

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

PERMIT: **#Z16-3**
PROPERTY ADDRESS: **Tom Wicker Lane**
PARCEL NO.: **108015.010**
PARCEL SIZE: **30.6 acres**

PROPERTY OWNER: **Gifford Medical Center**
PO Box 2000
Randolph, VT 05060

I. INTRODUCTION

On December 28, 2015, Douglas Pfohl, on behalf of Gifford Medical Center ("Applicant") filed an application for a zoning permit for a project generally described as modifications to the second phase of a project authorized by zoning permit #Z13-1. Such modifications include expanding the number of units in an independent living facility from 40 to 49 and the addition of a separate building for a community center. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on December 28, 2015.

Under the Randolph Zoning Regulations (RZR or "Regulations"), projects are reviewed based on the site plan, conditional use and/or any other applicable criteria of the RZR. 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 RZR, 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 January 26 and February 23, 2016;
2. Documents contained in this application's file, the RZR, Town Plan and the Randolph municipal records, including the Memoranda of Decision for Zoning Permits #Z12-47 and #Z13-1 ("MOD #Z12" and MOD #Z13", respectively).

The Board closed the public hearing on January 26, 2016. However, as it requested additional information, a new hearing was warned for February 23, 2016. The Board closed this second hearing and this written decision is prepared pursuant to 24 VSA ch. 36 §1309.

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. For the project as authorized in zoning permit #Z13-1, the use was categorized as "health care facility". Such a use is listed as conditional on the Chart of Permitted and Conditional Uses.

The Applicant request local Act 250 review for this project. On January 5, 2016, 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's representatives and persons¹ who participated at the public hearing and/or submitted written comments on the application.

Participating Board members were John Becker, Trini Brassard², Thomas Malanchuk, Michael Hildenbrand, David Miles, Christopher Recchia 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

1. The applicant has filed an application to modify the second phase of the senior living community approved by zoning permit #Z13-1. Such modifications include increasing the number of units in the independent living facility (ILF) from 40 to 49 (these additional units are in a new basement level in the building), the construction of a community center building and other site modification. The site plan originally submitted with the application was revised and presented at the second public hearing. (application)

Consistency and compliance with Town Plan and ordinances. (SP criterion A, CU criteria A and H, and Act 250 criterion 10)

2. There is no minimum lot size in the RU2-20 District for uses other than residential (i.e. single- two- and multi-family dwellings). The subject property is 30.6 acres that is served by public water and wastewater systems. Such a property could accommodate a multi-family dwelling with over 250 apartments. (application and RZR)
3. The front, side and rear setbacks for the RU2-20 District are 30 feet. The shortest setback distance from any proposed structure is approximately 72 feet. (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 Member Brassard was not present for the hearing on January 23rd, 2016. She did, however, review the record for that hearing, including listening to the audio recording, and therefore participated in this decision pursuant to §305(B)(1) of the Board's Rules of Procedures and Ethics.

4. The maximum allowable building coverage is 25% in the RU2-20 District, or 7.6 acres for the subject property. The proposed building coverage is 49,312 SF, or 3.7%. (application and RZR)
5. With respect to required off-street parking, in MOD #Z13, the Board required 1½ spaces for every unit in the ILF. To meet that standard, 74 spaces are required for the 49 units in the ILF. However, the standard for elder housing is 1 space for every 4 units, which would require 13 spaces. The Applicant indicates that 1 space for every unit would be sufficient and 49 spaces are provided by the ILF and 15 by the community center. Employees of the ILF will be encouraged to utilize available parking at the Menig Nursing Home. (application, RZR, Exh. #1C and testimony of D. Roy)
6. The required off-street parking requirement for the community building is set by the Board. The community building will have an assembly space that accommodates 60 people. The requirement for a private club or lodge is ¼ per maximum capacity, which would require 15 spaces. (RZR and Exh. #1C)
7. According to Chapter 3 of the Town Plan, the project is located in the Village Zone. The purpose of this zone is "to allow for continued growth and development of Randolph's villages as pedestrian-friendly centers, to preserve the valuable medium- to high- density residential neighborhoods, and to allow these neighborhoods to co-exist with a limited mix of businesses and services complementary in scale and type." and "It makes sense to continue to promote more densely clustered development close to the villages, where services permit." This project achieves these goals with a low-impact, campus-style health care facility that fills a demonstrated need in the community. The proposed is served by public water and wastewater systems, a state highway and is a clustered development within the village of Randolph Center. (Exh. #1C)
8. While Gifford Medical Center is specifically mentioned in the Town Plan, there are no specific polices, standards or standards for Gifford Medical Center or this project. There are also no specific policies or standards relating to elder housing or elder care. (Exh. #1C)

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

9. The two existing accesses to the property will not be changed. (Exhs. #1C and 2B)
10. The ILF parking area is a drive-through lot that requires vehicles to stop at the end if they are traveling north. It has designated handicap and van handicap spaces and crosswalks and sidewalks at each end that bring pedestrians to the sidewalk in front of the ILF. (Exh. #2B)
11. A drop-off/pick-up lane is provided in front of the ILF where "No parking" signs will be posted. (Exh. #2B)
12. The parking area for the community building is gravel and, though not a drive-through design, sufficient space is provided at the end of the area for vehicles to turn around. (Exhs. #1C and 2B)
13. Sidewalks are provided along the western side of the ILF, although these sidewalks won't be used very often and are primarily for the convenience of the residents. (Exh. #1C and 2B and testimony of D. Pfohl)
14. Sidewalks are provided from the ILF to the community building. While pedestrians from the community building parking area will have to cross the loading area for the building, pedestrians from ILF to the community building will not.

15. The sidewalk along the eastern side of the ILF parking area connects to the sidewalk by the Menig Nursing Home, thereby providing an internal network between all three buildings (community building, ILF and Menig). (Exh. #1C and 2B)
16. The proposed use will not generate any of the following: noise, dust, odor, glare, vibration or radiation. (application)
17. The proposed project does not have the potential to cause a hazard through fire, traffic, accident or unsanitary conditions. (application)
18. Traffic counts conducted by VTrans for VT Route 66 have established background counts of 3,400 average daily trips (ADT) between the southernmost access and Interstate 89, and 2,900 ADT between the two access points. The additional 9 units in the ILF is expected to add an additional 36 trips per day. The additional traffic as a result of the community building is expected to be minimal as the use is expected to be mostly residents whose trips are accounted for in the existing traffic. Use of the community building by the greater community could produce an additional 60 trips as people arrive and depart the site. These uses are not expected to coincide with the peak hours on the adjacent highway and will not add traffic beyond the reasonable capacity of VT Route 66. (Exh. #1C)

Continuous strip (CU criterion D)

19. Neither of the proposed buildings are less than 200 feet from VT Route 66. (Exh. #1C)

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

20. As the proposed use is a residential use for elders only, it will not increase the enrollment in local public schools and is not expected to have an adverse effect on the school district. (application and Exh. #1C)
21. The proposed use has been granted additional wastewater allocation from the Randolph Sewer District. (testimony of D. Pfohl)
22. The Randolph Fire District #1 has previously granted the project a water use allocation which will be slightly increased. This increase in demand will not adversely affect the ability to be served by the District. (Exh. #1C)
23. The subject property is outside of the Randolph Police District therefore this service is not provided by the municipality. (Randolph Municipal Records)
24. 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 subject to the Applicant doing the following: (Kenneth Preston, Randolph Center Fire District Chief)
 - A. Create a fire lane in front of the entire length of the ILF. There may be 3 spaces for 10-minute loading/unloading in front of the ILF.
 - B. Install a Knox box on the front of the ILF with a master key (not a key card).
 - C. Install an annunciator/fire alarm panel inside the front door of the ILF.
 - D. Install a 4" Storz connection with tamperproof caps on the ILF.
 - E. Install additional access points in the ILF to the attic with drop-down heavy-duty ladder or stationary stairs.
 - F. Install a backflow preventer on the water system.

- G. Install a separate announcer/fire alarm panel in the community building.
- H. The issue of potentially inadequate pressure and gallons per minute flow of the water system (for fire prevention or firefighting) shall be reviewed by the Vermont Division of Fire Safety.

Character of and effects on the area (SP criteria B and D and CU criterion F)

- 25. The proposed project is located in the village of Randolph Center which is comprised of single- and multi-family residences, a general store, dental office, post office, a college and open/agricultural fields. The project is a low-impact campus-style development with preserved green space in a manner similar to Vermont Technical College. Architectural treatments of the proposed buildings are consistent with the existing historical nature of the village. Additionally, landscaping and screening are proposed to minimize the visual impacts of the development of adjacent residences. (Exh. #1C)
- 26. Unightly uses, such as the solid waste dumpsters, will be screened from off-site. (application)
- 27. The proposed project poses minimal or no impacts from fencing and walls. (Exh. #2B)
- 28. The revised ILF is located in the same location as the previously-approved building and is over 200 feet from any property line. (Exh. #1C)
- 29. The new community building is located adjacent and to the north of the ILF and is screened from the west by the building and from the residences to the east by a slope adjacent to the parking and landscaping along the eastern property line. (Exhs. #1C and 2B)
- 30. The parking for the community building is located south of the building and on the previous loop road location. Screening is provided by landscaping along the eastern property line. (Exhs. #1C and 2B)
- 31. Lighting of the parking areas will utilize cut-off fixtures. Sidewalk lighting is from bollards. (Exh. #2B)
- 32. Architectural treatments of the proposed buildings are consistent with the existing historical nature of Randolph Center. (Exh. #1C)
- 33. The ILF and community building will be mostly obscured from the view of properties on the east side of VT Route 66. (testimony of D. Roy)

Renewable energy resources (CU criterion I)

- 34. The proposed use will not affect the utilization of renewable energy resources. (Exh. #1C)

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 *if conditions related to fire safety are imposed*. (criterion 7).
- C. The proposed project conforms to several statements in the Town Plan and is not in non-compliance with the Randolph Town Plan which was adopted in accordance with 24 VSA ch. 117 on September 17, 2013 (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.
- 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

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 RZR. Criteria E – I are required to be reviewed pursuant to 24 VSA Ch. 117 §4414(3).

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 regarding the modifications to the independent living facility phase of project approved in zoning permit #Z13-1, as applied for in zoning permit application #Z16-3:

- A. The site plan approval is granted with the following conditions:
1. The project shall be constructed as shown on the exhibits and completed and operated in accordance with the application and the findings of fact which are incorporated herein.
 2. Construction shall be as shown on Exh. #2B.
 3. All landscaping shown on Exh. #2B shall be maintained in a healthy, living condition.
 4. The project shall include those items listed in Fact #24.
 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. On-site snow storage shall not interfere with sight distances.
 6. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
 7. All applicable site plan condition of approval for zoning permit #Z13-1 that are not amended herein shall continue to apply.
 8. 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 conditional use approval is granted with the following conditions:
1. The project shall be operated in accordance with the application and the findings of fact which are incorporated herein.
 2. All applicable conditional use approval conditions for zoning permit #Z13-1 that are not amended herein shall continue to apply
 3. Any expansion of the use shall require approval pursuant to the regulations in effect at the time of re-application.

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.

Dated at Randolph, Vermont this 14th day of March, 2016.

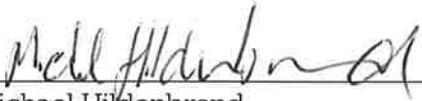
RANDOLPH DEVELOPMENT REVIEW BOARD
Concurring Board Members



Joel Tillberg, Chair



Trini Brassard



Michael Hildenbrand



Christopher Recchia



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Zoning Permit Application #Z16-3
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