

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION

IN RE: **Ampersand Properties, LLC.**
 P.O. Box 60
 Stowe, Vermont 05672

S-04-07

PROCEDURAL HISTORY:

The Development Review Board received this application on March 5, 2004. The application was warned in the Stowe Reporter and posted on March 11, 2004. A public hearing was held on March 30, 2004, at which time the hearing was closed. This decision was rendered at the Board's regularly scheduled hearing held on April 28, 2004. Notes: This application is the Final Plat Application and was reviewed preliminarily by the Development Review Board under application number S-04-05.

FINDINGS OF FACT & CONCLUSIONS OF LAW: During its review of this application, the Board made the following Findings of Fact:

1. Ampersand Properties owns approximately seventy-three (73) acres of land in the Village PUD District.
2. The applicant has applied under Section 3.4 – Final Subdivision Application to create nine (9) new residential lots (#14-22) on 3.02 acres to be known as Phase III of the Thomas Lane Subdivision.
3. The property is located entirely in the Village P.U.D. Zoning District as established by the Town of Stowe Zoning Regulations, last revised June 13, 2002.
4. The application was reviewed by the Board for compliance with the standards of the Stowe Subdivision Regulations, last revised March 19, 2002.
5. The plans and information presented meet the minimum standards established in Section 4.1 – Preliminary Layout Application; and are of sufficient detail to allow the Board to judge the proposal under the requirements of the Subdivision Regulations.

Section 5.1 – General Planning Standards:

6. **Section 5.1(1) – Character of Land for Subdivision:** The land to be subdivided is of such a character that it can be used for single family homes without undue impact on the surrounding area and is located within a designated growth area.

Conclusion: The Board concludes that the land is of a type and character which is suitable for this density of subdivision.

7. **Section 5.1(2) – Natural & Scenic Features:** The applicant has identified natural features on the site, including wetlands areas. These areas will be preserved as open space as part of this application.

Conclusion: The Board concludes that this property is scenic in nature and that the applicant has made adequate provisions to preserve these areas.

8. **Section 5.1(3) – Historic Resources and Community Character:** The applicant testified that there are no known historic resources on this site.

Conclusion: The Board concludes that the property does not contain any known historic resources and that this development will not adversely affect the community character.

9. **Section 5.1(4) – Reserved Strips:** The owner has provided a legal access via a right-of-way to the new lots.

Conclusion: The Board concludes that there are no reserved strips.

10. **Section 5.1(5) – Screening and Landscaping:** The applicant has not submitted a landscaping plan for the subdivision. Each individual home, once constructed, will conduct its own landscaping. The subdivision is located on a private roadway set back from any Town Highway.

Conclusion: The Board concludes that the applicant has adequately addressed screening and landscaping and that a formal plan for landscaping is not warranted.

11. **Section 5.1(6) – Pedestrian Access:** There are provisions for pedestrian access including a new sidewalk and walking path connecting the new lots to the existing sidewalk network in the village.

Conclusion: The Board concludes that the applicant has adequately addressed pedestrian access.

12. **Section 5.1(7) – Traffic:** The nine (9) new lots will generate additional traffic in this area of the community. Due to the location of the subdivision, traffic has two options when entering/exiting: either to travel South along Thomas Lane to Route 100, or to travel North along Depot Street directly into the village. In addition, the applicant is providing pedestrian connections to the village, which should decrease the number of automobile trips in and out of the property.

Conclusion: The Board concludes that there will be an increase in traffic as a result of this project; however, the level of increased traffic is unlikely to result in any adverse impact on area highways.

13. **Section 5.1(8) – Municipal Facilities:** The lots are served by municipal water & sewer services. The internal roadways are privately owned and maintained. The applicant has received the approval of the Selectboard for the required water/sewer connections.

Conclusions: The Board concludes that there should be no adverse impact on municipal facilities.

14. **Section 5.1(9) – Lot Configuration:** The applicant is developing a Planned Unit Development, and lot sizes are, by design, smaller than otherwise allowed in the district. Each lot has been provided adequate frontage on a new private roadway, and each is configured to be usable by the future owners.

Conclusion: The Board concludes that the applicant's proposed lot configuration is appropriate to the site.

15. **Section 5.1(10) – Building Area:** Each lot has been designed to provide a usable building area for a new home.

Conclusion: The Board concludes that each lot does have a usable building area which is suitable for the intended use.

16. **Section 5.1(11) – Energy Conservation:** The applicant testified that the structures will be built to industry standards for energy conservation and efficiency.

Conclusion: The Board concludes that the applicant has made adequate provisions for energy efficiency.

17. **Section 5.1(12) – Fire Protection Facilities:** The applicant has demonstrated that the development will include new fire hydrants, to be installed along the roadways adjacent to the new subdivision.

Conclusion: The Board concludes that the applicant has made adequate provisions for fire protection.

18. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** The applicant has provided the Board with an overview of its remaining density and a plan showing future phases of this subdivision. Further, the applicant maintains a density bank affidavit on file with the town

Conclusion: The Board concludes that the applicant has adequately disclosed its subsequent plans for the subdivision.

19. **Section 5.1(14) – Private Enforcement Mechanisms:** There will be private covenants regulating the use and maintenance of private common infrastructure, such as the project roadway.

Conclusion: The Board concludes that the applicant has adequately addressed the need for private enforcement mechanisms.

20. **Section 5.2 – Prominent Hillside and Ridgelines:** This property is not located in an area mapped by the Community as a prominent hillside or ridgeline.

Conclusion: The Board concludes that this application does not adversely affect a prominent hillside or ridgeline.

21. **Section 5.3 – Open Space and Cluster Development:** The applicant has proposed a cluster development, which includes permanent open space areas. The plan for those open spaces has been included with the application materials.

Conclusion: The Board concludes that this application represents a clustered form of development with open space preserved.

22. **Section 5.4 – Road Standards and Coordination with Public Highways:** The new subdivision roadway is being constructed to Town standards. The location of that roadway has been coordinated with the Public Works Department to assure that the roadway will be eligible for consideration as a new Town Highway.

Conclusion: The Board concludes that the applicant has complied with this section of the Regulations.

23. **Section 5.5 – Utilities and Stormwater Management:** The subdivision requires the extension of utility lines to the structures. Sewer treatment and disposal is being address through a new connection to the municipally owned collection and treatment system. The applicant has submitted an engineered stormwater management plan which calls for the containment and disposal of all storm water on-site.

Conclusion: The applicant has adequately addressed the needs for utility extensions and stormwater management.

DECISION

Based upon the foregoing Findings of Fact and conclusions of law, in re: **Ampersand Properties, LLC.**, the Board took the following action:

A motion was made by Mr. Brink and seconded by Mr. Aumand to approve the Final Subdivision application with the following conditions:

1. 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.
2. Pursuant to Section 3.5(1) of the Subdivision Regulations, the approval of this Final Subdivision application shall expire ninety days from such approval unless a plat has been duly recorded with the Town Clerk.
3. The requirements of the Public Works Director Clifford W. Johnson relating to this subdivision are incorporated by reference and are a condition of this approval .
4. The Board shall receive a copy of the association documents demonstrating that the common elements of the project, such as the roadway, will be adequately maintained by the Homeowners.

Voting in favor: Mr. Aumand, Mr. Beddow, Mr. Brink, Mr. Coppock, Mr. Izzo, & Mr. Walton. Voting to deny: None. Voting to abstain: None. Absent: None (Note there is one vacancy on the Board at this time).

The motion carries (6-0), the application is approved.

Dated at Stowe, Vermont this the 28th day of April, 2004.

By: _____
Chris Walton, Vice Chairman
Stowe Development Review Board

A final survey plat must be filed with the Town not later than ninety (90) days from the date of this decision as required by Section 3.5(1) of the Stowe Subdivision Regulations and by Vermont State Statute.

Any interested person may appeal this decision to the Vermont Environmental Court within thirty days in accordance with 24 V.S.A. S 4471.

The foregoing represents the decision of the Development Review Board, and is NOT a permit. A zoning permit will not be issued by the Administrative Officer until:

- (1) All necessary approvals have been obtained
- (2) All conditions imposed as part of the approval have been met
- (3) A survey has been filed with the Stowe Town Clerk.

The commencement of the activities described within this decision without a valid permit constitutes a violation of the Stowe Zoning Regulations as provided in Section 23.4.