

**TOWN OF GEORGIA
PLANNING COMMISSION
FINDINGS OF FACT, CONCLUSIONS & ORDER**

**NOTICE OF DECISION
PC-16-20
Owner: Terry and Robert Rooney**

Final Plat and Boundary Line Adjustment Approval

This matter came before the Georgia Planning Commission on the application of Terry and Robert Rooney, hereafter referred to as the Applicants, for a Boundary Line Adjustment of two lots owned by the Applicants and Final Plat Review of a 5-lot subdivision of properties located at 4141 Ethan Allen Highway. A Notice of Public Hearing was duly published on August 7, 2020, and all adjoining property owners were notified.

The Planning Commission held a public hearing on August 25, 2020. The hearing was conducted over the “Zoom Internet” internet virtual platform. Peter Mazurak, of Trudell Consulting Engineers and Terry Rooney were present and represented the applicants.

Applicant submitted plans entitled, “Rooney, 4141 Ethan Allen Highway, Georgia VT”, prepared by Peter Mazurak, P.E. Said plans consisted of 3 sheets labeled as:

Sheet C2-01: Phase 2 Overall Site Plan, dated 7/17/2020.

Sheet C2-02: Phase 2 Partial Site Plan, dated 7/17/2020.

Sheet C2-03: Phase 2 Partial Site Plan, dated 7/17/2020.

Applicant submitted a subdivision plat entitled, “Subdivision Plat for Terry & Robert Rooney, Ethan-Allen Highway (RT. 7), Georgia, Vermont, prepared by TCE Engineering Survey, dated 08/28/19.

Based on the above-mentioned public hearing, plans submitted, and additional documents contained in the planning file for this proposal, the Planning Commission enters the following Findings of Fact, Conclusions and Order.

FINDINGS OF FACT

NOTE: The application, any and all relevant evidence presented to the Commission, and the minutes of the hearing conducted by the Town of Georgia Planning Commission on August 25, 2020, and the minutes of the Preliminary Plat Review conducted on May 12, 2020 and Sketch Plan Review conducted by the Town of Georgia Planning Commission on January 22, 2019, shall be considered part of the Findings of Fact and kept as part of the permanent record of the applicants. This official record shall provide additional basis for the Commission’s decision.

1. Robert and Terry Rooney, hereafter referred to as Applicants, are requesting a boundary line adjustment between parcels located at 4141 Ethan Allen Highway in the AR-2 and AR-3 zoning districts. A Boundary Line Adjustment was approved administratively on October 3, 2019, which reduced Parcel 11596000 from 67.2 acres to 14.69 acres, Parcel 11603000 increased from 11.99 acres to 64.5 acres. Applicants are proposing the conveyance of 4.6 acres of land located on the eastern side of Parcel 11603000, reducing

the parcel to 10.01 acres. Parcel 1159603000 would become 69.02. The boundary line adjustment would not affect road frontage and does not create irregular shaped lots.

2. Applicants are requesting Final Plat review for a 5-lot Planned Residential Development of Parcel 11603000 containing 10.01 acres following the above said Boundary Line Adjustment. The parcel contains a barn and is benefitted by 337.7 +/- feet of road frontage on Ethan Allen Highway. The parcel is also benefitted by a shared 60' right-of-way from Ethan Allen Highway. The 5 residential lots are proposed to be between .82 and 6.33 acres in size. The parcel is located entirely within the AR-2 zoning district. A 5.45-acre open space easement located over Lot-6 is proposed. The proposed open space contains four individual wastewater mound systems. The four wastewater systems are proposed to service lots 5, 6, 7, and 8. Lot-4 contains an individual onsite wastewater system and an existing barn. Individual drilled wells are proposed on lots 4, 5, and 6. A shared drilled well located within a well easement on Lot 7 is proposed for lots-7 and 8. Lots 4 and 5 have the required road frontage, however, Applicants are requested a waiver of the required road frontage for lots 6, 7, and 8. Applicants are proposing all five lots access Ethan Allen Highway from a shared 60' right-of-way easement.
3. The Planning Commission conducted a preliminary plat review on May 12, 2020. See document file PC-08-20. The Planning Commission conducted a sketch plan review on January 22, 2019. See document file PC-04-19 containing maps, plans, and correspondences.
4. The public hearing was conducted over the "Zoom Meeting" internet virtual platform. The following members of the Planning Commission were present for the Boundary Line Adjustment/Final Plat public hearing on August 25, 2020, constituting a quorum: Suzanna Brown, Greg Drew, Maurice Fitzgerald, Emily Johnson, Edward Simon, and Tony Heinlein. David Vincent came into meeting at 8:45 p.m. and was not present during the hearing and did not vote. See the official meeting minutes for a list of others present at the meeting.
5. The regulations in effect at the time of the decision: Town Plan, last amended January 2017; Town of Georgia Development Regulations, last amended October 14, 2013.

CONCLUSIONS

1. This application was reviewed as a major subdivision pursuant to the requirements and standards outlined in Article 4, Subdivision Approval, of the Town of Georgia Development Regulations, the AR-1 (Agricultural / Residential) zoning district under Article 2, Zoning Districts, Land Uses and Dimensional Standards, Site Plan Standards under Article 3, Section 3.3, Planned Unit Development requirements under Article 3, Section 3.5, and Article 7 Planning and Design Standards, of the Town of Georgia Development Regulations. The application was deemed consistent with the above mentioned standards and requirements.

2. The approval of the Final Plat/Boundary Line Adjustment is based on all Final Plat/Boundary Line Adjustment documents, Preliminary and Sketch Plan documents contained in the “Robert and Terry Rooney, 4141 Ethan Allen Highway, Georgia VT, Proposed Subdivision” files.

ORDER

Based on the Findings of Fact and Conclusions set forth above, the Georgia Planning Commission approves the Final Plat for a 5-Residential Planned Residential Development with the following conditions:

1. The final Mylar survey (s) and site plan(s) shall be signed by the chair of the Planning Commission and filed with the Town Clerk within 180 days of the Planning Commission’s final approval. One 90-day extension may be granted by the Planning Commission.
2. Prior to recording the final Mylar’s, boundary markers shall be set at all points specified on the Survey Plat Mylar including the intersection of the right-of-way easement and property lines, excluding the centerline of the private road, and a letter from a licensed land surveyor shall be submitted to the Planning Coordinator stating same.
3. Prior to the issuance of any land development permits, the Mylar’s shall be filed in the Land Records of the Town of Georgia.
4. Within 180 days of the date of this decision a Mylar and one scaled paper copy of the final survey plat must be completed by a licensed land surveyor and submitted to the Planning Coordinator. The survey shall indicate the following.
 - a) Proposed subdivision name or identifying title, the name of the municipality, the name and address of the record owner, the name, license number and seal of the licensed land surveyor, the boundaries of the subdivision and its general location in relation to existing street, scale, date, and true north point.
 - b) The zoning district designation of the area to be subdivided and any zoning district boundaries affecting the parcel within the blocks.
 - c) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distance, and tangent bearings for each street.
 - d) Lots within the subdivision numbered in alternating order.
 - e) Permanent reference monuments including lot corner markers and all lot lines at the point of intersections of the right-of-way easement shall be clearly indicated. Monuments shall be set at all corners and angle points of the boundaries of the subdivision and at intersections of the property lines and right-of-way easement.
 - f) Rights of way with metes and bounds calculated along the centerline of said rights of way.
 - g) A 10’ wide sidewalk easement located on Lot-5 and Lot-4 with metes and bounds calculated.
 - h) The well easement located on Lot-7 in favor of Lot-8 with metes and bounds calculated.

- i) The 15' wide tree/shrub easement located on Lot-5 with metes and bounds calculated.
 - j) The 6.33 +- acre common land easement with metes and bounds calculated.
 - k) Deed reference, tax map reference.
 - l) Names and deed reference of all abutting landowners.
 - m) Planning Commission and Town Clerk signature blocks.
5. The Rear lot lines of Lot-7 and Lot-8 shall be moved and be located east of the wetland buffer.
 6. All front property lot lines shall be located at the center line of the portion of the 60' right-of-way easement running north to south and parallel with Ethan Allen Highway.
 7. The rear lot line of Lot-6 shall be removed, and the entire open land easement shall be included with Lot-6.
 8. Lot-6 acreage to be shown as 6.33+- acres. The common land shall be delineated as a 5.45 +- acres easement, shown with metes and bounds, on Lot-6.
 9. The Final Plat plans shall be accompanied by a vicinity map drawn at the scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.
10. Within 180 days of the date of this decision a Mylar and one scaled paper copy of the Final Site Plan shall also be submitted to the Planning Coordinator. Site plan details shall include the following:
 - a) Lots within the subdivision numbered in alternating order.
 - b) Building envelopes showing proposed setbacks, including a 50' setback around the entire PUD, except for the rear setback of Lot-7 and Lot-8 which shall be 25'. Front setbacks shall be 75' from the center line of the private road.
 - c) Calculated metes and bounds for all rights of way and easement areas.
 - d) Wastewater details with associated isolation areas, calculated metes and bounds easements.
 - e) Drilled wells and well isolation areas.
 - f) Drilled well easement located on Lot-7 in favor of Lot-8.
 - g) Common land easement on Lot 6 in favor of Lots 4, 5, 7, and 8.
 - h) Drainage details.
 - i) Erosion control details.
 - j) Stormwater details.
 - k) Contour lines at a minimum of 5' intervals.
 - l) Existing and proposed utilities (power lines serving each proposed dwelling).
 - m) Existing and proposed driveways with turnarounds.
 - n) Landscaping details, including a list of numbers, types and size of trees and shrubs to be planted within the 15' easement located on Lot-5.
 - o) Typical cross sections of the proposed grading of roadways.
 - p) Natural features of the proposed site including: Wetlands with associated required buffers, streams with associated required buffers, prime agricultural soils, rock outcroppings, and slopes > 25%.
 - q) Planning Commission and Town Clerk signature blocks.

11. The Site Plan As part of the Final Plat application, the Applicants shall accurately delineate the proposed Common Land (Open Space). The following language shall be placed on the Mylar for the purposed common area: ***“Open space easement to be maintained by a Homeowners Association of lots 1-6. Reference relevant deeds and covenants for purpose and restrictions; no further development or subdivision of the common land. No maintenance shall occur within the wetland or wetland buffer which shall remain natural.”***
12. The Site Plan Mylar shall show boulders along the section of wetland buffer running east to west not more than 20’ apart, withing the common land located on Lot-6. Said boulders shall remain in perpetuity. The following language shall be placed on the submitted Mylar as a note stating, **“Boulders spaced not more than 20’ apart as delineated on this Mylar shall remain in perpetuity.”** Prior to the issuance of a Certificate of Occupancy for any dwelling constructed, applicant shall submit a letter by a registered surveyor stating said boulders have been placed, as permanent markers, on the wetland buffer located from east to west of the common land located on Lot-6, not more than 20’ apart.
13. The Final Plat plan shall be accompanied by a vicinity map drawn at the scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.
14. The building height for Lot 5 shall be restricted to a 1 ½ story dwelling. The following language shall be placed on the submitted Mylars as a note stating, **“Construction on Lot 5 shall be restricted to a maximum of 1 ½ story building and not exceed 25’ in height, measured from the pre-construction elevation at the high point of the foundation”**. Language shall be added to the deed stating same, at the time of transfer of the parcel.
15. A row of a mix of a minimum of six – 2” caliper- Sugar Maples (*Acer saccharum*) and 20 Lilacs shrubs shall be planted and maintained in perpetuity, by the Homeowners Association, along Ethan Allen Highway on Lot 5. The Site Plan Mylar shall depict the plantings and delineate a 15’ common easement for the maintenance of said Sugar Maples and Lilacs shrubs, native to Vermont. Applicants shall submit to the Zoning Administrator, a letter from a licensed engineer stating that the plantings have been completed prior to the issuance of a Certificate of Occupancy for Lot-5. The following language shall be placed on the Site Plan Mylar stating, **“The required six Sugar Maple trees and 20 Lilac shrubs shall be maintained in perpetuity by the Homeowners Association.”**
16. A 10’ wide easement, for a future sidewalk, shall be delineated along the Ethan Allen Highway boundary lines of Lot- 4 and Lot-5. Said sidewalk easement shall be granted to the town of Georgia.

17. The private road shall accurately delineate showing a width of 18' with 2' shoulders, as well as the required hammerhead and stormwater details.
18. The requested waiver for of the required road frontage in lieu of a 60-foot-wide ROW for lots 4, 5, 6, 7 and 8 was approved by Planning Commission.
19. The requested waiver for the 25' rear property line setback on Lot-7 and Lot-8 was approved by Planning Commission.
20. The applicant shall construct the private road, accessing the 5-lot PUD to a width of 18' with 2' shoulders. Except for said road width, the road shall meet the Private Road Construction Standards, under Section 7.11, Paragraph A, Subsections 7 and 8, of the Georgia Development Regulations. The road shall be paved with a minimum of 2" of asphalt pavement.
21. Prior to the issuance of any Certificate of Occupancy for any dwelling constructed within the subdivision the private road shall meet the requirements set forth within the Town of Georgia Ordinance Regarding Street Naming and Street Addressing, dated 11/27/98
22. This decision is contingent on Applicant receiving an approved access permit from Vermont Department of Transportation.
23. The private driveways shall be delineated on the Site Plan Mylar and shall include a hammer head type turn around on each driveway. Any driveways must be constructed in accordance with the driveway standards of the Town of Georgia and more specifically, they must be constructed in a way as to:
 - Have a minimum culvert size of 15" in diameter with 10" of compacted gravel placed over top of the culvert;
 - Prevent stormwater runoff from the driveway from entering the roadway;
 - Allow for a turn around to prevent backing up into the private road,
24. Prior to issuance of the Certificate of Occupancy for the first lot built on, the Applicants, and assigns and successors shall submit to the Zoning Administrator, a letter from a licensed engineer stating that the private road accessing lots 4, 5, 6, 7 and 8, have been constructed to a width of 18' with 2' shoulders, and conform to Section 7.11, Paragraph A, Subsections 7 and 8; Private Road Construction Standards, and Private Road Ditching & Culverts, and has been built to design specifications.
25. Prior to issuance of the Certificate of Occupancy for the first lot built on, the Applicants, and assigns and successors shall submit to the Zoning Administrator, a letter from a licensed engineer stating that the common land located on Lot-6 has been permanently marked with boulders at the corners of the rear area of Lot-6 non-open land.
26. Prior to issuance of the Certificate of Occupancy for the last lot built on or 3 years from the date the Mylars are filed, whichever is sooner, Applicants, assigns, and successors

shall submit to the Zoning Administrator, a letter from a licensed engineer stating that the private road accessing lots 4, 5, 6, 7 and 8, have been paved to a minimum of 2” of asphalt pavement.

27. Prior to issuance of the Certificate of Occupancy for Lot-7 Applicants, assigns, and successors shall submit to the Zoning Administrator, a letter from a licensed engineer stating that the a split rail fence has been erected along the north side of the 20’ Open Space easement located at the south boundary line of Lot 7. The maintenance of said fence shall be the responsibility of the Homeowners Association.
28. Legal documents addressing the conveyance of all easements through the creation of a homeowners’ association (HOA) including the responsibility of private road repairs, improvement, maintenance, replacement and snow removal; and the responsibility for construction, improvement, maintenance, repair, replacement and ownership of all open space, or shared public infrastructure (stormwater, wastewater, water, open space, split rail fence, tree and shrubs , restrictions of the common land, etc.), shall be submitted to the Town of Georgia Planning Coordinator (planning@townofgeorgia.com) for independent technical review by the Town’s attorney. A check for \$500.00 shall be submitted to The Town of Georgia Treasurer to be held in escrow for payment of legal review by the Town’s attorney. Any unused portion of said \$500.00 shall be returned to the Applicants after all requested revisions and final review has been completed. If the costs of review by the Town’s attorney exceeds the escrowed amount, the Applicants shall be required to pay any and all fees for review by the Town’s attorney in excess of the escrowed \$500.00 prior to final Mylar recording. Legal documents requiring the Town’s signature will need to be approved by the Selectboard. **Approved legal documents shall then be executed and recorded in the Georgia Land Records prior to final Mylar recording.**
29. Road signs for the private roads will be required prior to the issuance of any Certificate of Occupancy Applicants, assigns, and successors shall submit to the Zoning Administrator, a letter from a licensed engineer stating that have been installed as required. Said signs will be of a standard approved by the Town in accordance with E-911 Street Address Ordinances and at the expense of the Applicants.
30. A reflective 911 street number, located at each residence, visible from the private road, shall be installed at the owner’s expense. Prior to the issuance of any Certificate of Occupancy for any dwelling constructed within the subdivision, Applicants, assigns, and successors shall submit a letter certifying the signs have been installed.
31. All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector/refractor areas from view from points beyond the lot.
32. Prior to commencement of any individual lot development activities, Applicants, assigns, and successors shall obtain the requisite zoning permit(s) from the Town Zoning Administrator.

33. The development plan shall fit the topographic, soil and vegetation characteristics of the site with a minimum of clearing and grading. Existing natural drainage patterns shall be preserved wherever possible. Only areas where active construction is taking place should be exposed. All other areas shall be protected by vegetative and structural control measures. Seed and mulch will be applied as soon as possible to disturbed soils.
34. Prior to the issuance of any Certificate of Occupancy for any dwelling constructed within the subdivision, Applicants, assigns, and successors shall record a Vermont Building Energy Standards Certificate in the Land Records and a copy of same shall be submitted to the Zoning Administrator.
35. Beyond what is noted in this letter, Applicants are responsible for securing any and all necessary permits to complete this project.
36. Prior to final Mylar recording, the conditions of this decision shall be recorded in the Georgia Land Records.
37. This project shall be completed, operated, and maintained as set forth in the plans and exhibits as approved by the Planning Commission and on file in the Town Office, and in accordance with the conditions of this approval.
38. No changes, erasures, modifications, or revisions other than those required by this decision shall be made on the subdivision plat approved by the Planning Commission. In the event the subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void.
39. All plans, drawings, and conditions/requirements etc. listed above or submitted at the hearing and used as the basis for the decision to grant this permit shall be binding on the Applicants, and their heirs and assigns. Projects shall be completed in accordance with such approved plans and conditions. Any deviation from the approved plans shall constitute a violation of permit and be subject to enforcement action by the Town.

Dated at Georgia, Vermont, this _____ day of September 2020.

By _____
Suzanna Brown
Georgia Planning Commission Chair

Vote to approve: In favor - 4, Opposed - 0, Abstain - 0.

In Favor: Gregory Drew, Emily Johnson, Edward Simon, Maurice Fitzgerald, Tony Heinlein, and Suzanna Brown.

Opposed: None. Members abstaining: None.

Members absent during hearing: David Vincent.

30 Day Appeal Information:

An “interested person”, who has participated in this proceeding, may appeal this decision to the Vermont Environmental Court within 30 days of the date this decision was signed. Participation shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. See V.S.A. Title 24, Chapter 117, Section 4465b for clarification on who qualifies as an “interested person”.

Notice of the Appeal, along with applicable fees, should be sent by certified mail to the Vermont Environmental Court. A copy of the notice of appeal should also be mailed to the Town of Georgia Planning Commission at 47 Town Common Rd. North, St. Albans, VT 05478-6089. Please contact the VT Environmental Court for more information on the filing requirements, fees, and current mailing address.