

Case Studies from Tim Taylor, Chair of the District 3 Environmental Commission

1. In 1982 George Huntington applied to build 10 houses on 20 acres of Primary Agricultural Soils. The parcel was located next to our small, 15 acre vegetable farm, Crossroad Farm, which we had recently established in 1980. The size of the development and its proximity to our small farm threatened the future of the farm. We were granted party status and testified as to the difficulties associated with farming surrounded by so many homes. The applicant owned other lands which might have been developed across the road, much further from the farm.

The District 3 Commission denied the application based on the sub criteria of 9B. They held that the applicant had not demonstrated that he could not develop other soils he owned, that there was no effort to reduce the impact upon the Ag. Soils and the development as proposed would jeopardize an on going agricultural enterprise. Mr. Huntington asked us if we would like to buy the property and we did.

The 20 acres became the cornerstone of our farm. The parcel possesses early light Windsor soils which permit us to get an early jump on the season. We built our irrigation pond on this parcel. I can honestly say that we would not have been able to keep farming these past 37 years without this parcel. We have since conserved this parcel and an additional 37 acres and it will continue to be farmed.

2. In 2015, Limlaw Pulpwood, Inc. filed an application for an Act 250 permit for a project generally described as installing and operating a wood chipping operation including a chipper, screener, and truck scales. The project also includes construction of a vegetated berm, and enclosures around a portion of the chipping machinery to control noise and dust. They supply wood chips for heating including the National Life Building in Montpelier.

In response to complaints from a neighbor they built the berm to mediate noise without securing an Act 250 permit. Unbeknownst to the applicant, he constructed approximately half the earthen berm in the Erosion Hazard Floodway of the River Corridor as defined by ANR. The berm measures approximately 20 feet high by 135 feet long by 60 feet wide and was stabilized with erosion control matting and seeding.

The DEC Rivers program recommended that the application be denied under the Criterion 1(D). Instead we opted for a permit condition prohibiting the Applicants to place bank armoring or to channelize the East Orange Branch for the purpose of protecting the berm. A permit condition was included requiring the Applicants to plant additional trees between the berm and the top of the stream bank. The Commission reasoned that though a portion of the berm is located within the River Corridor, the berm is outside the floodway (inundation) area and is set back 50 feet from the top of the stream bank. The Project, including the berm, is at least five feet above the base flood elevation at the access road and 13 feet higher than the base flood elevation at the

stream's "elbow," the top of the stream bank. It is not known how long it will take for the East Orange Branch to erode the stream bank adjacent to the berm.

I bring this case study to the Commission as an example of the balance between the technical expertise of ANR and the practical world of the District 3 Commission. If the decision had been left entirely to ANR, they would have most likely required the berm to be moved. We balanced the environmental consequences against the financial burden to the applicant and decided the berm should remain in place, subject to conditions.