

TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6085

SUBJECT PROPERTY: End of Brook Rd (Phase IV); #11-254.300

APPLICANT & PROPERTY OWNER:

R & Y Covered Bridge LLC
c/o Alain Youkel
PO Box 1503
Stowe, VT 05672

APPLICATION:

The Applicant, R & Y Covered Bridge LLC (herein referred to as the “Applicant”), requests approval for a construction phasing schedule for previously approved Project 5866. The Applicant received prior approval from the Board in a written decision dated 9/21/2018 for the construction of twenty (20) individual detached single-family dwellings along with a central shared development road, individual and shared driveways, and related improvements. The project was subsequently revised under Project 6044 (written decision dated 07/29/2019) for minor modifications including relocating the pond and dwelling #4, separate driveway access for dwellings #9 and 10, and minor adjustments to the location of the road and dwelling #16. The project is commonly referred to as Covered Bridge Phase IV.

The subject parcel (#11-254.300), located at the end of Brook Road, is in the Rural Residential 5 (RR-5) and the Ridgeline and Hillside Overlay District (RHOD). The undeveloped parcel contains approximately ±10.60- acres and is partially cleared. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of amended Planned Unit Development (PUD) review. The Development Review Board’s procedural history and relevant findings are attached.

REVIEW PROCESS:

(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)

An application for amended PUD approval was filed by Applicant R & Y Covered Bridge LLC, on August 12, 2019. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Stowe Development Review Board for a public hearing. A public hearing of the DRB was scheduled for September 17, 2019 and warned by the Zoning Director in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on August 29, 2019 and publicly posted at the Library, Town Office, and Police Station. The Applicant provided a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on September 17, 2019 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. Board members in attendance and participated in the hearing include Drew Clymer, Paco Aumand, Chris Walton, Michael Diender, Andrew Volansky, Peter Roberts.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Applicant, Alain Youkel, R & Y Covered Bridge LLC, PO Box 1503, Stowe, VT 05672

The following materials were submitted in support of the application and entered into the hearing record:

- Town of Stowe Development Application (2 pages); dated 8/12/2019;
- Landscaping & Phasing Plan, Sheet L1 prepared by Youkel [architecture + development] Wildewood, last revised 8/12/2019.

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

FINDINGS OF FACT & CONCLUSIONS OF LAW: The Applicant's request for a construction phasing plan was reviewed by the Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018), including the following:

- Section 13.2- Planned Unit Development

Section 13.2- Planned Unit Development:

For projects with an anticipated construction period longer than five (5) years, the DRB shall require a phasing plan outlining the construction timeline for each phase of the project, including at a minimum, an indication of when each phase will be started and completed. The schedule shall be updated annually and submitted to the Zoning Administrator. Should the phasing schedule need to be altered at any time, the Applicant shall notify the Zoning Administrator for a determination if DRB review is required.

The Applicant received original approval for this project in September 2017 (Project 5664) for a project involving nine (9) buildings designed to include a total of seventeen (17) dwelling units. The project design was subsequently modified in September 2018 under Project 5866 to include the construction of twenty (20) single-family cottage style dwellings. Minor site plan modifications were recently approved under Project 6044. None of the prior Board decisions make note of or approve a specific construction schedule or project phasing. The Applicant proposes to phase the project in three (3) phases as follows:

- Phase I (Dwellings 1-4; 18-20) Expected schedule 2019-2022;
- Phase II (Dwellings 5-10; 18-20) Expected schedule 2021-2023;
- Phase III (Dwellings 11-17) Expected schedule 2022-2025;

The Applicant's phasing plan notes that the schedule is dependent on market demand.

Conclusion: The Board concludes the proposed construction phasing schedule is appropriate for the project. As a condition of approval, the Board will extend the approval to expire on December 31, 2025. All zoning permits shall be obtained prior to this date or reapproval is required.

DECISION

Based upon the foregoing Findings of Fact, in RE: **6085** the Board finds (6-0) that the application meets the Stowe Zoning Regulations, as amended through October 9, 2018, criteria for approval with the following conditions of approval:

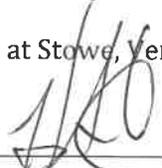
1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning

Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.

2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. The Board approves the proposed construction schedule as follows:
 - Phase I (Dwellings 1-4; 18-20) Expected schedule 2019-2022;
 - Phase II (Dwellings 5-10; 18-20) Expected schedule 2021-2023;
 - Phase III (Dwellings 11-17) Expected schedule 2022-2025.Should the phasing schedule need to be altered at any time, the Applicant shall notify the Zoning Administrator for a determination if additional Board review is required.
4. The Board's approval shall expire on December 31, 2025. All zoning permits shall be obtained prior to this date or reapproval is required.
5. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the permittee agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting favor: D. Clymer, P.Aumand, C.Walton, M. Diender, A. Volansky, P. Roberts
Voting to deny: None

Dated at Stowe, Vermont this the 26 day of September 2019

By: 
Drew Clymer, Chair

NOTICES:

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #5 (802-505-5367) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke a permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

