

NEWPORT CITY

DEVELOPMENT REVIEW BOARD

MINUTES

**Public Hearing August 2, 2017**

Members present:

John Harlamert, Agathe Coburn, Denise Bowen

Members absent:

Harriett Hall, Dan Ross

Others present:

Charles Elliott, Zoning Administrator, Steve Ploesser and Scott Mapes of Pomerleau LLC, Paul Monnette, Ton Bemier, Laura Dolgin, Clark Curtis, and Ed Barber

1. The meeting was called to order at 7:00 PM.

2. Approve the minutes of the May 31, 2017 and June 28, 2017 meeting.

Motion by Denise Bowen to table the minutes of May 31 and June 28 was seconded by Agathe Coburn and was approved unanimously.

**3. Consider application No. 17024 by Pomerleau Family LLC to construct a 1000-foot - long seasonal walking path along the eastern shore line of Lake Memphremagog and to install two 50-foot-long docks for small boat docking.**

**Steve Ploesser gave a summary of the proposed Project.**

**Conditional Use Review was then performed**

Permit No. 17024 – Pomerleau Family LLC – Walking Path along Lake Shore

CONDITIONAL USE REVIEW

In considering its action, the DRB shall make findings on general and specific standards, hold hearings and attach conditions if any, as provided for in Title 24 VSA, 4414(3).

705.1 The standards shall require that the proposed conditional use shall not result in an undue adverse effect on any of the following;

1. General standards,

***Project is an improvement to existing conditions***

2. The capacity of existing or planned community facilities,

***No impact of existing of planned facilities***

3. The character of the area affected, as defined by the purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan,

***Enhances the character of the surrounding area***

4. Traffic on roads and highways in the vicinity,

***No impact***

5. Bylaws and Ordinances then in effect,

***Meets all Bylaw requirements***

6. Utilization of renewable energy resources.

***Not Applicable***

Granted:   X   Denied: \_\_\_\_\_ By: **John Harlamert**  
Chair of Development Review Board

Date: August 2, 2017

Denise Bowen made the motion to approve Conditional Use Review with the condition that a letter from a Licensed Engineer be provide certifying that the project design satisfied all Flood Plane regulations was seconded by Agathe Coburn and approved unanimously.

Site Plan Review was then performed.

DEVELOPMENT REVIEW BOARD -

Permit No. 17024 - Pomerleau Family LLC- Walking Path along Lake Shore

SITE PLAN REVIEW - SEVEN CRITERIA

Section 708.02 E. The DRB shall conform to the requirements of Title 24 VSA section 4416 before acting upon any application. In considering its action the DRB shall consider and may impose appropriate conditions and safeguards, in a manner that is consistent with the intent of this bylaw and the City Plan, with respect to::

1. The adequacy of parking, traffic access, and circulation for pedestrians and vehicles with particular attention to safety;

No Impact

2. The adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility and protection to adjacent properties;

Adequate

3. The protection of the utilization of renewable energy resources;

Not applicable

4. Exterior lighting;

None added

5. Harmonious relationship between proposed uses and existing adjacent uses;

It will be an improvement to the area

05

6. The adequacy of drainage control;

Letter from Tom Bernier

7. Compliance with all parts of this bylaw.

Meets all Bylaw Requirements

Granted: X Denied: \_\_\_\_\_ By: Jal Kowalski

Date: August 2, 2017

Motion by Denise Bowen to grant Site Plan approval for application No. 17024 with the condition that a letter from Tom Bernier be provided was seconded by Agathe Coburn was approved unanimously.

Local Act 250 Review of Municipal Impacts was performed.

A motion to grant approval for Local Act 250 Review for application No. 7R0272 (17024) was made by John Harlamert and seconded by Agathe Coburn was approved unanimously.

(A copy of the "Findings of Fact and Conclusions of Law" is attached at the end of these minutes.)

A copy of the minutes for May 31, 2017 and June 28, 2017 was available. They were reviewed by the DRB members. A motion to approve the minutes of May 31 and June 28, 2017 as written made by Denise Bowen was seconded by John Harlamert and approved unanimously.

Tom Bernier presented a letter stating that there are no impacts on public works facilities by the project as required for Site Plan approval.

A narrative related to Criterion 1(D) Floodways Analyses by Scott Mapes P.E. addressing the Floodway as required for Conditional use was also provided by the end of the hearing. A copy is attached to these minutes.

A motion to adjourn was made by John Harlamert was seconded by Denise Bowen was approved unanimously.

Minutes Approved: January 3, 2018

By: John Harlamert Chairmen of Development Review Board

## Criterion 1(0) Floodways Analyses

To: Vista Path Act 250 LUP 7R0272 Amendment Application SMM  
From: & KAS  
Date: 30 June 2017

Addressing criterion 1(D) requires a review of the various statutory definitions and jurisdictional permit triggers to determine if the Applicant is relying on the issuance of any state or federal permit for the project to satisfy its burden under the criterion. However, if in the absence of such permits, the Applicant offers its analyses and/or measures that are proposed to mitigate any perceived impacts the project may present to provide evidence that the path and other improvements within the Base Flood Elevation (BFE of Lake Memphremagog is 686.0) within FEMA's Special Flood Hazard Area (SFHA) will not restrict or divert the flow of flood waters, and endanger the health, welfare or safety of the public or of riparian owners during flooding.

The statute defines "floodway" as "the channel of a watercourse which is expected to flood on an average of at least once every 100 years and the adjacent land areas which are required to carry and discharge the flood of the watercourse, as determined by the secretary of natural resources with full consideration given to upstream impoundments and flood control projects." 10 VSA § 6001(6).

The statute defines "floodway fringe" as "an area which is outside a floodway and is flooded with an average frequency of once or more in each 100 years as determined by the secretary of natural resources with full consideration given to upstream impoundments and flood control projects." Id. § 6001(7).

Given Lake Memphremagog is not a watercourse, but a lake, these flood way definitions do not directly apply. Nonetheless, flooding from the rise in water level elevation on the lake remains a concern for those areas of land that are located within a 100 year flood plain and that are subject to development or impact.

From the FEMA definitions of Regulatory Floodway vs Floodplain (Special Flood Hazard Area and Base Flood Elevations), note:

A "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Communities must regulate development in these floodways to ensure that there are no increases in upstream flood elevations. For streams and other watercourses where FEMA has provided Base Flood Elevations (BFEs), but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur, or identify the need to adopt a floodway if adequate information is available.

The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V. See Exhibit-007, FEMA - NFIP Maps 5000860001B and 50008600038.

The SFHA is the inundation limits for a given flood while the floodway is an area within the SFHA that must be preserved to avoid causing adverse flood impacts from development encroachment. Lake Memphremagog has a BFE, but no Floodway has been delineated.

The BFE of Lake Memphremagog is 686.0 (NGVD 29) per the FEMA Flood Insurance Rate Map

Community Panel Number 500086 001B. The proposed project involves the construction of approximately 672 linear feet of 4-ft wide gravel walking path within the SFHA Zone A2. To protect existing tree roots, the proposed walking path will be constructed in fill and will result in approximately 74 cubic yards (CY) of fill within SFHA.

Three perimeter sand filter Stormwater BMP's will also be constructed within SFHA. The BMPs have been designed to treat the water quality volume from the existing and proposed impervious areas from the contributing watersheds. The BMPs will result in a total cut of approximately 392 CY within the SFHA. All three BMPs are hydraulically connected to the Lake at elevations that are lower than the BFE. Consequently, the proposed project results in a net cut of approximately 318 cubic yards (392 CY cut - 74 cy fill), which results in a net increase of flood storage volume available to Lake Memphremagog when compared to existing conditions.

In addition, two picnic tables and two benches are proposed within the SFHA. The picnic tables and benches within the SFHA will be securely anchored. Four proposed replacement propane tanks are located within the fringe area of the SFHA. These proposed fuel tanks will be located at least 1' above the BFE and securely anchored.

Based on the foregoing the path and other improvements within the SFHA will not restrict or divert the flow of flood waters, and endanger the health, welfare or safety of the public or of riparian owners during flooding.



**NEWPORT CITY DEVELOPMENT REVIEW BOARD**

Local Review of Act 250 Criteria 6, 7, and 10  
Findings of Fact & Conclusion of Law  
August 2, 2017

OWNER: Pomerleau Family LLC  
MEETING DATE: August 2, 2017  
APPLICATION No.: 17024

This decision pertains to local Act 250 review of criteria 6, 7, and 10 for application 17024 by Pomerleau Family LLC to construct a 4-foot-wide roughly 1,000-foot-long seasonal walking path along the eastern shore line with Lake Memphremagog on the Applicants Waterfront Plaza property. In addition, the Applicant will install Storm BMP's and implement a riparian buffer management program.

**FINDINGS OF FACT**

Based upon the information contained in the exhibits for this application and the evidence adduced at the Development Review Board hearing on August 2, 2017 the Newport City Development Review Board makes the following Findings of Fact:

General Information:

1. The property owner is Pomerleau Family LLC.
2. The property is located between the eastern shore of Lake Mephremagog and the railroad and the Causeway.
3. This application is for building a 1000-foot seasonal walking path along the shore of Lake Memphremagog
4. The property is in the "Form 4 Urban Waterfront 1" zone.

This Application:

5. A local permit was acquired August 2, 2017.
6. This project will not impact schools.
7. The project will not impact municipal services.
8. The project is consistent with waterfront recreational, environmental protection and flood plane management development goals of the Municipal and Regional Plans.
8. The project will have no impact on the City's Capital Program.

**CONCLUSION OF LAW**

Based on the foregoing Findings of Fact, the Newport City Development Review Board concludes that the proposed project:

**Criterion 6) Educational Services: *This project will not impact on the City of Newport's educational services.***

*Criterion 7) Municipal Services: This project will have no impact on the City of Newport's municipal services.*

*Criterion 10) Local and Regional Plans and Capital Program: This project conforms to the Municipal Plan and Regional Plans and will have no impact on the Capital Improvement Program.*

Those in favor: John Harlament, Agathe Colburn, and Denise Bowen. Those in opposition:  
None.

Dated in Newport City, Vermont this 2th day of August 2017

Newport City Development Review Board

By   
John Harlament, Chair

This conclusion/decision regarding local Act 250 review is a rebuttable presumption under the provisions of 10 VSA Chapter 151 and this presumption may be overcome in proceedings under 10 VSA Chapter

## EXHIBIT LIST

### **Date Description**

**7-4-2017** Newport City Zoning Application, - Permit No.17024

**7-17-2017** Application for Local Act 250 Review of Municipal Impacts, Criteria 6, 7 & 10