

**TOWN OF RANDOLPH, VERMONT**  
**DEVELOPMENT REVIEW BOARD**  
**MEMORANDUM OF DECISION**  
(Findings of Facts, Conclusions, and Decision)

**PERMIT NO.:** Z10-114

**PROPERTY ADDRESS:** VT Route 66 (at I-89)

**PROPERTY OWNER:** Randolph I-89, LLC  
Interstate 89 at Randolph, LLC  
c/o Jesse F. Sammis III  
2 Park Street  
Randolph, VT 05060

**Parcel nos. and size:** 106022 and 69.66 acres  
106025 and 14.85 acres

**I. INTRODUCTION**

On December 6, 2010, John Benson, on behalf of the **Randolph I-89, LLC and Interstate 89 at Randolph, LLC** ("Applicant"), filed an application for a zoning permit for a project generally described as **a revision to accommodate a rest area/products showcase center in a previously-approved 15-lot planned unit development (PUD) with light manufacturing, office space, hotel and conference center and recreational facilities** . The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on December 6, 2010.

Under the Randolph Zoning Regulations and the Randolph Land Subdivision Control Regulations ("RZR" and "RSR", respectively, or "Regulations" collectively), projects are reviewed based on the site plan, conditional use and/or any other applicable criteria of the Regulations. Before the Administrative Officer ("Administrator") may issue a permit, the Board must find that the project complies with all applicable criteria and approve the subdivision, site plan, conditional use and/or provide any other approval, as required.

Also under the Regulations, the Board is authorized to undertake local Act 250 review of Criteria 6, 7 and 10 for all projects that require a new land use permit or an amendment to an existing land use permit under 10 VSA Chapter 151 ("Act 250").

Decisions must be stated in the form of Findings of Facts and Conclusions of Law. In rendering this decision, the Board relied on the following:

1. Sworn testimony presented to and evidence received by the Board during the public hearing held on January 5, 2011;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records, including the Memorandum of Decision for zoning permit #Z09-66 (MOD #Z09-66).

The Board closed the public hearing on January 5, 2011 and rendered an oral decision. This written decision was prepared as required in 24 VSA Ch. 36 §1209 and supersedes the oral decision.

## II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Southwest Interchange District (INT-SW).
2. The new use under consideration – rest area/products showcase center – could either be classified as a cultural facility or it could be unclassifiable and therefore RZR §2.4.3 would apply. In either case, review of the use would be as a conditional use.
3. Review of previous approvals is required (planned unit development (PUD), site plan, subdivision and local Act 250).

On December 15, 2010, the Administrator referred the application to the Board for review and approval as determined and requested.

## III. PARTICIPANTS

For the purposes of this application, “interested persons” are those who fulfill the requirements of 24 VSA Ch. 117 §4465. The attached Service List for this project includes the Applicant and persons<sup>1</sup> who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Samuel Lincoln, Thomas Malanchuk<sup>2</sup>, Christopher Recchia, Frank Reed, Krista Rumrill and Joel Tillberg.

## IV. FINDINGS OF FACTS

*The following findings are facts that were entered into the record for this application and relied upon by the Board in formulating its conclusions and decisions. While other evidence may have been or is also entered into the record, if it is not included herein, the Board has determined that it is either not relevant evidence or that it is not a fact. Additionally, the following facts from MOD #Z09-66 are incorporated into this decision as they are unaffected by the proposed changes: 1, 3 – 9, 12, 14, 10 – 26, 29 – 33, 35 – 43 and 46.*

### Project Description and Required Approvals

1. On December 31, 2009, the Applicant received approval for a 15-lot PUD on two parcels. The zoning district at the time was the Mixed Use (MU) District. Since that approval, the zoning had changed such the zoning designation is now INT-SW. (municipal records)
2. The Applicant proposed the following changes to the approved PUD (application):
  - A. Relocated access road and point of access to VT Route 66. This changes the configuration and decreases the size of lot #19 from 5.60 to 5.04 acres.
  - B. The approved use of lot #23 for a 40,000-square foot (SF) light manufacturing facility and associated improvements is eliminated and the lot is to be open area. The building and lot coverage approved for lot #23 is transferred to lot #29.

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<sup>1</sup> By inclusion in this section of the Memorandum of Decision, the Board does not address the status of any of the people listed above as “interested persons” as defined in the above-referenced state statute.

<sup>2</sup> Thomas Malanchuk is an alternate member who was sitting in place of absent regular member Trini Brassard.

- C. The approved use of lot #31 of a 7,200-SF office building and associated improvement is eliminated and the lot is to be open area. The building and lot coverage approved for lot #31 is transferred to lot #29. Additionally, the new point of access to the PUD changes the configuration and decreases the size of lot #31 from 1.76 to 1.15 acres.
  - D. The approved use of lot #29 of a golf driving range is not proposed to be changed. A new use of a 45,000-SF rest area/products showcase center is to be included on lot #29. Additionally, the new point of access to the PUD changes the configuration and increases the size of lot #29 from 10.72 to 11.52 acres.
  - E. The total size of the open/recreational area lots of the PUD increases from 21.85 acres to 26.83 acres.
  - F. The proposed development standards for the rest area/products showcase center are: maximum height is 40 feet and minimum setbacks to all property lines is 20 feet. However, at the hearing, the Applicant would accept a maximum height of 35 feet.
  - G. The proposed maximum building and lot coverages for lot #29 are 9.1 and 26.9%, respectively.
- 3. The approved maximum building and lot coverages for the PUD are 8.6 and 25.7%, respectively. The proposed coverages are 8.5 and 25.7%, respectively. The current maximum coverages are 8 and 24%, respectively. (RZR and Exh. #1)
  - 4. The proposed new use – rest area/products showcase center – could be categorized as a cultural facility or it could be unable to be categorized and thus RZR §2.4.3 would apply. In either case, the use would be reviewed as a conditional use. (RZR).
  - 5. No other changes to the PUD are proposed.
  - 6. The proposed changes will increase peak traffic to the PUD by 12%. (Exh. #1))
  - 7. The main internal roadway will still take access from VT Route 66, it is simply relocated farther east along the highway. This access will require a Vermont state highway access permit. (testimony of J. Benson)
  - 8. The proposed changes will not add any additional students to the school district. (Brent Kay, Superintendent)
  - 9. The subject property is not within the Randolph Police District therefore this service is not provided by the Town. (Randolph municipal records)
  - 10. The subject property takes access from a state highway therefore road maintenance is not provided by the municipality. (Randolph municipal records)
  - 11. The subject property is in the Randolph Center Fire District. The Randolph Center Fire Department has the capacity to provide fire protection to the subject property provided the Fire Services Advisory Commission is involved with all the site plan reviews for the lots within the PUD. (Albert J. Floyd, Randolph Center Fire District Chief)
  - 12. It is proposed that the PUD will utilize the public water and sewer systems. Currently, there is sufficient capacity in each of these systems to meet the needs of this PUD. However, there is no guarantee there will be capacity in either of the systems at the time of application to connect. And if system upgrades are required to serve the property, the cost of such upgrades shall be the responsibility of the property owner(s). (Exh. #5)

## V. CONCLUSIONS

Based on the foregoing Findings of Fact, the Board concludes the following regarding the project described in the application referred to above and including the Applicant's representations at the public hearing. (Board comments are italicized)

### 1. Act 250 Criteria<sup>3</sup>

A. The proposed project will not cause an unreasonable burden on the ability of the Town of Randolph to provide educational services (criterion 6).

B. The proposed project will utilize the following municipal or governmental services: fire protection and public water and sewer service. At the present, the PUD will not cause an unreasonable burden on the ability of the Town of Randolph to provide public water and sewer services. However, water and sewer allocations for the uses proposed have not been obtained.

The proposed changes will not cause an unreasonable burden on the ability of the Randolph Center Fire Department to provide fire protection services provided the fire department is involved with the site plan review processes for the lots as they are developed. (criterion 7).

C. The proposed project is in compliance with the Randolph Town Plan adopted in accordance with 24 VSA ch. 117 on February 16, 2010.<sup>4</sup> (criterion 10).

### 2. Planned Unit Development Criteria

A. The Board may allow for greater concentration of density, or intensity of land use within some sections of the development than within others. The approval for greater concentration of density in one section shall be offset by a lesser concentration in another or by an appropriate reservation of common space as long as the overall density requirements of the total area are not exceeded. In deciding whether to not to allow for a greater density, the board shall consider the type of water and sewerage facilities and other proposed utilities and their ability to handle greater density or intensity of use.

*The PUD does propose a greater concentration of density and it is offset by an appropriate reservation of common space. The proposed changes increases the amount of open area by over 5 acres.*

B. Width, yard, coverage and height requirements for the district in which the {PUD} is to be located shall normally be met. The Board may vary these requirements to allow for innovative design and effective land use.

*The development standards have changed since the PUD was originally approved. The proposed changes either meet the new standards or do not increase the non-conformity of the PUD when viewed against the new standards that are not met.*

C. The PUD is an effective, unified treatment of a development possibility of the project site. The development plan makes appropriate provisions for the preservation of

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<sup>3</sup> This conclusion/decision regarding local Act 250 review is a rebuttable presumption under the provisions of 10 VSA Ch. 151 and this presumption may be overcome in proceedings under 10 VSA Ch. 151

<sup>4</sup> Although this Plan has expired by the time this decision was signed, it was effective at the time the application was deemed complete.

streams and streambanks, steep slopes, wet areas, soils unsuitable for development, forested areas, historic areas, unique natural and man-made features, where they exist.

*The proposed changes do not affect compliance with this criterion.*

- D. The criterion regarding mixed uses (they shall be arranged so as to be compatible and ensure visual and aural privacy for project residents) is not applicable in this case as there is no residential component to the PUD.
- E. Proposed streets are in harmony with existing or approved thoroughfares.
- F. The development is proposed over a reasonable period of time. The developer shall be responsible for ensuring that adequate municipal services and facilities are provided. The open spaces are already in place.

*The proposed changes do not affect compliance with this criterion.*

- G. The Board is not requiring as a condition of approval the donation of the open lands for municipal purposes. However, it is establishing such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

*The proposed changes do not affect compliance with this criterion.*

### 3. Site Plan Criteria

- A. The proposed use, design and layout meets the provisions of the zoning ordinance, other regulations and ordinances of the Town and is in conformance with the Town Plan.
- B. The proposed use, design and layout is of such a location and in such a size and character that it will be in harmony with the appropriate and orderly development of the surrounding area.

*The proposed changes do not affect compliance with this criterion.*

- C. The proposed use and layout is of such a nature that it will not make vehicular or pedestrian traffic hazardous when considering turning movements, relationship to intersections, sight distances, location and access of off-street parking, pedestrian traffic and pedestrian-vehicular contact points.
- D. The proposed height and location of buildings, walls, fences, parking, loading and landscaping will not interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use.

## VI.

## DECISIONS<sup>5</sup>

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the PUD as applied for in zoning permit application #Z10-114 and including the evidence and testimony entered into the record as Findings of Fact.

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<sup>5</sup> An interested party (as defined in 24 VSA §4465) who participated in this proceeding may appeal this decision to the Vermont Environmental Court within 30 days of the date of the decision, for a fee of \$250 and a notice in writing, certified mailed to the Environmental Court, giving reasons for the appeal, and a copy mailed to the Zoning Administrator. Failure to appeal this decision may prevent any party from arguing against its elements in a future hearing or appeal. 24 VSA §4472.

- A. PUD is approved with the condition that all previous modification and condition of approval for zoning permit #Z09-66 remain in effect except as follows:
  - 1. The lots within the PUD shall be as shown on Exh. #2.
  - 2. The dimensions, size and use for each lot shall be as shown on Exh. #2 except that the proposed use of lot #29 shall be golf driving range and rest area/products showcase center.
  - 3. The proposed development standards for each lot (i.e. building coverage, lot coverage, number of parking spaces, height of buildings, building elevations, setbacks, etc.) as shown on Exh. #2 shall be the maximum allowed.
- B. The subdivision is approved with the condition that all previous modification and condition of approval for zoning permit #Z09-66 remain in effect.
- C. The site plan is approved with the condition that all previous modification and condition of approval for zoning permit #Z09-66 remain in effect:

Dated at Randolph, Vermont this 16<sup>th</sup> day of February, 2011.

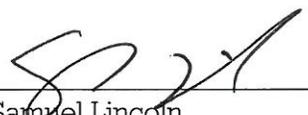
RANDOLPH DEVELOPMENT REVIEW BOARD  
Concurring Board Members

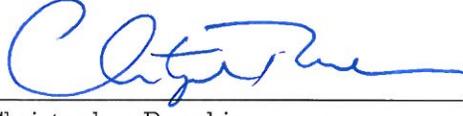
  
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Joel Tillberg, Chair

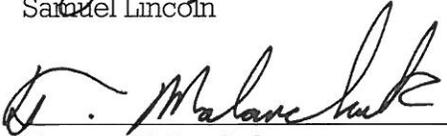
  
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John Becker

  
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Frank Reed

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Samuel Lincoln

  
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Christopher Recchia

  
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PARTICIPANT LIST  
Zoning Permit Application #Z10-114  
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**Bold listings indicate applicant's representatives.**

