



## DEVELOPMENT REVIEW BOARD

Meeting Type:.....Regular  
Date:.....Thursday, April 14, 2016  
Time:.....7:00 p.m.  
Place:.....Municipal Building Community Room  
Address:.....43 Bombardier Road Milton, VT 05468  
Contact:.....(802) 893-1186  
Website: .....www.miltonvt.org

### MEETING MINUTES

1   **1. CALL TO ORDER**

2   The Chair called the meeting to order at 7:08 p.m.  
3

4   **2. ATTENDANCE**

5   **Members Present:** Bruce Jenkins, Chair; David Conley, Vice-Chair; Henry Bonges, Clerk; Clayton Forgan  
6   (arrived late)

7   **Members Absent:** None

8   **Staff Present:** Jeff Castle, Town Planner

9   **Public Present:** Laura Webb; Dan Bigos; Tom Curran; Karl Marchessault; Chad Brannon; Gordon J.  
10   LaFountain; Jenna LaFountain; William J. Sorrentino; Barb Steiner; Gordon LaFountain, Jr.; Adam Steiner;  
11   Erich Meisberger; Cathi Sorrentino  
12

13   **3. AGENDA REVIEW**

14   In order to expedite those applicants with less complex applications, the order of hearings was changed to  
15   the following:

- 16   • Devino - Minor Conventional Subdivision Sketch Plan - 242 North Road
- 17   • LaFountain - Minor Conventional Subdivision Final Plan - 165 Railroad Street
- 18   • Curran - Planned Unit Development (PUD) Sketch Plan - 26-28 Route 7 North
- 19   • Turner Estates LLC - PUD Site Plan Amendment - 20 Clifford Drive Units 101 & 102  
20

21   **4. PUBLIC FORUM**

22   None.  
23

24   **5. OLD HEARINGS**

25   None.  
26

27   **6. NEW HEARINGS**

28   **6(A). Minor Conventional Subdivision Sketch Plan - 242 North Road - Erwin Devino, Owner/Applicant.**  
29

30   The Chair read the following summary to open the hearing:  
31

32   **Erwin Devino, Owner/Applicant** requests **Sketch Plan** approval for a proposed 2-lot **Minor Conventional**  
33   **Subdivision** located at **242 North Road**, described as Tax Map 15, Parcel 119-1 and SPAN #10952. A single  
34   family home currently exists on the lot and a new single family home is proposed. The subject property  
35   contains approximately 1.08 acres and is located within the "Old Towne Residential" (R1) Zoning District and  
36   North Road Planning Area.  
37

38   The Chair administered the Oath to Interested Persons. Representing the Applicant was Karl Marchessault of  
Town of Milton Development Review Board Meeting Minutes of April 14, 2016

1 O'Leary-Burke, hereafter referred to as "Applicant."  
2

3 In response to the following numbered items within the Staff Report:

- 4 1. The Applicant agreed that within six (6) months of classification by the DRB of the sketch plan as a  
5 minor subdivision, the sub-divider shall submit an application for approval of a subdivision plat.  
6 The application shall contain those items set forth in Section 610 of these regulations, and shall  
7 conform to the layout shown on the sketch plan plus any recommendations made by the DRB.
- 8 2. The Applicant agreed that the final plat application shall include all items listed in Subdivision  
9 Regulations 610, including a survey of all lots resulting from the proposed subdivision.
- 10 3. The Applicant agreed that the Final application shall include Section 700 responses, submitted by e-  
11 mail in Microsoft .DOC format to the Town Planner.
- 12 4. The Applicant agreed that the DRB may require that street trees be planted along North Road in  
13 accordance with SR830.
- 14 5. The Applicant agreed that if required, the final plan application shall include the location of street trees  
15 along North Road pursuant to SR830.
- 16 6. The Applicant agreed to obtain a water & wastewater allocation from the Department of Public  
17 Works prior to submitting a Final Application.
- 18 7. The Applicant agreed that the proposed driveway shall be constructed according to ZR593 and the  
19 driveway specifications as defined in the Public Works Specifications.
- 20 8. The Applicant agreed to submit \$500 with the Final application to cover the legal review of the deeds  
21 and any other required legal instruments by the Town Attorney. Any funds not expended on the  
22 legal review will be refunded to the Applicant.
- 23 9. The Applicant agreed to submit draft deeds and any other associated legal instruments for all  
24 impacted lots for review and approval by the Town Attorney, that all requested revisions must be  
25 complete before the Plat may be recorded, and that only instruments approved by the Town may be  
26 recorded in the Town of Milton Land Records.
- 27 10. The Applicant agreed to obtain a Project Review Sheet from the Permit Specialist in the District 4  
28 Regional Office of the Agency of Natural Resources, provide a copy to the Town, and obtain all  
29 required State permits and approvals.  
30

31 Marchessault clarified that the waiver noted on page 3 of the Staff Report is not necessary, and Staff  
32 confirmed that it was a typo. The waiver is not necessary. Hearing no further questions or comments, the  
33 Chair closed the Hearing at 7:15 p.m.  
34

35 **6(B). Minor Conventional Subdivision Final Plan - 165 Railroad Street - Gordon LaFountain, Sr.,**  
36 **Owner/Gordon LaFountain, Jr. & Jenna LaFountain, Applicants.**  
37

38 The Chair read the following summary to open the hearing:  
39

40 **Gordon LaFountain Sr., Owner/Gordon LaFountain Jr. & Jenna LaFountain, Applicants request Final Plan**  
41 **approval for a proposed 2-lot Minor Conventional Subdivision located at 165 Railroad Street, described as Tax**  
42 **Map 31, Parcel 98 and SPAN #11903. A single family home currently exists on the lot. The subject property**  
43 **contains approximately 5.67 acres and is located within the "MCMP Center" (M1) Zoning District and Town**  
44 **Core Planning Area.**  
45

46 The Chair administered the Oath to Interested Persons. Representing the Applicants were Gordon LaFountain,  
47 Jr. and Jenna LaFountain, hereafter referred to as "Applicant(s)."  
48

1 In response to the following numbered items within the Staff Report:

- 2 1. The DRB will determine if the street trees to be planted along Railroad Street are suitable and in  
3 accordance with SR830.
- 4 2. The Applicant agreed to provide a landscaping surety to guarantee the completion of the approved  
5 landscaping, to submit a written cost estimate for the proposed trees from a landscape contractor,  
6 that a performance bond shall guarantee their survival for three years from installation and that the  
7 surety must be established prior to the issuance of a Zoning Permit.
- 8 3. The Applicant agreed to obtain a water & wastewater connection permit prior to obtaining a zoning  
9 permit for the proposed Single Family Residence.
- 10 4. The Applicant agreed to show any proposed new utility easements on the Final Plat, though none are  
11 anticipated.
- 12 5. The Applicant agreed to apply for a Town Highway Access permit as part of the Zoning Permit  
13 Application for the new driveway, per ZR594, *Highway Access Permit*.
- 14 6. The Applicant agreed that the proposed driveway shall be constructed according to ZR593 and the  
15 driveway specifications as defined in the Public Works Specifications.
- 16 7. The Applicant agreed to submit any other associated legal instruments for all impacted lots for  
17 review and approval by the Town Attorney, that all requested revisions must be complete before the  
18 Plat may be recorded, and that only instruments approved by the Town may be recorded in the  
19 Town of Milton Land Records.

20  
21 MOTION by Conley to APPROVE the Minor Conventional Subdivision Sketch Plan for 165 Railroad Street,  
22 subject to the conditions discussed above; SECOND by Forgan. UNANIMOUSLY APPROVED.  
23

24 **6(C). Residential Planned Unit Development (PUD) Sketch Plan – 26-28 Route 7 North – Curran**  
25 **Apartments, LLC, Owner/Thomas & Nancy Curran, Applicants.**  
26

27 The Chair read the following summary to open the hearing:  
28

29 **Curran Apartments, LLC, Owner/Thomas & Nancy Curran, Applicants** request **Sketch Plan** approval for a  
30 proposed 18-unit **Residential Planned Unit Development** located at **26-28 Route 7 North**, described as SPAN#  
31 10819, Tax Map 11, Parcel 86. The property contains an existing single family home and a 2-unit apartment  
32 building; access to all lots is proposed via a new private road off of US Route 7 North. On-site wastewater and  
33 municipal water service is proposed. The subject property contains a total of 23.00 acres and is located within  
34 the “Shoreland Residential” (R6) Zoning District and Arrowhead Lake Planning Area.  
35

36 The Chair administered the Oath to Interested Persons. Representing the Applicants was Thomas Curran,  
37 hereafter referred to as “Applicant(s).”  
38

39 The Applicant gave a brief overview of the proposal, stating that it was essentially a sketch plan application  
40 intended to make the parcel more attractive for sale and noting that any new owner may present their own  
41 plans at a later date. The Applicant also explained how he thought the plan benefitted the Town, as it may  
42 provide a secondary access to an area that is otherwise inaccessible if something happens to shut down a section  
43 of Lake Road. In response to a question from Conley, the Applicant advised that the proposed emergency  
44 access road would connect to Waterwheel Way Extension.  
45

46 In response to the following numbered items within the Staff Report:

- 47 1. Regarding the condition that, if approved, a multi-use path shall be shown on the Preliminary plans for  
48 possible future connection of Waterwheel Way to Route 7 North: neighbors (one later identified as Dan

1 Bigos) expressed hesitation about this, explaining that they've been taking care of the road since they've  
2 lived there and were under the impression that this was a private road that wouldn't ever change. The  
3 Chair asked if the Town has a right of way on Waterwheel Way Extension; Staff replied that Public  
4 Works believes the road has not been accepted by the Town but the Town has a 60' wide right of way on  
5 it. However, this is unclear and needs to be clarified; Staff will research. The Chair clarified to the  
6 concerned citizen that the burden of proving the Town has a right of way will be on the Applicant.

- 7 2. The Applicant agreed that the DRB will evaluate if the proposed plan is consistent with the goals and  
8 objectives of the Milton Comprehensive Plan.
- 9 3. The Applicant agreed that, if approved, the Applicant must submit a Preliminary Application  
10 including all elements listed in Subdivision Regulations Section 600. However, the Applicant  
11 reiterated that at this time that they do not plan on following up with a Preliminary or Final Plan  
12 application; rather the desire is to obtain Sketch Plan approval to make the property more  
13 marketable. The Clerk pointed out that anything the Applicant agrees to in this Sketch Plan hearing  
14 carries over to the Preliminary and Final Plans, regardless of who the owner/applicant is at that  
15 time, unless of course a new Sketch Plan application is submitted and heard.
- 16 4. The Applicant agreed that if approved, the applicant must submit Site Plans including all items  
17 listed in Zoning Regulations Section 803.
- 18 5. The Applicant agreed that, if approved, the applicant must submit a meets and bound survey with  
19 the Preliminary Application. Some discussion of existing surveys followed.
- 20 6. The Applicant agreed that if approved, Preliminary Plans shall show all features required by  
21 ZR851.4
- 22 7. The Applicant agreed that, if approved, Preliminary Plans shall show all features required by  
23 ZR851.5
- 24 8. The Applicant agreed that a site visit may be conducted by the DRB prior to the Preliminary  
25 Application hearing (if approved), and to place temporary markers on the lands in order to enable  
26 the DRB to readily locate and appraise the basic layout of the proposed PUD.
- 27 9. The Applicant agreed that the preliminary application shall also include a site plan application,  
28 including all requirements listed in ZR800.
- 29 10. The Applicant agreed to apply for Conditional Use approval to relocate the R6 district boundary no  
30 more than 100 feet in accordance with ZR670 to be heard with a Preliminary application, and to submit  
31 a survey of the new location of the zoning district boundary.
- 32 11. The Applicant agreed to apply for Conditional Use approval to include the existing duplex in the PUD  
33 located in the R2 district to be heard concurrently with the Preliminary application.
- 34 12. The Applicant agreed that the DRB will determine whether to grant a waiver for the proposed lots with  
35 areas less than 40,000 square feet and the lots with road frontage of less than 200 feet.
- 36 13. The Applicant agreed that, if approved, the location and design of the proposed sewage disposal  
37 systems will be presented with the Preliminary application. The Chair inquired about the plan for  
38 sewage disposal and the Applicant replied they plan to have individual, on-site septic systems for  
39 each lot.
- 40 14. The Applicant agreed that, if approved, the Preliminary application will include the specifications for  
41 a private road meeting the standards of ZR592, and the private road specifications as defined in the  
42 Public Works Specifications.
- 43 15. The Applicant agreed that the DRB may approve a private road of greater than 1000 linear feet if it is  
44 determined that the roadway proposed can provide safe access for emergency vehicles. The Chair  
45 asked what provisions the Applicant plans to provide for this requirement; the Applicant replied  
46 whatever is necessary. At this time, a citizen reiterated that he feels the left turn proposed is unsafe.  
47 The Applicant stated that VTrans has done studies refuting that.

- 1 16. The Applicant agreed that if the proposed road is to be considered for acceptance by the Town as a  
2 Public Road, the Preliminary application shall show a road that meets the standards of ZR591. Some  
3 discussion of the grading of the road followed, as it is a steep area. The Applicant stated that while  
4 difficult, meeting the grade requirement could be done.
- 5 17. The Applicant agreed to indicate on the plans the open space location with and total area equal to that  
6 of at least 25% of the lands within the R2 District and 35% of the lands located within the R6 district, to  
7 specify its agricultural, forestry, recreation or conservation use, and to propose legal instruments for the  
8 continued use and maintenance. This proposal must be consistent with all provisions of Section 852.15  
9 of the Zoning Regulations.
- 10 18. The Applicant agreed to submit for review with the Preliminary Plat proposed legal instruments and  
11 other provisions for the Public Access to the proposed Open Space consistent with ZR853.2(2).
- 12 19. The Applicant agreed that, if approved, the Preliminary Plans and Plat shall indicate the location of  
13 buildable envelopes.
- 14 20. The Applicant stated that the lot containing the existing single family home is not included in the  
15 proposed PUD, and that it is not included in the total area of the PUD. Staff stated that parts of the  
16 application seemed to indicate that it was included in the total area. The Applicant replied that an  
17 informational letter that was included in the application was from years ago and included the single  
18 family home in the PUD, as at that time the Applicant was considering it. However, they have since  
19 decided not to include it, and stated that the lot listed in the Application did not include the area.  
20 Staff thought they did, and all agreed this would be checked on and corrected if necessary.
- 21 21. The Applicant agreed to include the area of all restrictive easements and right-of-ways in the  
22 Undevelopable Land calculation per ZR856.1(b) and that the area of undevelopable land shall be  
23 calculated by a certified engineer.
- 24 22. The Applicant agreed to recalculate the Density Analysis and revise the proposed number of units to  
25 meet the standard of ZR856.1
- 26 23. The Applicant agreed that, if approved, the location and width of a buffer strip shall comply with  
27 ZR856.3 and be shown on the plans for the Preliminary application.
- 28 24. The Applicant agreed that no land included within a PLANNED UNIT DEVELOPMENT-Residential  
29 may be included in any future subdivision of land and that, if approved, covenants and deed  
30 restrictions to this effect shall be provided with the Preliminary application.
- 31 25. The Applicant agreed that the Preliminary application shall include narrative responses to the  
32 standards of SR700.
- 33 26. The Applicant agreed that within six (6) months of classification by the DRB of the sketch plan as a  
34 minor subdivision, the sub-divider shall submit an application for approval of a subdivision plat and  
35 that the application shall contain those items set forth in Section 610 of these regulations, and shall  
36 conform to the layout shown on the sketch plan plus any recommendations made by the DRB.
- 37 27. The Applicant agreed that, if approved, all draft legal documents associated with the development  
38 must be submitted with the Preliminary/Final application for review by the Town Attorney and that  
39 these documents must be revised to his satisfaction if necessary.
- 40 28. The Applicant agreed to submit \$500.00 with the preliminary/final application to be held in escrow by  
41 the Town to cover the costs of legal review by the Town Attorney, that any funds not expended on this  
42 proposal's legal review shall be refunded to the Applicant, and that any funds expended that exceed  
43 \$500 shall be paid for by the Applicant.
- 44 29. The Applicant agreed to obtain a Project Review Sheet from the Permit Specialist in the District 4  
45 Regional Office of the Agency of Natural Resources, provide a copy to the Town, and ensure that all the  
46 necessary State permits are obtained.
- 47 30. The DRB did not have any remaining comments or concerns, and some of the public present did.  
48 Dan Bigos wanted the record to show that this plan is essentially a "sales pitch," not a real

1 development plan. Erik Weisburger inquired about the buffer strip mentioned in Item 23 above:  
2 how big is it, and is it required? Staff answered that the buffer strip must be twice as wide as the  
3 setback of the zoning district, gave general info regarding buffer strips, and explained where the  
4 buffer strip would be. Weisburger expressed concerns about this being a wildlife corridor and hoped  
5 for a generous buffer strip or common land area between existing homes and the new development.  
6 Weisburger also commented on the legal situation with the road, stating his position that the Town  
7 has no claim to it. Laura Webb spoke to encourage the DRB to conduct a site visit, noting wetlands  
8 exist where the road is shown and questioning the feasibility of some of the proposals. The Chair  
9 noted that this is only a Sketch Plan and that many details are hammered out at later hearings.

10  
11 Hearing no further questions or comments, the Chair closed the Hearing at 8:15 p.m.

12  
13 **6(D). Planned Unit Development (PUD) Site Plan Amendment - 20 Clifford Drive Units 101 & 102 -**  
14 **Turner Estates, Owner/Applicant.**

15  
16 The Chair read the following summary to open the hearing:

17  
18 **Turner Estates LLC, Owner/ Applicant requests Planned Unit Development (PUD) Site Plan Amendment**  
19 approval to amend the building lots to reflect the as-built locations of the foundations of Units 101 and 102,  
20 and associated infrastructure including sewer and water connection locations. The property is located at **20**  
21 **Clifford Drive Units 101 and 102**, described as SPAN numbers 14496, 14497 & 14503; Tax Map 25, Parcels  
22 15-215, 15-216 & 15-200, respectively. The subject property contains a total of approximately 2.83 acres and is  
23 located within the Checkerberry (M4) Zoning District and Town Core Planning Area.

24  
25 The Chair administered the Oath to Interested Persons. Representing the Applicants were Armand Turner, Jr.  
26 and Chad Branon of Fieldstone Land Consultants, hereafter referred to as "Applicant(s)."

27  
28 The Applicant gave a summary, stating the building footprint has moved 6.2 feet.

29  
30 In response to the following numbered items within the Staff Report:

- 31 1. The Applicant agreed that the DRB will determine if it shall grant application requirement waivers.  
32 The Applicant stated the waivers are being requested because they do not apply to the proposed  
33 revisions, read through a list of the requested waivers and explained why they do not apply. The  
34 Chair asked if the only thing that has changed is that the building footprint moved 6.2 feet and the  
35 Applicant replied that yes, that was the only change. Staff explained that although these factors may  
36 not be changing, a complete plan set is desirable for the sake of accuracy and thoroughness. Staff  
37 explained the liability and complications that are created when a Site Plan is piecemealed together  
38 from various approvals, reiterating the need for a complete plan set. The Applicant objected to this  
39 as unreasonable and impractical.  
40 The Vice-Chair asked how the misplacement of the foundation was noticed (for example, by a  
41 neighbor?). The Applicant stated that Public Works noticed it while performing a utility inspection,  
42 and that he was later told it was done to provide more of a buffer for the units to the east.
- 43 2. The Applicant agreed that any revisions to the previously approved plans and exhibits (as presented  
44 with this application) that are not consistent with the application's narrative (which states that the  
45 only change is the relocation of the footprint lot and building footprint), shall be considered null and  
46 void. This specific meaning of this was clarified by the Applicant and agreed to.

3. The Applicant agreed that after the plat has been recorded, a Zoning Permit is required and an associated Certificate of Compliance is required after construction is complete (and prior to occupation/use of the new structures).
4. The Applicant agreed that the applicant shall submit revised deeds (that account for changes to the association land and footprint lots) and any other associated legal instruments for all impacted lots for review and approval by the Town Attorney, that all requested revisions will be complete before the Plat may be recorded, and that only instruments approved by the Town may be recorded in the Town of Milton Land Records.
5. The Applicant agreed to submit \$500 to cover the legal review of the deeds and any other required legal instruments by the Town Attorney, and that any funds not expended on the legal review will be refunded to the Applicant.
6. The Applicant agreed to submit one paper or electronic .PDF version of the revised final Plan and Plat for review and approval by Staff prior to submitting the mylar, and to submit one full-sized (to scale) paper Final Plat and one 11x17 paper plat depicting the requested changes, to be maintained in the Planning Office's application file.
7. The Applicant agreed that the final Plat shall be submitted on mylar (18" x 24"), signed by the licensed surveyor and the Chair of the DRB, and recorded in the Town Clerk's Office within 180 days of the date of the DRB's Final Approval Decision, that final approval expires if not filed within 180 days unless extended by the Zoning Administrator for pending local or state approvals. The Applicant also agreed that in the event a subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void.
8. The Applicant agreed that this project shall be completed, operated, and maintained as set forth in the plans and exhibits as approved by the Development Review Board and on file in the Department of Planning and Economic Development, and in accordance with the conditions of this approval.
9. The Applicant agreed that all conditions of the original DRB approval of 2004 and subsequent amendments are in full force and effect except as amended therein and further amended herein.
10. The Applicant agreed that no changes, erasures, modifications, or revisions, other than those required by this Decision, shall be made on the Plat or Plans after approval unless a revised Plat and Plan is first submitted to the Department of Planning and Economic Development for DRB approval and that if a subdivision plat is recorded without complying with this requirement, the Plat shall be considered null and void.
11. The Applicant stated that they do not see a need to obtain a Project Review Sheet (PRS) from the Permit Specialist in the District 4 Regional Office of the Agency of Natural Resources. The Chair instructed the Applicant to check in with the Agency of Natural Resources to let the Agency make that determination, and to provide a copy of their response to the Town. The Applicant agreed.

There was some discussion of the waivers again, and the Chair read through them. Staff asked that, at a minimum, the elevations to be submitted. The Applicant stated they would verify the details of any easements and submit any changes necessary. The Chair stated all seven requested waivers are granted.

MOTION by Conley to APPROVE the PUD Site Plan Amendment for 20 Clifford Drive Units 101 & 102, subject to the conditions discussed above; SECOND by Forgan. UNANIMOUSLY APPROVED.

Hearing no further questions or comments, the Chair closed the Hearing at 8:45 p.m.

## 7. OTHER BUSINESS

### 7(A). Staff Update

1 Staff updated the DRB on the upcoming April 28, 2016 meeting, which is full with four hearings scheduled;  
2 and the May 12, 2016 meeting, which has three hearing scheduled. Staff gave a brief description of each.  
3 The Chair questioned whether or not certain Flood Hazard applications necessarily need to be heard by the  
4 DRB. Staff explained that it's simply a matter of how the regulations are written, and if there is a problem  
5 with the regulations the Planning Commission should be informed.  
6

7 **8. MINUTES**

8 **8(A). Minutes of March 24, 2016**

9 MOTION by Forgan to APPROVE the Minutes of March 24, 2016 as written; SECOND by Conley.  
10 Unanimously APPROVED.  
11

12 **9. DELIBERATIVE SESSION**

13 None.  
14

15 **10. ADJOURNED**

16 MOTION by Conley to adjourn at 9:01 p.m.; SECOND by Forgan. Unanimously APPROVED.  
17

18 Minutes approved by the Commission this \_\_\_\_\_ day of \_\_\_\_\_, 2016.  
19

20 \_\_\_\_\_  
21 Bruce Jenkins, Chair

/kt

22 \_\_\_\_\_  
23 Draft filed with the Town Clerk this 19<sup>th</sup> day of April, 2016.  
24

25 Filed with the Town Clerk this \_\_\_\_\_ day of \_\_\_\_\_, 2016.