

State of Vermont



LAND USE PERMIT AMENDMENT

CASE NO: 2S0214-8

Town of Chester
P.O. Box 370
Chester, VT 01543

And

Drew's LLC
926 VT Route 1035
Chester, VT 05143

And

Chester Andover Family Center, Inc.
P.O. Box 302
Chester, VT 05143

LAWS/REGULATIONS INVOLVED

10 V.S.A. §§ 6001 - 6093 (Act 250)

District Environmental Commission #2 hereby issues Land Use Permit Amendment #2S0214-8, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6093. This permit amendment applies to the lands identified in Book 166, Pages 54-56, 57-60 and Page 61 of the land records of Chester, Vermont, as the subject of a deed to Drew's LLC and Chester Andover Family Center, Inc. and an easement to The Town of Chester.

This permit specifically authorizes the 0.33 MG water storage tank and 3,000 ft. of 12 inch diameter water main to connect to the Town of Chester water system. The water main and tank will be completed sequentially as two separate construction projects.

The project is located on off Route 103 in Chester, Vermont.

Jurisdiction attaches because the Project constitutes a material change to a permitted development or subdivision, and thus requires a permit amendment pursuant to Act 250 Rule 34.

1. The Permittees, and assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Commission in accordance with the following conditions.
2. The project shall be completed, operated and maintained in accordance with: (a) the conditions of this permit, (b) Findings of Fact and Conclusions of Law 2S0214-8, and (c) the permit application, plans, and exhibits on file with the District Environmental Commission and other material representations.
3. All conditions of Land Use Permit #2S0214 and amendments are in full force and effect except as further amended herein.
4. The Permittees shall comply with all of the conditions of the following Agency of Natural Resources Permits:

- a. Public Water System Construction Permit Wastewater System and Potable Water Supply Permit #C-3303-15.0 issued on March 14, 2016 by the ANR Drinking Water and Groundwater Protection Division;
 - b. Authorization of Notice of Intent #7530-9020 under Construction General Permit #3-9020 issued on February 17, 2016 by the ANR Watershed Management Division;
5. Any nonmaterial changes to the permits listed in the preceding condition shall be automatically incorporated herein upon issuance by the Agency of Natural Resources.
6. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
7. A copy of this permit and plans shall be on the site, at all times, throughout the construction process.
8. No change shall be made to the design, operation or use of this project without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
9. No further alteration or development on the tracts of land approved herein shall be permitted without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
10. Pursuant to 10 V.S.A. § 8005(c), the District Commission may, at any time, require that the permit holder file an affidavit certifying that the project is in compliance with the terms of this permit.
11. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittee and their successors and assigns.
12. The Permittees shall reclaim the "Irene Area" in accordance with Exhibit 058 except that monitoring and necessary supplemental planting will not cease until the Department of Fish and Wildlife and the District Commission determine that the habitat restoration has been successful.
13. At the completion of the habitat restoration of the "Irene Area," the Permittees shall certify by affidavit from a forester or other qualified professional that the habitat restoration has been carried out as described in this permit.

14. The access road shall be gated and the Permittees shall ensure that the public shall not be allowed to access the property between December 15 and April 15.
15. The Town of Chester and the Department of Public Works shall access the water tower site between December 15 and April 15 only for the purpose of weekly routine inspection and maintenance, and public water supply emergencies.
16. The Permittees shall use the existing access road and shall extend this road to construct and maintain the water tower. All clearing to construct and maintain the road shall be minimized.
17. The access road beyond the "Irene Area" shall not be plowed unless necessary under an emergency. The District Commission shall be notified before the emergency plowing occurs.
18. The Permittees shall convey a permanent conservation easement to the Department of Fish and Wildlife or another Grantee approved by the Department no later than two years after the completion of the construction of the water tower project or by October 15, 2021, whichever occurs first.
19. The permanent conservation easement shall be for no fewer than 70 acres of Deer Wintering Area as depicted on Exhibit 050 and the primary purpose of the easement is wildlife management, specifically Deer Wintering Area.
20. The permanent conservation easement shall be for all of the Deer Wintering Area that was mapped by the Department in 2006 except that the easement shall: allow for the construction and maintenance of the water tower and a road to access the water tower, consistent with the conditions of this Land Use Permit. The easement may allow for development of a compact, five-acre section of undisturbed Deer Wintering Area that is fully contiguous with previously disturbed Deer Wintering Area or reclaimed Deer Wintering Area habitat.
21. Future development shall be limited to: the water tower site approved in this permit and five acres of land that is compact and fully contiguous to previously disturbed Deer Wintering Area or that is compact and located in reclaimed Deer Wintering Area habitat. All future development will be fully reviewed by the District Commission and may additionally be subject to Act 250 Rule 34(E).
22. No condition or provision in this permit implies future approval of any future development on the parcel.
23. Any logging or management activities on the parcel shall be in accordance with a Habitat and Forestry Management Plan that is approved by the Department of Fish and Wildlife and the District Commission. Before each and every logging event commences, the Department of Fish and Wildlife shall confirm with a site


visit that the marked trees have been marked in accordance with the approved Habitat and Forestry Management Plan.

24. The Permittees shall provide the Department of Fish and Wildlife with the original recorded deed for the permanent conservation easement and shall be responsible for the title work, recording fees, transfer filings, and other work necessary to execute the easement.
25. The Commission reserves the right to evaluate and impose additional conditions with respect to Criterion 8(A). The Commission reserves the right for a period of time commencing with the final construction of the water tower and expiring if the Commission is satisfied that plowing due to water tank emergencies does not require additional permit conditions to protect the Deer Wintering Area.
26. The Permittees shall not utilize explosives or detonators that contain perchlorate.
27. The Permittees shall implement the Vermont Department of Environmental Conservation's Best Management Practices for Blasting to Avoid Environmental Contamination.
28. The Permittee shall apply and maintain water and/or other agents approved by the Watershed Management Division in the Project's Erosion Prevention and Control Plan on all roadways or disturbed areas within the project during construction and until pavement and/or vegetation is fully established to control dust.
29. The Commission reserves the right to review erosion prevention and sediment control and to evaluate and impose additional conditions with respect to erosion prevention and sediment control as it deems necessary.
30. Prior to construction of the approved work, the Permittee shall: a) clearly delineate the construction limits with flagging or snow fencing; b) place diversion ditches on the uphill limits of the construction area; and c) place temporary siltation controls on the downhill limits of construction.
31. In addition to conformance with all erosion prevention and sediment control conditions, the Permittee 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. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.
32. The Permittee shall maintain an undisturbed, naturally vegetated, unmowed 50-foot buffer from the edge of all stream/wetlands and any disturbed areas. Snowplowing or storage of materials within this buffer is prohibited.

33. The Class II wetland located near the proposed water tank shall be delineated and clearly marked with wetland flagging. The boundaries of the 50-foot wetland buffer shall be clearly signed, erosion control methods, and an orange construction fence shall be installed and properly maintained prior, during, and after construction until the site has stabilized. No soil, debris, or other materials shall be placed within the wetland or buffer, including any brush from cleared trees during or after construction and the 50-foot wetland buffer signs shall remain after the site has stabilized. No vegetation management shall occur within the buffer.
34. There shall be no disturbance to the wetland or 50-foot wetland buffer after the Class II wetland is delineated.
35. Any extracted stumps shall be disposed of on-site above the seasonal high water table and not in any wetland, or at a State approved landfill, so as to prevent groundwater pollution.
36. Rodents shall not be controlled with "rodenticides" on the site without express approval from the District Commission.
37. There shall be no exterior lighting installed or associated with this project.
38. Pursuant to 10 V.S.A. § 6090(b)(1), this permit amendment is hereby issued for an indefinite term, as long as there is compliance with the conditions herein. Notwithstanding any other provision herein, this permit 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. § 6091(b).
39. All site work and construction shall be completed in accordance with the approved plans by October 15, 2019, unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without public hearing.

Failure to comply with all of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A. § 6027(g).

Dated at Springfield, Vermont, this 30th day of December, 2016.

By 
Cheryl Cox, Acting Chair in this matter
District 2 Environmental Commission

Members participating in this decision:

James Olivier
Julia H. Schmitz

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A). Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the \$295 entry fee required by 32 V.S.A. § 1431. The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, Dewey Building, National Life Drive, Montpelier, VT 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8504(k). For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 828-1660. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.

E-Notification CERTIFICATE OF SERVICE # 2S0214-8

I hereby certify that I, the undersigned, sent a copy of the foregoing Land Use Permit, Findings and Exhibit List on December 30, 2016 by U.S. Mail, postage prepaid, to the individuals without email addresses, and by electronic mail to the following with email addresses. All email replies should be sent to NRB.Act250Springfield@vermont.gov. **Note: Any recipient may change its preferred method of receiving notices and other documents by contacting the NRB District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify the District Office of any email address changes.**

Town of Chester
c/o David Pisha
PO Box 370
Chester, VT 05146
dpisha@vermontel.net

Tim Knapp
tknapp@dufresnegroup.com

Chester Selectboard
John DeBenedetti, Chair
tcselectboard@vermontel.net

Chester Town Planning
Thomas A. Bock, Chair
Julie Hence
jhchester@vermontel.net

So. Windsor County Regional
Planning Commission
ctitus@swcrpc.org

Elizabeth Lord, Esq./Land Use Attorney
ANR Office of Planning & Legal Affairs
anr.act250@vermont.gov
elizabeth.lord@vermont.gov
jennifer.mojo@vermont.gov

Chester Andover Family Center
Derek Suursoo
Dee Robinson
dereksursoo@yahoo.com
donrob@vermontel.net

FOR INFORMATION ONLY

Chester Town Clerk
Deborah J. Aldrich
PO Box 370
Chester, VT 05143
tcchester@vermontel.net

Chester Telegraph
Shawn Cunningham
scunningham@chestertelegraph.org

Chester Conservation Committee
c/o MaryBeth Adler
MaryBeth.Adler@vermont.gov

Barry Murphy, Public Service Department
barry.murphy@vermont.gov

Craig Keller, Utilities and Permits
Vermont Agency of Transportation
craig.keller@vermont.gov
john.gruchacz@vermont.gov
jeff.ramsey@vermont.gov

Agency of Agriculture, Food & Markets
AGR.Act250@vermont.gov
lauren.masseria@vermont.gov

Scott Dillon and James Duggan
Division for Historic Preservation
scott.dillon@vermont.gov
James.duggan@vermont.gov

Nate McKeen, District Forestry Manager
VT Dept. of Forests, Parks & Recreation
nate.mckeen@vermont.gov

Chris Tomberg, Watershed Management
VT Dept. of Environmental Conservation
chris.tomberg@vermont.gov

Rebecca Chalmers, Wetland Ecologist
rebecca.chalmers@vermont.gov

Ken Cox, Fisheries Biologist
Lael Will, Fisheries Biologist
VT Fish & Wildlife Department
ken.cox@vermont.gov
lael.will@vermont.gov

Paul A. Donaldson
pdonaldson@64court.com

Naomi Johnson
njohnson@dufresnegroup.com

Jeff Holder
Jeffholder60@yahoo.com

Catherine Gjessing
VT Fish & Wildlife Department
Catherine.gjessing@vermont.gov

Forrest Hammond, Wildlife Biologist
Ryan Smith, Fish & Wildlife Specialist
VT Fish & Wildlife Department
forrest.hammond@vermont.gov
ryan.smith@vermont.gov

By: 

Tanya Davis
NRB Act 250 Technician
tanya.davis@vermont.gov