

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

PERMIT: **#Z12-47**
PROPERTY ADDRESS: **3075 VT Route 66**
PARCEL NO.: **108015.010**
PARCEL SIZE: **25.63 acres**

PROPERTY OWNER: **Gifford Medical Center, Inc.**
PO Box 200
Randolph, VT 05060

I. INTRODUCTION

On May 29, 2012, Theron Manning, on behalf of **Gifford Medical Center, Inc.**, ("Applicant" or GMC) filed an application for a zoning permit for a project generally described as **a senior living community with a 40-unit independent living facility and a 30-bed skilled nursing facility**. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on June 12, 2012 and assigned zoning permit application #Z12-47.

After the first public hearing on June 26, 2012, the hearing was continued until the next month. Subsequent to then, the Applicant requested continuations. In January, 2013, the Applicant resubmitted a new site plan for the project. The application was re-assigned zoning permit application #Z13-1.

Under the Randolph Zoning Regulations ("Regulations" or RZR), 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 grant a permit, the Board must find that the project complies with all applicable criteria and approve the site plan, the 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 hearings held on June 26, 2012 and January 22, 2013 (the only hearings at which evidence was taken);
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on January 22, 2013 and deliberated on the matter. This written decision is required pursuant to 24 VSA ch. 36 §1209

II. DETERMINATIONS BY THE ADMINISTRATOR

The Administrator has made the following determinations:

1. The subject property is in the Rural Use 2-20 (RU2-20) District.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.
3. The use is categorized as "health care facility." Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required.
4. The Applicant has requested local Act 250 review.

On June 12, 2012, 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, his or her representatives (if any) and persons¹ who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Trini Brassard, Thomas Malanchuk², Gregg McCurdy, Christopher Recchia, David Miles, 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.

Project Description and Required Approvals

1. The Applicant has filed an application for a senior living community that consists of a 40-unit, ±50,000-SF independent living facility and a 30-unit, ±32,000-SF skilled nursing facility as shown on Exh. A. (application and Exh. A)
2. The project will be constructed in two phases. Phase I will include the necessary access and utility infrastructure and the skilled nursing facility as associated parking, etc. Phase II will include the independent living facility and the remaining site work. (Exh. A)
3. The property is in the RU2-20 District. (RZR)
4. The project is not either a one- or two-family dwelling therefore site plan approval is required. (application and RZR)

¹ 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.

² Mr. Malanchuk is an alternate member of the Board who was sitting in place of Member Samuel Lincoln pursuant to Section 206D of the Board's Rules of Procedure. Mr. Lincoln did not participate in this Decision.

5. The use is categorized as “health care facility.” Such a use is listed as conditional on the Chart of Permitted and Conditional Uses and therefore conditional use approval is required. (application and RZR)
6. The Applicant has requested local Act 250 review. (application)

Consistency and compliance with Town Plan and ordinances. (SP criterion A, CU criteria A and H, and Act 250 criterion10)

7. There is no established minimum lot size for the RU2-20 District for uses other than residential (i.e. single, two- and multi-family dwellings). The subject property is 25.63 acres with options to purchase two adjacent parcels which would add an additional 5 acres. (RZR)
8. In the RU2-20 District, the setback requirements for the front, rear and side yards are 30, 30 and 20 feet, respectively. The shortest setback distance from any proposed structure is 60 feet to a side property line. (RZR and application)
9. The maximum allowable building coverage is 25% in the RU2-20 District, or 6.4 acres or ±280,000 SF for the subject property. The proposed building coverage is 48,545 SF, or 4%. (RZR and application)
10. The required off-street parking for hospitals and rest homes is 1 per 3 beds and 1 for each 2 employees on the maximum working shift and is 1½ spaces for each unit in a multi-family dwelling. The proposed project provides parking spaces for 104 cars. Of these, 48 are located to serve the skilled nursing facility and 60 to serve the independent living facility. The skilled nursing facility will have 30 beds, requiring 10 spaces, and 23 employees working on the maximum shift, requiring 15 spaces. The independent living facility will have 40 units, requiring 60 spaces (RZR, application, Exh. A and testimony of T. Manning)
11. There is no clear and unambiguous language in the Town Plan that relates or refers to the proposed project. However, Chapter 3 of the Town Plan recommends this property to be in the Village District, the purpose of which is to allow for continued growth of Randolph’s villages as pedestrian-friendly centers and to allow the neighborhoods to co-exist with a limited mix of business and services complementary in scale and type. This project achieves these goals with a low-impact, campus-type health care facility that fills a demonstrated need in the community while integrating with the character of Randolph Center (application)

Traffic and nuisance considerations (SP criterion C and CU criteria B, C and G)

12. The proposed use will not generate any of the following: odor, noise, dust, glare, vibration or radiation. (application)
13. The proposed use does not have the potential to cause a hazard through fire, accident or unsanitary conditions. (application)
14. The proposed project will have two points of access from VT Route 66. Both will be for two-way traffic and will conform to VTrans Standard B-71. The Vermont Agency of Transportation has approved both locations. (application, Exh. A and testimony of J. Benson)
15. The access between Ridge Road and Vermont Technical College will be the primary access to the project. (Exh. A)

16. The lower access will be the secondary access for emergency vehicles. (testimony of J. Benson)
17. The minimum sight distance at the either access is over 750 feet. (Exh. A)
18. An internal network of sidewalks is provided that services both facilities and connects to VT Route 66 at the main entrance. Crosswalk markings will be provided where this sidewalk crosses internal roadways (Exh. A)
19. All parking areas will have through-flow traffic. (Exh. A)
20. The project will generate traffic every day and all day. The expected daily traffic is 120 and 160 vehicles for the skilled nursing facility and the independent living facility, respectively. (application)
21. Each facility is expected to have two peak traffic times: 7 – 9 AM and 4 – 6 PM, with 10 and 17 vehicles expected during these peak times, respectively. (application)
22. VT Route 66 is constructed to accommodate traffic types and volumes associated with the nearby industrial park and Vermont Technical College. VTTrans has reviewed the current VT Route 66 traffic volumes and the projected incremental project volume and concluded that there will be measurable impact. (application)

Continuous strip (CU criterion D)

23. No building is proposed closer than 100 feet to any street line. Such areas will either be landscaped or kept as open fields. (Exh. A)

Municipal services (CU criterion E and Act 250 criteria 6 and 7)

24. The proposed use has received a sewer allocation from the Randolph Sewer District. (municipal records)
25. The proposed project will not add any additional students to the school district. (Brent Kay, Superintendent)
26. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality. (Randolph Municipal Records)
27. 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 without undue burdens. (Kenneth Preston, Randolph Center Fire District Chief)
28. The subject property takes access from a state highway therefore road maintenance is not provided by the municipality. (Randolph Municipal Records)

Character of the area (SP criterion B and CU criterion F)

Affects on adjacent land (SP criterion D)

29. Chapter 3 of the Town Plan recommends this property to be in the Village District, the purpose of which is to allow for continued growth of Randolph's villages as pedestrian-friendly centers and to allow the neighborhoods to co-exist with a limited mix of business and services complementary in scale and type. This project achieves these goals with a low-impact, campus-type health care facility that fills a demonstrated need in the community while integrating with the character of Randolph Center.

30. The area affected by this project is the Village of Randolph Center which includes single- and multi-family residences, a general store, dental office, post office, a college and agricultural/open lands. (application)
31. The project is a low-impact campus-style development with a preserved green space in a manner similar to the existing Vermont Technical College development. (application)
32. Architectural treatments of the proposed buildings are consistent with the existing historical nature of Randolph Center. Additionally, landscaping and screening is provided to minimize the visual impact of the development on adjacent residences (see facts below). (application and Exh. A)
33. Unsightly uses, such as the solid waste dumpsters, will be screened from off-site. (condition of approval)
34. The development proposes minimal or no impacts from fencing and walls. (Exh. A)
35. Only the skilled nursing facility will have a loading area. This is located such that it is screened by the building and facing away from the adjacent residences along VT Route 66, thereby minimizing impacts to adjacent properties. (Exh. A)
36. No other evidence was presented to indicate the development would interfere with or discourage the appropriate development in adjacent land or unreasonably affect its use.

Renewable energy resources (CU criterion I)

37. The proposed use will not affect the utilization of renewable energy resources. (application)

V. CONCLUSIONS

Based on the foregoing Findings of Fact, it is the conclusion of the Board that the project described in the application referred to above and including the Applicant's representations at the public hearing, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the following criteria:

1. Act 250 Criteria³

- 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 not cause an unreasonable burden on the ability of the Town of Randolph to provide municipal or governmental services (criterion 7).
- C. The proposed project is not in non-compliance with the Randolph Town Plan which was adopted in accordance with 24 VSA ch. 117 on February 16, 2012 (criterion 10).

2. Conditional Use Criteria⁴

- A. The proposed use is not inconsistent with the objectives of the Town Plan and is consistent with the purposes of the Randolph Zoning Regulations.

³ 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

⁴ Criteria A – D are from the Randolph Zoning Regulations. Criteria D – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

- B. The proposed use will not cause any hazard to health or property through fire, traffic, accident, unsanitary conditions, excessive noise, vibration, odor or other nuisances.
- C. The proposed use will not add a volume of traffic to the highways beyond their reasonable capacity.
- D. A continuous strip of not less than six (6) feet wide will be maintained between the right-of-way line and the balance of the lot which will be suitably landscaped.
- E. The proposed use shall not have an undue adverse effect on the capacity of existing or planned community facilities.
- F. The proposed use shall not have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards in the Town Plan.
- G. The proposed use shall not have an undue adverse effect on the traffic on roads and highways in the vicinity.
- H. The proposed use shall not have an undue adverse effect on the bylaws in effect.
- I. The proposed use shall not have an undue adverse effect on the utilization of renewable energy resources.

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 not in non-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.
- 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.

DECISIONS⁵

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions for the site plan and conditional use as applied for in zoning permit application #Z13-1:

- A. The site plan approval is granted with the following conditions:

⁵ 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 \$262.50 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.

1. The project shall be constructed as shown on Exh. A, completed and operated in accordance with the application and the findings of fact which are incorporated herein.
 2. The lighting shall be fully-shielded cut-off fixtures mounted no higher than 15 feet above grade.
 3. Sidewalks shall be kept clear year-round.
 4. The dumpsters, chillers, above-ground electrical boxes/transformers and oxygen tank pads shall be screened.
 5. Snow from parking areas must not be plowed onto public highways, adjoining streams or waterways, or onto abutting properties. Snow must be plowed elsewhere on the subject property or removed. Snow removal and storage shall not interfere with sight distances of the accesses.
 6. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 7. Any significant modifications to the approved site plan shall require re-approval by the Board pursuant to the regulations in effect at the time of re-application.
- C. The condition use approval is granted with the condition that the project shall be operated in accordance the application, plans and exhibits on file and the findings of fact which are incorporated herein and any expansion of the uses shall require approval pursuant to the regulations in effect at the time of re-application.

Dated at Randolph, Vermont this 6 day of March, 2013.

RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members

Joel Tillberg, Chair

John Becker

Trini Brassard

David Miles

Thomas Malanchuk

(see attached fax)
Gregg McCurdy

Christopher Recchia

Memorandum of Decision - GIFFORD MEDICAL CENTER
Zoning Permit # Z13-1

1. The project shall be constructed as shown on Exh. A, completed and operated in accordance with the application and the findings of fact which are incorporated herein.
 2. The lighting shall be fully-shielded cut-off fixtures mounted no higher than 15 feet above grade.
 3. Sidewalks shall be kept clear year-round.
 4. The dumpsters, chillers, above-ground electrical boxes/transformers and oxygen tank pads shall be screened.
 5. Snow from parking areas must not be plowed onto public highways, adjoining streams or waterways, or onto abutting properties. Snow must be plowed elsewhere on the subject property or removed. Snow removal and storage shall not interfere with sight distances of the accesses.
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Dated at Randolph, Vermont this _____ day of _____, 2013.

RANDOLPH DEVELOPMENT REVIEW BOARD
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Joel Tillberg, Chair

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Gifford Medical Center

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Bold listing indicate applicant's representative.

*** Provided written or oral testimony at or for the public hearings.**

**** Asked questions at the public hearing(s) but was not sworn in and did not provide testimony.**

