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SUSAN GILFILLAN  
JOSEPH A. FARNHAM  
KEVIN J. COYLE\*  
KIMBERLEE J. STURTEVANT  
COLIN K. McNEIL

271 SOUTH UNION STREET  
BURLINGTON, VERMONT 05401

TELEPHONE  
(802) 863-4531

TELECOPIER  
(802) 863-1743

October 9, 2008

(\*ALSO ADMITTED IN N.Y.)

Brian Dunkiel, Esq.  
Shems, Dunkiel, Kassel & Saunders PLLC  
91 College Street  
Burlington, VT 05401

Re: Intervale Lots 4, 5 and 9

Dear Brian:

It is the City's understanding that there is a pending transaction between the Intervale Center (IC) and Chittenden Solid Waste District (CSWD) whereby CSWD will lease lots 4 and 9 from IC and take over the Intervale Compost Products (ICP) operations currently occurring on those lots. As you are aware, the City is concerned with regard to alleged zoning violations occurring at lots 4 and 9 as well as 5. However, the City has been notified of IC and CSWD's plans to revert the property to acceptable farming practices thereby exempting these activities from City zoning regulations. CSWD has inquired to whether the proposed timeframe for compliance is acceptable to the City. As set forth below, based upon our understanding of the proposed timeline and current facts, it is acceptable.

With regard to lot 5, the City has verified that all composting activities have been removed from this site, however there currently remains an unpermitted road and lagoon. Our understanding is that this lot will be converted back to an agricultural use. If both of the road and lagoon are deemed acceptable agriculture practices by the Vermont Agency of Agriculture, in the City's opinion, the zoning violations on lot 5 shall be cured.


With respect to lot 9, the City has determined that the windrows are not configured as originally approved (zoning permit 94-315) by the City. However, it is our understanding that by July 1, 2010, the northern half of lot 9 will be free of compost and returned to agricultural use, and by July 1, 2011 the entirety of lot 9 will be compost free and returned to agricultural use. If the number of windrows is reduced and ultimately the lot is returned to acceptable agriculture practices by the Vermont Agency of Agriculture, in the City's opinion, the zoning violations on lot 9 would also be cured. Further, under the circumstances, the City is satisfied with the timeframe set forth for restoration of lot 9.

There are more zoning concerns on lot 4 including unpermitted sheds, an increase in the number of bunkers beyond those permitted, the addition of a parking area, the conversion of a barn into an office without proper zoning permits, and zoning permits that have not received certificates of occupancies and thus are not closed out. It is our understanding that the plan for lot 4 is to also return it to acceptable agricultural use by July 1, 2011. Such acceptable agricultural practices may include composting, but it will be at a level that conforms with the standards required to be deemed agricultural and therefore subject to acceptable agriculture practices administered by the Vermont Agency of Agriculture. Again the City is satisfied with the timeframe set forth for restoration to acceptable agricultural practices.

While the City is satisfied with the general timeframes provided for the resolution of this matter, it will be seeking an agreement that includes a stipulation that if these uses/structures are not reverted to agricultural practices acceptable by the Vermont Agency of Agriculture by July 1, 2011, IC will either obtain the appropriate municipal approvals or remove the use/structure. Further, it is our understanding that there will need to be some work accomplished to flood proof some of the existing structures, the City looks forward to working with IC and CSWD to address those items and believes that an outline of the steps necessary to do so may be incorporated in the referenced agreement. Also, the return to agricultural use would render the activities on each lot outside of the City's zoning jurisdiction, however, it is our understanding that it would still subject to the same Flood Management regulations as administered by the Federal Emergency Management Agency, the Vermont Agency of Agriculture and the Vermont Department of Environmental Conservation. Their agreement as to this continued use would then be required.

Please do not hesitate to contact me with any questions or concerns.

Very truly yours,

  
Kimberlee J. Sturtevant  
Assistant City Attorney

cc: Thomas R. Melloni, Esq.  
Rob Evans, CFM, VT DEC  
Kevin Merli, Director, Mitigation Division, FEMA Region I  
Paul A. Morey, CFM, Mitigation Division, FEMA Region I  
Phil Benedict, ARMES Director, Vermont Agency of Agriculture  
Mayor Bob Kiss  
Kenneth A. Schatz, Esq., Burlington City Attorney  
David E. White, Director, Burlington Department of Planning and Zoning  
Kenneth M. Lerner, Burlington Zoning Administrator  
Jeanne Francis, Burlington Code Enforcement Officer