

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

PERMIT: **#Z13-90**  
PROPERTY ADDRESS: **18 Hedding Drive**  
PARCEL NO.: **224005**  
PARCEL SIZE: **11.5 acres**

PROPERTY OWNER: **Town of Randolph**  
**PO Drawer B**  
**Randolph, VT 05060**

## **I. INTRODUCTION**

On October 21, 2013, Charles Goodling of Dubois & King, Inc., on behalf of the **Town of Randolph** ("Applicant") filed an application for a zoning permit for a project generally described as the upgrade of the wastewater treatment plant. The application was deemed complete pursuant to the Development Review Board ("Board") Rules of Procedure Section 301 on October 21, 2013.

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 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 first and final public hearing held on November 18, 2013;
2. Documents contained in this application's file, the Regulations, Town Plan and the Randolph municipal records.

The Board closed the public hearing on November 18, 2013 and rendered an oral decision in this matter. This written decision is required pursuant to 24 VSA ch. 36 §1309 and supersedes the oral decision.

## **II. DETERMINATIONS BY THE ADMINISTRATOR**

The Administrator has made the following determinations:

1. The subject property is in the Industrial (IND) and Flood Protection (FP) Districts.
2. As the project is not either a one- or two-family dwelling, site plan approval is required.

3. The use is categorized as a "Water and Sewerage Treatment Facility." Such a use is listed as a conditional use on the List of Uses by Zoning District (page 63 of the RZR) and therefore conditional use approval is required.
4. The use is a "community-owned facility." As such, 24 VSA §4413 imposes limitations<sup>1</sup> on the review of such facilities.

On October 21, 2013, the Administrator referred the application to the Board for review and approval as determined.

### III. PARTICIPANTS

For the purposes of this application, "interested persons" are those who fulfill the requirements of 24 VSA ch. 117 §4465. Charles Goodling, the Applicant's representative, was the only participant in this proceeding

Participating Board members were John Becker, Thomas Malanchuk<sup>2</sup>, 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 and Required Approvals

1. The applicant has filed an application for the replacement of the existing wastewater treatment plant (WWTP) with a new facility as shown on Exh. #1. (application)
2. For reasons stated in Section II, #2-3, site plan and conditional use approval are required. (application and RZR)
3. The WWTP is a community-owned facility. As such, some of the site plan and conditional use criteria may not be applicable, either in whole or in part, due to 24 VSA §4413. (application and state statute)
4. The subject property is in the IND and FP Districts. (application and RZR)
5. Pursuant to 24 VSA §4424, the Administrator submitted the application to the Vermont Agency of Natural Resources (VT ANR) on October 25, 2013. Comments were received from VT ANR on November 18, 2013. (Exh. #3).

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<sup>1</sup> §4413(a) indicates such uses "may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use."

<sup>2</sup> Mr. Malanchuk is an alternate member of the Board who was sitting in place of absent regular Board members pursuant to Section 206D of the Board's Rules of Procedure.

### Relevant Facts within the Limitations of 24 VSA §4413

6. The front, rear and side setbacks for the IND District are 40, 30 and 20 feet, respectively. The shortest setback distance from any proposed structure is approximately 42 feet. (RZR and application)
7. The maximum allowable building coverage is 40% in the IND District, or 4.75 acres for the subject property. The proposed building coverage is under half an acre. (RZR and application)
8. The required off-street parking shall be as set by the Board. The proposed project provides parking spaces for 7 cars. The garage can accommodate another 2 vehicles. The WWTP has 4 full-time employees. (Regulations, application and testimony of C. Goodling)
9. The proposed project will not generate any increase to existing noise levels nor traffic volume. (application and testimony of C. Goodling)
10. The proposed project will allow for two-way on-site traffic circulating through the site. (Exh. #1)
11. No pedestrian traffic is anticipated. Walkways are provided between components of the WWTP. (application and Exh. #1)
12. The adjacent properties are used for industrial purposes - bus garage, wastewater dewatering facility and town highway garage - the latter being the closest at a distance of 500 feet. (application and testimony of C. Goodling)
13. The new tanks will be in the location of an existing building but will be 15 feet taller. They will be landscaped for aesthetic purposes and will slightly screened by the highway garage. (testimony of C. Goodling)
14. In a flood, the WWTP must meet its discharge permit requirements in a 25-year storm and the essential equipment must be protected against a 100-year event. The WWTP will meet the requirements for these scenarios. Additionally, all sidewalls of the tanks are at or 0.1' below the 500-year flood levels. (testimony of C. Goodling)
15. The headworks building has a level that is below flood level and will be certified floodproof. (testimony of C. Goodling)
16. Flood vents will be provided in the sludge area and garage. (testimony of C. Goodling)
17. All structures are outside the fluvial erosion hazard area. (Exh. #1 and testimony of C. Goodling)

## V. CONCLUSIONS

The site plan and conditional use criteria is listed below. What is stricken is what the Board has determined is not applicable pursuant to 24 VSA §4413:

### Conditional Use Criteria<sup>3</sup>

- A. ~~The proposed use shall be consistent with the objectives of the comprehensive plan and the purposes of the Ordinance.~~

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

- B. The proposed use shall 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 shall not add a volume of traffic to the highways beyond their reasonable capacity.
- D. A continuous strip not less than six feet wide shall be maintained between the street line and the balance of the lot, which strip shall be suitable landscaped.
- E. The proposed use shall not adversely affect the capacity of existing or planned community facilities.
- F. The proposed use shall not adversely affect the character of the area.
- G. The proposed use shall not adversely affect the traffic on roads and highways in the vicinity of the proposed project.
- H. The proposed use shall not adversely affect the bylaws in effect.
- I. The proposed use shall not adversely affect the utilization of renewable energy resources.

**Site Plan Review Criteria**

- A. The proposed use, design and layout shall meet the provisions of the Zoning Ordinance, other regulations and ordinances of the Town and the Town Plan. *(with respect to the development standards of the district)*
- B. The proposed use, design and layout shall be in such a location and of such a size and character that it is in harmony with the appropriate and orderly development of the surrounding area.
- C. The proposed use and layout shall be of such a nature that it will not make vehicular or pedestrian traffic hazardous when considering the following factors:
  - 1) Turning movements in relation to traffic flow
  - 2) Proximity and relations to intersections
  - 3) Adequacy of sight distances
  - 4) Location and access of off-street parking
  - 5) Provisions for pedestrian traffic
  - 6) Minimization of pedestrian-vehicular contacts
- D. The proposed height and location of buildings or structures, walls and fences, parking, loading, and landscaping shall not interfere with or discourage appropriate development in the use of land adjacent to the proposed site or unreasonably affect its use.

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 above applicable criteria.

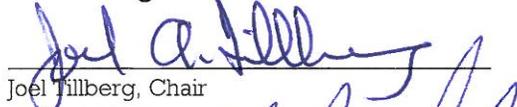
**VI. DECISIONS<sup>4</sup>**

Based upon the foregoing Findings of Facts and Conclusions, the Board hereby makes the following decisions regarding the WWTP upgrade as applied for in zoning permit application #Z13-90:

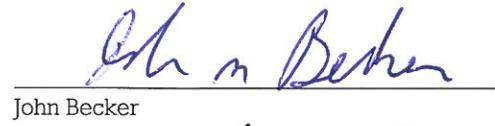
- A. The site plan approval is granted with the following conditions:
  - 1. The project shall be constructed as shown on the exhibits and completed and operated in accordance with the application and the findings of fact which are incorporated herein.
  - 2. Construction shall be as shown on Exh. #1.
  - 3. All landscaping shown on Exh. #1 shall be maintained in a healthy, living condition.
  - 4. 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.
  - 5. The subject property shall have adequate entrance and exit for emergency vehicles at all times.
  - 6. 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.
- B. The condition 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. Any expansion of the use shall require approval pursuant to the regulations in effect at the time of re-application.

Dated at Randolph, Vermont this 27 day of December, 2013.

RANDOLPH DEVELOPMENT REVIEW BOARD  
Concurring Board Members

  
Joel Tillberg, Chair

  
Thomas Malanchuk

  
John Becker

  
David Miles

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Christopher Recchia

<sup>4</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 \$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.

