

MINUTES
DEVELOPMENT REVIEW BOARD
CALAIS TOWN HALL
TOWN OF CALAIS, VERMONT
APRIL 28, 2022

MEMBERS PRESENT: Anne Winchester (Chair), Ryan Edwards (Vice Chair), Dot Helling (Clerk), Ashley Moore, Dennis Shaffer. Quorum established.

MEMBERS NOT PRESENT: Stephanie Kaplan, Megan Sullivan (alternate), Scott Bassage (alternate).

OTHERS PRESENT: John McCullough (Zoning Administrator), Neal Maker (Forester), Applicants CKC Holdings, LLC, also see attached lists of interested persons and others who attended and/or testified. Jordan Keyes, Chris Connor and Steve Connor appeared for the applicants. Attorney Cindy Hill appeared for neighbors Mary and Terry Van Veghten, Melanie Viets and Steven Schenck, Michele Meacham and Scot Richards, Matt and Mona Lutz, Paul Olander, Roger and Denise Wheeler, and Sandra Robinson and Peter Wells.

RE: Preliminary Conceptual Plan Review hearing – CKC Holdings, LLC, application #2022 08 for 4-lot subdivision on Bayne-Comolli Road, submitted March 21, 2022

The hearing was called to order by Chair Anne Winchester at 6:07pm. Public notice was posted on April 9, 2022 with requisite written notice mailed to adjacent landowners. Two lists of attendees were kept by sign up sheets, with the names of those claiming to be “interested persons” and others. Materials provided to meeting attendees included copies of the CKC Conceptual Plan Review application with maps, relevant zoning regulations and Table 2.2 dealing with subdivision, and field notes from the site visit held on April 24. These materials are or will be available on the Town of Calais website linked to the DRB website page. The proceedings were recorded.

Chair Winchester described the procedure for this preliminary review, defined “interested persons” and administered the oath to all those present and intending to testify. The Clerk then read six (6) letters into the record received from residents David Healey, Donna Fitch, Marialisa Calta, Jamie Moorby and Sarah and Steve Gallagher, Barbara McAndrew and Brian Clark, and Douglas B. Perkins.

Applicants Jordan Keyes and Chris Connor presented an overview of the proposed CKC project using slides and maps from the filed application, with some revisions to the original proposal. The current parcel, Tax Parcel ID No. 01-009.000, consists of approximately 70 acres. The proposed four lots comprise a Major Subdivision in the Rural Residential 1 district. The applicants propose three single family residential lots of approximately 3 ½ - four acres each (Lots 1, 2 and 3) and an approximate 58 acre lot with no plans to develop and to remain in forest management (Lot 4). The house lots meet the three acre minimum required by the Town of Calais Zoning Regulations (hereinafter “the regs”).

Applicants further described the subdivision having a common driveway with a deeded right of way from Bayne-Comolli Road through Lot 4 providing permanent access to Lots 1, 2 and 3. The building sites are clear with reasonable topography compared to other parts of the parcel. The three houses will be clustered within a two acre circumference and are near an existing WEC electric distribution line. The general development timeline stretches into 2030. Phase 1 will be completion of the driveway

before moving on to developing the residential lots. The applicants gave adjoining property owners notice of their intent on November 29, 2021. They reviewed with the group a list of prepared reference maps as well as notices and permit information included in the application.

The proposed drive will follow along an existing logging road. The shared portion will be approximately 1600' long. It will require a curb cut, and fill, and applicants intend to install two culverts, 2-3 pullouts and a turn-around and access point for larger vehicles, including emergency vehicles. The intended shared driveway right of way is to be 40' wide however the actual used portion of the shared drive will be 25' wide and individual driveways 12' wide. It is critical for the width of the shared and individual driveways to be as narrow as possible to protect the natural elements and minimize wetlands disturbance. The Calais regs require a minimum 50' wide right of way for private roads, and 20' for public rights of way or personal easements or rights of way. Driveways must be at least 10.5 feet wide.

Following the DRB's conceptual meeting on January 13, 2022, the DRB requested an environmental assessment. The natural resources identified include the connectivity block, wetlands and deer wintering area.

Regarding the connectivity block, the entire parcel is mapped by the Town of Calais as "Priority Connectivity Block." Applicants propose to site houses at least 200 feet away from wetlands and close to the edge of the connectivity block to minimize fragmentation. The portion of Bayne-Comolli Road along the property boundary is designated as "Highest Priority Wildlife Road Crossing" thus the applicants propose to build away from the road and to utilize the existing logging road for the shared drive, stating that no other alternative access appears feasible.

A wetlands delineation was done in May 2021 by Wheeler Environmental. A Vermont Wetlands permit is required for the shared driveway due to its proximity to wetlands. The scope of the driveway must be minimized to the extent possible and further canopy openings are undesirable. The removal of hardwoods in the areas of the proposed house sites, which opened up these areas, preceded the current owners.

According to the testimony and documents, the entire property is mapped as a Deer Wintering Area (DWA). However the maps were updated in 2017 by the Agency of Natural Resources Fish and Wildlife Department so that the majority of the acres comprising Lots 1, 2 and 3, and particularly the house site locations, are no longer in a DWA. This is the SW corner of the property where development would have the least impact on DWA.

The project will be managed in two phases, proposing to do the drive construction before commencing on the house sites. Applicants say the development disturbance of each phase is below one acre and that therefore they may go forward with a Construction General Permit and that no formal Erosion Control Plan or Stormwater Management plan is required. Erosion control will be required for the wetlands and best practices employed elsewhere. A Vermont Wetlands Permit which will include erosion control measures is required.

Lots 1, 2 and 3 will be independently served by individual water supply and wastewater systems. Lot 4 is not intended to be "Common Land" but to be held by CKC Holdings and not developed but to be used by and for the benefit of its owners. According to applicants there are a number of impediments

to development on Lot 4 and they wish to continue managing this parcel under the existing Forestry Current Use Plan. Applicants have no current plans to dedicate this parcel to conservation.

Applicants propose no significant development on slopes over 15%. The only shared infrastructure will be the driveway. Driveway slopes greater than 15% are subject to conditional review. Applicants intend to minimize activity on steep slopes and would be leveling out the steep area of the curb cut.

Reference is made to CKC Holdings, LLC, application for additional information on the proposed subdivision.

After a brief break, Kris Jurentkoff, a surveyor with Chase & Chase working for the applicants, stated that all plans fit within survey requirements and that the State process must be complied with. He said the site plan for general construction will trigger a State site visit and he reviewed the required permits. He noted that the Army Corps of Engineers has overlying jurisdiction for the wetlands and that a State of Vermont Erosion Control Permit will be required. The State trumps the Town for jurisdiction and oversight of State permitting requirements.

Next the applicants fielded questions from the DRB members invoking the following answers:

- *the driveway will be a covenant, a draft form is in the works and will be shared with the DRB;
- *the turnaround will be a cul de sac located where the driveways to Lot 2 and 3 intersect with the shared right of way;
- *the administrative turnaround process for permits is very slow and will probably take 3-6 months to process;
- *all approvals will be conditioned on the receipt of required permits;
- *Lot 4 will be owned by CKC Holdings, LLC and not by the individual owners;
- *in response to a question whether and what road standards apply, the question of whether the proposed access is a road or a drive came up. Different standards apply to roads versus driveways. The regs state that a road is a right of way that provides access to four or more lots or parcels.

Testimony was taken from interested persons and the general audience. A number of residents supported the applicants for well-meaning reasons which are not Subdivision Standards criteria under the Town of Calais regs therefore not elaborated on herein.

The following “interested persons” testified during the course of the hearing: Melanie Viets, Marjorie Garfield, Mary and Terry Van Veghten, Scot Richards, Paul Olander, Steven Schenck, Travis Shores and Marge Sweeney. Others who testified included Attorney Cindy Hill, Neal Maker, Shaun Fielder and Bill Davis.

*Melanie Viets (neighbor and “interested person”) testified to what she believes will be “many negative aspects” along the southern boundary of the property, which is adjacent to her land, including one building lot which will be within 50' of her boundary. She testified that the project will disturb the character of an existing old family farm cemetery and the wetlands on her land. Her interest includes preserving the cemetery and the continuous forest block that currently exists. She claims the development provides greater density than the road frontage allows. She believes the engineering impacts will be excessive on the wetlands, that flood mitigation will be needed, wetlands will be lost, and this project will set a bad precedent for future projects. The proposed drive is of particular concern. She stated that all the water from the subject property drains down to a stream at the corner point of the

subject lots and her property and that water will trickle down onto her property. See also letter of her testimony attached hereto.

*Marjorie Garfield (neighbor and “interested person”) stated that the access is a road not a driveway as it serves four lots and therefore must comply with road standards.

*Terry Van Veghten (neighbor and “interested person”) agreed with Ms. Viets and is concerned about the setting of a precedent. His priorities are preservation of the wildlife and land.

*Scot Richards (neighbor and “interested person”) is concerned about setting a precedent, about the numbers using the road and the impact of increased traffic especially during mud season. He believes the driveway is not adjacent to but dissects and runs through the wetlands and that the wildlife corridor will be disturbed.

*Paul Olander (neighbor and “interested person”) does not want the legacy of his property to change and is very concerned about the traffic impact on Bayne-Comolli Road. His house is only 30' from the road. He has experienced traffic triple on the road since 1978. He claims this forestland property is one of the last connections between the forests north and south of Bayne-Comolli Road. His written statement from which he testified is attached hereto. He sees the property ideally as a town forest and, in any case, wants to see stipulated prohibition against development on Lot 4. He says more cuts are planned which will clearly disturb the deeryard. He noted that the 2016 forest management plan shows skid rows to two potential home sites on Lot 4. The forest management plan needs to be updated, according to Olander. Projects like these are precedent setting for similar projects that will change the rural character of the site.

*Steve Schenck (co-owner with Melanie Viets of adjacent property, a neighbor and an “interested person”) testified that Lot 4 should be excluded from development in perpetuity and emphasized that the DRB is charged with applying the regs to get to the final result on this application.

*Attorney Cindy Hill summarized the points in her submitted comments dated April 28, 2022, a copy of which is attached. Attorney Hill represents 13 neighbors who are generally opposed to the subdivision as planned. She emphasized three points further discussed in her memo. First, that the shared access route is a road not a driveway. Second, she pointed out that keeping the road frontage as it exists along Lot 4 retains the possibility of Lot 4 being developed if no restrictions are put on it. Attorney Hill claims the subdivision has insufficient road frontage for four lots, that the access is a road unless an exception is made for a clustered development and that the shared drive should have restrictions. Thirdly, she stated that Lot 4 should be conserved, that to do this kind of development requires an incentive to put other lands in conservation, and that a subdivision permit can condition that no development occur on Lot 4 or require a conservation easement put in place.

*Forester Neal Maker testified that leaving the forest corridor and wildlife crossing open and clear is a serious matter to take into consideration.

Motion was made, with a consensus vote, to continue the hearing until a date certain (Thursday, May 5, 2022 at 6pm) to continue testimony and provide applicants with the opportunity to address issues and concerns raised by those who have testified. Additionally, it was agreed that all materials provided to date are to be posted on the Town of Calais website, including a letter presented by Mary and Terry Van

Veghten at the close of the evening which will be read into the record upon continuation of the hearing. The hearing adjourned by consensus at 9:50pm.

Respectfully submitted, Dorothy (Dot) Helling, DRB Clerk

ATTACHMENTS

1. Site Visit Informational "Field" Notes from April 24, 2022;
2. Letter from David Healey dated April 21, 2022;
3. Letter from Donna Fitch dated April 25, 2022;
4. Email letter from Jamie Moorby and Sarah and Steve Gallagher dated April 28, 2022;
5. Letter from Barbara McAndrew and Brian Clark dated April 28, 2022;
6. Letter from Douglas B. Perkins dated December 3, 2021;
7. Letter from Melanie Viets, referenced above, dated April 28, 2022;
8. Letter from Paul Olander, referenced above, dated April 28, 2022;
9. Comments memo from Attorney Cindy Hill, referenced above, dated April 28, 2022;
10. Letter from Scot Richards and Michele Meacham, referenced above, undated; and
11. Letter from Mary and Terry VanVeghten, referenced above and to be read into the record, dated April 28, 2022.