

**Town of Richmond
Development Review Board
Final Subdivision Decision
February 12, 2020**

RICHMOND, VT TOWN CLERK'S OFFICE
RECEIVED FOR RECORD
FEBRUARY 21 A.D. 2020
At 11 o'clock 45 minutes A.M. and recorded in
Book 252 Page 385-389 of Land Records
Attest: *Marilyn Asst* Town Clerk

IN RE: James Cochran, Thomas & Alexis Cochran, and Roger & Jennifer Brown- Application 2019-119 for Final Subdivision Review for a proposed 2-lot Subdivision (creation of one new lot) at Parcel ID # MK0530, located at 530 Milkweed Lane, Richmond, located within the Agricultural/Residential (A/R) Zoning District.

25856

Size in Acres	Entire parcels that make up Milkweed Lane	147.0 +/- acres
	MK0135 (undeveloped Lot 3)	10.2
	MK0275 (Lot 4)	9.7
	MK0811 (Lot 1/1A)	10.2
	MK0809 (Lot 5/1B)	10.2
	MK0530 (Lot 2)	107+/-

SUBMITTALS:

- A. Final Subdivision Application, dated 10/17/2019
- B. Subdivision Plan Prepared for Thomas & Alexis Cochran; Roger & Jennifer Brown; and James Cochran; created by Truline Land Surveyors, dated 12/27/2019
- C. Final Site Plan, 2 pages, created by Callie Ewald, dated 12/10/2019
- D. DRB Preliminary Subdivision Decision 2019-010, dated 5/8/2019
- E. Boundary Line Adjustment Permit 2019-085, issued 8/1/2019
- F. Private Road Maintenance Agreement, dated 10/18/19
- G. Required Statement of Roadway Design, dated 10/18/19
- H. Driveway Plan View for Lower Section, undated
- I. Wastewater System and Potable Water Supply Permit, WW-4-2623-3, issued 9/19/2019
- J. ANR Atlas Milkweed Lane Natural Features Map, dated 11/7/19
- K. DRB Preliminary Plan 2019-010, prepared by Truline Land Surveyors with modification by Callie Ewald in red, survey date 09/2016 & 06/2018
- L. Draft Shared Road Maintenance Agreement, received 02/05/2020
- M. Draft Sewer Easement and Maintenance Agreement, received 02/10/2020

PROCEDURAL INFORMATION:

As per the Notice Requirements, a Notice for Public Hearing appeared in the Burlington Free Press on October 28, 2019. The Notice was also posted at 5 locations within the Town. The Referral Notice was sent to the applicant on October 24, 2019 and the Notice poster was hand delivered on October 18, 2019. The Referral Notice was sent to abutting landowners on October 24, 2019.

The November 13, 2019 DRB hearing was continued to December 11, 2019. The Applicant asked for a continuance to the January 22, 2020 DRB meeting. Continuance was included in the Notice

for Public Hearing that appeared in the Burlington Free Press on December 21, 2019. The Notice was posted at 5 locations within Town and on the municipal website. Applicant requested continuance to the February 12, 2020 meeting. Continuance was included in the Notice for Public Hearing that appeared in the Burlington Free Press January 28, 2020. The Notice was posted at 5 locations within Town and on the municipal website.

BACKGROUND INFORMATION:

The existing house at MK0275 was constructed in 1990 for Barry and Jacqueline Washburn. The Washburn's received approval from the DRB in 2006 for a 3-lot subdivision- with the two new lots being between Huntington Rd. and MK0275, but no new houses were ever constructed. The Cochran, Cochran and Brown families purchased the entire 147 acre parcel in 2014 with the intention of eventually adding three new dwelling units at the summit of the parcel. BLA Permits 2016-109 and 2016-110 reorganized the three parcels approved with the 2006 Washburn subdivision to one 10.2 acre parcel (MK0135), an approximately 20 acre lot for Tom and Alexis Cochran (MK0811) and the remaining parcel (MK0275). In 2018, Roger & Jennifer Brown decided to remain at MK0275 instead of a new construction at the summit and applied for an Administrative Subdivision (Permit 2018-070) to create a 9.7 acre lot. The DRB approved Application 2019-010 for Preliminary Subdivision in May of 2019.

FINDINGS OF FACT:

1. The Application is subject to review under:
 - a. Richmond Subdivision Regulations (RSRs).
 - b. Agricultural/Residential Zoning District, Section 3.1 of the Richmond Zoning Regulations (RZR), to ensure dimensional requirements are met.
 - c. Section 6.2 Driveway Requirements.
2. The Applicant is seeking Final Subdivision approval for a 2-lot subdivision off Milkweed Lane. (Submittal A)
3. The existing entire Milkweed Lane 4-lot parcel is 147 +/- acres.
4. A condition of the DRB 2019-010 Preliminary Subdivision approval (Submittal D) was that the Applicant was to apply for a Boundary Line Adjustment to reduce the size of MK0811 (Lot 1) from 19.4 acres to new lot size prior to Final Subdivision. BLA Permit 2019-084 was approved 8/1/2019 for a 10.2 acre lot. (Submittal E)
5. The deeds and mylar for the smaller MK0881/Lot 1 and larger MK0530/Lot 2 have not yet been recorded in the Land Records and must be recorded 180 days from 8/1/2019 or the BLA is no longer valid. The 180th day was January 28, 2020. A new BLA will need to be applied for.
6. MK0809 (Lot 5/1B) will be 10.2 acres. (Submittal B)
7. The submitted Subdivision Plan (Submittal B) by Truline has several errors and omissions:
 - a) Each lot (1-5) should have listed: the acreage, new/correct parcel ID number, well shield (if applicable), and the building envelope (for Lot 5).
 - b) Lot 1A should be Lot 1. Lot 1B should be Lot 5.
 - 3) Milkweed Lane is not identified on the Plan.
8. As Milkweed Lane would provide access to 3 house lots, the access is not required to meet the Richmond Rural Road Standards, but is still required to meet driveway standards (Section 6.2) that require no more than 12% grade.

9. The Applicant has provided a statement that the driveway will be built in accordance with Section 6.2 (Submittal G) and a Driveway Plan View (Submittal H) that shows the section of the road below the driveway to MK0275 will meet the 12% road grade.
10. All lots meet the dimensional standards for the Agricultural/Residential Zoning District.
11. All lots will access the same curb cut off of Huntington Road and share the same driveway (Milkweed Lane). An access permit was approved with the 2006 subdivision.
12. The new lot will have a driveway originating on MK0811. The access to Lot 5/1B (MK0809) is over Lot 1/1A (MK0811).
13. The Applicant has submitted a revised Draft Shared Road Maintenance Agreement and Draft Sewer Easement and Maintenance Agreement. (Submittals L & M)
14. The Shared Road and Sewer Agreements incorrectly list the property address as 2549 Huntington Road. This address is no longer valid. All Parcel IDs for parcels on Milkweed Lane have been changed in the Town Records and should be reflected in Agreements.
15. The Applicant received State Wastewater Permit WW-4-2623-3 (Submittal I) that shows Lot 1 and Lot 5 will share the existing septic field created for Lot 1 (MK0811) on Lot 2 (MK0530).
16. Portions of the entire parent parcel have Deer Wintering Areas identified by the ANR Atlas. The submitted Final Site Plan (Submittal C) does show large animal habitats as required in Section 310.2(3) of the RSRs.
17. The new Lot 5, MK0809, is within the Deer Wintering Area, and the house site may also fall within this area. (Submittal C and J)
18. With the construction of the driveway and residence at MK0811, P&Z office has received multiple questions of concern that the Applicant is getting around Act 250 compliance. This parcel is not under Act 250 review and none of the criteria that would trigger Act 250 review have been met with this application or other previous development.

DECISION:

The Richmond Development Review Board approves Application # 2019-119 for *Final Subdivision* for a 2-lot subdivision (creation of 1 new lot) at Parcel ID # MK0530, located at 530 Milkweed Lane, Richmond, located within the Agricultural/Residential Zoning District with the following conditions:

1. Prior to the issuance of a Certificate of Occupancy for MK0809, the Applicant shall submit a certification from a certified professional, not related to the Applicant, that, for the length of the road, Milkweed Lane does not exceed 12% grade. Exception to the above is the last 200 feet to the foundation of any residence the grade shall not exceed 15%.
2. The Applicant shall apply for a new Boundary Line Adjustment between MK0811 and MK0530 prior to the filing of the mylar.
3. The Applicant shall record the executed Shared Road Maintenance Agreement and the Sewer Easement and Maintenance Agreement prior to the recording of the mylar.
4. The Shared Road Maintenance and Sewer Agreements shall be corrected to have the correct address and road name.
5. The deeds for the new Boundary Line Adjustment and all other deeds that reference the recorded Shared Road Maintenance Agreement and Sewer Easement and Maintenance

Agreement shall be recorded in the Land Records prior to, or simultaneous with, the recording of the mylar.

6. The Applicant shall correct lot numbers and Parcel IDs on final plat so:
 - a) MK0811 is Lot 1
 - b) MK0530 is Lot 2
 - c) MK0135 is Lot 3
 - d) MK0275 is Lot 4
 - e) MK0809 is Lot 5.
7. The final plat shall have all the requirements per Section 420 of the RSRs regarding building envelopes, wastewater systems, well shields and easements.
8. All exterior lighting shall meet Section 4.11 of RZR guidelines.
9. The areas exposed during construction shall be treated in a manner consistent with the procedures contained in the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites.
10. No further subdivision of this property shall occur without review and approval of the Richmond DRB.
11. The Final Subdivision Plat shall be submitted to the Planning and Zoning Department prior to being recorded within the Land Records. The signature block on the Final Subdivision Plat shall read:

Approved for recording in the Town of Richmond Land Records by decision of the Richmond Development Review Board on (add date) with permit number (add permit number) and signed this (add date).
12. The Final Subdivision Plat shall also contain a signature block for the new Boundary Line Adjustment.
13. The Final Subdivision Plat (mylar) shall be recorded within 180 days of the Final Decision (\$25 filing fee.)
14. The project shall be developed in conformance with the above referenced survey plat, plans, and submittal documents.
15. Any other applicable zoning regulations not expressly waived in this decision must be complied with.
16. This decision shall not relieve the applicant from any obligation to obtain all other applicable required federal, state and local permits, including wastewater permits.

The application as approved shall be in conformance with the decision, referenced items, the findings of facts, and conditions. The applicants and interested parties are hereby notified that if they disagree with this decision, they have the right, under 24 V.S.A. 4471, to appeal to the Vermont Superior Court – Environmental Division.

The appeal must be filed within thirty days of the date of this decision, and be in accordance with the governing rules of procedure and rules of the Vermont Superior Court - Environmental Division. Title 24 Vermont Statutes Annotated, Section 4471 provides that “An interested person who has participated in a municipal regulatory proceeding authorized under this title may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

DRB VOTING ON THIS MATTER (circle one for each member):

David Sunshine, Chair	in FAVOR	AGAINST	ABSTAINING	<u>RECUSED</u>	ABSENT
Matt Dyer, Vice-Chair	in FAVOR	AGAINST	ABSTAINING	RECUSED	<u>ABSENT</u>
Roger Pedersen, Member	<u>in FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT
Gabriel Firman, Member	in FAVOR	AGAINST	ABSTAINING	RECUSED	<u>ABSENT</u>
Padraic Monks, Member	<u>in FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT
Alison Anand, Alternate	<u>in FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT

The above votes occurred at a DRB meeting on 12th day of February, 2020.

DATED this 2/21/2020



Roger Pedersen, Acting Chair
Richmond Development Review Board

