

**Sketch Plan
87 Sawmill Road
August 25, 2016**

49 At two Planning Commission meetings in 2016, on April 28 and June 23, the applicants
50 discussed the situation with commissioners and provided rationale for the waiver request.
51 Several neighbors attended the meetings to support the waiver request. An immediate neighbor,
52 however, has also submitted written comments opposing the waiver. Minutes from the June 23
53 meeting are attached, as is an email from the neighbor opposed to the waiver.
54

55 **IV. Article II, Section 2.6 of the *Subdivision Regulations*: Sketch Plan**

56
57 The applicant has applied for Sketch Plan approval pursuant to the *Town of Essex Outside the*
58 *Village of Essex Junction Official Subdivision Regulations* (Articles II, III, IV). Section 2.6 of the
59 *Zoning Regulations* requires Sketch Plan approval “for all subdivisions except boundary
60 adjustments and simple parceling.” Sketch Plan Review is meant

61
62 *to explore the options for the overall subdivision concept and layout, including uses and*
63 *open spaces, in relation to the objectives of the Town Plan, the characteristics of the site*
64 *and characteristics of the surrounding area, and to determine that the proposed*
65 *subdivision appears consistent with the requirements of these Regulations and the*
66 *Town’s Zoning Regulations.*
67

68 Per Section 2.6(D)(12) of the *Subdivision Regulations*,

69
70 *The Planning Commission shall modify and approve or disapprove the Sketch Plan,*
71 *including preferred layout. If the applicant has submitted more than one plan, the*
72 *Commission may take action on one of the proposed alternative layouts submitted with*
73 *the application. Written comments on the Sketch Plan which clearly express the results of*
74 *the Commission’s review shall be sent to the applicant. Sketch Plan approval constitutes*
75 *authorization to proceed to the next step in the subdivision approval process. Sketch Plan*
76 *Approval is not binding and does not guarantee Preliminary or Final Subdivision*
77 *Approval.*
78

79 Minor subdivisions require Sketch and Final Plan approvals.

80
81 **(A) Plans:**

82
83 The applicant has submitted the following plan:

- 84
85 • Sheet number Sk 1, “2-Lot Subdivision, Sketch Plan, Kunkel Property, 87 Sawmill Rd,
86 Essex, VT,” prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated
87 7/6/16.
88

89 **(B) Article IV: Subdivision Standards of the *Subdivision Regulations***

90
91 The Planning Commission must evaluate any proposed subdivision based on the standards
92 of Article IV of the *Subdivision Regulations*. Standards include conformance to the *Town*

93 *Plan and Town of Essex Outside the Village of Essex Junction Official Zoning Regulations.*
 94 Other applicable standards relate to public safety, natural features, streets, sidewalks, open
 95 space, availability of water and sewer, and stormwater management.

96
 97 **1. Section 4.1, Standards Applicable to All Subdivisions**
 98

- 99 a) **Conformance with the *Town Plan*.** Section 4.1(P) of the *Subdivision Regulations*
 100 requires all subdivisions to conform to the *Town Plan*. The project complies with
 101 the following goals and policies of the 2016 *Town Plan*:

102
 103 *Goal 8a, Important agricultural and forest lands are protected from development.*

104
 105 *Specific Natural Resource Policy 3(S).3, Development shall be designed to prevent*
 106 *the destruction of important natural resources, including wetlands, floodplains,*
 107 *unique geological features, primary agricultural soils, and slopes exceeding 15*
 108 *percent.*

- 109
 110 b) **Conformance to the *Zoning Regulations*. Table 2.18, Conservation District**
 111 **(C1).** Section 4.1(G) of the *Subdivision Regulations* requires all subdivisions to
 112 conform to the *Zoning Regulations*. Table 2.18 of the *Zoning Regulations* describes
 113 the purpose of C1 districts:

114
 115 *The purpose of the Conservation District is to protect the sensitive natural*
 116 *resources and steep slopes which make these areas inappropriate for*
 117 *intensive development. These areas are remote from municipal services and*
 118 *facilities and lack accessibility. Low density residential and related uses are*
 119 *permitted in this district only if applied to a land unit of ten acres or more.*

- 120
 121 i) **Permitted Uses.** The applicant is not requesting any new uses on the property.
 122

123 ii) **District Dimensional Requirements.**
 124

Dimensional Requirement	Standard	Proposed Lot 1	Proposed Lot 2
Minimum Lot Area	10 acres	28 acres	108 acres
Minimum Lot Area per Dwelling Unit	10 acres	28 acres	n/a
Minimum Lot Frontage	200 ft.	150 ft.	0 ft.
Minimum Front Setback (from ROW)	50 ft.	ft.	
Minimum Side Setback	25 ft.	ft.	
Minimum Rear Setback	25 ft.	ft.	
Minimum Buffer/Surface Waters	50 ft.		
Maximum Height	40 ft.		

125
 126 Lot 1 has frontage on a cul-de-sac, and has already been approved to have 75
 127 percent of the frontage typically required for the C1 district, as permitted by

128 Section 3.1(C)(1) of the *Zoning Regulations*.

129
130 Lot #2 would not have any frontage. Per Section 3.1 of the *Zoning Regulations*,
131 the creation of new lots without the required frontage is prohibited, with the
132 exception of lots are on a cul-de-sac or part of a planned unit development. Lot
133 #2 would not fit either requirement.

134
135 The applicant has requested that the Planning Commission waive the frontage
136 requirements per Section 2.1 of the *Subdivision Regulations*. Section 2.1
137 specifies,

138
139 *Where the Planning Commission finds that extraordinary and*
140 *unnecessary hardships may result from strict compliance with these*
141 *Regulations, or where there are special circumstances of a particular*
142 *subdivision, it may make the minimum modifications to the Regulations*
143 *necessary to afford relief without nullifying or adversely affecting the*
144 *intent and purpose of the Town Plan or the Zoning Regulations.*

145
146 (A) *Where the Planning Commission finds that, due to special*
147 *circumstances of a particular subdivision, the provision of certain*
148 *required improvements is not requisite in the interest of public*
149 *health, safety, and general welfare, or that connecting facilities are*
150 *not adjacent or in proximity to the proposed subdivision, it may*
151 *wave such requirements, subject to appropriate conditions.*

152
153 ...

154
155 (C) *In granting waivers, the Planning Commission shall require such*
156 *conditions as will, in its judgment, secure substantially the objectives*
157 *of the requirements so waived.*

158
159 In the waiver proposal submitted as part of the application on July 6, 2016, the
160 applicant's engineer wrote,

161
162 *In 2012, the Kunkels executed a Grant of Development Rights and*
163 *Conservation Restrictions in favor of the Vermont Land Trust in which*
164 *the Kunkels permanently preserved and conserved approximately 108*
165 *acres of their property. They are now seeking to subdivide the parcel*
166 *into two lots. Lot 1 would consist of the house and improvements and*
167 *approximately 27 acres of land. Lot 2 would consist of the 108 acre*
168 *conserved land. The 108 acres is proposed to be accessed by a 25' right*
169 *of way in compliance with the intent of Article 3.1 (A) Town Zoning*
170 *Regulations, but without road frontage.*

171
172 *Article 2.1(A) of the Town Subdivision Regulations allows the Planning*

173 *Commission to apply waivers if the Commission finds that extraordinary*
174 *and unnecessary hardships may result from strict compliance with the*
175 *Regulations, or where there are special circumstances of a particular*
176 *subdivision. With respect to the Kunkel's property, there are clearly*
177 *special circumstances that warrant the Planning Commission granting a*
178 *waiver of road frontage. The proposed 108 acre lot has been*
179 *permanently conserved, in furtherance with the Town Plan and Zoning*
180 *Regulations. The access to the lot will be limited and no further*
181 *residential or commercial development will occur. The Kunkels have on*
182 *two occasions conveyed land to the Town for the purpose of enlarging*
183 *the cul-de-sac on which the property is located. The proposal will allow*
184 *the conveyance of the 108 parcel to a new steward of the conserved land*
185 *and allow for the sale of the Kunkel's home and 27 acres.*

186
187 In a letter dated June 21, 2016 and an email dated August 15, 2016, Cara
188 Montgomery, Regional Stewardship Manager, Vermont Land Trust, confirmed
189 that the 108 acre conserved parcel cannot be developed with the exception of a
190 primitive camp with no utilities. Monitoring of conserved parcels by Vermont
191 Land Trust staff occur not less than once a year.

192
193 Staff is wary of setting a precedent with the creation of a new lot that does not
194 have adequate frontage. If the Planning Commission decides to support the
195 waiver and approve the proposed subdivision, staff recommends that the Final
196 Plan approval be due to the special circumstances of the lot being conserved in
197 perpetuity, and whereas the provision of certain required improvements is not
198 requisite in the interest of public health, safety, and general welfare, subject to
199 appropriate conditions. Staff also recommends including a condition that no
200 further development or subdivision of the conserved lot occur.

201 202 **2. Section 4.3, Preservation of Natural Features**

203 **a) Natural Features.** The *Subdivision Regulations* specify,

204 *Outstanding natural features of the site, including groves of trees, watercourses*
205 *and falls, historic sites, exceptional views, and similar irreplaceable assets,*
206 *shall be preserved. The Planning Commission may require building envelopes*
207 *to be specified for some or all buildings where it is necessary to carefully define*
208 *building locations and heights in order to protect the natural features listed in*
209 *this section or identified on the Significant Features Reference Map.*

210
211
212
213 Both Lot #1 and #2 contain contiguous habitat and core habitat. Specifically, there
214 are 108 acres of managed woodlands, 20 acres of Site Class 1 forest soils and 5 acres
215 of Site Class 2 forest soils. There is at least one identified vernal pool providing high
216 quality amphibian habitat, including critical breeding habitat and State of Vermont-
217 mapped clack bear habitat. Most of the land (Lot #2) is protected by a Grant of

218 Development Rights and Conservations Restrictions in favor of the Vermont Land
219 Trust, thereby preserving a great deal of the important natural features.

220

221 **3. Section 4.4(B) Lots – Planning and Design Standards**

222

223 In addition to meeting the dimensional requirements of the *Zoning Regulations*, lots
224 need to be of sufficient size to provide an adequate building site and suitable areas for
225 septic disposal and water supply. Lots need to have satisfactory access to a public street,
226 and must be laid out to provide positive drainage away from all buildings. Individual lot
227 drainage needs to be coordinated with the stormwater management plan for the entire
228 subdivision.

229

230 The applicant’s engineer described the two proposed lots in the project narrative dated
231 July 6, 2016:

232

233 *Lot #1 (would be) 28 acres, and (encompass) the existing Kunkel residence and*
234 *outbuildings. Lot #2 is proposed as a non-developable conservation lot of 108*
235 *acres. The proposed boundaries of Lot #2 follow the same limits as the*
236 *conservation easement over this 108 acres held by the Vermont Land Trust. This*
237 *area will be conserved, with restrictions on the development of the lot. No*
238 *residential structures are allowed on this parcel.*

239

240 **a) Fire Department.** The Fire Chief did not have any concerns about the proposed
241 subdivision.

242

243 **b) Police Department.** The Police Chief did not have any concerns about the proposed
244 subdivision.

245

246 **c) Public Works.** Public Works commented on the proposed subdivision in a
247 memorandum dated July 19, 2016:

248

249 *This project has no implications for Public Works. There is no new curb cut off*
250 *Sawmill Road and no changes that would involve a storm water review.*

251

252 *The submitted plan appears to show a portion of the existing driveway extending*
253 *to Lot #1 as not being within the “30 foot wide access ROW”. This could be a*
254 *plan discrepancy or it could require a re-writing of the access so that the*
255 *driveway falls entirely within a legally granted ROW.*

256

257 *The issue of approving or not approving a Conservation lot with no road frontage*
258 *is entirely a Planning and Zoning issue. The lot does have existing access off a*
259 *Town road.*

260

261 **5. Section 4.7, Land for Public Open Space and Recreational Use**

262

263 The *Subdivision Regulations* allow the Town to accept land reserved for public
264 recreation purposes in lieu of all or part of recreation impact fees. Trails and
265 conservation greenways identified in the *Town Plan* must be accommodated within open
266 space and recreation areas.

267
268 The applicant has not proposed any public open space.

269
270 **6. Section 4.8, Utility and Access Easements and Improvements**
271

272 The Planning Commission can require perpetual, unobstructed easements to facilitate
273 non-motorized, multi-use facility user access to public open space or adjacent properties
274 as part of a proposed contiguous access plan.

275
276 Lot 2 would be accessed via a right-of-way over Lot 1. As the applicant's engineer
277 described in the July 6, 2016 narrative,

278
279 *The right-of-way will allow for maintenance personnel (such as foresters) to*
280 *access the site for forest management activities, or other agricultural or passive*
281 *recreational purposes (maple sugar production, hunting, hiking, etc.)*
282

283 **7. Section 4.10, Stormwater Management and Erosion Control**
284

285 As noted in the July 19, 2016 memorandum from Public Works, the project does not
286 require stormwater review.

287
288 **8. Section 4.11, Monuments and Lot Markers**
289

290 If the project obtains Final Plan approval, the applicant shall install concrete monuments
291 and lot markers to the standards specified in Section 4.11 of the *Subdivision*
292 *Regulations*.

293
294
295 **V. Planning Commission comments**
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297 While reviewing the project on August 25, 2016, the Planning Commission determined ...
298
299

300 **VI. Proposed Conditions**
301

302 1. All conditions from previous approvals shall remain in effect except as modified herein.
303

304 2. All construction shall be in conformance with the plans listed in Section IV(A) of this
305 Staff Report and as may be amended subject to other conditions and approvals.
306

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- 307 3. The Final Plat shall include a note specifying that no further development or subdivision
308 shall occur on Lot #2 in accordance with the terms and conditions of the Grant of
309 Development Rights and Conservation Restrictions in favor of the Vermont Land Trust.
310
- 311 4. The applicant shall submit any and all deeds and legal documents as a result of this
312 approval for review by the Town Attorney.
313
- 314 5. The applicant shall install concrete monuments and lot markers to the standards specified
315 in Section 4.11 of the *Subdivision Regulations*.
316
- 317 6. The applicant shall record a mylar in the Land Records no more than 180 days from the
318 date of the written Final approval, otherwise the subdivision is void. The mylar and three
319 paper copies shall be submitted to the Community Development Department at least one
320 week prior to the 180-day expiration.
321
- 322 7. The applicant shall obtain all applicable State approvals and permits.
323
- 324 8. By accepting the conditions of this approval without appeal, the applicant confirms and
325 agrees for himself and all assigns and successors in interest that the conditions of this
326 approval shall run with the land and the land uses herein permitted, and will be binding
327 upon and enforceable against the applicant and all assigns and successors in interest.
328
329

VII. Attachments

- 330
331
- 332 • Narrative, “Proposed 2-Lot Subdivision- Kunkel Property at 87 Sawmill Road, Sketch Plan
333 Application,” from Doug Goulette, P.E., Lamoureux & Dickinson, dated 7/6/16.
 - 334 • Waiver Proposal, “John and Donna Kunkel, 87 Saw Mill Road.”
 - 335 • Letter, “Re: Donna and John Kunkel,” from Kay Marquette.
 - 336 • Letter, “Request to Essex Planning Commission,” from Donna and John Kunkel, dated
337 4/28/16.
 - 338 • Deed, “Grant of Development Rights and Conservation Restrictions,” Vermont Land Trust,
339 dated 12/1/11.
 - 340 • Email, “Kunkel subdivision Sawmill Rd,” from Nancy H Abernathy, 91 Sawmill Road,
341 Jericho, VT, dated 5/16/16.
 - 342 • Meeting Minutes, “Town of Essex Planning Commission, Meeting Minutes, June 23, 2016,”
343 dated 7/14/16.
 - 344 • Memorandum, “Review of Kunkel Property 2 Lot Subdivision,” from Dennis Lutz, PE,
345 Public Works Director; and Aaron Martin, PE, Town Engineer, dated 7/19/16.
 - 346 • Email, “RE: 87 Sawmill Road,” from Chief Bradley J. LaRose, Essex Police Department,
347 dated 7/11/16.
 - 348 • Email, “Re: 87 Sawmill Road,” from Charlie Cole, Essex Fire Chief, dated 7/11/16.
 - 349 • Email, “RE: Kunkel property at 87 Sawmill Road, Essex,” from Bob Heiser, Vermont Land
350 Trust, dated 8/12/16.

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- 351 • Email, “Re: Kunkel property at 87 Sawmill Road, Essex”, from Cara Montgomery, Vermont
352 Land Trust, dated August 15, 2016.
353 • Letter, “Re: Kunkel Conserved Land, from Cara Montgomery, Vermont Land Trust, dated
354 June 21, 2016.
355

356

357

cc: Doug Goulette, Lamoureux & Dickinson

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