) The Town of Richmond has identified no undue burdens on any facilities or services.

(B) Primary Agricultural Soils:

- (i) The soils on this site qualify as primary agricultural soils and the applicant has estimated that approximately 25 acres are being returned to agricultural use by the applicant and will not be developed (Exhibit #8 and testimony of the applicant).
- (ii) The Commission finds that the agricultural potential of these soils will not be significantly reduced because approximately 25 acres will be returned to agricultural use.

(C) Forest and Secondary Agricultural Soils:

- (i) The Commission finds the forestry potential of these soils will not be significantly reduced because the applicant estimates that approximately 150 acres are forest land which is being managed under the recommendations of the county forester and will not be developed (Exhibit #8).

(D & E) Earth Resources:

- (i) The Commission finds that, as no earth resources have been identified on this site, this project does not involve the interference with nor the extraction of earth resources.

(F) Energy Conservation:

- (i) The applicant has stated that the homes to be constructed on these lots will be of heavy timber construction (Exhibit #6) and that the homes will have single glazed windows, foundation insulation, water heater jackets, and will be heated with oil/wood boilers (testimony of applicant).
- (ii) The Commission finds that the planned home design does not incorporate the principles of energy conservation and will require minimum R-values and type of heat by condition.

(G) Private Utility Services:

- (i) The private utility proposed for the project is the road which will be maintained, repaired, replaced and approved by the homeowners association (Exhibit #17).
- (ii) In addition to the management mechanism set up by the homeowners association (Exhibit #17) the Commission finds that adequate surety will be provided to the Town if the permit is conditioned to require that the Association improve the system to Town standards if the Town is required to assume any responsibility for the system.

(H) Costs of Scattered Development:

- (i) The Commission finds that this subcriteria is not applicable as this project is a revision to the previously approved subdivision.

(J) Public Utility Services:

- (i) The Commission accepts the previously submitted letter from the Vermont Electric Cooperative (Exhibit #6 of #4CO399) as evidence that utility service is available to this project, that an excessive or uneconomic demand will not be placed on such facilities or services, and that the provision of such services has been planned on the basis of a projection of reasonable population increase and economic growth.

(K) Development Affecting Public Investments:

- (i) There are no public or quasi-public investments which are adjacent to this project (testimony of applicant).

(L) Rural Growth Areas:

- (i) The Commission finds that this project is not in a rural growth area as defined in this section 6001(16).

10. Conformance with the Local or Regional Plan:

- (i) The Richmond Planning Commission has indicated that this project conforms to the local plan (Exhibit #7).

III.

CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, it is the conclusion of this District Environmental Commission that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application, and of Land Use Permit #4CO399-2 will not cause or result in a detriment to public health, safety or general welfare under the criteria described in 10 V.S.A. §6086(a).

IV.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, Land Use Permit Amendment #4CO399-2 is hereby issued.

Dated at Essex Junction, Vermont, this 20th day of May, 1983.

Commissioners participating
in this decision:

By

KMP

Katherine M. Powers
Environmental Board Coordinator
for the District Commission #4

Lincoln C. Brownell

Helen B. Lawrence

Helen B. Lawrence

Richard H. Wadhams

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