

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. Chapter 151

RE: Loomis Highlands, Inc.
Land Use Permit #5W1095-EB

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This decision dated July 14, 1992, pertains to an appeal filed by Loomis Highlands, Inc. (the Permittee) from the determination of the District #5 Environmental Commission to issue a permit for a 12-lot subdivision serviced by 3,200 feet of roadway. The District Commission imposed conditions with respect to Criterion 5 (traffic). The Board concludes that **the** revised roadway design agreed to by the parties meets the requirements of Criterion 5.

I. BACKGROUND

On January 24, 1992, the Permittee filed an appeal with the Environmental Board from Land Use Permit #5W1095, Findings of Fact and Conclusions of Law, issued November 26, 1991, by the District #5 Environmental Commission and from the Memorandum of Decision dated January 10, 1992, which denied a Motion to Alter filed by the Permittee. Land use Permit #5W1095 authorizes the creation of 12 residential lots, plus one lot of common land, serviced by 3,200 feet of roadway with common leachfields and underground utilities. The project is located off of Loomis Hill Road in the town of Waterbury Center, Vermont.

The Permittee contends that the District Commission erred in concluding that the proposed access road to the subdivision failed to meet the requirements of Criterion 5. The Permittee also appealed conditions imposed by the District Commission under that Criterion which would have required that the access road be constructed in an existing right-of-way rather than in the location proposed by the Permittee.

Gregory and Suzanne Dirmaier, adjoining property owners, were granted party status under Criterion 5. Kenneth and Laurel Ames, who live off of Loomis Hill Road, were granted party status under Criterion 5, pursuant to Rule **14(B)(1)(a)**. These parties objected to construction of the access road to the subdivision at the location proposed by the Permittee.

A prehearing conference was held on February 25, 1992. On March 23, 1992, the Permittee advised the Board that the parties to the appeal had developed a roadway plan that was satisfactory both to the Permittee and to the opposing parties. On May 9, 1992, the parties filed With the **Board** a Stipulation and Agreement (the Stipulation) with exhibits reflecting the revised roadway design. In the Stipulation, the Dirmaiers and the Ames withdrew their opposition to the Permittee's appeal and requested that the Board issue a permit

consistent with the Stipulation. In a memorandum dated June 5, 1992, all parties were advised that the Board would consider whether the revised roadway plan met the requirements of Criterion 5 at an upcoming deliberative session. The parties were given an opportunity to object to the Board's acceptance of the Stipulation and attached plans and exhibits in lieu of evidence. No objections were filed. The Board deliberated on June 17, 1992.

II. ISSUE

Whether the revised roadway plan meets the requirements of Criterion 5.

III. FINDINGS OF FACT

1. Loomis Highlands, Inc. is the owner and developer of a proposed residential subdivision known as Loomis Highlands (the project) located in Waterbury, Vermont.
2. The project involves the creation of 12 residential lots, one lot of common land, common leachfields, underground utilities and an access road approximately 3,200 feet in length.
3. Each of the 12 residential lots will be located on the access road, which will intersect with Loomis Hill Road, a paved Class 3 Town Highway. Loomis Hill Road is a low-volume rural local road.
4. As proposed to the District Commission, the access road would have intersected with Loomis Hill Road at a curve on Loomis Hill Road in a location where the grade changes. The sight distance to the north for vehicles exiting the access would have been interrupted by a hill. The District Commission concluded that the proposed intersection would have created unsafe traffic conditions.
5. The revised roadway plan provides that the access road will be centered in a new 60-foot right-of-way. It requires the relocation of an existing right-of-way that burdens the properties of the Dirmaiers and the Ames. The Dirmaiers and the Ames have agreed to the relocation of the right-of-way as proposed by the Permittee.
6. The intersection of the access road with Loomis Hill Road will be 40 feet to the west of the location that was proposed to the District Commission. The sight distances at the new intersection location will be greater than the sight distances at the originally proposed intersection location.

7. The posted speed limit on Loomis Hill Road is 35 miles per hour. Just to the east of the proposed intersection the speed limit drops to 30 miles per hour. The grade of Loomis Hill Road at this location for vehicles traveling from the east is six percent.
8. The American Association of State Highway and Transportation Officials (AASHTO) have established guidelines for safe sight distances. The AASHTO-recommended minimum safe stopping sight distance for a vehicle traveling at 35 miles per hour down a six percent grade is 290 feet. The available intersection sight distance at the proposed intersection of the access road with Loomis Hill Road will be 365 feet.
9. The AASHTO-recommended minimum intersection sight distance for a vehicle turning left onto a two-lane highway is 380 feet. The 365-foot available intersection sight distance for a vehicle making a left turn onto Loomis Hill Road from the access road will not have an adverse impact on safety at this location.
10. The placement of a stop sign at the access road curb cut onto Loomis Hill Road and the placement of a sign reading "blind intersection" on the north approach to the curve on Loomis Hill Road will contribute to the safe operation of the access road and Loomis Hill Road intersection.
11. The number of vehicle trips per day expected to be generated by the project is 146, 13 of which will be generated during the a.m. peak hour and 16 during the p.m. peak hour. This additional traffic will not create traffic congestion on Loomis Hill Road or at the intersection of the access road with Loomis Hill Road.
12. The Dirmaiers' driveway will intersect with the proposed access roadway more than 100 feet from the intersection of the access road and Loomis Hill Road. The Ames' driveway will intersect with the access road more than 200 feet from the intersection of the access road and Loomis Hill Road. The revised roadway plan will allow both the Dirmaiers and the Ames to safely enter and exit their driveways.
13. The access road will be 24 feet wide. This width conforms to A-76 standards issued by the Vermont Agency of Transportation and to local subdivision standards.

IV. CONCLUSIONS OF LAW

10 V.S.A. § 6086(a)(5) requires that before granting a permit, the Board must find that a project will not cause unreasonable congestion or unsafe conditions with respect to highways.

The Board concludes that if this project is completed in accordance with the Stipulation entered into by the parties and the exhibits presented by the Permittee, it will not cause unreasonable congestion or unsafe conditions on the access road or Loomis Hill Road.

V. ORDER

Land Use Permit Amendment #5W1095-EB is hereby issued. Jurisdiction of this matter is remanded to the District #5 Environmental Commission.

Dated at Montpelier, Vermont, this 14th day of July, 1992.

ENVIRONMENTAL BOARD

Elizabeth Courtney

Elizabeth Courtney, Chair
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