

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

Re : **Stoneworks Group** by Findings of Fact, Conclusions  
Jonathan Bump, Esq., of Law and OKdeK  
Fitts, Olsen, Carnahan Land Use Permit Application  
Anderson & Bump #8B0382-EB

This decision pertains to an appeal filed with the Environmental Board (Board) on **April 17, 1987** by Stoneworks Group from the March 25, 1987 decision of the District #8 Environmental Commission (Commission) denying a permit for a 108 unit condominium project proposed for Manchester, Vermont.

A prehearing conference was held on May 8, 1987 in **Rutland**, Vermont by Environmental Board Chairman Darby Bradley and a **Prehearing** OKdeK was issued May 12, 1987. The public hearing in this case was convened on June 10, 1987 in Clarendon, Vermont with the following parties present:

Applicant Stoneworks **Group (Stoneworks)** by Jonathan Bump, Esq.  
**Town** of Manchester (Town) by Robert Woolmington, Esq.  
Manchester Planning Commission (Planning Commission) by Robert Woolmington, Esq.

The hearing was recessed pending a review of the KeCOKd and deliberation by the Board. The KeCOKd was deemed complete on August **26, 1987** and the case was adjourned on that date. This matter is now **ready** for decision. The following Findings of Fact and Conclusions of Law are based upon the record developed at the hearing.

I. ISSUE IN THE APPEAL

The sole issue in the appeal is whether the Applicant's proposed project to construct 108 condominium units on **38** acres west of **Rt. 30**, just north of Manchester, conforms with the Manchester Town plan and the Bennington Regional plan, thereby complying with Criterion 10 of 10 V.S.A. Ch. 151 (Act 250).

II. PROCEDURAL HISTORY

On November 11, 1986, Stoneworks filed Land Use Permit Application #8B0382 with the District #8 Environmental Commission seeking approval to construct 108 condominium units to be developed in phases of 12 units per phase over a period of 5 to 8 years. On **February 11, 1987** the District Commission issued a decision denying the issuance of a land use permit for the Stoneworks project. The District Commission found that the project, located in the Rural

Residential district outside of any designated municipal sewer or water district, was not in conformance with the Manchester Town plan.

On February 13, Stoneworks requested that the Commission reconsider its decision because, it claimed, the project is located in the General Residential district where municipal sewer and water have been approved, not in the Rural Residential district as stated in the February 11, 1987 decision. On February 24, the Planning Commission requested that the District Commission not reverse its February 11 opinion because the project was not located within the established sewer service area.

The District Commission reviewed the evidence and testimony and on March 23 concluded that the Stoneworks project is not in conformance with the local or regional plans.

### III. FINDINGS OF FACT

#### A. Project Description

1. The project consists of 108 residential condominium units to be built in 9 clusters of 12 units each. Each cluster is 240 feet long by 160 feet wide. The project site contains approximately 37.7 acres and has access frontage along Rt. 30. The site includes open meadow and second growth softwood on slopes with grades up to 25% at an elevation of approximately 750 to 990 feet. It is located adjacent to the northern boundary of the village of Manchester.

2. All pedestrian circulation and vehicular traffic will be internalized into each cluster serviced from a single access road branching off into each cluster.

3. The project is located in the General Residential district as designated by the Manchester Town plan and in the Rural Residential district as designated by the Regional plan.

#### B. Sewer and Water

4. The Town has approved Stoneworks' water allocation request for approximately 48,000 gallons per day (gpd), contingent upon compliance with a written agreement to be executed between the **Town** and Stoneworks. **NO** such written agreement has been executed.

5. On February 24, 1987 the Town Manager notified Stoneworks that its 48,600 gallon water allocation request was approved but that the notification does not constitute final approval to connect the project to the Town's water system. Stoneworks has not submitted the requisite forms and fee and no approval for connection to the Town's water system has been issued.

6. The nearest boundary of the project lies approximately 400 feet west of the existing sewer service area in the General Residential district. The municipal sewer line extends north along Rt. 30 to a point south of the Battenkill River. Stoneworks would need to extend the sewer line from the south side of the river to the project before it could be served by the municipal sewer plant.

7. The sewer policy in the Town plan provides that intensive development in outlying areas should be discouraged by restricting the sewer service area of the sewer facility. The Town plan specifically provides:

The service area of the [sewer] facility is restricted to the town and village in keeping with the development goals and objectives of the community. This discourages intensive development in the outlying areas.

8. One policy in the Town plan is to promote medium and high density residential development in areas where it will be efficient and economical to install public water and sewer. These lands include Manchester Center and Village and those areas immediately adjacent, which are located in the General Residential district.

9. The Stone **wor**ks property is not within the area of existing sewer service.

10. The Town of Manchester Board of Sewer Commissioners voted to allocate sewer capacity of 3000 gpd each for the calendar years of 1986, 1987, and 1988, for a total of 9000 gpd.

11. When notifying Stoneworks of its sewer allocation, the Town Manager specifically stated that this allocation did not constitute final approval to connect to the Town's sewer system and that a sewer connection permit application and fee must be submitted for consideration by the Town. No such application **or fee** has been **submitted** and Stoneworks does not have approval to connect to the Town's sewer system.

12. The Regional plan provides that low density development should be encouraged in rural residential areas.

C. SLOPE

13. The Town plan provides that residential development should be restricted where the natural slopes are greater than 15%. The Town plan further states that all residential development in the community should maintain a level of density compatible with the land and its ability to support residential development.

14. The Regional plan states that topography with a grade of 15% grade or higher may have severe limitations for development because of thin soils and susceptibility to erosion and difficulty of road construction and that on slopes greater than 20%, residential development should not be permitted.

15. All of the clusters are identical and will sit on the contours as represented on the map. (Exhibit #3). of the nine clusters proposed for the project, eight are at least partially situated on slopes with a minimum of 15% grade. Five of these clusters are on slopes that are in part above a 20% gradient. A portion of cluster #2 is proposed to be built on a section of slope that has a gradient of 23%; part of cluster #3 is to be built on a section of slope with a gradient of 24-25%; and a part of cluster #9 is to be built on a section of slope with a gradient of 24%. At least 1000 feet of the main access road and accompanying loop roads would be cut across slopes of 20% or more.

IV. CONCLUSIONS OF LAW

A. Town and Regional Plan

1. Sewer and Water

The Town plan designates the area for which the Stoneworks project is proposed as General Residential, which allows high density development, yet it provides in its sewer policy that intensive development should be discouraged in areas outside the existing sewer service area. Sewer and water service does not extend to all parts of the General Residential district in which high residential density is encouraged. The Stoneworks project is planned for one of those areas not serviced by Town sewer and water. Stoneworks would have to extend the sewer line from the south side of the Battenkill River to the project site in order to construct this project. This would entail installing approximately 400 feet of new sewer line.

A development that contains 108 condominium units on 38 acres is clearly an intensive development. Since the project would be outside the existing sewer service area, development in that area would conflict with the sewer policy in the Town plan. It would also violate the policy of the Regional plan to encourage low density development in the Rural Residential district as designated in that plan. The Board, therefore, must conclude that the project is not in conformance with either the Town plan or Regional plan because of its location.

2. Slope

The Town plan establishes a general policy that residential development should be restricted in areas where the natural slopes are greater than 15%. The Regional plan does not permit residential development on slopes in excess of 20%. These policies are in part based upon the severe limitations for development posed by the thin soils and susceptibility to erosion of steep slopes and the problems likely to be encountered with road construction.

The Board has found that the **project's** clustered units, as planned, are to be built on slopes in excess of the minimum slope allowed in both the Town and Regional plans. Of the nine clusters proposed for this project, eight are at least partially situated on slopes that are above a 15% gradient. Five of these eight clusters are planned in part to be located on slopes above a 20% gradient.

This project is clearly not in conformance with the policy of the Town plan that restricts development on slopes with a 15% gradient or more, nor is it in conformance with the Regional plan's prohibition of residential development on slopes with a 20% gradient or more.

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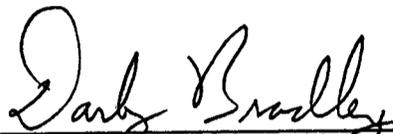
V. Order

Based upon the Findings of Fact and Conclusions of Law, the Board concludes that the project proposed by **Stoneworks** Group does not conform with either the Bennington Regional plan or the Manchester Town plan.

Application #8B0382-EB is hereby denied.

Dated at Montpelier, Vermont this 8th day of September 1987.

VERMONT ENVIRONMENTAL BOARD



Darby Bradley, Acting Chairman  
Lawrence H. Bruce, Jr.  
Elizabeth Courtney  
Jan S. Eastman  
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