



State of Vermont

LAND USE PERMIT AMENDMENT

This is a **PROPOSED** permit; please submit any written comments to Josh Donabedian, Coordinator at joshua.donabedian@vermont.gov and/or nrb.act250barre@vermont.gov by **Friday, July 10th, 2020**.

CASE NO: #9A0087-3
Tom Sawyer Development, LLC
69 Birch Road
Shelburne, Vermont 05482

LAWS/REGULATIONS INVOLVED
10 V.S.A. §§ 6001 - 6093 (Act 250)

The District 9 Environmental Commission hereby issues Land Use Permit Amendment #9A0087-3, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6093. This permit amendment applies to the lands identified in Book 105, Pages 89, of the land records of the Town of Bristol, Vermont as the subject of a deed to Tom Sawyer Development, LLC.

This permit specifically authorizes: (1) a boundary line adjustment whereby Lot 2 will increase from ±1.31 acres to ±1.51 acres and Lot 3 will decrease from ±2.29 acres to ±2.09 acres; (2) the construction of a three-unit apartment building on Lot 2; and (3) the construction of a four-unit apartment building on Lot 3. Both lots will be served by onsite, in-ground wastewater disposal systems and the municipal water system. The project is located on Woodland Drive in Bristol, Vermont.

Jurisdiction attaches because the Project constitutes a material change to a permitted development or subdivision, and thus requires a permit amendment pursuant to Act 250 Rule 34.

1. The Permittee, and its assigns and successors in interest, is obligated by this permit to complete, operate and maintain the project as approved by the District 9 Environmental Commission (the "Commission") in accordance with the following conditions.
2. The project shall be completed, operated, and maintained in accordance with the conditions of this permit and the permit application, plans, and exhibits on file with the Commission and other material representations.

The approved plans are:

Sheet S-1 – "Site Plan," dated 4/1/2019, last revision 2/24/2020 (Exhibit #007);

Sheet SW-2 – "Stormwater Plan," dated 1/7/2020, last revision 2/21/2020 (Exhibit #008);

Sheet SW-3 – "Stormwater Details and Maintenance Plan," dated 1/7/2020, last revision 2/21/2020 (Exhibit #009); and

Sheet A-1 – "Building Elevations," dated 4/1/2019 (Exhibit #010).

3. All conditions of Land Use Permit #9A0087-3 and amendments are in full force and effect except as further amended herein.
4. The Permittee shall comply with all of the conditions of the following Agency of Natural Resources Permits:
 - a. **Wastewater System and Potable Water Supply Permit #WW-9-0246-7** issued on November 21st, 2018 by the ANR Drinking Water and Groundwater Protection Division;
 - b. **Authorization of Notice of Intent 8908-9020** under Construction General Permit 3-9020 issued on **March 20, 2020** by the ANR Watershed Management Division;
 - c. **Authorization of Notice of Intent #8908-9015** under General Permit 3-9015 (Stormwater Discharge General Permit), issued on **April 6, 2020** by the ANR Watershed Management Division.
5. Any nonmaterial changes to the permits listed in the preceding condition shall be automatically incorporated herein upon issuance by the Agency of Natural Resources.
6. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
7. A copy of this permit and plans shall be on the site at all times throughout the construction process.
8. No change shall be made to the design, operation or use of this project without a permit amendment issued by the Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
9. No further subdivision, alteration, and/or development on the tract/tracts of land approved herein shall be permitted without a permit amendment issued by the Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
10. Pursuant to 10 V.S.A. § 8005(c), the Commission may at any time require that the permit holder file an affidavit certifying that the project is in compliance with the terms of this permit.
11. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittee and their successors and assigns.
12. Construction hours shall be limited to Monday through Saturday from 7:00AM to 6:00PM, with no construction on Sunday and State or Federal holidays.
13. The Permittee shall apply and maintain water and/or other agents approved by the Watershed Management Division in the Project's Erosion Prevention and Control Plan on all roadways or disturbed areas within the project during construction and until pavement and/or vegetation is fully established to control dust.
14. The building approved herein is not approved for any manufacturing use or the on-site disposal of any process wastes. The Permittee shall apply and receive amended approval from the District

Commission for any change in the use of the buildings which involves the storage or handling of any regulated substances or the generation of hazardous wastes.

15. No floor drains shall be installed without first obtaining a permit or submitting other necessary documentation, as required by the Vermont Department of Environmental Conservation.
16. The Permittee and all subsequent owners or lessees shall install and maintain only low-flow plumbing fixtures in any buildings. Any failed water conservation measures shall be promptly replaced with products of equal or better performance.
17. At a minimum, the Permittee shall comply with the Vermont Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (2006).
18. The Permittee shall comply with Exhibits #008 and 009 for erosion prevention and sediment control. The Permittee shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion prevention and sediment control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas.
19. All mulch, siltation dams, water bars and other temporary devices shall be installed immediately upon grading and shall be maintained until all roads are permanently surfaced and all permanent vegetation is established on all slopes and disturbed areas. Topsoil stockpiles shall have the exposed earth completely mulched and have siltation checks around the base.
20. All areas of disturbance must have temporary or permanent stabilization within 14 days of the initial disturbance. After this time, any disturbance in the area must be stabilized at the end of each workday. The following exceptions apply: i) Stabilization is not required if work is to continue in the area within the next 24 hours and there is no precipitation forecast for the next 24 hours. ii) Stabilization is not required if the work is occurring in a self-contained excavation (i.e., no outlet) with a depth of 2 feet or greater (e.g., house foundation excavation, utility trenches).
21. All disturbed areas of the site shall be stabilized, seeded and mulched immediately upon completion of final grading. All disturbed areas not involved in winter construction shall be mulched and seeded before October 15. Between the periods of October 15 to April 15, all earth disturbing work shall conform with the "Requirements for Winter Construction" standards and specifications of the Vermont Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (2006).
22. A copy of the approved erosion prevention and sediment control plan shall be on the site at all times during construction.
23. In addition to conformance with all erosion prevention and sediment control conditions, the Permittee shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the Permittee from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.

24. Any extracted stumps shall be disposed of on-site above the seasonal high-water table and not in any wetland, or at a state-certified stump and inert waste disposal facility, so as to prevent groundwater pollution.
25. Prior to any site work, the Permittee shall install and maintain temporary fencing along the tree line to be retained and/or around any individual trees to be retained.
26. The Eastern Ratsnake, listed as Threatened Species in Vermont, has been identified in the vicinity of the project area. To protect these snakes, it is recommend that (1) all staff, contractors, and others involved in construction-related activities be made aware that this rare species is in the area, and (2) efforts be made to avoid injuring any snakes. If workers sight any Eastern Ratsnakes, these should be reported to the Vermont Fish & Wildlife Department.
27. The installation of exterior light fixtures is limited to those approved in Exhibit #007 and shall be mounted no higher than 15 feet above grade level. All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.
28. Pursuant to 30 V.S.A. Section 51(e), the Permittee and/or subsequent lot owner, at a minimum, shall construct the multi-family homes three stories or less in accordance with Vermont's Residential Building Energy Standards (RBES-Stretch Code) effective at the time of construction.
29. The installation and/or use of electric resistance space heat is specifically prohibited without prior written approval from the District Environmental Commission.
30. The Permittee, upon completion of the construction of each residential building and prior to use or occupancy, shall submit to the District Commission a copy of the certification submitted to the Public Service Department as described under 30 V.S.A. § 51(f).
31. The Commission reserves the right to evaluate and impose additional conditions with respect to (insert issue/criterion). The Commission reserves the right for a period of time commencing with the issuance of this permit and expiring (date or event).
32. At the completion of the project, and prior to the occupancy of the building(s), the Permittee shall certify by affidavit that the Project has been constructed in accordance with this permit pursuant to Act 250 Rule 32(A).
33. The Permittee shall reference the requirements and conditions imposed by Land Use Permit 9A0087-3 in all deeds of conveyance and leases.
34. The Permittee shall provide each prospective purchaser of any interest in this Project a copy of the Land Use Permit Amendment and any Findings of Fact before any written contract of sale is entered into.
35. Pursuant to 10 V.S.A. § 6090(b)(1), this permit amendment is hereby issued for an indefinite term, as long as there is compliance with the conditions herein. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the Permittee has not commenced construction and made substantial progress toward completion within the three-year period in accordance with 10 V.S.A. § 6091(b).

36. All site work and construction shall be completed in accordance with the approved plans by **October 15th, 2023**, unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without a public hearing.
37. The Permittee shall file a Certificate of Actual Construction Costs, on forms available from the Natural Resources Board, pursuant to 10 V.S.A. § 6083a(g) within one month after construction has been substantially completed. If actual construction costs exceed the original estimate, a supplemental fee based on actual construction costs must be paid at the time of certification in accordance with the fee schedule in effect at the time of application. Upon request, the Permittee shall provide all documents or other information necessary to substantiate the certification. Pursuant to existing law, failure to file the certification or pay any supplemental fee due constitutes grounds for permit revocation. The certificate of actual construction costs and any supplemental fee (by check payable to the "State of Vermont") shall be mailed to: Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201; Attention: Certification.
38. Failure to comply with any condition herein may be grounds for permit revocation pursuant to 10 V.S.A. sec. 6027(g).

Dated at Montpelier, Vermont this xx day of July 2020.

By _____
Fred Baser, Chair
District 9 Environmental Commission

Members participating in this decision:

Connie Houston
Allen Karnatz

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A).

Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings. The appellant must file with the Notice of Appeal the relevant entry fee required by 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

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Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal, including appeals from Administrative Amendments and interlocutory appeals. See 10 V.S.A. § 8504(k), 3 V.S.A. § 815, and Vermont Rule of Appellate Procedure 5.

For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 951-1740. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.