



LAND USE PERMIT

AMENDMENT (ALTERED)

CASE NO. 2WO942-2-EB

LAWS/REGULATIONS INVOLVED

10 V.S.A. §§ 6001 - 6092

APPLICANT Mill Lane Development Co. Inc.

(Act 250)

ADDRESS by James P. Goss, Esq.
Reiber, Kenlan, Schwiebert, Hail & Facey
71 Allen St.
Rutland VT 05701

The Vermont Environmental Board ("Board") hereby issues Land Use Permit Amendment #2WO942-2-EB(Altered) pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6092 ("Act 250"). The Project is subject to Act 250 jurisdiction because it involves the construction of more than 800 feet of road incidental to the sale or lease of land, is a subdivision of 10 lots and constitutes a substantial and material change to a permitted project. Environmental Board Rules ("EBR") 2(A)(6), 2(B) and 2(G). This permit specifically authorizes the Permittee to create a 10-lot residential subdivision, construct related road improvements and install underground utilities on 124.5 acres of land (the "Project Tract") off Boyd Hill Road in the Town of Wilmington, Vermont ("Project").

The permit applies to the lands identified in Book 150, Page 388, of the Land Records of the Town of Wilmington, Vermont, as the subject of a deed to Mill Lane Development Company, Inc., as grantee, dated June 23, 1995. It permit amends Permit #2WO942 (Revised), issued March 24, 1994, and Permit #2WO942-EB, issued October 27, 1994.

The Permittee and its assigns and successors in interest are obligated by this permit to complete, operate and maintain the Project as approved by the Board in accordance with the following conditions:

1. The project shall be constructed, operated and maintained in accordance with a) Re: Mill Lane Development Co., Inc., #2WO942-2-EB, Findings of Fact, Conclusions of Law and Order, issued on December 17, 1999; b) to the extent consistent with the Board's findings and conclusions, the findings and conclusions of the District #2 Environmental Commission ("Commission" or "District Commission"); c) plans, exhibits and testimony on file with the Board and the District Commission; and (d) the conditions of this permit.

[DOCKET #726]

2. The approved site plans, with the qualifications set forth in the Findings of Fact, Conclusions of Law and Order issued herewith, are:

a. Exhibit A-3, Site Plan/Road Plans/Profile/Erosion Control Plan/Septic Design Plan:

Sheet 1 - "Subdivision Plan," dated 8/95, last revised 12/95, 6/97, 2/99;

Sheet 2 - "Environmental Plan," dated 3/97, last revised 1/98, 6/98, 2/99;

Sheet 3 - "Environmental Plan," dated 3/97, last revised 1/98, 6/98, 7/98, 2/99;

Sheet 4 - "Details and Specifications," dated 6/97, last revised 12/97, 6/98;

Sheet 5 - "Road Profile and Plan," dated 6/97, last revised 1/98;

Sheet 6 - "Road Profile and Plan," dated 6/97, last revised 12/97, 2/99;

Sheet 7 - "Road Profile and Plan," dated 6/97, last revised 6/98, 2/99;

Sheet 8 - "Road Profile and Plan," dated 6/97, last revised 12/97, 2/99;

Sheet 9 - "Road Profile and Plan," dated 6/97, last revised 12/97, 2/99;

Sheet 10 - "Road Profile and Plan," dated 6/97, last revised 12/97, 2/99;

Sheet 11 - "Sewage Disposal System Plan," Lot 8, dated 3/97, last revised 2/99;

Sheet 12 - "Sewage Disposal System Cross Sections," Lot 8, dated 3/97, last revised 2/99;

Sheet 13 - "Sewage Disposal System," Lot 8, dated 3/97;

Sheet 14 - "Sewage Disposal System Plan," Lot 9, dated 9/95; last revised 2/99;

Sheet 15 - "Sewage Disposal System Cross Sections," Lot 9, dated 3/97, last revised 2/99;

Sheet 16 - "Sewage Disposal System," Lot 9, dated 3/97;

Sheet 17 - "Sewage Disposal Plan," Lot 15/16, dated 3/97, last revised 2/99;

Sheet 18 - "Sewage Disposal System Cross Sections," Lot 15/16, dated 3/97, last revised 2/99;

Sheet 19 - "Sewage Disposal System," Lot 15/16, dated 3/97;

Sheet 20 - "Sewage Disposal Plan," Lot 17, dated 3/97, last revised 2/99;

Sheet 21 - "Sewage Disposal Cross Sections," Lot 17, dated 12/97, last revised 2/99;

Sheet 22 - "Sewage Disposal System," Lot 17, dated 3/97;

Sheet 23 - "Sewage Disposal Plan," Lot 18, dated 3/97, last revised 2/99;

Sheet 24 - "Sewage Disposal System Cross Sections," Lot 18, dated 3/97, last revised 2/99;

Sheet 25 - "Details Dosing Siphon," Lot 8, dated 3/97;

Sheet 26 - "Sewage Disposal Cross Sections," Lot 19, dated 5/97, last revised 2/99;

Sheet 27 - "Sewage Disposal Cross Sections," Lot 19, dated 5/97, last revised 2/99;

Sheet 28 - "Sewage Disposal System," Lot 19, dated 5/97;

Sheet 29 - "Sewage Disposal System Plan," Lot 20, dated 6/97, last revised 2/99;

Sheet 30 - "Sewage Disposal System Cross Sections," Lot 20, dated 6/97, last revised 2/99;

Sheet 31 - "Sewage Disposal System," Lot 20, dated 6/97;

Sheet 32 - "Sewage Disposal System Plan," Lot 23, dated 6/97, last revised 2/99;

Sheet 33 - "Sewage Disposal System Cross Sections," Lot 23, dated 6/97;

Sheet 34 - "Sewage Disposal System (1st)," Lot 23, dated 6/97;

Sheet 35 - "Sewage Disposal System (2nd)," Lot 23, dated 6/97;

Sheet 36 - "Sewage Disposal System (3d)," Lot 23, dated 6/97;

Sheet 37 - "Road Plan and Cross Sections, dated 12/97;

Sheet 38 - "Road Plan and Cross Sections, dated 12/97;

Sheet 39 - "Road Plan and Cross Sections, dated 12/97.

b. Exhibit A-21, Soils Site Plan.

c. Exhibit A-22, Forestry Management Plan Map.

d. Exhibit A-25, Landscaped Site Plan.

e. Exhibit A-26, Site Sections.

f. Exhibit A-3 1, Enhanced Site Plan.

3. Water supply and waste water disposal systems for the Project lots shall be constructed as set forth in the plans submitted to the Board in Exhibit A-3.

4. The Permittee and all subsequent lot owners shall maintain 50-foot undisturbed, naturally vegetated buffer strips between the tops of the banks of seasonal streams and any disturbed areas, and shall not mow or remove vegetation in the buffer strips. The Permittee and all subsequent lot owners shall **also** maintain 50-foot undisturbed, naturally vegetated buffer strips between wetland areas and any disturbed areas.

5. Only selective cutting shall occur in the recreation area of Lot 23. The recreation area shall be maintained as a combination of trees, shrubs, vegetation and lawn. Clearing in the recreation area shall be limited to that necessary for picnic tables. The Permittee shall not include in the recreational area any playing **fields**, camp sites, tent sites, trailer sites, or boat storage sites.

6. **Notwithstanding** any other provision of this Permit, an undisturbed naturally wooded buffer a minimum of 50 feet wide shall be maintained between the shoreline and any disturbed area of Lot 23, in particular the proposed recreation area.

7. The Permittee shall not cut any vegetation or trees located on the USGC land.

8. No cutting of vegetation shall occur between the developed areas of the Project and the shoreline of the Reservoir, except in conformity with the Forest and Vegetation Management Plan ("FMP") as defined herein.

9. Before any tree-cutting or construction commences, the Permittee shall accurately establish the property boundaries of Lot 23 by placing survey pins at the comers closest to the Reservoir.

10. Upon the initiation of tree-cutting or construction of Old Mill Lane and the Project houses, whichever occurs first, the Permittee shall maintain erosion control measures in conformance with the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites and this Permit. The Permittee will provide these erosion control requirements to any contractor working on the site. The Project contractor shall check and refurbish the erosion control measures until vegetation is re-established. A copy of the erosion control plans shall be on the site at all times during construction.

11. All earth disturbance for forest clearing, construction of project infrastructure and clearing for any common areas, as well as earth disturbance for construction or clearing on individual house lots shall be limited to April 15 to October 15 of each year, regardless whether final grading has been finished. By October 15, all disturbed areas of the site shall be stabilized, fertilized, seeded and mulched. Minor earth disturbance, such as excavation for building footings may occur with the written permission of the District Commission. The following special winter erosion controls shall be added to other erosion controls specified in these Conditions:

a. All disturbed areas still open or newly disturbed after October 1 shall be seeded, fertilized, limed, and covered with an erosion control blanket (geo-textile fabric, jute matting or straw blanket).

b. An engineer, who shall be a professional engineer licensed by the State of Vermont ("Project Engineer"), employed by the Permittee or lot owner, shall inspect and maintain the special winter erosion control measures twice per week on non-consecutive days, plus additional days if moderate to heavy rain occurs on those days, until the earthwork is fully stabilized. Affidavits certifying that the special winter erosion controls are being properly maintained shall be completed by the Project Engineer and mailed to the District Commission twice a week.

c. Earthwork shall only take place during suitable conditions; i.e., there shall be no earthwork during moderate or heavy rains.

d. By April 30, the Permittee or lot owner shall submit an inspection report by the Project Engineer detailing what additional measures need to be undertaken to ensure that all disturbed areas will be appropriately seeded, limed, fertilized, and successfully re-vegetated.

13. The Permittee shall control water runoff by using frequent culverts and runoff ditches. Placement of ditches and culverts must be in conformance with the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites. Culvert size

must be based on the applicable drainage area, and the Handbook for Soil Erosion and Sediment Control on Construction Sites, and the plans submitted in Exhibit A-3. The Permittee shall use hay bale dams and silt joints to control water velocity during construction. On steeper slopes, the Permittee shall establish silting/spreading basins for runoff catchments to promote sheet flow and percolation into soils, supplemented by use of matting and rip-rap.

13. Upon the initiation of either tree-cutting or construction, whichever occurs first, the Project Engineer shall file with the Commission a site-specific erosion control plan, consistent with this decision, specifying all erosion control measures to be carried out, and shall certify that the plan is in conformity with the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites. **Thereafter**, starting at the commencement of the first of either tree-cutting or construction of the Project, the Project Engineer shall inspect the Project Tract at least once per week and **after** significant rainstorms and file with the Commission weekly inspection reports certifying that all erosion controls specified herein are in place and properly maintained. The reports shall also document any non-compliance. Following completion of construction, Project Engineer shall continue to certify to the Commission, at such intervals as the Commission may require, that the erosion controls specified herein remain in place and are properly maintained.

14. The Permittee must comply with Exhibits #A-3, A-6, A-19 and A-3 1 in regard to erosion control.

15. All mulch, hay bales, siltation dams, water bars and other temporary devices shall be installed immediately upon earth disturbance and shall be maintained until 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.

16. All stumps shall be disposed of on site above the seasonal high water table or at a state-approved landfill so as to prevent groundwater pollution.

17. The width of Old Mill Lane after improvements shall be 12 feet in most places, 16 feet on curves and 20 feet in the vicinity of periodic turnouts. The improvements to Old Mill Lane shall be as depicted in Sheet 4 of 39 in Exhibit A-3, except that road widths, excluding shoulders, shall be absolutes, not minimums.

18. Although the Project plans indicate a 50 foot right-of-way along Old Mill Lane, tree-clearing within the right-of-way is authorized **only** as necessary to permit construction of the road as shown in the cross-sections on Sheet 4 of 39 in Exhibit A-3. Side slopes shall be approximately 2: 1. The Permittee's Project Engineer shall certify after tree-cutting that only the minimum required tree-cutting has occurred, and file the certification with the District Commission.

19. The Project shall be managed in conformity with the FMP as defined herein

20. Tree cutting on and improvement and clearing of the Lots shall be limited exclusively to the designated building envelopes depicted in Exhibits A-22 and A-25 and to the area of the road, water storage tank and utility corridors. The remainder of the Lots and Parcel D shall be subject to the Provisions of the FMP as defined herein. No logging or tree-cutting shall take place outside the designated building envelopes except in conformity with said FMP.

21. No construction of improvements shall take place outside the designated building envelopes, except for the water storage tank, the utility lines, and the improvements to Old Mill Lane.

22. Within the deer sensitive area and its 300-foot buffer zone:

- a. There shall be no construction or building activities of any type, excluding construction of the improvements to Old Mill Lane;
- b. No forest management activities shall occur without the prior approval of a District Wildlife Biologist and all approved forest management activities shall be conducted so as to enhance and perpetuate the critical habitat following DFW guidelines; and
- c. There shall be no construction or maintenance of trails (snowmobiling, skiing, etc.) without the prior approval of a District Wildlife Biologist.

23. In regard to all Project residences, domestic pets (dogs) shall be leashed or otherwise under owner's control at all times.

24. No logging or tree cutting may occur either within the Deer Sensitive Area or the appurtenant isolation zone without the prior permission of the DFW, and no structures of any kind may be erected in the Deer Sensitive Area and related buffer without the express written permission of the Department.

25. The deeds to all Lots and Parcel D shall include a description of all protections, conditions and restrictions in regard to the deer-sensitive area and related isolation buffer and shall reference the plan captioned "Sheet 2 of 39" in Exhibit A-3, which depicts the deer-sensitive area and buffer.

26. In addition to conformance with all erosion control conditions, the Permittee and subsequent lot owners, 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., Chapter 47, Vermont's Water Pollution Control Law.

27. The Permittee shall preserve whatever rights of public access to the Reservoir the Project Tract currently provides

28. Each prospective purchaser of any lots shall be provided with a copy of the Findings of Fact, Conclusions of Law and Order issued herewith, and the permit amendment, before any written contract of sale is entered into.
29. To the extent that they are not inconsistent with any provisions of this permit amendment or the Findings of Fact, Conclusions of Law and Order issued herewith, **Article 2** and Paragraphs **4.2, 4.3, 4.5-4.5.10, 5.1, 6.1, 7 and 7.1** of the Mill Lane Covenants are incorporated by reference as permit conditions and shall have the same force and effect as they would if they were stated as conditions. These Covenants shall not be altered, amended, revoked or modified in any way.
30. The Permittee shall reference all requirements and conditions imposed by the permit amendment in all deeds to the Lots and Parcel D.
31. All exterior lighting for houses constructed on the lots shall be fully shielded so that the source light does not project above the lamp.
32. The Permittee shall not erect exterior signage without first obtaining approval from the District Commission. **Signage** includes banners, flags and advertising displays, excepting temporary real estate marketing signs.
33. No house shall be constructed with more than two stories and an attic and all houses shall be consistent in scale with the other residential houses in the area surrounding the Project Tract.
34. No further subdivision, alteration and/or development of any lot or parcel included in the Project Tract shall be allowed without the written approval of the District Commission.
35. All conditions of Land Use Permit #2W0942 (Revised) and Permit #2W0942-EB shall remain in full force and effect except as amended by this Permit Amendment.
36. By acceptance of this permit without appeal, the Permittee shall agree that the conditions of the permit run with the land and the uses herein permitted, and will be binding upon and enforceable against the Permittee and all assigns and successors in interest.
37. No changes shall be made in design or use of this Project without a Jurisdictional Opinion from the District Coordinator or a permit amendment from the District Commission.
38. Should any terms or conditions of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites, the Covenants, written Forest and Vegetation
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Management Plan, Project plans, or DFW provisions conflict with any provisions of the Findings of Fact, Conclusions of Law and Order issued herewith, the provisions of said Findings of Fact, Conclusions of Law and Order shall prevail.

39. The Commission shall maintain continuing jurisdiction during the lifetime of the permit amendment and may periodically require that the permit holder file an affidavit certifying that the Project is being completed, operated and maintained in accordance with the terms of the permit amendment, as provided by 10 V.S.A. Chapter 151 and the Rules of the Environment Board.

40. A copy of the Findings of Fact, Conclusions of Law and Order issued herewith, as well as this permit amendment and all approved site plans, shall be on the site at all times throughout the tree-cutting and construction process.

41. This permit amendment 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. Section 6691(b).

42. Failure to comply with any of the above conditions may be grounds for permit revocation.

Dated at Montpelier, Vermont, this 27th day of January, 2000.

ENVIRONMENTAL BOARD


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