

DEVELOPMENT REVIEW BOARD

Meeting Type:..... **Regular Meeting** (2nd and 4th Thursdays of each Month)
Date:..... **Thursday, November 10, 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**

PUBLIC NOTICE OF MEETING & HEARINGS

Bruce Jenkins, Chair

David Conley, Vice Chair

Henry Bonges, Clerk

Julie Rutz

Robert Brisson

AGENDA

1. Call to Order
2. Attendance
3. Agenda Review
4. Public Forum

The public may attend and be heard in accordance with Vermont's Open Meeting Law (1 V.S.A. 312).

5. Old Hearings/Business

5(A). Bylaw Review & Goals

Action: Review Bylaws and approve changes; Identify any goals for year.

6. New Hearings/Business

6(A). Boundary Line Adjustment Hearing: *James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty, Owners/Applicants request Boundary Line Adjustment approval to adjust the property boundary between two lots located at 568 Westford Road, described as Tax Map 16, Parcels 36 and 37, and SPAN 12774 and 12349, respectively. The proposal would result in a total transfer of 0.20 acres from Parcel 36 to Parcel 37. The subject properties contain a total of approximately 334.2 acres and are located within the Agricultural/Rural Residential (R5), Flood Hazard (FH) and Forestry/Conservation (FC) Zoning Districts, and the East Milton Planning Area.*

6(B). Minor Conventional Subdivision Sketch Plan Hearing: *James & Janet Harrison, Owners/Applicants request Sketch Plan approval for a 3-lot Minor Conventional Subdivision located on Westford Road, described as SPAN #12349, Tax Map 16, Parcel 37. The lots would be accessed from Westford Road and served by on-site water and wastewater. The subject property contains a total of 316 acres and is located within the "Agricultural/Rural Residential" (R5), "Forestry/Conservation (FC), and "Flood Hazard" (FH) Zoning Districts and "East Milton" Planning Area.*

6(C). Appeal of a Decision of the Zoning Administrator: *Hubert McCormick, Owner & Appellant, is appealing the denial of Zoning Permit application # 2016-142 by the Zoning Administrator. The permit application is to construct a single-family dwelling within a previously approved Planned Unit Development (PUD). The appellant contests the stated reasons for the denial that: 1) the Interim Zoning Bylaws restrict the proposed use in the site's zoning district per Article II, Section B(i) and 2) there are multiple conditions of the Development Review Board's Final PUD Plan and Site Plan approval dated 9/24/10 that have not been met. The PUD's subject property is described as SPAN #12284, Tax Map 7 and Parcel 15-2, contains 126.86 acres, and is located within the "Checkerberry" (M4) Zoning District and Town Core Planning Area.*

7. Other Business, Planning Staff Report

8. Minutes of October 27, 2016

9. Possible Deliberative Session

Private session for deliberations on applications and written decisions in accordance with 1V.S.A. 312.

10. Adjournment



Jeffrey Castle, Town Planner

Filed in the Town Clerk's Office. Posted in the Municipal Building Lobby, Planning & Economic Development Department, Town's Facebook page, Town's DRB webpage, Middle Road Market, Milton Beverage, & Rene's Discount Beverage. E-mailed to the Regional Planning Commission, Burlington Free Press, Milton Independent, & LCATV.



PLANNING DIVISION

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 (802) 893-1186
 miltonvt.org

DEVELOPMENT REVIEW BOARD STAFF REPORT

Hearing Date: November 10, 2016	
Case No: DRB 2016-37	
Application(s): Boundary Line Adjustment.	
Application Received: October 4, 2016	
Application Deemed Complete: October 6, 2016	
Staff Report Finalized: Monday November 7, 2016	
Applicant(s): James and Janet Harrison PO Box 2098, Georgia, VT 05468 and Leonard Perry & Sharon Flaherty 568 Westford Road, Milton, VT	Owner(s): James and Janet Harrison PO Box 2098, Georgia, VT 05468 and Perry Flaherty Family Trust 568 Westford Road, Milton, VT
Engineer/License: Peter Mazurak Cross Consulting Engineers, PC 103 Fairfax Road St. Albans, VT 05478	Surveyor/License: None
E-911/Postal Address: 568 Westford Road	
Tax Map, Parcel(s): 16, 37 & 36	
School Parcel Account Number(s) (SPAN): 12349 & 12774	
Deed(s): Book 452, Page 101-102 & Book 468, Page 536	
Existing Size: 328 acres & 6.2 acres	
Zoning District(s): Agricultural Rural Residential "R5", Forest Conservation "FC", Flood Hazard "FH"	
Comprehensive Plan Planning Area/Sub-Area: East Milton Planning Area	
Location: North Side of Westford Road at Milton-Westford boundary.	

INTRODUCTION

Noticed Summary of Proposal: James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty, Owners/Applicants request Boundary Line Adjustment approval to adjust the property boundary between two lots located at 568 Westford Road, described as Tax Map 16, Parcels 36 and 37, and SPAN 12774 and 12349, respectively. The proposal would result in a total transfer of 0.20 acres from Parcel 36 to Parcel 37. The subject properties contain a total of approximately 334.2 acres and are located within the Agricultural/Rural Residential (R5), Flood Hazard (FH) and Forestry/Conservation (FC) Zoning Districts, and the East Milton Planning Area.

Comments: Jeff Castle, Town Planner, herein referred to as staff, have reviewed the application, materials and plans submitted and have the following comments.

Ethical Disclosure: Staff herein notes that there are no known direct or indirect conflicts of interests between Staff and the owner, applicant, or noticed interested parties.

Hearing Process/Procedure: Applicants and interested persons can learn more about the Development Review hearing process and procedure at <http://miltonvt.org/government/boards/dr.html>.

APPLICATION, JURISDICTION & NOTICE

Application: This matter comes before the Town of Milton Development Review Board (DRB) for Boundary Line Adjustment approval. The application and its associated materials are maintained by the Town in the application file and are available for public inspection.

Applicant(s): The application was submitted by James & Janet Harrison and Leonard Perry & Sharon Flaherty referred to hereafter as the "applicant".

Landowner(s): The property is owned by James and Janet Harrison and by the Perry Flaherty Family Trust, Leonard Perry and Sharon Flaherty trustees. All owners are signatories to this application.

Project Consultant(s): Peter Mazurak of Cross Consulting Engineers, PC

Application Submission: The application form and associated exhibits were received by the Planning and Economic Development Department on October 4, 2016.

Application Completion: The application was deemed complete by Staff on October 6, 2016.

General Jurisdiction: Land development is subject to regulation by the Town of Milton pursuant to, but not limited to, the following: The Vermont Planning and Development Act (Act); The Town of Milton Zoning Regulations (ZR), effective January 5, 2015; the Town of Milton Interim Zoning Regulations (IZR) effective February 26, 2015; and The Town of Milton Subdivision Regulations (SR), effective June 28, 2010.

Boundary Lines Adjustment Specific Jurisdiction: SR130 states:

Subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the Town of Milton. No land shall be subdivided within the Town of Milton until the subdivider shall obtain final approval of the proposed subdivision from the Development Review Board (DRB) and the final approved subdivision plat is recorded in the Milton Land Records.

Staff notes that while Boundary Line Adjustment (BLA) is term that does not appear in the Subdivision Regulations, Milton has consistently categorized BLAs as meeting the definition of "resubdivisions" (per SR200.10) and treated them as subject to a single hearing.

Regulatory Waivers Requested: None.

Warning/Notice of Hearing: Public warning/notice was issued by the Department of Planning and Economic Development for the hearing according to Vermont Statutes Annotated Chapter 24 §4464.

Hearing: The Town Planner scheduled the hearing for November 10, 2016.

Site Visit: The DRB may schedule a site visit and recess the hearing to a subsequent meeting date if on-site observation would better inform the DRB's decision.

EXHIBITS

Application Exhibits: The following exhibits were submitted with the application and attached to the Staff Report:

- Partial Site Plan, dated November 5, 2016
- Map of Subdivision and Boundary Line Adjustment sheet 1 of 2, Dated August 5, 2016
- Map of Subdivision and Boundary Line Adjustment sheet 2 of 2, Dated August 5, 2016

Staff Exhibits: The following exhibits from staff are attached to the Staff Report.

- Technical Advisory Committee (TAC) Fire Review Sheet dated October 25, 2016;
- TAC Police Review Sheet dated October 20, 2016;
- TAC Recreation Review Sheet dated October 19, 2016;

SITE HISTORY

Background: The subject property owned by James and Janet Harrison has undergone the following development review by the DRB that Staff has found relevant to this application:

- Sketch Plan application for a 5-lot Minor Conventional Subdivision heard on March 26, 2015 was **denied**.
- Sketch Plan application for a 3-lot Minor Conventional Subdivision was approved on January 21, 2016. A final application was not received within 6 months of sketch approval. Approval has **expired**.

Zoning Compliance: The subject property currently has no known violations.

SITE, DISTRICT & AREA INFORMATION

Property Location: The subject properties are located at 568 Westford Road and an unaddressed property on Westford Road and shown on Milton's Tax Map 16 as Parcels 36 and 37. The corresponding School Parcel Account Numbers (SPAN) are 12774 and 12349.

Size/Area: According to the evidence presented, the subject parcel owned by the Harrisons is approximately 328 acres or 14,287,680 square feet. The Perry-Flaherty property is approximately 6.13 acres.

Lot	Existing Size	Proposed Size	Increase/Decrease
Harrison	328 ac	327.8 ac	-0.2 ac
Perry-Flaherty	6.2 ac	6.4 ac	+0.2 ac
Totals	334.2	334.2	0

Property Deeds: The deeds were recorded on 1/5/2015 in Book 452, Page 101 of the Town of Milton Land Records to James and Janet Harrison, Grantee and on 8/4.2016 in Book 468, Page 536 of the Town of Milton Land Records to Perry Flaherty Family Trust.

Zoning District: The site is located within the Agricultural/Rural Residential (R5) Zoning District and partially located within the FC Forestry/Conservation District described on the Town of Milton Zoning Map, last amended August 22, 2011, on record and display at the Municipal Offices and available on the Town's website. The ZR341 states that the purpose of the R5 district is to:

Provide for continued AGRICULTURE, FORESTRY and open space USES together with compatible low density residential development. Large portions of the Town have been included in this area because of a combination of circumstances, including high agricultural potential, distance from community facilities, often severe limitations to development, and natural patterns of dispersed development.

ZR481 states that the purpose of the FC district is to:

The purpose of this district is to preserve open space; to protect soils, water, and other natural resources; to protect scenic ridgeline viewsheds and vistas important to the character of the Town of Milton; to preserve forests and encourage forest-related USES; to promote AGRICULTURE and recreational USES that can benefit from the unique topography of the area; and to enable, to a limited extent, residential USES. Such residential USES are to be enabled only for land parcels necessarily located near the district boundary that are accessible without extreme land disruption; that do not contain steep slopes, unstable soils, and other natural limitations; and only for sites that have the capacity to provide safe ingress and egress. Where possible, said residential USES shall be clustered.

The undeveloped ridges and hillsides of Milton are one of Milton's principal scenic qualities and contribute significantly to the enjoyment of the rural and pastoral character of the town. The Scenic ridgelines have been identified as Georgia Mountain, Milton Pond and surrounding ridgeline, Bald Hill, Cobble Hill, Eagle Mountain and Arrowhead Mountain. In order to protect these ridgelines, no STRUCTURE or BUILDING shall be visible above the existing tree line.

The FC District has additional requirements for all uses. Since no new development or new parcel boundaries are proposed in the FC District., Staff finds that the additional requirements of ZR486 are not needed. The DRB may, however, find that the plat should include: contour lines, slope percentages, buildable envelopes, wetland delineation, navigable streams, navigable watercourses, wooded and open areas, and so forth.

Comprehensive Planning Area: The site is located within the East Milton Planning Area, as delineated in Map 2 of the 2013 Comprehensive Plan. The Plan states the following about this area (p.130):

This area has the highest potential for resource utilization and the highest concentration of natural resources in need of protection. It is recommended to encourage agricultural uses, especially diversification in agricultural uses.

Other resource utilization activities include forestry, mineral extraction and recreation. Natural resource protection is of particular concern in this area. Natural resources addressed in this plan include: mountains and ridgelines, lakes and rivers, floodplains, wetlands, high elevation areas, deer yards, endangered species habitats, and other unique natural areas.

It is the intent of this area that mostly low intensity planned unit residential developments occur, taking into account the need to provide for resource utilization activities and to protect natural resources. The encouragement of cluster developments and purchase of development rights through land trusts are important.

- Goal 9.13.1. Encourage a diversity of agricultural uses
- Goal 9.13.2. Encourage low density, well planned unit residential development, which enhances the character of the area.
 - Object 9.13.2.a. Develop standards to encourage low density, well planned unit residential developments that work with the natural features of the landscape.
- Goal 9.13.3. Promote the development of community activities for a range of ages.
 - Objective 9.13.3.a Encourage the creation of outdoor recreation facilities for children and adults.
- Goal 9.13.4. Encourage the preservation of historic sites.

Physical Characteristics/Natural Features: The property is host to significant natural resources including extensive woods, wetlands, floodplain, a stream, and statewide agricultural soil. A historic cemetery is located within the site. Water drains from the site to the Lamoille River. The area has been designated as a significant wildlife crossing of importance.

Topography & Drainage (Plan Map 5): The southern portion of the property, where new lots are proposed are sloping to the north toward existing wetlands and stream. The northern portion of the property contains a hill containing some steep slopes and draining away from the rise toward a network of mapped streams and wetlands.

Streams and Shoreline (Plan Map 6): The applicant states that there are mapped streams on the proposed lots. Water drains from the site to the Lamoille River. No alteration of any watercourse of drainage is proposed.

Wetlands (Map 6): The applicant states that there are mapped wetlands on the proposed lots which has been determined by Gilmand & Briggs Environmental. The applicant proposes no alteration of the wetlands related to the boundary line adjustment.

Soil (Map 7): The applicant states that there are some prime agricultural soils present. Staff finds soils of statewide significance are located in the areas of the proposed home sites. No disturbance is proposed for the boundary line adjustment.

Vegetation: Staff finds that the site of the proposed lots contains a mix of field, brush and forest. The applicant has stated that no vegetation will be removed.

Habitat/Wildlife Crossings (Map 9): The applicant has not stated if any Habitat or wildlife resources are present on the property. Staff finds that the property contains a Wildlife Road Crossing of level 5 “most important.” The property contains a Habitat Block of greater 1600 acres, the highest designation. Vermont Fish & Wildlife states, “Habitat blocks are areas of contiguous forest and other natural habitats that are unfragmented by roads, development or agriculture. Vermont’s habitat blocks are primarily forests, but also include wetlands, rivers and streams, lakes and ponds, cliffs and rock outcrops.”

Historic Resources: The applicant states that there are no historic resources on the site. Staff finds that Milton’s Historic Sites and Structures Survey indicates a historic come, circa 1865 located on the neighboring Perry-Flaherty property which is involved in the Boundary Line Adjustment related to this subdivision. No changes are proposed to this structure.

The property currently surrounds a historic cemetery. It has been established that the Town of Milton owns this landlocked parcel containing the cemetery, and is currently responsible for maintaining the cemetery.

Surrounding Use/Structures & Like Kind Quality: The site is surrounded by residential and agricultural uses. Staff finds that the proposed lots are of “like kind”.

EXISTING AND PROPOSED DEVELOPMENT

Existing Use: The Perry-Flaherty property currently hosts single family dwelling. The Harrison property hosts a presumed agriculture/forestry use.

Proposed Use: No change of use is proposed. The Harrison property has applied for a 3-lot minor conventional subdivision sketch plan associated with this boundary line adjustment.

Existing Improvements to be Retained: The Perry-Flaherty property contains a single family home, four sheds and two greenhouses. The Harrison property contains no existing structures and surrounds a cemetery with no access from Westford Rd.

Existing Improvements to be Removed: None

Proposed Improvements: No additional improvements are proposed as part of this boundary line adjustment.

Existing Restrictions or Covenants: the application states that there are no known restrictions or covenants.

Proposed Restrictions or Covenants: None associated with this boundary line adjustment.

DIMENSIONAL CONFORMITY

ZR150, Applicability of Dimensional Requirements:

Every USE involving the construction, reconstruction, conversion, structural ALTERATION, relocation or enlargement of a STRUCTURE must comply with the minimum LOT AREA, FRONTAGE, SETBACK areas and all other requirements specified in these Regulations for the district in which the USE occurs. A summary district dimensional table is located immediately following Articles III and IV, District Regulations.

ZR344, Dimensional Requirements: The table below shows the required dimensional requirement for the subject property's Zoning District, as well as the existing and proposed compliance.

Perry-Flaherty	Required R5	Existing	Proposed
Minimum LOT AREA (sq. ft.)	400,000	266,979	274,950
Minimum Road FRONTAGE (linear ft.)	400	682	741
Minimum FRONT SETBACK (linear ft.)	35	>35	>35
Minimum SIDE SETBACK (linear ft.)	50	>50	>50
Minimum REAR SETBACK (linear ft.)	50	>50	>50
Maximum BUILDING COVERAGE (%)	40	<40	<40
Maximum LOT COVERAGE (%)	n/a	n/a	n/a

Staff finds that this is an existing small lot and does not meet the minimum lot area requirement. The lot is being increased in size. This is a reduction in the non-conformity of the lot. The other requirements of ZR344 are met.

A very small portion of this lot occurs in the FC.

Harrison	Required R5	Required FC	Existing	Proposed
Minimum LOT AREA (sq. ft.)	400,000	600,000	14,287,680	14,270,256
Minimum Road FRONTAGE (linear ft.)	400	100	985	925
Minimum FRONT SETBACK (linear ft.)	35	35	>35	>35
Minimum SIDE SETBACK (linear ft.)	50	50	>50	>50
Minimum REAR SETBACK (linear ft.)	50	50	>50	>50
Maximum BUILDING COVERAGE	40	40	<40	<40
Maximum LOT COVERAGE (%)	n/a	n/a	n/a	n/a

Staff finds that the lot is being reduced in area and frontage and that the proposed change meets the requirements of ZR334.

ARTICLE VI, SUBDIVISION APPLICATION SUBMISSION REQUIREMENTS

SR 610.1, Final Plat for Minor & Major Subdivision Requirements: This section requires that a Final Plat show several details. The plan is not compliant with the following.

1. The Final Plat shall include the address of the owner of record and applicant, the name, license number and seal of a licensed land surveyor per SR610.1.
2. The Final Plat shall indicate the location of existing water and wastewater service in order to ensure there is no conflict between the proposed boundary line adjustment.

The submitted plat contains the proposed boundary line adjustment and a proposed subdivision of the Harrison property which is being applied for in a separate application. This application only pertains to the proposed boundary line adjustment.

3. If the applicant wishes to record only one Final Plat to finalize the proposed boundary line adjustment as well as the related proposed subdivision on the Harrison property. The boundary line adjustment and subdivision plat may not be recorded until both have been approved by the DRB and all conditions of approval have been met. If the Boundary Line Adjustment is to be finalized prior to Final Subdivision approval, the Final Plat shall not show the proposed subdivision of the Harrison Property.

SR920, Legal Data:

4. Legal Escrow: The Applicant shall submit \$500 to cover the legal review of the revised deeds and any other required legal instruments by the Town Attorney. Any funds not expended on the legal review will be refunded to the Applicant
5. Legal Review: The applicant shall submit deeds and any other associated legal instruments for all impacted lots for review and approval by the Town Attorney. All requested revisions must be complete before the Plat may be recorded. Only instruments approved by the Town may be recorded in the Town of Milton Land Records.

SR940, Filing of Final Plat

6. Staff Review of Revisions: The applicant shall submit one paper or electronic .PDF version of the revised final Plat (any any associated plans) for review and approval by Staff prior to submitting the mylar. The Applicant shall also 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. Final Plat Submission: 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 per Subdivision Regulations Section 940. Final approval expires if not filed within 180 days, unless extended by the Zoning Administrator for pending local or state approvals. In the event a subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void.

SR950, Revisions

8. Amendment: No changes, erasures, modifications, or revisions, other than those required by this Decision, shall be made on the Plat after approval unless a revised Plat is first submitted to the Department of Planning and Economic Development. In the event the subdivision plat is recorded without complying with this requirement, the Plat shall be considered null and void.

State Project Review: Per 24 VSA §4463 on subdivision review: "Any application for an approval and any approval issued under this section shall include a statement, in content and form approved by the Secretary of Natural Resources, that State permits may be required and that the permittee should contact State agencies to determine what permits must be obtained before any construction may commence." The applicant has stated that a Project review sheet was requested on July 12, 2016. Staff has not received a copy of this document.

9. The Applicant shall provide a copy of the Project Review Sheet from the Permit Specialist in the District 4 Regional Office of the Agency of Natural Resources, provide a copy to the Town, and obtain all required State permits and approvals

TECHNICAL REVIEW COMMITTEE

Technical Advisory Committee: The committee had no comments or concerns.

STAFF RECOMMENDATION

The Planning Staff recommends that the DRB **approve** the boundary line adjustment between two lots located at **568 Westford Road**, described as Tax Map 16, Parcels 36 and 37, and SPAN 12774 and 12349, respectively

Respectfully Submitted:



Jeffrey Castle, Town Planner

ATTACHMENTS:

- Partial Site Plan, dated November 5, 2016
- Map of Subdivision and Boundary Line Adjustment sheet 1 of 2, Dated August 5, 2016
- Map of Subdivision and Boundary Line Adjustment sheet 2 of 2, Dated August 5, 2016
- Technical Advisory Committee (TAC) Fire Review Sheet dated October 25, 2016;
- TAC Police Review Sheet dated October 20, 2016;
- TAC Recreation Review Sheet dated October 19, 2016;

COPIES TO:

- Applicant(s)
- Engineer

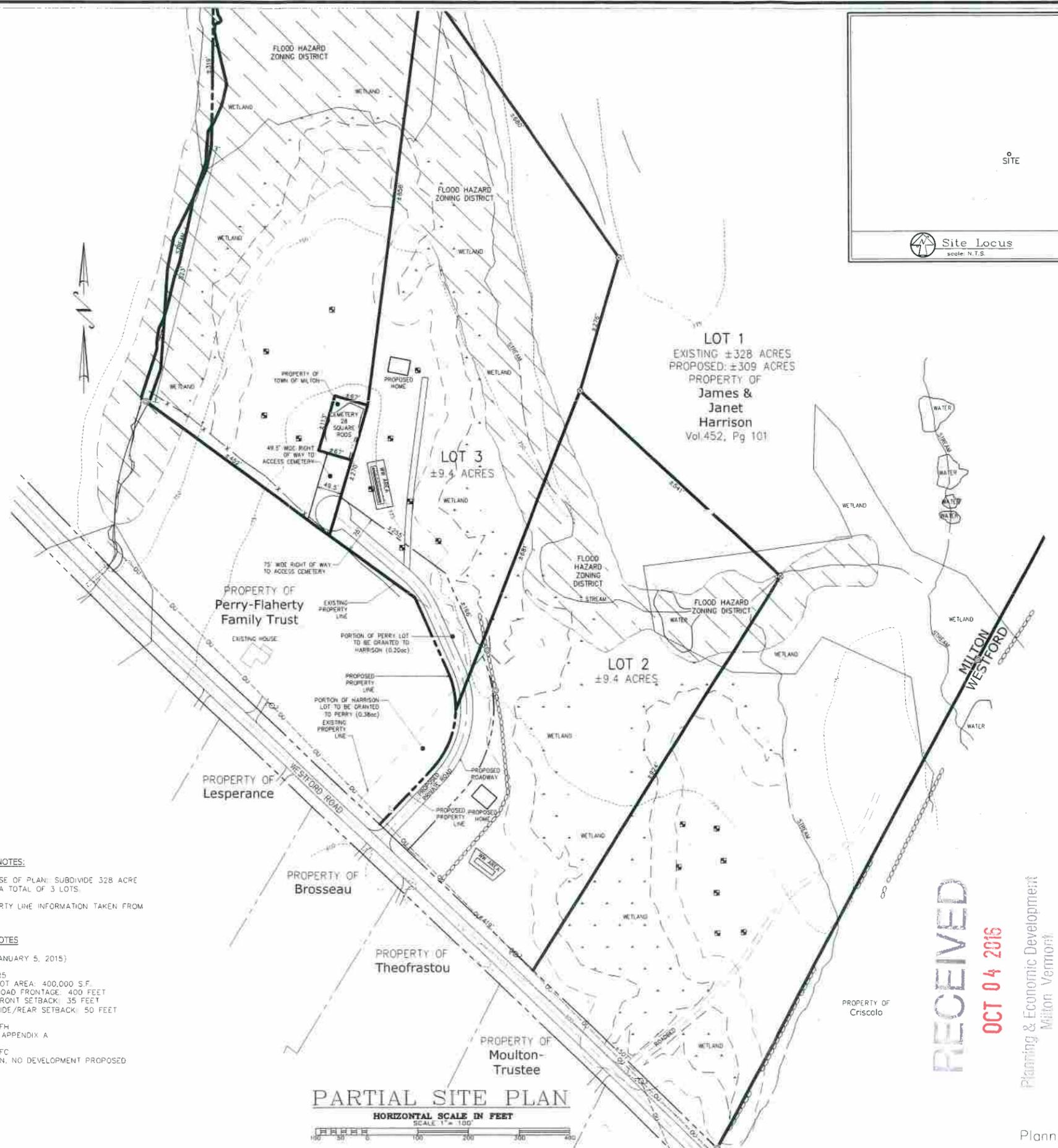
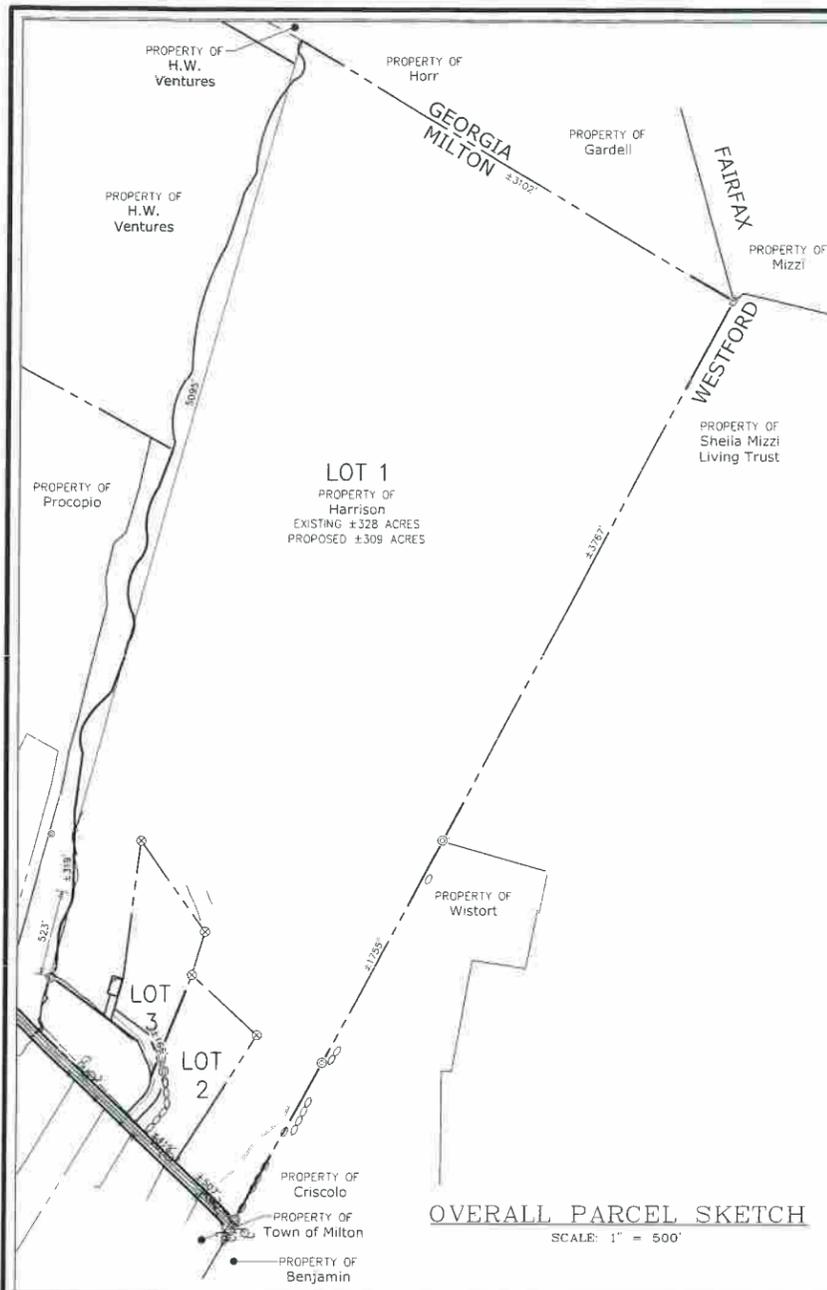
WHAT'S NEXT?

Decision: The DRB has 45 days from the close of the hearing to issue a written decision. The DRB aims to finalize decisions at the next available DRB meeting, but there are times when this is not possible and additional time is needed. The Applicant will receive a copy of the Decision by United States Postal Service Certified Mail; the official date of issuance is the date the Decision is mailed Certified. All other interested person who signed in on the hearing sign in sheet will also be mailed a copy of the Decision via USPS First Class Mail.

Decision Conditions: Approvals by the DRB almost always include conditions of approval that detail the next actions you must take to finalize the project. It's important that you read and understand the decision.

Appeal Rights: The DRB's decision can be appealed to the Environmental Division of the Vermont Superior Court by interested persons within **30 days** of issuance (10 VSA §8504).

Revocations: In addition to any other remedies provided for by law, approvals from the Development Review Board, whichever granted the permit or approval, for violation of these Regulations or the terms and conditions of the permit or approval. Omission or misstatement of any material fact by the applicant or agent on the application or at any hearing which would have warranted refusing the permit or approval shall be grounds for revoking the permit or approval at any time.



LEGEND

WELL	⊕
UTILITY POLE	⊙
ELEVATION BENCHMARK	⊕
SOIL TEST PIT	⊕
PERCOLATION TEST	⊕
PROPERTY LINE	---
RIGHT-OF-WAY	---
CULVERT - STORMDRAIN	---
GRAVITY SANITARY SEWER	SS
WATER MAIN/SERVICE	W
OVERHEAD UTILITY	OU
UNDERGROUND ELECTRIC	UE
STREAM/DRAINAGE SWALE	---
EXISTING WATER LINE	W
PROPOSED GRAVITY SEWER	SS
PROPOSED PRESSURE SEWER	PS
EDGE OF WOODS	---
CONTOUR - EXISTING	---
CONTOUR - PROPOSED	---

GENERAL NOTES:

- PURPOSE OF PLAN: SUBDIVIDE 328 ACRE LOT INTO A TOTAL OF 3 LOTS.
- PROPERTY LINE INFORMATION TAKEN FROM GIS DATA.

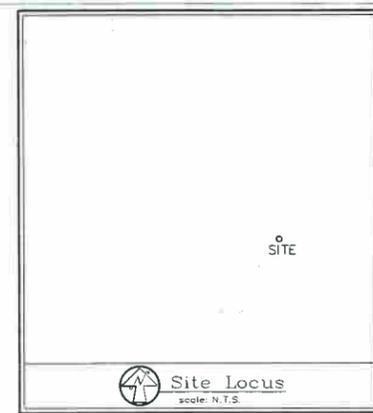
ZONING NOTES

MILTON (JANUARY 5, 2015)

ZONE: R5
MINIMUM LOT AREA: 400,000 S.F.
MINIMUM ROAD FRONTAGE: 400 FEET
MINIMUM FRONT SETBACK: 35 FEET
MINIMUM SIDE/REAR SETBACK: 50 FEET

ZONE: FH
REFER TO APPENDIX A

ZONE: FC
NOT SHOWN, NO DEVELOPMENT PROPOSED



PROJECT: 14088
DATE: 2015-11-05
DESIGN: PM
DRAWN: PM, RHW
CHECKED: PHC
APPROVED: PHC

CROSS CONSULTING ENGINEERS, P.C.
103 Fairfax Rd.
St. Albans, Vermont 05478
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CROSS Consulting Engineers, P.C.

Partial Site Plan

James & Janet Harrison
Georgia, VT
Subdivision

Milton, VT

Westford Road

CIVIL
C-1

SHEET C-1 OF 1

RECEIVED
OCT 04 2016
Planning & Economic Development
Milton Vermont

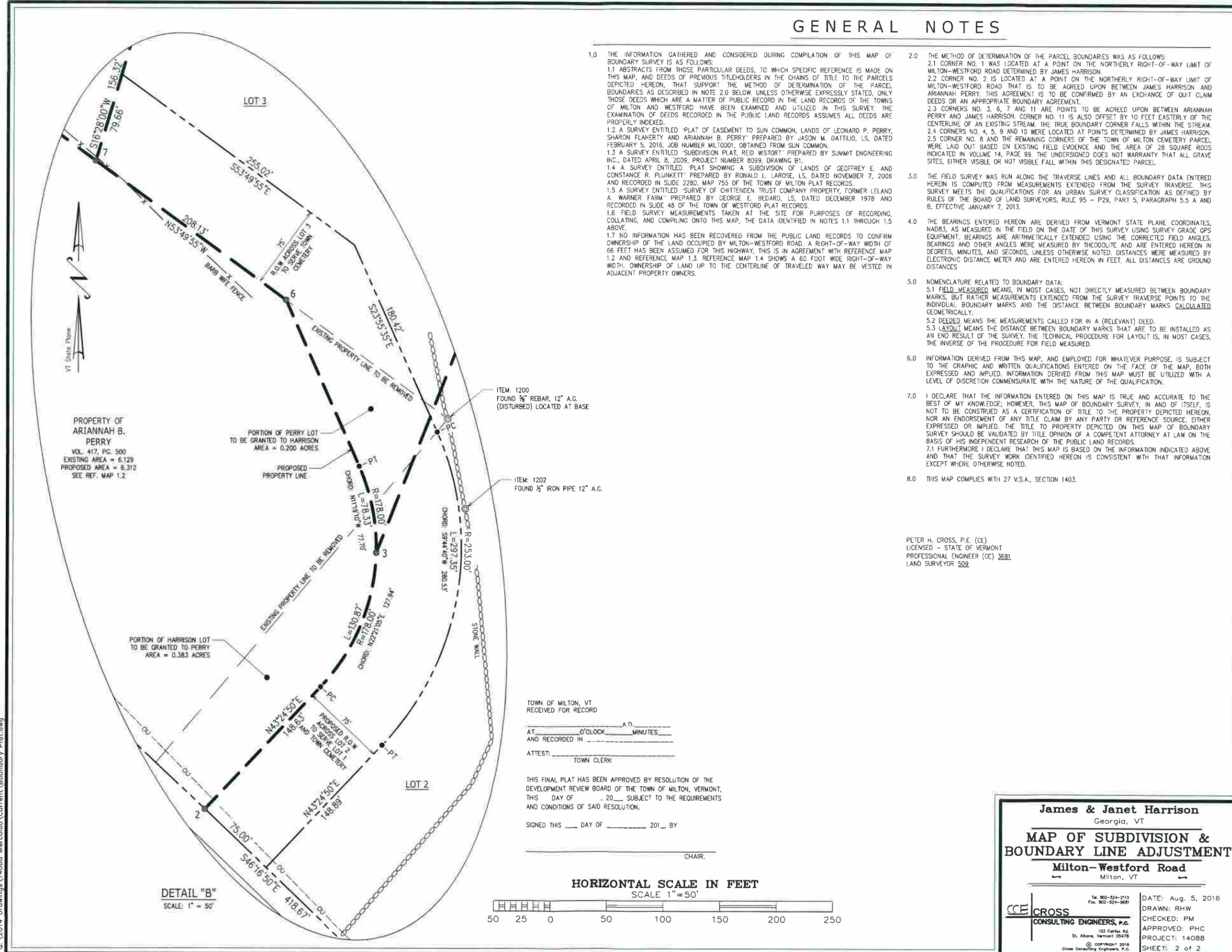
Planning

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GENERAL NOTES

- 1.0 THE INFORMATION GATHERED AND CONSIDERED DURING COMPILATION OF THIS MAP OF BOUNDARY SURVEY IS AS FOLLOWS:
 - 1.1 ABSTRACTS FROM THOSE PARTICULAR DEEDS, TO WHICH SPECIFIC REFERENCE IS MADE ON THIS MAP, AND DEEDS OF PREVIOUS TITLEHOLDERS IN THE CHAINS OF TITLE TO THE PARCELS DEPICTED HEREON, THAT SUPPORT THE METHOD OF DETERMINATION OF THE PARCEL BOUNDARIES AS DESCRIBED IN NOTE 2.0 BELOW, UNLESS OTHERWISE EXPRESSLY STATED, ONLY THOSE DEEDS WHICH ARE A MATTER OF PUBLIC RECORD IN THE LAND RECORDS OF THE TOWNS OF MILTON AND WESTFORD HAVE BEEN EXAMINED AND UTILIZED IN THIS SURVEY. THE EXAMINATION OF DEEDS RECORDED IN THE PUBLIC LAND RECORDS ASSUMES ALL DEEDS ARE PROPERLY INDEXED.
 - 1.2 A SURVEY ENTITLED "PLAT OF EASEMENT TO SUN COMMON, LANDS OF LEONARD P. PERRY, SHARON FLAHERTY AND ARIANNAH B. PERRY" PREPARED BY JASON M. DATTILO, L.S., DATED FEBRUARY 5, 2016, JOB NUMBER MIL0001, OBTAINED FROM SUN COMMON.
 - 1.3 A SURVEY ENTITLED "SUBDIVISION PLAT, REID WISTORT" PREPARED BY SUMMIT ENGINEERING INC., DATED APRIL 8, 2009, PROJECT NUMBER 8099, DRAWING B1.
 - 1.4 A SURVEY ENTITLED "PLAT SHOWING A SUBDIVISION OF LANDS OF GEOFFREY E. AND CONSTANCE R. PLUNKETT" PREPARED BY RONALD L. LAROSE, L.S., DATED NOVEMBER 7, 2008 AND RECORDED IN SLIDE 228D, MAP 755 OF THE TOWN OF MILTON PLAT RECORDS.
 - 1.5 A SURVEY ENTITLED "SURVEY OF CHITTENDEN TRUST COMPANY PROPERTY, FORMER LELAND A. WARNER FARM" PREPARED BY GEORGE E. BEDARD, L.S., DATED DECEMBER 1978 AND RECORDED IN SLIDE 48 OF THE TOWN OF WESTFORD PLAT RECORDS.
 - 1.6 FIELD SURVEY MEASUREMENTS TAKEN AT THE SITE FOR PURPOSES OF RECORDING, COLLATING, AND COMPILING ONTO THIS MAP, THE DATA IDENTIFIED IN NOTES 1.1 THROUGH 1.5 ABOVE.
 - 1.7 NO INFORMATION HAS BEEN RECOVERED FROM THE PUBLIC LAND RECORDS TO CONFIRM OWNERSHIP OF THE LAND OCCUPIED BY MILTON-WESTFORD ROAD. A RIGHT-OF-WAY WIDTH OF 66 FEET HAS BEEN ASSUMED FOR THIS HIGHWAY. THIS IS IN AGREEMENT WITH REFERENCE MAP 1.2 AND REFERENCE MAP 1.3. REFERENCE MAP 1.4 SHOWS A 60 FOOT WIDE RIGHT-OF-WAY WIDTH. OWNERSHIP OF LAND UP TO THE CENTERLINE OF TRAVELED WAY MAY BE VESTED IN ADJACENT PROPERTY OWNERS.
- 2.0 THE METHOD OF DETERMINATION OF THE PARCEL BOUNDARIES WAS AS FOLLOWS:
 - 2.1 CORNER NO. 1 WAS LOCATED AT A POINT ON THE NORTHERLY RIGHT-OF-WAY LIMIT OF MILTON-WESTFORD ROAD DETERMINED BY JAMES HARRISON.
 - 2.2 CORNER NO. 2 IS LOCATED AT A POINT ON THE NORTHERLY RIGHT-OF-WAY LIMIT OF MILTON-WESTFORD ROAD THAT IS TO BE AGREED UPON BETWEEN JAMES HARRISON AND ARIANNAH PERRY. THIS AGREEMENT IS TO BE CONFIRMED BY AN EXCHANGE OF QUIT CLAIM DEEDS OR AN APPROPRIATE BOUNDARY AGREEMENT.
 - 2.3 CORNERS NO. 3, 6, 7 AND 11 ARE POINTS TO BE AGREED UPON BETWEEN ARIANNAH PERRY AND JAMES HARRISON. CORNER NO. 11 IS ALSO OFFSET BY 10 FEET EASTERLY OF THE CENTERLINE OF AN EXISTING STREAM. THE TRUE BOUNDARY CORNER FALLS WITHIN THE STREAM.
 - 2.4 CORNERS NO. 4, 5, 9 AND 10 WERE LOCATED AT POINTS DETERMINED BY JAMES HARRISON.
 - 2.5 CORNER NO. 8 AND THE REMAINING CORNERS OF THE TOWN OF MILTON CEMETERY PARCEL WERE LAID OUT BASED ON EXISTING FIELD EVIDENCE AND THE AREA OF 28 SQUARE RODS INDICATED IN VOLUME 14, PAGE 99. THE UNDERSIGNED DOES NOT WARRANT THAT ALL GRAVE SITES, EITHER VISIBLE OR NOT VISIBLE FALL WITHIN THIS DESIGNATED PARCEL.
- 3.0 THE FIELD SURVEY WAS RUN ALONG THE TRAVERSE LINES AND ALL BOUNDARY DATA ENTERED HEREIN IS COMPUTED FROM MEASUREMENTS EXTENDED FROM THE SURVEY TRAVERSE. THIS SURVEY MEETS THE QUALIFICATIONS FOR AN URBAN SURVEY CLASSIFICATION AS DEFINED BY RULES OF THE BOARD OF LAND SURVEYORS, RULE 95 - P29, PART 5, PARAGRAPH 5.5 A AND B, EFFECTIVE JANUARY 7, 2013.
- 4.0 THE BEARINGS ENTERED HEREON ARE DERIVED FROM VERMONT STATE PLANE COORDINATES, NAD83, AS MEASURED IN THE FIELD ON THE DATE OF THIS SURVEY USING SURVEY GRADE GPS EQUIPMENT. BEARINGS ARE ARITHMETICALLY EXTENDED USING THE CORRECTED FIELD ANGLES. BEARINGS AND OTHER ANGLES WERE MEASURED BY THEODOLITE AND ARE ENTERED HEREON IN DEGREES, MINUTES, AND SECONDS, UNLESS OTHERWISE NOTED. DISTANCES WERE MEASURED BY ELECTRONIC DISTANCE METER AND ARE ENTERED HEREON IN FEET. ALL DISTANCES ARE GROUND DISTANCES.
- 5.0 NOMENCLATURE RELATED TO BOUNDARY DATA:
 - 5.1 FIELD MEASURED MEANS, IN MOST CASES, NOT DIRECTLY MEASURED BETWEEN BOUNDARY MARKS, BUT RATHER MEASUREMENTS EXTENDED FROM THE SURVEY TRAVERSE POINTS TO THE INDIVIDUAL BOUNDARY MARKS AND THE DISTANCE BETWEEN BOUNDARY MARKS CALCULATED GEOMETRICALLY.
 - 5.2 DEEDED MEANS THE MEASUREMENTS CALLED FOR IN A (RELEVANT) DEED.
 - 5.3 LAYOUT MEANS THE DISTANCE BETWEEN BOUNDARY MARKS THAT ARE TO BE INSTALLED AS AN END RESULT OF THE SURVEY. THE TECHNICAL PROCEDURE FOR LAYOUT IS, IN MOST CASES, THE INVERSE OF THE PROCEDURE FOR FIELD MEASURED.
- 6.0 INFORMATION DERIVED FROM THIS MAP, AND EMPLOYED FOR WHATEVER PURPOSE, IS SUBJECT TO THE GRAPHIC AND WRITTEN QUALIFICATIONS ENTERED ON THE FACE OF THE MAP, BOTH EXPRESSED AND IMPLIED. INFORMATION DERIVED FROM THIS MAP MUST BE UTILIZED WITH A LEVEL OF DISCRETION COMMENSURATE WITH THE NATURE OF THE QUALIFICATION.
- 7.0 I DECLARE THAT THE INFORMATION ENTERED ON THIS MAP IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE, HOWEVER, THIS MAP OF BOUNDARY SURVEY, IN AND OF ITSELF, IS NOT TO BE CONSTRUED AS A CERTIFICATION OF TITLE TO THE PROPERTY DEPICTED HEREON, NOR AN ENDORSEMENT OF ANY TITLE CLAIM BY ANY PARTY OR REFERENCE SOURCE, EITHER EXPRESSED OR IMPLIED. THE TITLE TO PROPERTY DEPICTED ON THIS MAP OF BOUNDARY SURVEY SHOULD BE VALIDATED BY TITLE OPINION OF A COMPETENT ATTORNEY AT LAW ON THE BASIS OF HIS INDEPENDENT RESEARCH OF THE PUBLIC LAND RECORDS.
 - 7.1 FURTHERMORE I DECLARE THAT THIS MAP IS BASED ON THE INFORMATION INDICATED ABOVE AND THAT THE SURVEY WORK IDENTIFIED HEREON IS CONSISTENT WITH THAT INFORMATION EXCEPT WHERE OTHERWISE NOTED.
- 8.0 THIS MAP COMPLIES WITH 27 V.S.A., SECTION 1403.

PETER H. CROSS, P.E. (CE)
 LICENSED - STATE OF VERMONT
 PROFESSIONAL ENGINEER (CE) 3681
 LAND SURVEYOR 502



James & Janet Harrison
 Georgia, VT

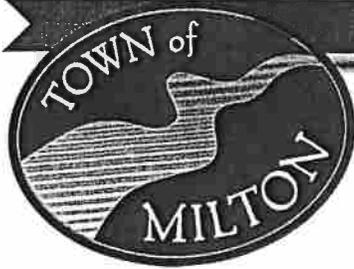
MAP OF SUBDIVISION & BOUNDARY LINE ADJUSTMENT
 Milton-Westford Road
 Milton, VT

CROSS CONSULTING ENGINEERS, P.C.
 103 Fairfax Rd.
 St. Albans, Vermont 05478
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 Cross Consulting Engineers, P.C.

Tel. 802-524-2113
 Fax. 802-524-9681

DATE: Aug. 5, 2016
 DRAWN: RHW
 CHECKED: PM
 APPROVED: PHC
 PROJECT: 14088
 SHEET: 2 of 2

RECEIVED
OCT 04 2015
 Planning & Economic Development
 Town of Milton, Vermont



TECHNICAL ADVISORY COMMITTEE

Time:.....3:30 p.m.
Place:.....Municipal Building Planning Department
Address:.....43 Bombardier Road Milton, VT 05468
Contact:.....(802) 893-1186
Website:www.miltonvt.org

TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, November 10, 2016

Date of Review: 10-25-16

Department: Fire Dept.

TAC Member: C. Poirien

Hubert McCormick, Owner & Appellant -- Appeal of Zoning Permit Denial

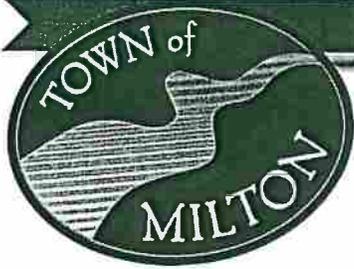
None

James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty, Owners/Applicants - Boundary Line Adjustment -- 568 Westford Road

None

James & Janet Harrison, Owners/Applicants - Minor Conventional Subdivision Sketch Plan -- Westford Road

Road spec. Hammett spec. Turning Radius for Road.



TECHNICAL ADVISORY COMMITTEE

Time:..... 3:30 p.m.
Place:..... Municipal Building Planning Department
Address:..... 43 Bombardier Road Milton, VT 05468
Contact:..... (802) 893-1186
Website: www.miltonvt.org

TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, November 10, 2016

Date of Review: 10-20-16
Department: Police
TAC Member: BRETT VAN NOORDI

Hubert McCormick, Owner & Appellant -- Appeal of Zoning Permit Denial

NO COMMENTS
OR CONCERNS.

James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty,
Owners/Applicants - Boundary Line Adjustment -- 568 Westford Road

RECEIVED

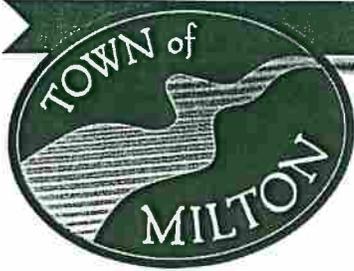
OCT 20 2016

Planning & Economic Development
Milton, Vermont

NO COMMENTS
OR CONCERNS.

James & Janet Harrison, Owners/Applicants - Minor Conventional Subdivision Sketch Plan -- Westford Road

NO COMMENTS
OR CONCERNS.



TECHNICAL ADVISORY COMMITTEE

Time: 3:30 p.m.
Place: Municipal Building Planning Department
Address: 43 Bombardier Road Milton, VT 05468
Contact: (802) 893-1186
Website: www.miltonvt.org

TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, November 10, 2016

Date of Review: 10-19-16

Department: Recreation

TAC Member: Kim Bucksheda

RECEIVED
OCT 19 2016
RECREATION DEPARTMENT
MILTON, VERMONT

Hubert McCormick, Owner & Appellant -- Appeal of Zoning Permit Denial

No comments

RECEIVED
OCT 19 2016
Planning & Economic Development
Milton, Vermont

James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty, Owners/Applicants - Boundary Line Adjustment -- 568 Westford Road

No comments

James & Janet Harrison, Owners/Applicants - Minor Conventional Subdivision Sketch Plan -- Westford Road

No comments



PLANNING DIVISION

43 Bombardier Road
 Milton, Vermont 05468-3205
 (802) 893-1186
 miltonvt.org

DEVELOPMENT REVIEW BOARD STAFF REPORT

Hearing Date: November 10, 2016	
Case No: DRB 2016-38	
Application(s): Minor Conventional Subdivision Sketch Plan (3-lot)	
Application Received: October 4, 2016	
Application Deemed Complete: October 6, 2016	
Staff Report Finalized: Monday November 7, 2016	
Applicant(s): James and Janet Harrison PO Box 2098 Georgia, VT 05468	Owner(s):
Engineer/License: Peter Mazurak Cross Consulting Engineers, PC 103 Fairfax Road St. Albans, VT 05478	Surveyor/License: None
E-911/Postal Address: None	
Tax Map, Parcel(s): 16, 37	
School Parcel Account Number(s) (SPAN): 12349	
Deed(s): Book 452, Page 101-102	
Existing Size: 328 acres	
Zoning District(s): Agricultural Rural Residential "R5", Forest Conservation "FC", Flood Hazard "FH"	
Comprehensive Plan Planning Area/Sub-Area: East Milton Planning Area	
Location: North Side of Westford Road at Milton-Westford boundary.	

INTRODUCTION

Noticed Summary of Proposal: James & Janet Harrison, Owners/Applicants request Sketch Plan approval for a 3-lot Minor Conventional Subdivision located on Westford Road, described as SPAN #12349, Tax Map 16, Parcel 37. The lots would be accessed from Westford Road and served by on-site water and wastewater. The subject property contains a total of 316 acres and is located within the "Agricultural/Rural Residential" (R5), "Forestry/Conservation (FC), and "Flood Hazard" (FH) Zoning Districts and "East Milton" Planning Area.

Comments: Jeff Castle, Town Planner, and Jacob Hemmerick, Planning Director, herein referred to as staff, have reviewed the application, materials and plans submitted and have the following comments.

Ethical Disclosure: Staff herein notes that there are no known direct or indirect conflicts of interests between Staff and the owner, applicant, or noticed interested parties.

Hearing Process/Procedure: Applicants and interested persons can learn more about the Development Review hearing process and procedure at <http://miltonvt.org/government/boards/dr.html>.

APPLICATION, JURISDICTION & NOTICE

Application: This matter comes before the Town of Milton Development Review Board (DRB) for Sketch Plan approval for a 3-lot Minor Conventional Subdivision. The application and its associated materials are maintained by the Town in the application file and are available for public inspection

Applicant(s): The application was submitted by James and Janet Harrison referred to hereafter as the "applicant".

Landowner(s): The property is owned by James and Janet Harrison. All owners are signatories to this application.

Project Consultant(s): Peter Mazurak of Cross Consulting Engineers, PC

Application Submission: The application form and associated exhibits were received by the Planning and Economic Development Department on October 4, 2016.

Application Completion: The application was deemed complete by Staff on October 6, 2016.

General Jurisdiction: Land development is subject to regulation by the Town of Milton pursuant to, but not limited to, the following: The Vermont Planning and Development Act (Act); The Town of Milton Zoning Regulations (ZR), effective January 5, 2015; the Town of Milton Interim Zoning Regulations (IZR) effective February 26, 2015; and The Town of Milton Subdivision Regulations (SR), effective June 28, 2010.

Specific Jurisdiction: Specific subdivision jurisdiction attaches because SR130 states:

These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the Town of Milton. No land shall be subdivided within the Town of Milton until the subdivider shall obtain final approval of the proposed subdivision from the Development

Review Board (DRB) and the final approved subdivision plat is recorded in the Milton Land Records.

Sketch Plan jurisdiction attaches because SR300 states:

For the purpose of classification and preliminary discussion, any subdivider of land shall, prior to submitting an application for subdivision approval, submit [. . .] a sketch plan of the proposed subdivision.

Notice of Hearing: Public notice was issued by the Department of Planning and Economic Development for the hearing according to Vermont Statutes Annotated Chapter 24 §4464.

State Project Review: The applicant has stated that a State Project Review Sheet (PRS) from the State of Vermont has been requested on October 4, 2016 and is pending Permit Specialist Completion. Staff has yet to receive a copy of the PRS. The applicant should either provide a PRS with the final plan application or be prepared to see this as a condition of approval.

Regulatory Waivers Requested: No waivers are requested by the applicant.

Warning/Notice of Hearing: Public warning/notice was issued by the Department of Planning and Economic Development for the hearing according to Vermont Statutes Annotated Chapter 24 §4464. A list of adjoining property owners notified is maintained in the application's file.

Hearing: The Planning Director scheduled the hearing for November 10, 2016.

Site Visit: The DRB may schedule a site visit and recess the hearing to a subsequent meeting date if on-site observation would better inform the DRB's decision. Staff finds that site visits are always useful in visualizing the lay of the land.

1. The DRB may require that the applicant schedule a site visit prior to final plat hearing.

EXHIBITS

Application Exhibits: The following exhibits were submitted with the application and attached to the Staff Report:

- Sheet C-1 Partial Site Plan.
- Map of Subdivision and Boundary Line Adjustment sheet 1 of 2, Dated August 5, 2016
- Map of Subdivision and Boundary Line Adjustment sheet 2 of 2, Dated August 5, 2016

Staff Exhibits: The following exhibits from staff are attached to the Staff Report.

- Notice of Decision, Minor Conventional Subdivision Sketch Approval, signed January 21, 2016;
- Technical Advisory Committee (TAC) Fire Review Sheet dated October 25, 2016;
- TAC Police Review Sheet dated October 20, 2016;
- TAC Recreation Review Sheet dated October 19, 2016;

SITE HISTORY

Background: The subject property has undergone the following development review by the DRB that Staff has found relevant to this application:

- Sketch Plan application for a 5-lot Minor Conventional Subdivision heard on March 26, 2015 was **denied**.
- Sketch Plan application for a 3-lot Minor Conventional Subdivision was approved on January 21, 2016. A final application was not received within 6 months of sketch approval. Approval has **expired**.

Zoning Compliance: The subject property currently has no known violations.

SITE, DISTRICT & AREA INFORMATION

Property Location: The subject property is located at an unaddressed property on Westford Road and shown on Milton's Tax Map 16 as Parcel 7. The corresponding School Parcel Account Number (SPAN) is 12349.

Size/Area: According to the evidence presented, the subject parcel is approximately 328 acres or 14,287,680 square feet.

Property Deeds: The deed was recorded on 1/5/2015 in Book 452, Page 101 of the Town of Milton Land Records to James and Janet Harrison, Grantee.

Zoning District: The site is located within the Agricultural/Rural Residential (R5) Zoning District and partially located within the FC Forestry/Conservation District described on the Town of Milton Zoning Map, last amended August 22, 2011, on record and display at the Municipal Offices and available on the Town's website. The ZR341 states that the purpose of the R5 district is to:

Provide for continued AGRICULTURE, FORESTRY and open space USES together with compatible low density residential development. Large portions of the Town have been included in this area because of a combination of circumstances, including high agricultural potential, distance from community facilities, often severe limitations to development, and natural patterns of dispersed development.

ZR481 states that the purpose of the FC district is to:

The purpose of this district is to preserve open space; to protect soils, water, and other natural resources; to protect scenic ridgeline viewsheds and vistas important to the character of the Town of Milton; to preserve forests and encourage forest-related USES; to promote AGRICULTURE and recreational USES that can benefit from the unique topography of the area; and to enable, to a limited extent, residential USES. Such residential USES are to be enabled only for land parcels necessarily located near the district boundary that are accessible without extreme land disruption; that do not contain steep slopes, unstable soils, and other natural limitations; and only for sites that have the capacity to provide safe ingress and egress. Where possible, said residential USES shall be clustered.

The undeveloped ridges and hillsides of Milton are one of Milton's principal scenic qualities and contribute significantly to the enjoyment of the rural and pastoral character of the town.

The Scenic ridgelines have been identified as Georgia Mountain, Milton Pond and surrounding ridgeline, Bald Hill, Cobble Hill, Eagle Mountain and Arrowhead Mountain. In order to protect these ridgelines, no STRUCTURE or BUILDING shall be visible above the existing tree line.

The FC District has additional requirements for all uses. Since no new development or new parcel boundaries are proposed in the FC District, Staff finds that the additional requirements of ZR486 are not needed. The DRB may, however, find that the plat should include: contour lines, slope percentages, buildable envelopes, wetland delineation, navigable streams, navigable watercourses, wooded and open areas, and so forth.

Comprehensive Planning Area: The site is located within the East Milton Planning Area, as delineated in Map 2 of the 2013 Comprehensive Plan. The Plan states the following about this area (p.130):

This area has the highest potential for resource utilization and the highest concentration of natural resources in need of protection. It is recommended to encourage agricultural uses, especially diversification in agricultural uses.

Other resource utilization activities include forestry, mineral extraction and recreation. Natural resource protection is of particular concern in this area. Natural resources addressed in this plan include: mountains and ridgelines, lakes and rivers, floodplains, wetlands, high elevation areas, deer yards, endangered species habitats, and other unique natural areas.

It is the intent of this area that mostly low intensity planned unit residential developments occur, taking into account the need to provide for resource utilization activities and to protect natural resources. The encouragement of cluster developments and purchase of development rights through land trusts are important.

- Goal 9.13.1. Encourage a diversity of agricultural uses
- Goal 9.13.2. Encourage low density, well planned unit residential development, which enhances the character of the area.
 - Object 9.13.2.a. Develop standards to encourage low density, well planned unit residential developments that work with the natural features of the landscape.
- Goal 9.13.3. Promote the development of community activities for a range of ages.
 - Objective 9.13.3.a Encourage the creation of outdoor recreation facilities for children and adults.
- Goal 9.13.4. Encourage the preservation of historic sites.

Physical Characteristics/Natural Features: The property is host to significant natural resources including extensive woods, wetlands, floodplain, a stream, and statewide agricultural soil. A historic cemetery is located within the site. Water drains from the site to the Lamoille River. The area has been designated as a significant wildlife crossing of importance.

Topography & Drainage (Plan Map 5): The southern portion of the property, where new lots are proposed are sloping to the north toward existing wetlands and stream. The northern portion of the property contains a hill containing some steep slopes and draining away from the rise toward a network of mapped streams and wetlands.

Streams and Shoreline (Plan Map 6): The applicant states that there are mapped streams on the proposed lots. Water drains from the site to the Lamoille River. No alteration of any watercourse of drainage is proposed.

Wetlands (Map 6): The applicant states that there are mapped wetlands on the proposed lots which has been determined by Gilmand & Briggs Environmental. The applicant proposes to take these wetlands into account through avoidance of the wetland area. The wetland areas are indicated on the provided plan.

Soil (Map 7): The applicant states that there are some prime agricultural soils present. Staff finds soils of statewide significance are located in the areas of the proposed home sites. The proposal has not stated how soils resources will be taken into account.

Vegetation: Staff finds that the site of the proposed lots contains a mix of field, brush and forest. The applicant has stated that no vegetation will be removed. Staff finds that the construction of a private road will require some vegetative clearing.

Habitat/Wildlife Crossings (Map 9): The applicant has not stated if any Habitat or wildlife resources are present on the property. Staff finds that the property contains a Wildlife Road Crossing of level 5 “most important.” The property contains a Habitat Block of greater 1600 acres, the highest designation. Vermont Fish & Wildlife states, “Habitat blocks are areas of contiguous forest and other natural habitats that are unfragmented by roads, development or agriculture. Vermont’s habitat blocks are primarily forests, but also include wetlands, rivers and streams, lakes and ponds, cliffs and rock outcrops.”

The applicant has not addressed how these habitat and wildlife resources will be taken into account.

2. The applicant shall state how habitant and wildlife resources will be taken into account

Historic Resources: The applicant states that there are no historic resources on the site. Staff finds that Milton’s Historic Sites and Structures Survey indicates a historic come, circa 1865 located on the neighboring Perry-Flaherty property which is involved in the Boundary Line Adjustment related to this subdivision. No changes are proposed to this structure.

The property currently surrounds a historic cemetery. It has been established that the Town of Milton owns this landlocked parcel containing the cemetery, and is currently responsible for maintaining the cemetery.

The applicant has proposed providing the Town of Milton access to the cemetery over the proposed 75’ Private right-of-way over Lot 2 and 3 and a 49.5’ right-of-way over lot 1. Staff finds that Vermont Cemetery Law established that the reasonable access over private land to a cemetery for maintenance by the Town may not be refused by the land owner. The establishment of an access easement may not be necessary, but may be useful to establish a designated means of access to the cemetery property.

3. If any proposed easement is to be granted to the Town for access to the cemetery currently under Town ownership, draft legal documents shall be submitted with the Final Application for review by the Town Attorney. The Town shall not be responsible for the maintenance of the private road. Final approval by the DRB shall not be deemed to constitute or be evidence of an

acceptance by the Town of any street or easement shown on the Final Plat. Such acceptance may only be accomplished by formal resolution of the Selectboard in accordance with SR960.

Surrounding Use/Structures & Like Kind Quality: The site is surrounded by residential and agricultural uses. Staff finds that the proposed lots are of "like kind".

EXISTING AND PROPOSED DEVELOPMENT

Existing Use: The property currently hosts a presumed agriculture/forestry use. A cemetery is located within the property.

Proposed Use: The applicant proposes 3 lots, respectively containing a single family dwelling, a single family dwelling, and agriculture/forestry (Lot 1).

Existing Improvements to be Retained: The property contains no existing structures and surrounds a cemetery with no access from Westford Rd.

Existing Improvements to be Removed: None

Proposed Improvements: The applicant proposes three lots accessed via an existing roadbed and a new proposed private road. The new proposed private road would serve lots 2 and 3 and the existing cemetery owned by the Town of Milton. Lots 1 and 2 would have frontage on Westford Road. Lot 3 would have frontage on a proposed private road. Homes are shown on lots 2 and 3 within the R5 zoning district and are proposed to be built on statewide agricultural soil.

Existing Restrictions or Covenants: the application states that there are no known restrictions or covenants.

Proposed Restrictions or Covenants: The plan proposes the following restrictions:

- A 75-foot-wide right-of-way to lots 2 and 3 and a portion of lot 1.
- A 49.5-foot-wide right-of-way access easement for the existing cemetery.

SUBDIVISION REVIEW

Article III, Sketch Plan

Sketch Plan Application Requirements, SR300: This section requires that the Sketch Plan show several details on the plan. The plan is not compliant with the following.

4. The Final Plat shall include the address of the owner of record and applicant, per SR300.1.

Staff finds that the Sketch Plan shows a boundary line adjustment with the adjoining Perry - Flaherty property. The Boundary Line Adjustment is being heard as a separate application. Final Plan shall only include the proposed Boundary Line Adjustment if it is approved by the DRB.

5. Final Plan shall only include the proposed Boundary Line Adjustment with the adjoining Perry - Flaherty property if it is approved by the DRB.

SR320, Subdivision Classification: This section requires that the DRB classify this application at Sketch Plan as a major or minor subdivision. A minor subdivision is defined as one containing less than seven units. *This proposal takes one lot and results in three lots, making it a minor subdivision.*

Regulatory Conformance, SR330: The DRB shall study the sketch plan to determine whether or not it conforms to, or would be in conflict with the Plan, the Zoning Regulations and any other By-laws then in effect, and shall where it deems necessary, make specific recommendations for changes in subsequent submissions. The DRB may also require where necessary for the protection of the public health, safety, and welfare that a minor subdivision comply with all or some of the requirements specified in these regulations for major subdivisions.

ZONING REGULATIONS REVIEW

Applicability of Dimensional Requirements, ZR 150: Every USE involving the construction, reconstruction, conversion, structural ALTERATION, relocation or enlargement of a STRUCTURE must comply with the minimum LOT AREA, FRONTAGE, SETBACK areas and all other requirements specified in these Regulations for the district in which the USE occurs.

Zoning Districts: The subject property is located within three Zoning Districts: R5, FC, and FH. FH only addresses development within the FH District. The plans show no development within the FC or FH Districts.

Lots in Two Zones, ZR671: This section details how to handle lots in the R5 and FC. When a parcel of land occurs in both the Forestry/Conservation/Scenic Ridgeline District and the Agricultural/Rural Residential District, the portion of the lot occurring in the Forestry/Conservation/Scenic Ridgeline District can be used to satisfy LOT AREA requirements of the Agricultural/Rural Residential District. *The minimum area of that lot must satisfy the area requirements of the Agricultural/Rural Residential District.* At least two ACRES of land must occur within the Agricultural/Rural Residential District. The bulk of the site is located in the R5.

Lot 1 is the only lot that is proposed to include a portion of FC. Lots 2 and 3, are located within the R5 and FH. The FH serves as an overlay, all lots are therefore subject to the minimum R5 Dimensional Requirements, which differ for residential and non-residential uses. The non-residential standards apply to lot 1 and are less restrictive than the residential standards.

District Dimensional Requirements, ZR334: The table below shows the required dimensional requirement for the subject property's applicable Zoning District and proposed compliance.

Lot 1: R5, FC, FH	R5 Required	Existing	Proposed
Minimum LOT AREA (sq. ft.)	400,000	14,287,680	13,477,464
Minimum Road FRONTAGE (linear ft.)	200	985	507
Minimum FRONT SETBACK (linear ft.)	35	n/a	n/a
Minimum SIDE SETBACK (linear ft.)	35	n/a	n/a
Minimum REAR SETBACK (linear ft.)	35	n/a	n/a

Maximum BUILDING COVERAGE (%)	40	0	0
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Lot 2: R5, FH	R5 Required	Existing	Proposed
Minimum LOT AREA (sq. ft.)	400,000	14,287,680	409,464
Minimum Road FRONTAGE (linear ft.)	400	1,019	419
Minimum FRONT SETBACK (linear ft.)	35	n/a	35
Minimum SIDE SETBACK (linear ft.)	50	n/a	50
Minimum REAR SETBACK (linear ft.)	50	n/a	50
Maximum BUILDING COVERAGE (%)	40	0	<40

Lot 3:R5, FH	R5 Required	Existing	Proposed
Minimum LOT AREA (sq. ft.)	400,000	14,287,680	409,464
Minimum Road FRONTAGE (linear ft.)	400	1,019	421
Minimum FRONT SETBACK (linear ft.)	35	n/a	35
Minimum SIDE SETBACK (linear ft.)	50	n/a	50
Minimum REAR SETBACK (linear ft.)	50	n/a	50
Maximum BUILDING COVERAGE (%)	40	0	<40

Staff finds that ZR1110 defines Lot Area is defined as:

“Lot Area: The total area within the property lines of a lot excluding any part thereof lying within the boundary of a public street, private street, right-of-way or proposed public street.”

The proposed Lots 2 and 3 appear to include the 75’ private right-of-way in the lot area calculation. If the area of the private right of way is removed from the calculation, the areas for these lots would not meet the Minimum Lot Area requirement of 400,000 square feet.

6. The applicant shall exclude the area of the proposed private right-of-way from the lot area calculation for all lots. All proposed lots must meet the Minimum Lot Area requirement of 400,000 square feet.

Lot 3 does not have frontage along Westford Road, but rather along what is labeled a “proposed private road.” Staff finds that the frontage for Lot 3 must be created with a private road as proposed to meet the district dimensional requirements.

Required Frontage and Approved Access, ZR530: Land development shall only be permitted on lots having frontage on public waters, lots having access on a PUBLIC ROAD meeting Class 1, 2, or 3 state standards, or, with the approval of the Development Review Board, lots having access to a PUBLIC ROAD meeting Class 1, 2, or 3 state standards over a permanent, private easement or private right-of-way at least 60-feet wide. No Zoning Permit shall be issued for construction or development of any kind

on a lot without FRONTAGE on a PUBLIC ROAD or waters until a permanent easement or right-of-way has been approved by the Development Review Board, in accordance with their right-of-way policy.

7. The private right-of-way easement is only required to be 60 feet in width in order to meet the required frontage standard of ZR530.

Private Roads, ZR592: This section outlines private road standards, many of which cannot be evaluated based on the information provided on the plans.

8. Final Plat and application shall demonstrate compliance with all provisions of ZR592 by providing all required details for TAC to evaluate compliance.

Fill, ZR680: The applicant should remain aware that in any district, dumping of refuse and waste (rubbish) material for FILL is prohibited, except in a State approved sanitary landfill. Routine maintenance and landscaping of existing property that does not cause changes in runoff onto an adjacent property is exempt from this regulation. Excavation and fill are exempt from Site Plan approval and Zoning Permit requirements providing the grading action still satisfies all of the following criteria:

- (1) Grading action of less than 100 cubic yards.
- (2) Cut, fill or excavation less than 5' in vertical dimension that will maintain a 2' horizontal dimension to 1' vertical dimension slope ratio.
- (3) The existing ground slope does not exceed a 2' horizontal to a 1' vertical slope ratio.
- (4) The grading action is not within Shoreline, Floodplain, Wetland and Streams.
- (5) Complies with zoning setbacks for structure.
- (6) Is the only exempt grading action to occur within a 5-year period on an individual lot or series of lots in contiguous ownership.

9. The applicant shall state if any grading is proposed that would require Site Plan approval according to ZR680.

Distance from Surface Waters, ZR691: The applicant should remain aware existing trees and ground cover along any SHORELINE, body of water or fully carrying spring flood waters shall be maintained for a distance of 25 feet from the SHORELINE or body of water to protect against erosion.

10. The applicant shall state if any vegetative clearing is proposed, and if any vegetative clearing would be within 25 feet of the fully carrying spring flood waters of any surface waters.

Watercourse & Drainage Alteration, ZR720: The applicant should remain aware that "No natural water course, drainage area or wetland shall be piped, dammed, filled, dredged, or altered in any way without the written approval of the Milton Development Review Board and, where applicable, the State Department of Water Resources and U.S. Army Corps of Engineers. The Development Review Board may require review of all proposals by a professional engineer at the expense of the applicant. The flood carrying capacity within any altered or relocated portion of a water course shall be maintained."

The applicant has stated in their application that no watercourse, drainage area or wetland will be piped, dammed, filled, dredged, or altered in any way

RETURN TO SUBDIVISION REVIEW

Effect of Sketch Plan Approval, SR340: Approval of a sketch plan shall not constitute the approval of a subdivision plat and is merely an authorization for the applicant to file a preliminary plan or final plan application

Final Application, SR400:

11. Within six (6) months of classification by the DRB of the sketch plan as a minor subdivision, the subdivider shall submit a Final application for approval of a subdivision plat. The application shall contain those items set forth in Section 610 of these regulations, and shall conform to the layout shown on the sketch plan plus any recommendations made by the DRB.

Final Application Content SR610:

12. The final plat application shall include all items listed in Subdivision Regulations 610, including a survey of all lots resulting from the proposed subdivision.

Subdivision Standards of Evaluation, Section 700:

Final approval of any subdivision shall be based on a finding by the DRB that the subdivision is in accord with the following standards:

700.1, Suitability for Development: The DRB must find that "The land is suitable for subdivision or development. In making this determination it shall at least consider flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas."

700.2, Preservation of Aesthetic Features: The DRB must find that, "the proposal includes due regard for the preservation and protection of existing aesthetic features such as trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources and historical resources."

700.3, Sufficient Open Space for Recreation: The DRB must find that, "The proposal includes sufficient open space for recreation."

700.4, Run-off and Erosion Control During & After Construction: The DRB must find that "The proposal includes adequate provision for control of runoff and erosion during and after construction."

700.5, Compliance with Comprehensive Plan, Regulations & Bylaws: The DRB must find that "The proposed development is in compliance with the Milton Comprehensive Plan, Zoning Regulations and other By-Laws then in effect." Staff has highlighted the Plan goals for this area above.

700.6, Undue Water or Air Pollution: The DRB must find that "The proposed development will not result in undue water or air pollution. In making this determination it shall at least consider the elevation of land above sea level and its relation to the floodplains, the nature of the soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of stream for disposal of effluents; and the applicable health and Vermont Department of Water Resources regulations."

700.7, Compatibility with Surroundings: The DRB must find that “The proposed development is compatible with surrounding properties.”

700.8, Suitability for Proposed Density: The DRB must find that “The site is suitable for the proposed density.”

700.9, Pedestrian Safety: The DRB must find that “The proposal contains adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination and attractiveness.”

700.10, Municipal Service Burden: The DRB must find that “The proposed development will not place an unreasonable burden on the ability of local governmental units to provide municipal, educational, or governmental services and facilities.”

700.11, Sufficient Water/Wastewater: The DRB must find that “There is sufficient water available for the reasonably foreseeable needs of the proposed development.” Staff has some concerns here, that are addressed in the required improvement section below.

700.12, Highway Congestion: The DRB must find that “The proposed development will not cause unreasonable highway congestion or unsafe conditions with respect to the use of roads and highways in the Town.”

Staff encourages the DRB and applicant to read through the specifics of SR700, since it appears there could be several issues that could emerge at Final, if approved.

13. The Final application shall include Section 700 responses, submitted by e-mail in Microsoft .DOC format to the Town Planner.

Legal Escrow, SR910:

14. The Applicant shall submit \$500 with the Final application to cover the legal review of the deeds and any other required legal instruments by the Town Attorney. Any funds not expended on the legal review will be refunded to the Applicant

Legal Review, SR920:

15. The applicant shall submit draft deeds and any other associated legal instruments for all impacted lots for review and approval by the Town Attorney. All requested revisions must be complete before the Plat may be recorded. Only instruments approved by the Town may be recorded in the Town of Milton Land Records.

TECHNICAL REVIEW COMMITTEE

TAC: All comments by the Development Review Board Technical Advisory Committee and attached to the Staff report shall be addressed. Specifically, Chris Poirier, Assistant Fire Chief, has identified the following issues:

- Demonstrate the proposed road meets public work specifications.

- Include a hammerhead meeting public works specifications.
- Include the turning radius of the road.

16. All comments by the Development Review Board Technical Advisory Committee and attached to the Staff report shall be addressed.

STAFF RECOMMENDATION

The Planning Staff recommends that the DRB consider the issues identified above for the application for Sketch Plan approval for a 3-lot Minor Conventional Subdivision located on Westford Road, described as SPAN #12349, Tax Map 16, Parcel 37.

Respectfully Submitted:



Jeffrey Castle, Town Planner

ATTACHMENTS:

- Sheet C-1 Partial Site Plan.
- Map of Subdivision and Boundary Line Adjustment sheet 1 of 2, Dated August 5, 2016
- Map of Subdivision and Boundary Line Adjustment sheet 2 of 2, Dated August 5, 2016
- Notice of Decision, Minor Conventional Subdivision Sketch Approval, signed January 21, 2016;
- Technical Advisory Committee (TAC) Fire Review Sheet dated October 25, 2016;
- TAC Police Review Sheet dated October 20, 2016;
- TAC Recreation Review Sheet dated October 19, 2016;

COPIES TO:

- Applicant(s)
- Engineer

WHAT'S NEXT?

Decision: The DRB has 45 days from the close of the hearing to issue a written decision. The DRB aims to finalize decisions at the next available DRB meeting, but there are times when this is not possible and additional time is needed. The Applicant will receive a copy of the Decision by United States Postal Service Certified Mail; the official date of issuance is the date the Decision is mailed Certified. All other interested person who signed in on the hearing sign in sheet will also be mailed a copy of the Decision via USPS First Class Mail.

Decision Conditions: Approvals by the DRB almost always include conditions of approval that detail the next actions you must take to finalize the project. It's important that you read and understand the decision.

Appeal Rights: The DRB's decision can be appealed to the Environmental Division of the Vermont Superior Court by interested persons within **30 days** of issuance (10 VSA §8504).

Revocations: In addition to any other remedies provided for by law, approvals from the Development Review Board, whichever granted the permit or approval, for violation of these Regulations or the terms and conditions of the permit or approval. Omission or misstatement of any material fact by the applicant or agent on the application or at any hearing which would have warranted refusing the permit or approval shall be grounds for revoking the permit or approval at any time.



TOWN OF MILTON
Planning & Economic Development Department
43 Bombardier Road
Milton, VT 05468-3205
(802) 893-1186
miltonvt.org

NOTICE OF DECISION

Minor Conventional Subdivision Sketch Plan , Case DRB 2015-31
Westford Road/Tax Map 16, Parcel 37/SPAN 1349
James and Janet Harrison

SUMMARY OF PROPOSAL

Summary of Proposal: The Applicant is requesting Sketch Plan approval for a 3-lot Minor Conventional Subdivision located on Westford Road, described as SPAN #12349, Tax Map 16, Parcel 37. The lots would be accessed from Westford Road and served by on-site water and wastewater. The subject property contains a total of 328 acres and is located within the "Agricultural/Rural Residential" (R5), "Forestry/Conservation (FC), and "Flood Hazard" (FH) Zoning Districts.

FINDINGS OF FACT & CONCLUSIONS OF LAW

Based upon testimony provided at the public hearing and the evidence submitted to the DRB, which are contained in the application file, the DRB finds, concludes and decides as follows:

APPLICATION, JURISDICTION & NOTICE

1. **Application:** This matter came before the Town of Milton Development Review Board (DRB) for Sketch Plan approval for a 3-lot Minor Conventional Subdivision. The application and its associated materials are maintained by the Town in the application file and are available for public inspection
2. **Applicant(s):** The application was submitted by James and Janet Harrison referred to hereafter as the "applicant".
3. **Landowner(s):** The property is owned by James and Janet Harrison. All owners are signatories to this application.
4. **Project Consultant(s):** Peter Mazurak of Cross Consulting Engineers, PC
5. **Application Submission:** The application form and associated exhibits were received by the Planning and Economic Development Department on November 9, 2015.
6. **Application Completion:** The application was deemed complete by Staff on November 12, 2015.

7. **General Jurisdiction:** Land development is subject to regulation by the Town of Milton pursuant to, but not limited to, the following: The Vermont Planning and Development Act (Act); The Town of Milton Zoning Regulations (ZR), effective January 5, 2015; the Town of Milton Interim Zoning Regulations (IZR) effective February 26, 2015; and The Town of Milton Subdivision Regulations (SR), effective June 28, 2010.
8. **Minor/Major Conventional Subdivision Sketch/Preliminary/Final Specific Jurisdiction:**
SR130 states:
These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the Town of Milton. No land shall be subdivided within the Town of Milton until the subdivider shall obtain final approval of the proposed subdivision from the Development Review Board (DRB) and the final approved subdivision plat is recorded in the Milton Land Records.
9. **Notice of Hearing:** Public notice was issued by the Department of Planning and Economic Development for the hearing according to Vermont Statutes Annotated Chapter 24 §4464.
10. **Hearing:** The application was considered by the Development Review Board (DRB) at a public hearing opened and closed on December 10, 2015.
11. **DRB Participation:** The DRB members who were present and participated at the December 10, 2015 hearing were: Bruce Jenkins (Chair), David Conley (Vice-Chair), Henry Bonges (Clerk), and Clayton Forgan.
12. **Applicant Representation:** The applicant was represented at the hearing by James Harrison as well as Peter Mazurak of Cross Consulting Engineers, PC.
13. **Interested Persons:** At the outset of the hearing the DRB afforded those persons wishing to achieve status as an interested person an opportunity under 24 VSA 4465 to be sworn in sign the hearing sheet. A record of the name and address of the persons seeking status as an interested person, a summary of evidence with regard to the criteria, and a record of their participation at the hearing is maintained in the application's file.

EXHIBITS

14. **Application Exhibits:** The following exhibits were submitted with the application and attached to the Staff Report: Sheet C-1 Partial Site Plan.
15. **Staff Exhibits:** The following exhibits from staff are attached to the Staff Report.
 - Technical Advisory Committee (TAC) Public Works Review Sheet dated November 25, 2015;
 - Email from Roger Hunt, Director Public Works dated November 25, 2015
 - TAC School District Review Sheet dated November 24, 2015;
 - TAC Police Review Sheet dated November 18, 2015;
 - TAC Recreation Review Sheet dated November 17, 2015;

SITE HISTORY

16. **Background:** The subject property has undergone the following development review by the DRB that Staff has found relevant to this application:
- Sketch Plan application for a 5-lot Minor Conventional Subdivision heard on March 26, 2015 was **denied**.
17. **Zoning Compliance:** The subject property currently has no known violations.

SITE, DISTRICT & AREA INFORMATION

18. **Property Location:** The subject property is located at an unaddressed property on Westford Road and shown on Milton's Tax Map 16 as Parcel 7. The corresponding School Parcel Account Number (SPAN) is 12349.
19. **Size/Area:** According to the evidence presented, the subject parcel is approximately 328 acres or 14,287,680 square feet.
20. **Property Deeds:** The deed was recorded on 1/5/2015 in Book 452, Page 101 of the Town of Milton Land Records to James and Janet Harrison, Grantee.
21. **Zoning District:** The site is located within the Agricultural/Rural Residential (R5) Zoning District described on the Town of Milton Zoning Map, last amended August 22, 2011, on record and display at the Municipal Offices and available on the Town's website. The ZR341 states that the purpose of this district is to "provide for continued agriculture, forestry and open space uses together with compatible low density residential development."
22. **Comprehensive Planning Area:** The site is located within the East Milton Planning Area, as delineated in Map 2 of the 2013 Comprehensive Plan.
23. **Physical Characteristics/Natural Features:** The property is host to significant natural resources including extensive woods, wetlands, floodplain, a stream, and statewide agricultural soil. A historic cemetery is located on the site. Water drains from the site to the Lamoille River. The area has been designated as a significant wildlife crossing of importance.
24. **Surrounding Use/Structures:** Surrounding properties contain single family dwellings and agricultural lands.

EXISTING AND PROPOSED DEVELOPMENT

25. **Existing Use:** The property currently hosts two principal uses: a cemetery and presumed agriculture/forestry.
26. **Proposed Use:** The applicant proposes 3 lots, respectively containing a single family dwelling, a single family dwelling, and agriculture/forestry (Lot 1).
27. **Existing Improvements to be Retained:** The property contains no existing structures and contains a cemetery with no access from Westford Rd.

28. **Existing Improvements to be Removed:** None
29. **Proposed Improvements:** The applicant proposes three lots accessed via an existing roadbed and a new proposed drive. The new proposed driveway would serve lots 2 and 3. Lots 1 and 2 would have frontage on Westford Road. Lot 3 would have frontage on a proposed private road. Lots 2 and 3 would bisect the existing cemetery. Homes are shown on lots 2 and 3 within the R5 zoning district and are proposed to be built on statewide agricultural soil.
30. **Regulatory Waivers Requested:** No waivers have been requested.
31. **Existing Restrictions or Covenants:** the application states that there are no known restrictions or covenants.
32. **Proposed Restrictions or Covenants:** The plan proposes the following restrictions:
- A 100 foot access Right-of-Way to access the cemetery across lots 2 and 3 and a portion of lot 1.
 - And easement for the cemetery.

SUBDIVISION REVIEW

33. **Applicability, SR130:** Milton's subdivision regulations apply to all subdivisions of land located within the Town of Milton. No land shall be subdivided within the Town of Milton until the subdivider shall obtain final approval of the proposed subdivision from the Development Review Board (DRB) and the final approved subdivision plat is recorded in the Milton Land Records.
34. **Sketch Plan Application Requirements, SR300:** This section requires that the Sketch Plan show several details on the plan. The plan was not compliant with the following: plan did not contain the address of the owner of record and applicant, per SR300.1. *The applicant agreed that the Final Plat shall include the address of the owner of record and applicant, per SR300.1.*
35. **Minor Subdivision Classification SR320:** The DRB find that with three lots proposed, the proposal is a minor subdivision.
36. **Regulatory Conformance, SR330:** The DRB studied the sketch plan to determine whether or not it conforms to, or would be in conflict with the Plan, the Zoning Regulations and any other By-laws then in effect, and where it deemed necessary, made specific recommendations for changes in subsequent submissions.

COMPREHENSIVE PLAN REVIEW

33. **Comprehensive Plan Goals for East Milton Planning Area:**
The Subject Property is located in the East Milton Planning area as defined by the Comprehensive Plan.

9.13. East Milton Area Goals

This area has the highest potential for resource utilization and the highest concentration of natural resources in need of protection. The Georgia Wind Company began construction on wind towers in 2012, with completion proposed for 2013. The most prevalent resource utilization land use in Milton is agriculture. Once dominated by dairy farming, Milton still supports an agricultural

economy. It is recommended to encourage agricultural uses, especially diversification in agricultural uses. Other resource utilization activities include forestry, mineral extraction, and recreation. Natural resource protection is of particular concern in this area. Natural resources addressed in this Plan include: mountains and ridgelines, lakes and rivers, floodplains, wetlands, high elevation areas, deer yards, endangered species habitats, and other unique natural areas. It is the intent of this area that mostly low intensity planned unit residential developments occur in this area, taking into account the need to provide for resource utilization activities and to protect natural resources. The encouragement of cluster developments and the purchase of development rights through land trusts are important.

◆**Goal 9.13.1.** Encourage a diversity of agricultural uses.

◆**Goal 9.13.2.** Encourage low density, well planned unit residential development which enhances the character of the area.

◆**Objective 9.13.2.a.** Develop standards and encourage low density, well planned unit residential developments that work with the natural features of the landscape.

◆**Goal 9.13.3.** Promote the development of community activities for a range of ages.

◆**Objective 9.13.3.a.** Encourage the creation of outdoor recreation facilities for children and adults.

◆**Goal 9.13.4.** Encourage the preservation of historic sites.

Other Goals:

Goal 5.1.2 The Town shall also continue to encourage the use of clustering, which is encouraged even in the more rural parts of Town, to help reduce energy costs associated with building roads and utilities.

Goal 6.2.5 Planned Unit Residential Developments shall be encouraged to conserve appropriate open space.

Goal 8.1 Continue protection of existing natural resources identified by the Plan.

The Applicant advised that the proposal is consistent with the Comprehensive Plan because it meets all Zoning requirements without any variances. The Applicant stated that the proposal is very low-density, and that it would ultimately preserve open space because the purpose of the subdivision is to offset the cost of maintaining over 300 acres of agricultural land. The Applicant also mentioned the following points in regard to the Comprehensive Plan: The proposal will result in a diversity of Agricultural Uses, as 300+ acres will remain Ag land. The proposal will result in low-density development, as the two new lots would be approximately 10 acres each. The proposal promotes outdoor recreation for children and adults simply by being located and sized how it is; the Applicant felt that an approximately 10 acre lot provides plenty of opportunity for outdoor recreation.

The proposal protects and enhances a historic site, because it includes a deeded easement to the Town so that the Town may continue to maintain an old, private cemetery that is located on the property.

The Applicant provides protection for wetlands as the proposed building envelopes are outside of the wetlands and the 50-foot buffer zone. The Applicant also advised that the wetlands had been delineated this past summer and the proposal was made using that information.

The DRB finds that the preservation of the historic cemetery on site would be more readily insured if the cemetery was contained on a single lot and contained within the private right of way easement. The applicant agreed to adjust the boundary of Lot 1 and Lot 3 to contain the cemetery within a single lot. The applicant agreed to adjust the boundary of the right of way easement to contain the cemetery.

The DRB finds that the sketch plan, with proposed conditions is not in conflict with the Comprehensive Plan.

ZONING REGULATIONS REVIEW

34. **Applicability of Dimensional Requirements, ZR 150:** Every USE involving the construction, reconstruction, conversion, structural ALTERATION, relocation or enlargement of a STRUCTURE must comply with the minimum LOT AREA, FRONTAGE, SETBACK areas and all other requirements specified in these Regulations for the district in which the USE occurs.
35. **Zoning Districts:** The subject property is located within three Zoning Districts: R5, FC, and FH. FH only addresses development within the FH District. The plans show no development within the FC or FH Districts.
36. **Additional FC Application Requirements, ZR486:** This section has specific requirements for property located within the FC Zoning District. The application does not meet the requirements, including:
- (a) *Topographic Survey*
 - (b) *Natural Resources Survey*
 - (c) *Roadway Profile*
 - (d) *Elevations*
 - (e) *Letter from Certified Engineer*
 - (f) *Septic Design*

The DRB finds that these can be considered further at Final.

The applicant agreed that the Final Application shall include all (applicable) application requirements listed in ZR486.

33. **Lots in Two Zones, ZR671:** This section details how to handle lots in the R5 and FC. When a parcel of land occurs in both the Forestry/Conservation/Scenic Ridgeline District and the Agricultural/Rural Residential District, the portion of the lot occurring in the Forestry/Conservation/Scenic Ridgeline District can be used to satisfy LOT AREA requirements of the Agricultural/Rural Residential District. *The minimum area of that lot must satisfy the area requirements of the Agricultural/Rural Residential District.* At least two ACRES of land must occur within the Agricultural/Rural Residential District. The bulk of the site is located in the R5.

The DRB finds that Lot 1 is the only lot that is proposed to include a portion of FC. Lots 2 and 3, are located within the R5 and FH. The FH serves as an overlay, all lots are therefore subject to the minimum R5 Dimensional Requirements, which differ for residential and non-residential uses. The non-residential standards apply to lot 1 and are less restrictive than the residential standards.

34. **Zoning District Purpose, ZR341:** The purpose of the R5 Zoning District is to provide for continued AGRICULTURE, FORESTRY and open space USES together with compatible low density residential development. Large portions of the Town have been included in this area because of a combination of circumstances, including high agricultural potential, distance from community facilities, often severe limitations to development, and natural patterns of dispersed development.
35. **District Dimensional Requirements, ZR334:**
The table below shows the required dimensional requirement for the subject property's applicable Zoning District and proposed compliance.

Lot 1: R5, FC, FH	R5 Required	Existing	Proposed
Minimum LOT AREA (sq. ft.)	400,000	14,287,680	13,477,464
Minimum Road FRONTAGE (linear ft.)	200	1,019	507
Minimum FRONT SETBACK (linear ft.)	35	n/a	n/a
Minimum SIDE SETBACK (linear ft.)	35	n/a	n/a
Minimum REAR SETBACK (linear ft.)	35	n/a	n/a
Maximum BUILDING COVERAGE (%)	40	0	0

Lot 2: R5, FH	R5 Required	Existing	Proposed
Minimum LOT AREA (sq. ft.)	400,000	14,287,680	409,464
Minimum Road FRONTAGE (linear ft.)	400	1,019	500
Minimum FRONT SETBACK (linear ft.)	35	n/a	35
Minimum SIDE SETBACK (linear ft.)	50	n/a	50
Minimum REAR SETBACK (linear ft.)	50	n/a	50
Maximum BUILDING COVERAGE (%)	40	0	<40

Lot 3:R5, FH	R5 Required	Existing	Proposed
Minimum LOT AREA (sq. ft.)	400,000	14,287,680	400,752
Minimum Road FRONTAGE (linear ft.)	400	1,019	404
Minimum FRONT SETBACK (linear ft.)	35	n/a	35
Minimum SIDE SETBACK (linear ft.)	50	n/a	50
Minimum REAR SETBACK (linear ft.)	50	n/a	50
Maximum BUILDING COVERAGE (%)	40	0	<40

The DRB finds that the lots meet the dimensional requirements for the R5 district. Lot 3 does not have frontage along Westford Road, but rather along what is labeled a “proposed driveway.”

33. **Required Frontage and Approved Access, ZR530:** Land development shall only be permitted on lots having frontage on public waters, lots having access on a PUBLIC ROAD meeting Class 1, 2, or 3 state standards, or, with the approval of the Development Review Board, lots having access to a PUBLIC ROAD meeting Class 1, 2, or 3 state standards over a permanent, private easement or private right-of-way at least 60-feet wide. No Zoning Permit shall be issued for construction or development of any kind on a lot without FRONTAGE on a PUBLIC ROAD or waters until a permanent easement or right-of-way has been approved by the Development Review Board, in accordance with their right-of-way policy.

ZR1110 defines FRONTAGE as:

That portion of a lot, required by Section 530, which abuts on a public STREET, public waters, approved private STREET, or approved public right-of-way. The minimum required FRONTAGE for a lot, as prescribed in Articles III and IV, shall be provided along a continuous front property line of a lot and shall be maintained for a depth of at least one hundred (100) feet. CORNER LOTS, which abut STREETS intersecting at an angle of less than 120 degrees, shall provide the required FRONTAGE and FRONT SETBACK along each STREET. SHORELINE FRONTAGE shall be measured from the ordinary high water mark of a lake or pond.

ZR1110 defines STREET as, "A public or properly approved private thoroughfare for vehicular traffic which serves as the principal means of access to more than three DWELLING UNITS."

SR200.12 defines STREET as, "Any road, highway, avenue, street, land or other way between right-of-way lines, commonly used by the public for vehicular traffic."

While the Regulations use many roadway terms that require consultation of definitions (STREET, PRIVATE ROAD, PUBLIC ROAD, PRIVATE RIGHT-OF-WAY), the regulations make one thing clear, a DRIVEWAY – even if it serves three or fewer residences, is not a private-right-of way and cannot be used to meet frontage requirements.

ZR1110 defines DRIVEWAY as:

A private roadway providing access to a PUBLIC ROAD or PRIVATE RIGHT-OF-WAY from a maximum of three lots and no more than three DWELLING UNITS. The Town of Milton shall not responsible for the maintenance and repair of DRIVEWAYS.

In the DRB's prior review of this site it concluded that a "driveway" is -- by Milton's definition -- not a "private right-of-way" (even when established within one or shared) and rejects the notion that a driveway can establish lot frontage, a conclusion consistent with traditional notions of American zoning throughout the country. Driveways, in other words, can provide access to a "private right-of-way" but are not "private right-of-ways", by definition. Private-right-of-ways must therefore meet the policy standards established for private roads as stated in ZR592.

The DRB finds that the frontage for Lot 3 must be created with a private road to meet the district dimensional requirements.

The applicant stated that the frontage for Lot 3 is being created by a proposed private road. The applicant agreed that the Final Plans shall label "proposed driveway" as a proposed private road.

34. **Private Roads, ZR592:** This section outlines private road standards, many of which cannot be evaluated based on the information provided on the plans.

The applicant agreed that the Final Plat and application shall demonstrate compliance with all provisions of ZR592 by providing all required details for TAC to evaluate compliance.

35. **Reduction of Lot Size, ZR620:** No lot shall be so reduced in area so that the total area, SETBACK areas, lot width, FRONTAGE, coverage, or other requirements of these Regulations shall be other than herein prescribed for the district in which the lot is located. The DRB finds that proposal is in compliance if a private road is established

36. **Minimum Lot Width to Depth Ratio, ZR640:** The width of any new lot shall not be less than one-third (1/3) of the depth of the lot. This requirement may be waived by the Development Review Board for any lot occurring within the Forestry/Conservation/Scenic Ridgeline District. *The applicant agreed that the Final application shall include a table showing the depth of each lot at its longest measure between the front and rear property boundary, and the width of each lot at its widest measure between side boundaries.*
37. **Fill, ZR680:** The applicant should remain aware that in any district, dumping of refuse and waste (rubbish) material for FILL is prohibited, except in a State approved sanitary landfill. Routine maintenance and landscaping of existing property that does not cause changes in runoff onto an adjacent property is exempt from this regulation. Excavation and fill are exempt from Site Plan approval and Zoning Permit requirements providing the grading action still satisfies all of the following criteria:
- (1) Grading action of less than 100 cubic yards.
 - (2) Cut, fill or excavation less than 5' in vertical dimension that will maintain a 2' horizontal dimension to 1' vertical dimension slope ratio.
 - (3) The existing ground slope does not exceed a 2' horizontal to a 1' vertical slope ratio.
 - (4) The grading action is not within Shoreline, Floodplain, Wetland and Streams.
 - (5) Complies with zoning setbacks for structure.
 - (6) Is the only exempt grading action to occur within a 5-year period on an individual lot or series of lots in contiguous ownership.

The applicant agreed that the final application shall state if any grading is proposed that would require Site Plan approval according to ZR680.

33. **Distance from Surface Waters, ZR691:** The applicant should remain aware existing trees and ground cover along any SHORELINE, body of water or fully carrying spring flood waters shall be maintained for a distance of 25 feet from the SHORELINE or body of water to protect against erosion.

The Applicant stated that no vegetative clearing that would be in conflict with ZR691 is proposed, and that the proposed building envelopes are currently cleared.

34. **Watercourse & Drainage Alteration, ZR720:** The applicant should remain aware that "No natural water course, drainage area or wetland shall be piped, dammed, filled, dredged, or altered in any way without the written approval of the Milton Development Review Board and, where applicable, the State Department of Water Resources and U.S. Army Corps of Engineers. The Development Review Board may require review of all proposals by a professional engineer at the expense of the applicant. The flood carrying capacity within any altered or relocated portion of a water course shall be maintained."

The Applicant stated that none of the proposed driveways or private roads would alter water courses.

RETURN TO SUBDIVISION REVIEW

35. **Effect of Sketch Plan Approval, SR340:** Approval of a sketch plan shall not constitute the approval of a subdivision plat and is merely an authorization for the applicant to file a preliminary plan or final plan application

36. **Final Application, SR400:** *The applicant agreed that within six (6) months of classification by the DRB of the sketch plan as a minor subdivision, the subdivider shall submit a Final application for approval of a subdivision plat. The application shall contain those items set forth in Section 610 of these regulations, and shall conform to the layout shown on the sketch plan plus any recommendations made by the DRB.*
37. **Final Application Content SR610:** *The applicant agreed that the final plat application shall include all items listed in Subdivision Regulations 610, including a survey of all lots resulting from the proposed subdivision.*
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Final approval of any subdivision shall be based on a finding by the DRB that the subdivision is in accord with the following standards:
- 700.1 Suitability for Development
 - 700.2 Preservation of Aesthetic Features
 - 700.3 Sufficient Open Space for Recreation
 - 700.4 Run-off and Erosion Control During & After Construction
 - 700.5 Compliance with Comprehensive Plan, Regulations & Bylaws
 - 700.6 Undue Water or Air Pollution
 - 700.7 Compatibility with Surroundings
 - 700.8 Suitability for Proposed Density
 - 700.9 Pedestrian Safety
 - 700.10 Municipal Service Burden
 - 700.11 Sufficient Water
 - 700.12 Highway Congestion

The applicant agreed that the Final application shall include Section 700 responses, submitted by e-mail in Microsoft .DOC format to the Town Planner.

34. **Legal Escrow, SR910:** *The Applicant agreed to submit \$500 with the Final application to cover the legal review of the deeds and any other required legal instruments by the Town Attorney. Any funds not expended on the legal review will be refunded to the Applicant.*

Legal Review, SR920: *The applicant agreed to submit draft deeds and any other associated legal instruments for all impacted lots for review and approval by the Town Attorney. All requested revisions must be complete before the Plat may be recorded. Only instruments approved by the Town may be recorded in the Town of Milton Land Records.*

TECHNICAL REVIEW COMMITTEE

TAC: The DRB finds that all comments by the Development Review Board Technical Advisory Committee and attached to the Staff report shall be addressed. *The applicant agreed that all comments by the Development Review Board Technical Advisory Committee and attached to the Staff report shall be addressed.*

DECISION & CONDITIONS OF APPROVAL

MOTION by Dave Conley, **SECOND** by Clayton Forgan, to **APPROVE** the Sketch Plan approval for a 3-lot Minor Conventional Subdivision located on Westford Road, described as SPAN #12349, Tax Map 16, Parcel 37, conditional upon the following items being addressed to the satisfaction of Staff:

1. **Completion, Operation and Maintenance:** 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.
2. **Amendment:** No changes, erasures, modifications, or revisions, other than those required by this Decision, shall be made on the Plat after approval unless a revised Plat is first submitted to the Department of Planning and Economic Development for approval by the Development Review Board.
3. **Address of Owner and Applicant:** The Final Plat shall include the address of the owner of record and applicant, per SR300.1.
4. **Cemetery on Single Lot:** The Final Plat shall show the cemetery contained on a single lot. Minor adjustments to the boundaries may be made if necessary to maintain dimensional conformity of the proposed lots.
5. **Cemetery Easement:** The Final Plat shall show the cemetery within the proposed right of way easement. The easement shall allow the Town of Milton access to the cemetery, via the private road, for the maintenance of the cemetery. The Town shall not be responsible for the maintenance of the private road.
6. **FC Application Requirements** The Final Plans shall include all (applicable) application requirements listed in ZR486.
7. **Private Road:** Final Plans shall label “proposed driveway” as a proposed private road.
8. **Private Road Standards:** Final Plat and application shall demonstrate compliance with all provisions of ZR592 by providing all required details for TAC to evaluate compliance.
9. **Minimum Lot Width to Depth Ratio:** The Final application shall include a table showing the depth of each lot at its longest measure between the front and rear property boundary, and the width of each lot at its widest measure between side boundaries.
10. **Grading:** The applicant shall state with their final application if any grading is proposed that would require Site Plan approval according to ZR680.
11. **Final Plan Submission:** Within six (6) months of classification by the DRB of the sketch plan as a minor subdivision, the subdivider shall submit a Final application for approval of a subdivision plat. The application shall contain those items set forth in Section 610 of these regulations, and shall conform to the layout shown on the sketch plan plus any recommendations made by the DRB.

12. **Final Plan Requirements:** The final plat application shall include all items listed in Subdivision Regulations 610, including a survey of all lots resulting from the proposed subdivision.
13. **Section 700:** The Final application shall include Section 700 responses, submitted by e-mail in Microsoft .DOC format to the Town Planner.
14. **Legal Escrow:** The Applicant shall submit \$500 with the Final application to cover the legal review of the deeds and any other required legal instruments by the Town Attorney. Any funds not expended on the legal review will be refunded to the Applicant
15. **Legal Documents:** The applicant shall submit draft deeds and proposed easements and any other associated legal instruments for all impacted lots for review and approval by the Town Attorney. All requested revisions must be complete before the Plat may be recorded. Only instruments approved by the Town may be recorded in the Town of Milton Land Records.
16. **TAC:** All comments by the Development Review Board Technical Advisory Committee and attached to the Staff report shall be addressed.

VOTE RECORD

Bruce Jenkins, Chair	<u>yea</u> /nay/abstain/absent/recusal
Dave Conley, Vice-Chair:	<u>yea</u> /nay/abstain/absent/recusal
Henry Bonges, Clerk:	<u>yea</u> /nay/abstain/absent/recusal
Clayton Forgan:	<u>yea</u> /nay/abstain/absent/recusal
Vacant:	yea/nay/abstain/absent/recusal
Alternate, Vacant:	yea/nay/abstain/absent/recusal/not assigned to hearing
Alternate, Vacant:	yea/nay/abstain/absent/recusal/not assigned to hearing
Alternate, Vacant:	yea/nay/abstain/absent/recusal/not assigned to hearing

MOTION TO APPROVE PASSED BY A VOTE OF:

YEA 4 ;NAY _____;ABSTAIN _____;ABSENT _____;RECUSAL _____

Vote taken in Deliberative Session on **December 10, 2015**

Written Decision signed and dated at Milton, Vermont, this 21ST day of January, 2016

By Bruce Jenkins

Bruce Jenkins, Chair
Milton Development Review Board

/jwc

Appeal Rights

An "interested person", who has participated in this proceeding, may appeal this decision to the Vermont Environmental Court within 30 days of the date the 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 4465(b) 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 Milton Planning & Zoning Office at 43 Bombardier Road, Milton, VT 05468. Please contact the VT Superior Court Environmental Division, 32 Cherry Street, 2nd Floor, Suite 302, Burlington, VT 05401, 802-951-1740, for more information on the filing requirements and fees.



PLANNING DIVISION

43 Bombardier Road
Milton, Vermont 05468-3205
(802) 893-1186
miltonvt.org

DEVELOPMENT REVIEW BOARD STAFF REPORT

Hearing Date: November 10, 2016	
Case No: DRB 2016-39	
Application(s): Appeal of Zoning Administrator Decision	
Application Received: September 6, 2016	
Application Deemed Complete: October 6, 2016	
Staff Report Finalized: Friday, November 4, 2016	
Applicant(s): Hubert McCormick 630 Hinesburg Road, Unit 13 South Burlington, VT 05403	Owner(s): Same
Engineer/License: None	Surveyor/License: None
E-911/Postal Address: Racine Road, unaddressed	
Tax Map, Parcel(s): 7, 15-2	
School Parcel Account Number(s) (SPAN): 12284	
Deed(s): Book 63, Page 460	
Existing Size: 126.86	
Zoning District(s): Checkerberry (M4)	
Comprehensive Plan Planning Area/Sub-Area: Town Core Planning Area/Checkerberry	
Location: East side of Racine Road, south of Route 7.	

INTRODUCTION

Warned Summary of Proposal: Appeal of Zoning Permit Denial. Hubert McCormick, Owner & Appellant, is appealing the denial of Zoning Permit application # 2016-142 by the Zoning Administrator. The permit application is to construct a single-family dwelling within a previously approved Planned Unit Development (PUD). The appellant contests the stated reasons for the denial that: 1) the Interim Zoning Bylaws restrict the proposed use in the site's zoning district per Article II, Section B(i) and 2) there are multiple conditions of the Development Review Board's Final PUD Plan and Site Plan approval dated 9/24/10 that have not been met. The PUD's subject property is described as SPAN #12284, Tax Map 7 and Parcel 15-2, contains 126.86 acres, and is located within the "Checkerberry" (M4) Zoning District and Town Core Planning Area.

Comments: Jacob Hemmerick, Planning Director, and Jeff Castle, Town Planner, herein referred to as staff, have reviewed the application, materials and plans submitted and have the following comments.

Ethics Disclosure: Staff herein notes that there are no known direct or indirect conflicts of interests between Staff and the owner, applicant, or noticed interested parties.

Hearing Process/Procedure: Applicants and interested persons can learn more about the Development Review hearing process and procedure at <http://miltonvt.org/government/boards/drj.html>.

APPLICATION, JURISDICTION, NOTICE

Application: This matter comes before the Town of Milton Development Review Board (DRB) to appeal the denial Zoning Permit Application #2016-142 by the Zoning Administrator. The application and its associated materials are maintained by the Town in the application file and are available for public inspection.

Applicant(s): The application was submitted by Hubert McCormick referred to hereafter as the "applicant" or "appellant". Michael McCormick is listed as the primary contact person for this application.

Application Submission: The application form and associated exhibits were received by the Planning and Economic Development Department on September 6, 2016. Additional information regarding the nature of the appeal was requested by Jacob Hemmerick on September 8th, 2016. A response was received on October 4th, 2016. The application and its associated materials are maintained by the Town in the application file and are available for public inspection

Application Completion: The application was deemed complete by staff on October 6, 2016.

Landowner(s): The property is owned by Hubert W. McCormick.

General Jurisdiction: Land development is subject to regulation by the Town of Milton pursuant to, but not limited to, the following: The Vermont Planning and Development Act (Act); The Town of Milton Zoning Regulations (ZR), effective January 5, 2015; the Town of

Milton Interim Zoning Regulations (IZR) effective February 26, 2015; and The Town of Milton Subdivision Regulations (SR), effective June 28, 2010.

Specific Jurisdiction: ZR110 states, "No LAND DEVELOPMENT shall be undertaken or effected except in conformance with the applicable provisions of these Regulations. No land, building or other STRUCTURE shall be used for any purpose except as provided in these Regulations." Section II(A) of the Interim Bylaws states, "These Interim Zoning Bylaws shall apply to all the Zoning Districts established and listed in Article II of the Milton Zoning Regulations."

Appeals: ZR 1060 states, "Any interested PERSON may appeal any action or denial of action under these Regulations as provided in 24 V.S.A. § 4464 through § 4467. The Development Review Board shall act to approve or disapprove any appeal within forty-five (45) days after the close of the final public hearing. Failure to act within this time period shall be deemed approval and shall be effective on the 46th day.

The only question for the DRB to answer in an appeal is whether or not the Zoning Administrator made the correct or incorrect decision. No other matters are to be considered.

Warning of Hearing: Public warning was issued by the Department of Planning and Economic Development for the hearing according to Vermont Statutes Annotated Chapter 24 §4464.

Site Visit: The DRB may schedule a site visit and recess the hearing to a subsequent meeting if on-site observation would better inform the DRB's decision.

Application Exhibits: The following exhibits were submitted with the application and attached to the Staff Report:

- Zoning Permit Application #2016-142, denied 8/22/2016;
- Site Plan;
- Proposed building elevation;
- Zoning Administrator's Denial; and
- Notice of Appeal of the decision of the Zoning Administrator.

Staff Exhibits: The following exhibits from staff are attached to the Staff Report.

- Notice of Decision for Hubert McCormick, Planned Unit Development – "400 Marketplace South" – Final Plan & Site Plan, signed September 24, 2010
- Subdivision Plat, 400 Marketplace South, rev date 1/20/2011
- Phasing Plan, 400 Marketplace South, rev date 1/20/2011
- Technical Advisory Committee (TAC) Police Review Sheet dated October 10, 2016;
- TAC Recreation Review Sheet dated October 19, 2016; and
- TAC Fire Department Review Sheet dated, October 25, 2016.

BACKGROUND

Background: The subject property has the following approvals and denials that Staff has found relevant to this appeal:

- 2010: On September 24, 2010, the DRB approved the Final Plan and Site Plan application for a proposed 28-lot Mixed-Use PUD in the M4 District. The DRB’s decision approved the lot and street configuration depicted on the approved plat for conceptual uses of the lots: the lot with the existing Sears, Lots 1-4, 6 and 7 were designated for commercial uses, Lots 9-24 were designated for either single or two- family dwelling units, Lots 25A, B and C were designated for open space and Lots 5 and 8 were designated for multi-family dwelling units.

The subdivision of the property was approved and a subdivision plat was recorded in the land records. The subdivision of the property does not expire under Vermont statute (if a Plat is recorded within the statutory time frame) and Milton’s regulations do not expire the site plans, which are associated with Planned Unit Developments.

- 2013: In 2013, the DRB approved the final plat application for a proposed amendment to the 2010 Mixed-Use PUD. Thereafter, but within 180 days after the DRB approved the 2013 Mixed-Use PUD, the DRB also granted site plan approval for the new Lot M5 and Lots 20, 21, 22, 23 and 24. The DRB’s approval of the 21-lot Mixed Use PUD expired 180 days from the date of approval because the plat was not recorded within that same time period. This approval is therefore expired and no longer valid, returning the project to the 2010 plat and approval.

ACTION OF THE ZONING ADMINISTRATOR

Zoning Permit Application #2016-142 (See attached) was submitted by Hubert McCormick on August 15, 2016 to the Town of Milton Planning Office for the “Construction of a single family dwelling.”

The application was denied by the Zoning Administrator, Amanda Pitts, on August 22, 2016. The reason for denial was outlined in an attached memo, which stated:

“Zoning Permit # 2016-142 submitted on 8/15/16 is denied for the following reasons:

- **Interim Zoning adopted on 4/6/15 does not allow “New Single Family Dwellings” without Conditional Use approval from the Selectboard per Section IV. “New Single Family Dwellings” are defined in the Interim Zoning Bylaws as, “any single family dwelling for which a complete zoning permit application had not been submitted to the Milton Department of Planning and Economic Development before February 26, 2015.”**
- **This lot is part of the “400 Marketplace South” Planned Unit development. Multiple conditions of the Final PUD Plan and Site Plan approval dated 9/24/2010 have not been met.”**

APPEAL

An Appeal of the Zoning Administrator Decision was submitted on September 6, 2016. The letter is attached to this Staff Report. Upon request of Staff, the Appellant submitted a response clarifying the grounds for appeal on October 4, 2016 (also attached to the Staff Report) which states:

“Appellant seeks relief from the Zoning Administrator’s decision, contending that the Town of Milton Zoning Regulations, Section 442, is relevant to the application and that the Zoning Administrator erred in imposing the Interim Zoning Bylaws. Appellant further contends that it has read the DRB’s Notice of Decision, dated September 24, 2010, and believes the project to be in full compliance with all conditions contained therein.

Appellant hereby requests the Development Review Board approve the requested zoning permit, declare the Interim Zoning Bylaws do not apply to the 400 Marketplace South subdivision and find the project in full compliance with all conditions of the Notice of Decision.”

APPEAL REVIEW

As stated in the Interim Bylaw, “the purpose of these Interim Zoning Bylaws is to halt, temporarily, specified residential development in certain areas of the Town Core...”

Interim Bylaw Article II (B): “Within the Checkerberry (M4) District, the following shall not be allowed:

- i. New Single Family Dwellings
- ii. New Duplexes
- iii. New Multifamily Dwellings
- iv. New Planned Unit Developments – Residential
- v. New Planned Unit Developments – Mixed Use”

Interim Bylaw Article III (B) defines a New Single Family Dwelling as follows:

“New Single Family Dwellings shall mean any single family dwelling for which a complete application for zoning permit had not been submitted to the Milton Department of Planning and Economic Development before February 26, 2015, unless the application proposed, on the same lot, both to remove the existing single family dwelling and to construct a single family dwelling so that the net increase in single family dwellings is zero.”

Staff finds that the appellant submitted a Zoning Permit Application for a Single Family Dwelling on August 15, 2016. The proposed development is located on a currently undeveloped property in the Checkerberry (M4) District. This proposed development meets the definition of New Single Family Dwelling according to Interim Bylaw Article III (B) and this development “shall not be allowed” according to Interim Bylaw Article II (B).

Upon review of the September 24, 2016 Notice of Decision for the “400 Marketplace South” Planned Unit Development, Staff finds the following Conclusions relevant to the applicability of Interim Zoning:

The Notice of Decision from the 2010 PUD approval states in Conclusion 2 (found on page 1):

“The Applicant is not proposing any development at this time, although he has submitted a concept plan that illustrates what the potential development could look like. The concept plan includes commercial and residential lots. The Applicant has indicated that the full build-out of the property could take many years. At this point, the DRB will be reviewing the proposed lots, streets, and utilities layouts recognizing that PUDs allow for flexibility in design and waivers from dimensional requirements. Any future development that is proposed will need to be reviewed under the applicable Zoning Regulations at that time...” [emphasis added]

Additionally, Staff finds that Conclusion 19 (found on page 6) states:

“While not all of the specific uses are proposed at this time, the DRB finds that the general uses will need to meet the permitted and conditional uses for the M4 Zoning District when the lots are developed.” [emphasis added]

Staff finds that, as stated in the Planned Unit Development Final Approval of 2010, any proposed development on the subject property shall be reviewed under the current applicable Zoning Regulations at the time of proposal. This includes the permitted and conditional uses for the M4 District.

Staff finds that the proposed New Single Family Dwelling is specifically not allowed under the current Interim Zoning Bylaws, and uses restricted may be heard by the Selectboard according to Section IV, which states:

“The Selectboard may, upon application, authorize the issuance of permits for any type of land development as a conditional use not otherwise permitted by these Interim Bylaws, after public hearing [. . .].”

Staff finds that conditional use authorization must be granted by the Selectboard prior to the issuance of permits for New Single Family Dwellings in the M4 district.

2010 CONDITIONS OF APPROVAL

The Appellant has stated that the Conditions of Approval necessary for the proposed development on Lot 15 have been met. No evidence of meeting Conditions of Approval has been provided by the Applicant.

Upon review of the Conditions of Approval for the September 24, 2010 Decision, Staff finds that the Conditions including, but not limited to, the following have not been met:

“24. It will be necessary to update the landscaping cost estimates when each phase is established, as it may be several years before this occurs. The landscaping sureties will be established as each corresponding infrastructure phase is built (prior to a zoning permit for each phase).

30. Since the water main along Racine Road is within the public right-of-way, the procedures for the acceptance of public infrastructure must be followed for this section at the time it is constructed, including the establishment of a surety in the amount approved by the Town Engineer and Selectboard and the submission of a Bill of Sale.

35. A draft easement deed, including a bill of sale for the infrastructure, and Irrevocable Offer of Dedication must be submitted for the sewer easement to connect to Clifford Drive.

36. Zoning Permits will be required prior to the construction of each phase of the public infrastructure.”

Staff finds that the lot containing the proposed Single Family Dwelling is associated with Phase 1A of the approved Phasing Plan. The Phasing Plan describes Phase 1A (Residential) as:

“Phase 1A (Residential)

The following improvements are planned in conjunction with the independent development of proposed residential lots 9 through 19 near Racine Road. Improvements within the future public right-of-way are to be inspected and constructed to meet Milton public works standards for their eventual acceptance as public infrastructure upon meeting the Town’s “looping” connectivity requirements during subsequent phases.

Road:

- Construction of street 2 intersection improvements at Racine Road
- Construction of street 2 to sta.8+00 to access residential lots 9-14 and 16-18. Residential lots 15 and 19 access Racine Rd. directly.
- Construction of Street 4 intersection to facilitate future extension.
- Multi-use path, landscaping, grading, and drainage improvements associated with road construction.

Utilities:

- Extension of Water main from existing stub at Ivy Court down Racine Rd to terminal hydrant and far southern service of Lot 19
- Extension of gas main down Racine Road
- Installation of water, gas, and sewer mains and services down Street 2
- Connection of sewer main to existing manhole at Clifford Drive
- Installation of sewer main to existing manhole at Clifford Drive
- Installation of sewer main cross-country from Clifford Drive to Street 2 Main
- Installation of drainage culverts and roadside grass channels, Pond E, C & D
- Regrade Racine Road, roadside ditch & reset culvers.”

Staff finds that multiple conditions of the Final PUD Plan and Site Plan approval dated 9/24/2010 have not been met. These conditions include, but may not be limited to the conditions stated above.

1. The Development Review Board shall determine if the Zoning Administrator erred in denying Zoning Permit Application #2016-142.

STAFF RECOMMENDATION

The Planning Staff recommends that the DRB **deny** the Applicant's appeal of the decision of the Zoning Administrator to deny Zoning Permit Application #2016-142, thereby upholding and affirming the Zoning Administrator's Decision.

Respectfully Submitted:



Jeffrey Castle, Town Planner

COPIES TO:

- Applicant(s)

WHAT'S NEXT?

Decision: The DRB has 45 days from the close of the hearing to issue a written decision. The DRB aims to finalize decisions at the next available DRB meeting, but there are times when this is not possible and additional time is needed. The Applicant will receive a copy of the Decision by United States Postal Service Certified Mail; the official date of issuance is the date the Decision is mailed Certified. All other interested person who signed in on the hearing sign in sheet will also be mailed a copy of the Decision via USPS First Class Mail.

Decision Conditions: Approvals by the DRB almost always include conditions of approval that detail the next actions you must take to finalize the project. It's important that you read and understand the decision.

Appeal Rights: The DRB's decision can be appealed to the Environmental Division of the Vermont Superior Court by interested persons within **30 days** of issuance (10 VSA §8504).

Revocations: In addition to any other remedies provided for by law, approvals from the Development Review Board, whichever granted the permit or approval, for violation of these Regulations or the terms and conditions of the permit or approval. Omission or misstatement of any material fact by the applicant or agent on the application or at any hearing which would have warranted refusing the permit or approval shall be grounds for revoking the permit or approval at any time.

TOWN OF MILTON, VERMONT | ZONING PERMIT APPLICATION

If you have any questions, call (802)893-1186 or visit us in the Milton Municipal Complex at 43 Bombardier Road, Milton, VT 05468.

FILING INFORMATION (STAFF USE ONLY)

Zoning Permit # 2016-142
 Filing Date 08/15/16
 Expedited Review Due / /

PROPERTY INFORMATION

E-911 Address/Street Racine Rd. G09
 Parcel ID 2 0 7 0 1 5 0 0 2 0 0 0
 School Parcel Account # 396 - 123 - 1 2 2 8 4
 Deed (volume no. / page no.) vol. 34, p. 564; vol. 50, p. 65
 Zoning District M4
 Lot Size (acres) 0.51
 Road Frontage (feet) 141
 Existing Use Definition (e.g. "single family dwelling")
unimproved lot

LANDOWNER

Name(s) Hubert McCormick
 Mailing Address 630 Hinesburg Rd
 City S Burlington
 State VT Zip Code 05403
 Phone 802-862-9405
 Email mikemccormickfl@gmail.com

LAND DEVELOPMENT (PROJECT) INFORMATION

Proposed Use Definition (e.g. "retail") residential single family dwelling Approximate Value of Development \$ 151,400
 Total New Finished Floor Area (sq. ft.) 1,514 Maximum Height (ft.) 28
 Total New Unfinished Floor Area (sq. ft.) 1,212 Number of Stories 2

Description of Land Development (briefly describe the project with any dimensions)

Construction of single family dwelling.

PERMIT USE CATEGORY (check box that applies)

- Residential
 Non-Residential
 Mixed-Use (both)

PERMIT TYPE (check all boxes that apply)

- New Principal Building or Unit (ex. "single-family dwelling")
 New Accessory Structure (ex. shed)
 Alteration to Existing Structure (ex. new room addition)
 Change of Use (ex. "personal service" to "restaurant")
 Demolition/Removal (ex. demolition & removal of pool)
 Sign (one-sided square footage equals _____ s.f.)
 Amendment to Prior Permit
 Permit # _____
 Renewal of Prior Permit
 Permit # _____

APPLICANT

Name(s) _____ check box if same as landowner
 Mailing Address _____
 City _____
 State _____ Zip Code _____
 Phone _____
 Email _____

RECEIVED

SEP 06 2016

Planning & Economic Development
 Milton, Vermont

Does your project involve new construction, addition, alteration, renovation or repair to a structure? Yes No

If yes, you may have to record a Vermont Residential/Commercial Energy Standards (RBES or CBES) Certificate in the Land Records prior to receiving your Certificate of Compliance/Occupancy. Contact Energy Code Assistance Center at (855)887-0673 or online at http://publicservice.vermont.gov/topics/energy_efficiency/rbes.

Does your project involve the installation of a new manufactured home? Yes No

If yes, you must provide a copy of the HUD Form 309 with the Certificate of Compliance/Occupancy Application.

Has the project been approved by the Development Review Board? Yes No

If yes, provide the DRB Case Description and approval date: 09 / 24 / 16

Does the project involve work within a Town or State right of way? Yes No

If yes, you must obtain prior Highway Access permit approval from the Department of Public Works at (802) 893-6030 and/or Vermont Agency of Transportation at (802) 279-1152.

Does the project involve connecting to municipal water or sewer? Yes No

If yes, you must obtain prior approval from the Department of Public Works and the State Water/Wastewater Division.

Does the project involve a change of the number of bedrooms or a change of use? Yes No

If yes, contact the State Water/Wastewater Division at (802) 879-5656.

Is this project in a Tax Increment Financing (TIF) District? Yes No

If yes, check which district: North/South or Town Core, and list how many jobs will this project create 0

PERMIT FEE CALCULATOR

Zoning Permit Base Application Fee	refer to fee schedule	250
Square Footage Fee (if applicable)	# 2032 sq. ft. x \$ 0.10 =	+ 203.20
Unit Fee (if applicable)	# _____ units x \$ _____ =	+
SUBTOTAL	add lines above	= 453.20
After-the Fact Penalty (if applicable)	multiply subtotal by 2	=
Violation Penalty (if applicable)	multiply subtotal by 4	=
Expedited Review (check to request)	add surcharge due	+
<input type="checkbox"/> 3-day or <input type="checkbox"/> 5-day		
Recording Fee	established by Clerk's schedule	+\$10
TOTAL	add subtotal to lines below subtotal	= \$463.20

LANDOWNER & APPLICANT ACKNOWLEDGEMENTS

By signing this form, the landowner(s) and applicant(s) described in this application (and their agents, assigns, and successors in interest) hereby apply for a permit to develop the project described in this application and accept the following:

- Applications shall not be considered properly filed and vested for rights to review under a set of regulations until fees are paid in full and all items necessary to determine compliance with this bylaw are complete and submitted;
- Vermont law allows the Zoning Administrator 30 days to act on this application;
- All submissions are public record available for inspection and copy;
- All representations made in this application and the materials accompanying it are true, accurate and binding to the best of my knowledge; omission or misstatement of any material fact on this application (which would warrant refusing the permit or approval) shall be grounds for revoking the permit or approval;
- Private agreements (such as covenants, deed restrictions and easements) may apply, may be more or less restrictive than Milton's bylaws and may affect this project; it is my responsibility to disclose and comply with these agreements;
- State and federal regulations may apply, may be more or less restrictive than Milton's bylaws, and may affect this project; it is my responsibility to obtain all required state and federal permits; (Call the State's permit specialist at 802-477-2241 with any questions);
- No development or work may commence until receipt of all applicable permits and approvals; and
- If this application is approved, I must post notice on the property and allow a 15-day appeal period before work begins.

Owner Signature *Edward B. Mc Cormick*
Date 8/15/16

Applicant Signature _____
Date ____/____/____

ADDITIONAL PERMITS/APPROVALS APPLICABLE TO THE PROJECT (STAFF USE ONLY)

<input type="checkbox"/> Town Highway Access Permit # Approval Date ____/____/____	<input type="checkbox"/> Act 250 Permit # Approval Date ____/____/____
<input type="checkbox"/> State Highway Access Permit # Approval Date ____/____/____	<input type="checkbox"/> Other Recording Date _____
<input type="checkbox"/> Town Water/Wastewater Permit # Approval Date ____/____/____	<input type="checkbox"/> Development Review Conditions:
<input type="checkbox"/> State Water/Wastewater Permit # Approval Date ____/____/____	

RECEIVED
SEP 06 2016

Planning & Economic Development
Milton, Vermont

ZONING ADMINISTRATOR PERMIT DECISION (STAFF USE ONLY)

APPROVED
This Zoning Permit takes effect 15 days after approval. THE APPEAL PERIOD EXPIRES: ____/____/____
This Zoning Permit expires 1 year from date of approval. THIS ZONING PERMIT EXPIRES: ____/____/____

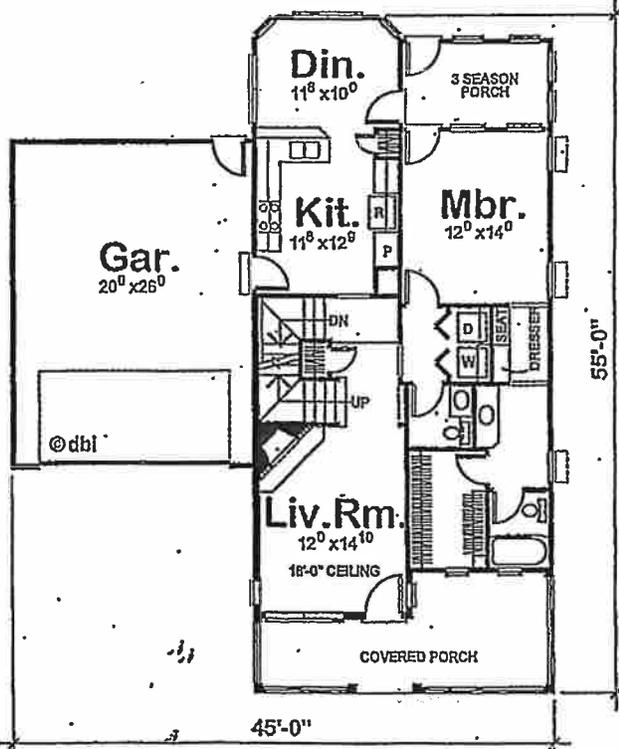
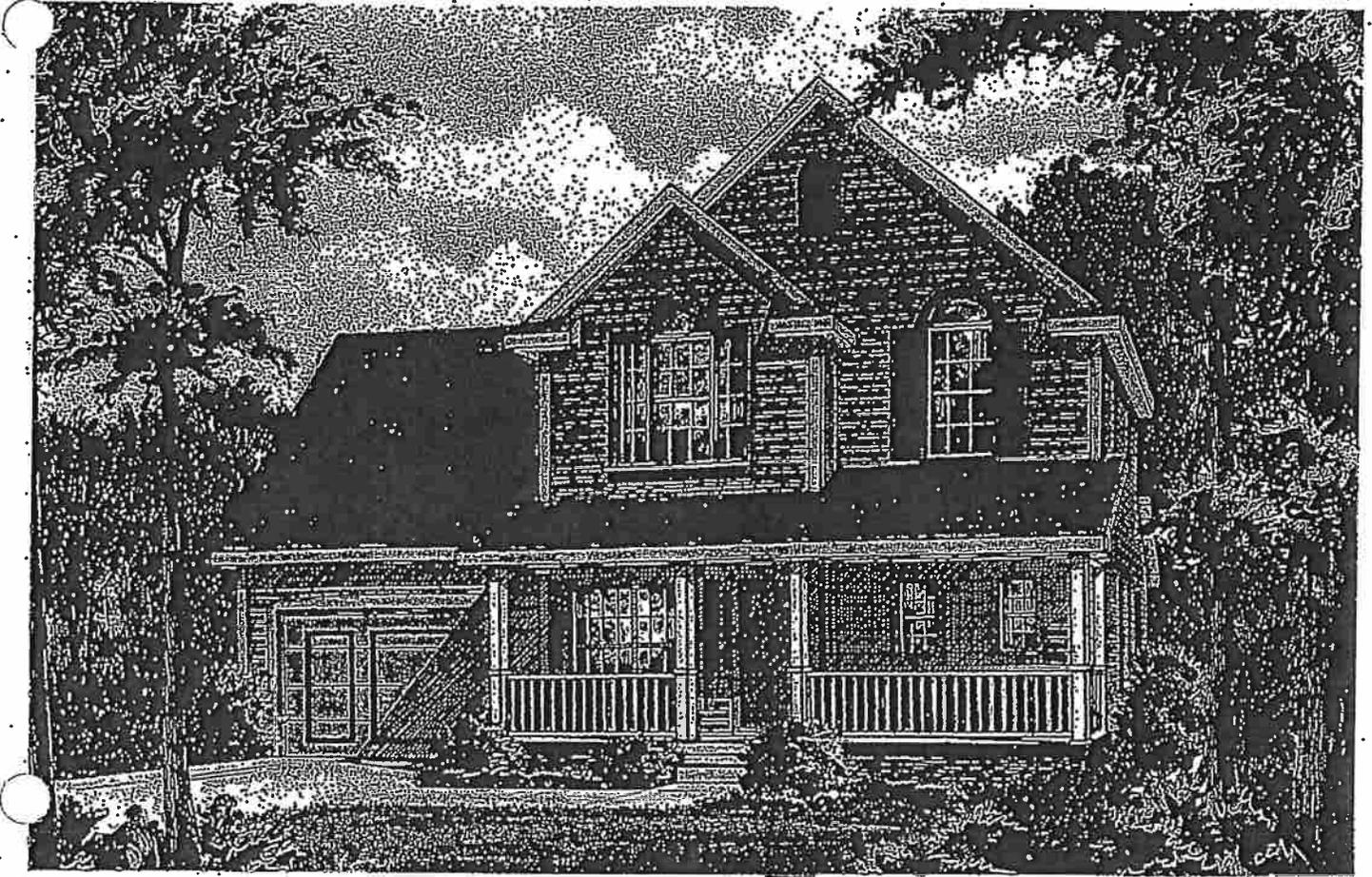
DENIED (This decision can be appealed to the Development Review Board per Zoning Regulation Section 1060).
Reason for denial: See attached memo dated 8/22/16.

Signature *ADN Smith* Date 08/22/16

! IMPORTANT ! CONDITIONS OF PERMIT APPROVAL (STAFF USE ONLY)

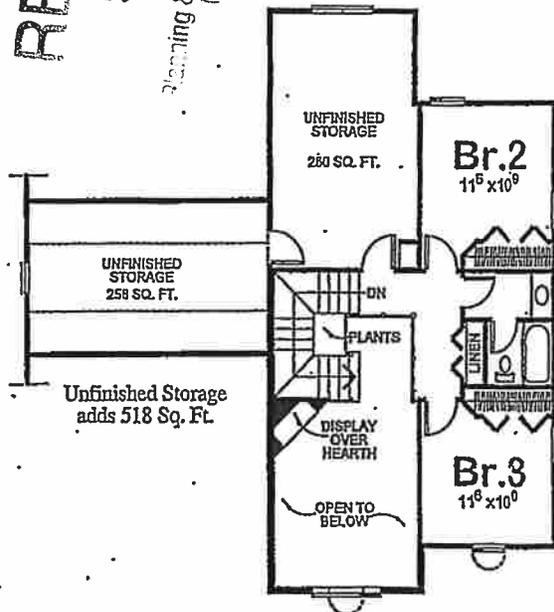
- All construction must be completed in accordance with this permit and the Town of Milton Zoning Regulations.
- If the approved project changes, the applicant must apply for and obtain an approved, zoning permit amendment.
- The applicant must satisfy all DRB Conditions listed above and outlined in the Notice of Decision.
- The applicant must pay applicable Impact Fees prior to the issuance of a Certificate of Compliance/Occupancy.
- The applicant must post the 911 Address prior to requesting a Certificate of Compliance/Occupancy.
- The applicant must apply for and receive a Certificate of Occupancy/Compliance upon completion of construction and prior to use or occupancy. (If you apply for the Certificate of Compliance/Occupancy prior to expiration of this permit, there is a reduced fee.)
- Other:





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 SEP 06 2016
 Planning & Economic Development
 Milton, Vermont

Main	1047 Sq. Ft.
Second	467 Sq. Ft.
Total	1514 Sq. Ft.





PLANNING DIVISION

43 Bombardier Road • Milton, Vermont 05468-3205
(802) 893-1186
miltonvt.org/planning
apitts@town.milton.vt.us

MEMO

DATE: 08/22/16

FROM: Amanda Pitts, Zoning Administrator

Zoning Permit # 2016-142 submitted on 8/15/16 is denied for the following reasons:

- Interim Zoning adopted on 4/6/15 does not allow "New Single Family Dwellings" without Conditional Use approval from the Selectboard per Section IV. "New Single Family Dwellings" are defined in the Interim Zoning Bylaws as, "any single family dwelling for which a complete zoning permit application had not been submitted to the Milton Department of Planning and Economic Development before February 26, 2015."
- This lot is part of the "400 Marketplace South" Planned Unit Development. Multiple conditions of the Final PUD Plan and Site Plan approval dated 9/24/10 have not been met.

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Planning & Economic Development
Milton, Vermont

Appeal of Zoning Administrator Decision

Background – The project, 400 Marketplace South, is a 28 lot, mixed use PUD, located at 400 & 414 Route 7 South. The project came before the Development Review Board for a public hearing on August 12, 2010 and final site plan approval was granted on September 24, 2010. A subdivision plat was subsequently recorded in the Milton land records within the statutory time requirement.

The approved final plan designates Lots 1-4, 6 and 7 for commercial uses, Lots 5 and 8 for multi-family dwellings, up to a maximum of 292 units, Lots 9-24 for either single or two-family dwelling units, and Lots 25A, B and C as open space. The project lies within the M4 zoning district.

On August 5, 2016, Appellant submitted a zoning permit application for a single family house on lot 15.

Denial - On August 22, 2016, the Zoning Administrator denied the application for the following reasons:

- 1) Interim zoning adopted on 4/6/15 does not allow “New Single Family Dwellings” without Conditional Use approval from the Selectboard per section IV. “New Single Family Dwellings” are defined in the Interim Zoning Bylaws as “any single family dwelling for which a complete zoning permit application had not been submitted to the Milton Department of Planning and Economic Development before February 26, 2015.”
- 2) This lot is part of the “400 Marketplace South” Planned Unit development. Multiple conditions of the Final PUD Plan and Site Plan approval dated 9/24/2010 have not been met.

Appeal - Applicant believes the Zoning Administrator erred in this decision and hereby appeals for the reasons set forth herein:

1)

INTERIM ZONING BYLAWS – MIXED-USE PLANNED UNIT DEVELOPMENT

On April 6, 2015, the Town adopted Interim Zoning Bylaws, to become effective April 27, 2015. No longer allowed in the M4 district are New Planned Unit Developments – Mixed Use and they are specifically defined as;

III DEFINITIONS

F. New Planned Unit Developments – Mixed Use:

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“For any Planned Unit Development – Mixed Use classified as ‘major subdivision,’ a new Planned Unit Development – Mixed Use shall mean any planned unit development – mixed use for which a complete Preliminary Plat application had not been submitted to the Milton Department of Planning and Economic Development before February 26, 2015.”

This language is clear and unambiguous, referencing the legal status of a development project at a defined point in time. The 400 Marketplace South subdivision does not meet the definition set forth by the Selectboard, as it was legally created prior to this date. The Bylaws do not contemplate previously approved projects in any way, but simply exclude new development. There is no specified timeline in the Bylaws transitioning regulatory control of approved projects from subdivision status to individual lots. There is no language effectively noticing a property owner that an approved subdivision will shortly become non-conforming, all language suggests exactly the opposite. In theory, a project for which a preliminary plat application had been filed before February 26, 2015, could receive final site plan approval after April 27, 2015, leaving it non-conforming at the instant of its approval. Appellant contends that the Interim Zoning Bylaws do not adequately address existing approvals and are therefore unenforceable against this project.

PLANNING COMMISSION INTENT ON INTERIM ZONING BYLAWS

Putting aside for a moment the specific language of the Bylaws, it appears that the intent and understanding of the Planning Commission during the draft process was that approved, but not yet built out PUDs, would be unaffected and their development rights would continue under current regulations. The following excerpt is taken from the minutes of the Planning Commission Special Meeting on March, 4, 2015.

The Commissioners questioned how many projects would be impacted by Interim Zoning, and the process by which applications subject to Interim Zoning would be reviewed. Hemmerick stated that the only approvals that could be affected would be PUD's that have Sketch approval and have not advanced to Preliminary/Final, noting Sketch approvals expire within six months.

The minutes reflect no discussion of the transition of a PUD to individual lots status, or how the contemplated zoning changes would affect residential properties within an approved project.

SELECTBOARD INTERPRETATION OF INTERIM ZONING BYLAWS

A significant motivating factor for the enactment of interim zoning was the existence of a large number of approved, unbuilt housing units. The Selectboard relied on this fact in denying a conditional use permit for a Planned Unit Development seeking 22 residential units. (re 444-452 Route 7 South, LLC, January 18, 2016) The Selectboard found “Of added salience to the board was the evidence requested by the Board and presented by the Planning Staff that there are at

least 457 Development Board-approved, unbuilt dwelling units in the Town core....” In considering the impact of this quantity of housing, potentially built in a manner and design inconsistent with the Town’s objectives and ability to sustain, the Selectboard noted “The adverse affects would be exacerbated by approval on an additional major housing complex....”

Of the 457 unbuilt units referenced in this decision, 324 are contained within Appellant’s subdivision. The Selectboard’s findings support Appellant’s argument that Interim Zoning does not restrict the development of Development Board Approved dwelling units. There is no language in the decision to suggest the Selectboard retains Conditional Use control over these potential housing units as stated by the Zoning Administrator.

INTERIM ZONING BYLAWS-OWNER’S VESTED RIGHTS

The denial identifies the lot as part of the 400 Marketplace South subdivision. Lots 5, 8 and 9-24 were designated residential at the project’s conception, remained such throughout the engineering phase and were so approved in the final site plan. Appellant’s goal was to ensure that all residential properties within the project would of a design and quality that would create neighborhoods consistent with the Town’s goals. Each residential property was anticipated to become part of a Homeowner’s Association and enjoy the benefits of fractional ownership of the common land and project amenities. A necessary component of a mixed-use PUD is housing, which is now disallowed under Interim Zoning, rendering all of the residential lots unbuildable. The open land, which factored into the density equation, allowing for a higher concentration of housing on some lots while maximizing green space, becomes worthless. All of the design and engineering work, the street connecting Racine Road to Route 7, wastewater and stormwater permitting, etc. were done to the specifications of a mixed use PUD. Lot sizes and configurations are ill suited for commercial use. Any change to the configuration of the commercial lots to accommodate a major tenant, such as a grocery store, would necessitate an amendment to the PUD, which is also not permitted under the Bylaws. Appellant contends that it’s right to develop the property remains in accordance with the zoning regulations in effect at the project’s final approval, least his considerable time and expense creating the subdivision and obtaining Act 250 approval go for nothing. *Preseault v. Wheel*, 132 Vt. 247, 315 A.2d 244 (1974).

- 2) The Appellant is unable to respond to the denial as the conditions alleged to have not been met are not specified.

Wherefore, Appellant respectfully requests the Development Review Board find the Interim Zoning Bylaws do not apply to the 400 Marketplace South subdivision, overturn the Zoning Administrator’s decision, grant the Zoning Permit requested and award any other such relief as it finds just and equitable.

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Planning & Economic Development
Milton, Vermont

Appeal of Zoning Administrator Decision

On August 5, 2016, Appellant submitted a zoning permit application for a single family house on lot 15 of the 400 Marketplace South subdivision. The project is a 28 lot, mixed use PUD, located at 400 & 414 Route 7 South. The site comprises 128.72 acres and lies within the M4 zoning district. Lot 15 is a 0.51 acre residential building lot with 141' frontage on Racine Road.

On August 22, 2016, the Zoning Administrator denied the application for the following reasons:

- 1) Interim zoning adopted on 4/6/15 does not allow "New Single Family Dwellings" without Conditional Use approval from the Selectboard per section IV. "New Single Family Dwellings" are defined in the Interim Zoning Bylaws as "any single family dwelling for which a complete zoning permit application had not been submitted to the Milton Department of Planning and Economic Development before February 26, 2015."
- 2) This lot is part of the "400 Marketplace South" Planned Unit development. Multiple conditions of the Final PUD Plan and Site Plan approval dated 9/24/2010 have not been met.

Appellant seeks relief from the Zoning Administrator's decision, contending that the Town of Milton Zoning Regulations, Section 442, is relevant to the application and that the Zoning Administrator erred in imposing the Interim Zoning Bylaws. Appellant further contends that it has read the DRB's Notice of Decision, dated September 24, 2010, and believes the project to be in full compliance with all conditions contained therein.

Appellant hereby requests the Development Review Board approve the requested zoning permit, declare the Interim Zoning Bylaws do not apply to the 400 Marketplace South subdivision and find the project in full compliance with all conditions of the Notice of Decision.

The reasons for which the requested relief is believed to be just are set forth in greater detail as follows:

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Planning & Economic Development
Milton Vermont



TOWN OF MILTON, VERMONT 05468-3205

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT
43 BOMBARDIER ROAD • 802-893-1186 • FAX: 893-1005

September 24, 2010

Hubert McCormick
630 Hinesburg Road, Suite 13
South Burlington, VT 05403

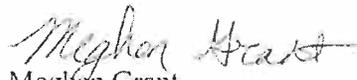
Dear Mr. McCormick:

**NOTICE OF DECISION for Hubert McCormick
Planned Unit Development – “400 Marketplace South” Final Plan & Site Plan**

On September 23, 2010, the Milton Development Review Board (DRB) granted Final Plan & Site Plan approval for your proposed 28-lot mixed-use Planned Unit Development located at 400 & 414 Route 7 South. The DRB's Notice of Decision is enclosed for your records. The approval is subject to the conditions listed on page 12 through 15 of the Notice of Decision.

If you have any questions, please contact the Department of Planning & Economic Development at 893-1186.

Sincerely,


Meghan Grant
Planning Assistant

Enclosure

Cc: Debra Bell, Steven & Wendy Kilburn

**TOWN OF MILTON
DEVELOPMENT REVIEW BOARD
43 BOMBARDIER ROAD, MILTON, VERMONT 05468
PHONE (802) 893-1186**

**NOTICE OF DECISION for
Hubert McCormick**

Planned Unit Development – “400 Marketplace South” – Final Plan & Site Plan

This matter came before the Milton Development Review Board (DRB) on the application of Owner/Applicant Hubert McCormick, referred to hereafter as the "Applicant," for a proposed 28-lot, mixed-use PUD located at 400 & 414 Route 7 South. The DRB conducted a warned public hearing on August 12, 2010. Debra Bell, from Trudell Consulting Engineers, and Hubert McCormick represented the Applicant at the hearing.

Based upon testimony provided at the above mentioned public hearing and the documents submitted to the DRB which are contained in the "document file" for this application, the DRB finds, concludes and decides as follows:

FINDINGS OF FACT

1. The Applicant is requesting Final Plan & Site Plan approval for a proposed 28-lot, mixed-use PUD located at 400 & 414 Route 7 South, described as Tax Map 7, Parcels 15 and 15-2. Two points of access are proposed with the primary commercial access on Route 7 and a loop connection to Racine Road. Municipal water and sewer are proposed to serve the project. Approximately 78 acres will remain as open space. Specific development plans for each lot are not proposed at this time.
2. The subject property contains approximately 128.72 acres and is located within the "Checkerberry" (M4) Zoning District. Hubert McCormick is the property owner and the applicant.
3. The DRB held a warned public hearing on August 12, 2010. The DRB members present and participating in the hearing were John Jorschick, Clayton Forgan, Ronald Harding, David Conley, and David Keelty. Debra Bell, from Trudell Consulting Engineers, and Hubert McCormick represented the Applicant at the hearing.

CONCLUSIONS

Planned Unit Development Review

1. This proposal meets the definition of a *Planned Unit Development (PUD)* as defined in Section 1010 of the Milton Zoning Regulations. Section 851 of the Zoning Regulations states that Planned Unit Developments shall include all elements required for a subdivision by the Milton Subdivision Regulations and all elements required under Section 800: Site Plan review of the Milton Zoning Regulations. Pursuant to Section 852.1 of the Milton Zoning regulations, this proposed PUD is considered a major subdivision. PUDs that are considered major subdivisions shall only be required to hold one statutory public hearing at the preliminary stage, unless the DRB feels that a second public hearing should be required at the final stage. Due to the complexity and large size of this proposal, the DRB found that an additional Final Plan hearing was required.
2. The Applicant is not proposing any development at this time, although he has submitted a concept plan that illustrates what the potential development could look like. The concept plan

NOTICE OF DECISION FOR Hubert McCormick – “400 Marketplace South” – Planned Unit Development
Final Plan & Site Plan

includes commercial and residential lots. The Applicant has indicated that the full build-out of the property could take many years. At this point, the DRB will be reviewing the proposed lots, streets, and utilities layouts recognizing that PUDs allow for flexibility in design and waivers from dimensional requirements. Any future development that is proposed will need to be reviewed under the applicable Zoning Regulations at that time, although the Applicant is requesting some waivers at this time that, if approved, will govern the future layout and density of the affected lots (they would like to establish these parameters now, although the actual development proposal will be reviewed at a later date).

Site Visit

3. Section 855.8 of the Zoning Regulations requires the Applicant to schedule a site visit with the Development Review Board. Section 855.7 requires the Applicant to place temporary markers on the site to assist the DRB in locating the layout of the proposed PUD. The DRB found a site visit was not necessary during the previous review stages.

Narrative

4. As per Section 855.5 of the Zoning Regulations, the Applicant provided a narrative with the Sketch Plan application. The DRB reviewed the narrative during the Sketch Plan stage and found the proposed plan meets the requirements of a PUD. The Applicant's concept plan shows their intent is to provide landscaping and pedestrian connections, with most of the commercial buildings placed close to the streets and the parking behind the buildings as much as possible. They also propose three common open space parcels. During the Sketch Plan review, the DRB found that as each lot is developed, the Applicant should ensure that pedestrian connections are made and attempt to adhere to the concept layout as much as possible, with the buildings placed close to the sidewalks and the parking not allowed to dominate the sites. The Applicant was also asked to include an entrance to each building along the main sidewalk, not just from the parking lot. The Applicant agreed to incorporate these suggestions where feasible as each lot is developed, or incorporate some other architectural feature, such as a large storefront window, if a sidewalk entrance is not feasible. In accordance with Section 852.10, the DRB can impose phasing on the development and set reasonable time frames for which the phases must be built. The DRB found in the Sketch Plan decision that it is not necessary to establish a phasing schedule for this development for the build-out of the lots (there does need to be a phasing schedule for the infrastructure, which has been submitted).

Lot Layout & Density

5. The subject property falls within the Checkerberry Zoning District (M4). The plans include 28 lots, three of which are open space parcels. The concept plan indicates that 6 lots will be commercial lots, two lots will include multi-family developments, 16 lots will be single-family or duplex residential lots, and one lot contains the existing Sears store. The lots front along Route 7 and/or along four new streets that are proposed within the PUD. The total acreage and parcel ID of the PUD noted in the plan set should be updated to include the Sears parcel (e.g., plan sheets SP1 and EC1 under "general notes").
6. The Applicant has submitted a survey and dimensional tables for each lot. From this information, it appears that all of the lots meet the minimum lot area requirement of 20,000 square feet for the M4 Zoning District.
7. The Preliminary Plan showed 60' rights-of-way for future Streets 5 and 6 on Lots 1 through

NOTICE OF DECISION FOR Hubert McCormick – “400 Marketplace South” – Planned Unit Development
Final Plan & Site Plan

4. The definition for “lot area” within the Zoning Regulations states that lot area excludes any part of the lot lying within the boundary of a public street, private street, or right-of-way. At the Preliminary Plan hearing, the Applicant's engineer explained that the 60’ rights-of-way shown on the plans were for driveway accesses to serve the future commercial parking lots. She explained the 40’ right-of-way on Lots 4 and 6 is for truck access to Sears, because the existing access will be eliminated. After some discussion, it was determined that these accesses will be commercial driveways, not roads, and 40’ wide access easements would probably be sufficient. The Applicant was directed to label these driveways accordingly. Since these accesses will be driveways, not streets, it is no longer necessary to subtract the land within the access easements from the lot area of the affected lots. The lot area table subtracting out the land area within the access easements should be removed from the subdivision plat, since it is no longer necessary.
8. Section 530: Required Frontage and Approved Access of the Zoning Regulations states that “Land development shall only be permitted on lots having frontage on public waters, lots having access on a public road meeting Class 1, 2, or 3 state standards, or, with the approval of the Development Review Board, lots having access to a public road meeting Class 1, 2, or 3 state standards over a permanent, private easement or private right-of-way at least 60-feet wide.” The Applicant is proposing new public and private streets within 60’ wide rights-of-way. The proposed lots will have the required amount of frontage along the new roads, with a few exceptions noted below (waivers have been requested for these lots).
9. The Applicant has submitted a list of waiver requests. The requested waivers are summarized in the tables below:

Lot #	<u>Proposed Frontage</u> (Required: 200 Feet Route 7/100 Feet Other Roads)	<u>Proposed Front Setback</u> (20 Feet Required)	<u>Proposed Side & Rear Setback</u> (10 Feet Required)	<u>Proposed Lot Coverage</u> (60% Maximum)
Sears Lot (Map 7 Parcel 15)	200 Feet Route 7	10 feet	0 feet	100%
1	153 Feet Route 7/266 Feet Others	10 feet from Route 7/0 feet others	0 feet	100 %
2	206 Feet Route 7/272 Feet Others	10 feet from Route 7/0 feet others	0 feet	100 %
3	331 Feet & 288 Feet	0 feet	0 feet	100 %
4	661 Feet	0 feet	0 feet	100 %
5	238 Feet & 945 Feet	0 feet	0 feet	90 %
6	584 Feet	0 feet	0 feet	100 %
7	527 Feet& 320 Feet	0 feet	0 feet	100 %
8	534 Feet	0 feet	0 feet	100 %
15	97.9 feet at 100’ depth	20 feet	10 feet	N/A (Building Coverage Max. 40%)

NOTICE OF DECISION FOR Hubert McCormick – “400 Marketplace South” – Planned Unit Development
Final Plan & Site Plan

Requested Waivers (the figures below represent the difference between what is proposed and what is required)

Lot #	Frontage	Front Setback	Side & Rear Setback	Lot Coverage
Sears Lot (Map 7 Parcel 15)	N/A	10 Feet	10 feet	40%
1	47 Feet along Route 7	10 Feet from Route 7/20 Feet Others	10 feet	40%
2	N/A	10 Feet from Route 7/20 Feet Others	10 feet	40%
3	N/A	20 feet	10 feet	40%
4	N/A	20 feet	10 feet	40%
5	N/A	20 feet	10 feet	30%
6	N/A	20 feet	10 feet	40%
7	N/A	20 feet	10 feet	40%
8	N/A	20 feet	10 feet	40%
15	2.1 feet	N/A	N/A	N/A

10. With the Sketch Plan application, the Applicant provided the following justification for the requested waivers: 1) preservation of 77.6 +/- acres of common open space, 2) offer of right-of-way dedication between Racine Road and eastern property line, and 3) offer to provide a recreation path easement between Racine Road and eastern property line (this has been replaced with a multi-use path within the proposed public right-of-way). Section 804 includes provisions that encourage buildings to be placed close to sidewalks, encourage street trees and green belts along sidewalks to promote a pedestrian-friendly environment, encourage a design that promotes pedestrian movement, not allow parking to dominate the site, and encourage the parking to be placed behind buildings.

11. Steven and Wendy Kilburn, adjacent property owners, spoke in opposition of the waiver requests at the hearing due to concerns that buildings close to Route 7 would restrict the visibility of their business from Route 7 and due to lack of consistency in development patterns along Route 7. They contended that most buildings along Route 7 are built further back with the parking in the front.

12. The DRB finds that the requested setback waivers will allow the buildings to be placed close to sidewalks to create a pedestrian-friendly environment and village-style development, in accordance with Section 804 of the Zoning Regulations. For all of the reasons cited in #10 above, the DRB finds that the requested waivers from the setbacks and the frontage requirements are appropriate and are therefore granted. However, due to the request for increased density on Lots 5 and 8, and due to the uncertainty of what will ultimately be proposed on Lots 1 through 8, the DRB does not grant the requested lot coverage waivers. The DRB finds that the lot coverage will be evaluated when Site Plan applications are submitted for each lot, and if lot coverage waivers are needed, they should be requested at that time.

13. Sections 855.2 and 856.1 of the Zoning Regulations describe how residential density is to be determined for the residential portion of mixed use PUDs. The Applicant's engineer submitted a density calculation based on the formula in the Zoning Regulations. The calculation subtracts

NOTICE OF DECISION FOR Hubert McCormick – “400 Marketplace South” – Planned Unit Development
Final Plan & Site Plan

out the undevelopable land, accounts for the land area to be occupied by the commercial uses, and accounts for the land area required by the Zoning Regulations for the single-family/duplex lots. The calculation shows there are 38.31 acres of the total PUD land area available for the multi-family units. The M4 Zoning District allows for a maximum density of 7 units per 40,000 square feet for multifamily dwellings, which results in 292 multi-family units allowed per the density analysis when it's calculated correctly (the calculation submitted by the engineer says 246 units allowed, but there appears to be an error in the calculation with the acre conversion). This is the maximum amount of units supported by the density analysis; however, other parameters will determine how many units can actually be supported on Lots 5 and 8, where multi-family housing is proposed. Based on the density analysis, a bonus density is not required as was previously thought.

14. Section 852.8 of the Zoning Regulations states that the DRB may allow a greater density of land use within some sections of the development than in others, if they determine that it is necessary to enable innovation in design and layout and more efficient use of land. The Applicant is requesting to be allowed to exceed the 7 units/40,000 square feet maximum density for multi-family units on Lots 5 and 8, up to a maximum of 292 units per the density analysis calculated on the total land area of the entire PUD (although it is unlikely that the maximum number of units would be supported on these lots based on parking requirements, stormwater management, and other factors). The Applicant's proposal includes 76.77 acres of open space that will offset the increased density on Lots 5 and 8. Lots 5 and 8 will be subject to Site Plan review prior to development of these lots. On plan sheet SP-1, the maximum density should be corrected to read "7 units per 40,000 square feet."
15. The Applicant is requesting to be allowed to exceed the 7 units/40,000 square feet maximum density for multi-family units on Lots 5 and 8, up to a maximum of 292 units per the density analysis calculated on the total land area of the entire PUD (although it is unlikely that the maximum number of units would be supported on these lots based on parking requirements, stormwater management, and other factors). The DRB finds that the Applicant may be allowed to exceed the 7 units/40,000 square feet maximum density on Lots 5 and 8, up to a maximum of 292 units; however, the appropriate residential density for Lots 5 and 8 will be determined by the DRB when Site Plan applications are submitted for each lot. The Applicant shall comply with all other applicable Zoning Regulations and State Regulations, such as parking requirements, limitation on number of units allowed on a dead-end road, limitation on length of dead-end roads to 1,000 feet, wastewater disposal and water supply, stormwater management, and all other planning elements that are required in an application for Site Plan approval. Compliance with these elements and regulations will ultimately determine how many units can be supported on Lots 5 and 8 when the Site Plans are reviewed by the DRB.
16. Section 640: *Lot Width* of the Zoning Regulations states, "*The width of any new lot shall not be less than one-third (1/3) of the depth of the lot.*" All proposed lots appear to meet the lot width to depth ratio requirement. Lot 5 meets the requirement when its width:depth ratio is measured from its frontage along Victoria Lane/Street 3 (Lot 5 is a corner lot).
17. On November 24, 2008, the DRB granted boundary line adjustment approval between the McCormick parcel and the adjacent Turner parcel to the north for an expansion of the Turner Estates PUD. In that decision, the DRB stated that any future development on the adjusted Turner lot shall connect to the McCormick lot via a right-of-way and road. The intent of this condition was to ensure that any further development of Turner Estates would connect through to the proposed road now identified as Street 2 on the McCormick Sketch Plan. The land that was to be adjusted appears to be that identified as Lot 8 on the McCormick Sketch Plan. At the Sketch Plan hearing, Ms. Bell stated the boundary line adjustment with the Turner parcel may

NOTICE OF DECISION FOR Hubert McCormick – “400 Marketplace South” – Planned Unit Development
Final Plan & Site Plan

still be finalized, and if so, it would involve Lot 8. If the boundary line adjustment with Turner is ever finalized, a right-of-way and road should be included on Lot 8 when it is developed to allow for a connection to Street 2.

18. Section 855.3 requires that “PUDs in the Mixed Use Zoning Districts shall select appropriate building envelopes and building heights, which will enhance the downtown as outlined in Sections 804 and 805 of these regulations.” Section 804 includes requirements allowing uses to mix as long as they are sited and designed in like kind quality with neighboring properties, encouraging buildings to be placed close to sidewalks, encouraging street trees and green belts along sidewalks to promote a pedestrian-friendly environment, encouraging a design that promotes pedestrian movement, encouraging street trees, and not allowing parking to dominate the site, and encouraging the parking to be placed behind buildings. The DRB finds that the concept plan meets the criteria in Section 804, and the Applicant should consider these criteria when developing the individual site plans for each lot. All the building envelopes have been proposed outside of the Class Two wetlands. Some of the residential building envelopes are more restrictive than the dimensional standards for setbacks in the M4 Zoning District, mostly to avoid wetland impacts. When the lots are developed, building elevations should be submitted, in accordance with Section 803.7. The building envelopes for all the lots (including the 10' Route 7 setback for the commercial lots) must be included on the plat.
19. While not all of the specific uses are proposed at this time, the DRB finds that the general uses proposed are permitted uses within the M4 Zoning District. The proposed uses will need to meet the permitted or conditional uses for the M4 Zoning District when the lots are developed.
20. The Applicant has identified 2,253,830 sq.ft. of primary natural features, all of which are wetlands or streams. In addition, there are 7,930,734 sq.ft. of secondary natural features; specifically open fields, wooded areas and prime and Statewide agricultural lands. The DRB finds that the current proposal avoids the primary features as much as possible, and most of the secondary features as well. The stormwater should be managed in such a way to avoid any impact to these natural features. In general, the DRB finds that this is an appropriate location for this development. If this area was ever farmed, it hasn't been for a substantial amount of time; and it isn't likely that it ever would be farmed again. This parcel is located in a relatively high-density, mixed-use district within the greater Town Core area, where agricultural uses are no longer practiced. The DRB also notes that this project will need Act 250 approval, where the agricultural land issue will receive further review.

Open Space

21. The Applicant proposes 76.77 acres of common open space on three lots. The Applicant has submitted a Declaration of Covenants, Conditions, Restrictions, and Liens that includes provisions for the maintenance of the open space. The PUD regulations allow for landscaping and more urban forms of open space in this area in order to enhance the downtown and promote pedestrian access. The commercial lots will be reviewed as they are developed to ensure that appropriate landscaping is incorporated. The open space includes a large amount of wetlands. The DRB finds that the amount of proposed open space is sufficient.

Storm Water, Erosion and Sediment

22. The Town Engineer has reviewed the stormwater plans and has comments that must be addressed. The Town Attorney will be reviewing the legal documents to ensure the Association will maintain the stormwater infrastructure, not the Town.

Section 700 Review, “Standards for Evaluation”

23. Final approval of any subdivision must be based on a finding by the DRB that the proposed subdivision is in accordance with the twelve standards for evaluation contained in Section 700 of the Subdivision Regulations. The DRB finds that the Applicant’s responses are adequate, and the proposal is in accordance with the twelve standards of evaluation.

Site Plan Review Standards

24. Section 852.2 requires all PUDs to be reviewed under the Site Plan regulations. Although no development is proposed on individual lots at this time, a Site Plan application has been submitted to ensure that the overall layout complies with the Site Plan Regulations, such as providing sidewalks and street trees. A Site Plan application will be required for each individual commercial and multi-family lot when development is proposed, and the proposed development will be reviewed under all applicable review criteria at that time.

25. In accordance with Section 802.3 of the Zoning Regulations, the DRB may consider the following criteria listed below in bold italic text in its review of a Site Plan application.

(a) ***Maximum safety of vehicular and pedestrian circulation on site, between the site and adjacent roads and sidewalks, and between the site and adjacent land uses.***

26. The proposal includes four new streets: a boulevard-style street off of Route 7 (Street 1), an east-west road parallel to Route 7 (Street 2), a dead-end leading to a multi-family project (Street 3), and another dead-end serving residential lots (Street 4). Street One is located within an 86’ wide right-of-way to accommodate the boulevard. The remaining streets are located within 60’ wide rights-of-way. The plans also include three 40’ wide easements for commercial driveway accesses.

27. Street 1 includes two 11’ wide travel lanes on its eastern side and its travel lane width varies from 14’ to 22’ on the western side. Street 2 is 24’ to 26’ wide and the remaining streets will be 24’ wide. Street 1 and Street 2 will become public roads once the roads loop through from Route 7 to Racine Road. The discussion in the “Phasing Plan” section of this report describes this process in more detail. The other roads shall remain private. The Applicant has provided a list of three street names that have been approved by the Zoning Administrator and are shown on the plans: Victoria Lane, Lindbergh Drive, and Mattie Lane. The streets should be labeled more specifically on the site plan sheets as “60’ wide private right-of-way” or “60’ (or 86’) wide potential future public right-of-way.”

28. The Final Plans have been revised so enough land is reserved at the future intersection of Street 1, Street 2, and the “future street” for this intersection to be realigned to form a “T” with the future east-west road and Street 1.

29. Note 8 on the plat should be clarified to indicate that when the Town assumes ownership of the Street 1 right-of-way, it will include the 0.06-acre “triangle” until such time that the road may be realigned. This should be clear in the deed as well. At the hearing, Ms. Bell stated she would work with Staff on how to handle this.

30. The timing of the granting of the right-of-way for the “future street” to the Town was discussed at the hearing, but the Applicant was unsure of his plans. Therefore, the DRB finds that the Applicant should submit an Irrevocable Offer of Dedication for the “future street” prior to the

NOTICE OF DECISION FOR Hubert McCormick – “400 Marketplace South” – Planned Unit Development
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issuance of a zoning permit for the construction of the first phase of Street Two. The Town will accept the Warranty Deed for the right-of-way for the “future street” when the Town accepts the Warranty Deed for Street 2.

31. Steven Kilburn expressed his opposition to the proposed east-west road, a portion of which is shown on the Applicant's plan.
32. The plans include the relocation of a portion of the existing sidewalk along Route 7 (the portion in front of Lot 2). The Applicant should work with the Town Engineer and VTrans on the relocation of this sidewalk. The land where the sidewalk and the turning lane will be built will be granted to the State. The surety will be established with VTrans. The Town will be a co-applicant on the State Highway Access Permit for the sidewalk and will ultimately assume maintenance of the sidewalk.
33. The Applicant also proposes a 5' wide concrete sidewalk along the east side of Street 1 up to its intersection with Driveway 6 and a 10' wide pedestrian/bike path along the west side of Street 1 and the north side of Street 2.
34. All of the curb cuts to be located on a future public road will require Town Highway Access Permits.
35. The Applicant will need to obtain a Letter of Intent, and ultimately a Highway Access Permit from the State Agency of Transportation for the Route 7 access.
36. The Applicant has submitted legal documents that will be reviewed by the Town Attorney to determine if they adequately describe the perpetual maintenance of and the rights of ingress and egress over the private rights-of-way. The legal documents establishing the private roads must comply with Section 592.13 of the Zoning Regulations, including they must absolve the Town from taking over the private rights-of-way as a Town highway in the future.
37. The plan set includes profiles and details for the public streets only. The Applicant's engineer has suggested that there be a condition of final approval that the details for the private streets be required and subject to technical review prior to Site Plan approval (in the case of Street 3) or Zoning Permits (in the case of Street 4). The DRB found in the Preliminary Plan decision that this request is acceptable, but noted that sidewalks should be included along at least one side of these streets when the plans are developed. The phasing plan indicates that sidewalks will also be included along Streets 3 and 4 when they are built.
38. The Applicant's engineer should indicate if the rights-of-way for Streets 3 and 4 will be less than 1,000 feet in length (it appears they may be a bit longer than 1,000 feet). The recently approved Zoning Regulations contain detailed standards for private roads, and this includes a restriction on the length of the private right-of-way. Street 3 will be subject to Site Plan review when a multi-family development is proposed, so if the proposed street will be longer than 1,000 feet, the discussion can be held at that time as to whether this road will meet the standards in Section 592. However, if Street 4 is longer than 1,000 feet, the conversation should be had at this time as to whether a waiver will be requested and if it is warranted. Even if the streets are less than 1,000 feet in length, they will need to meet the standards in the Public Works Specifications and Section 592 of the Zoning Regulations. At the hearing, Ms. Bell stated the Street 3 right-of-way is not an issue, as it is 960' long. Regarding Street 4, Ms. Bell stated the road length is 995', but the right-of-way is an additional 112' long, so the length of the right-of-way is 107' longer than 1,000 feet. Ms. Bell stated if this is a problem, they can shorten the road and use a driveway to serve the last 3 lots. Ms. Violette

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stated a waiver is appropriate in this situation, because the road itself is less than 1,000' long, the road will be serving only 5 houses, the terrain is flat, it is close to the center of Town, and there are no issues with emergency access. The DRB advised Ms. Bell to submit a request for a waiver from the restriction on rights-of-way not being longer than 1,000 feet. The waiver requested is 107', as the right-of-way is 1,107' long. The DRB grants the requested 107' waiver for the length of the right-of-way for Street 4 to exceed 1,000' (to a length of 1,107').

39. The Applicant should speak with the Milton Post Office to determine if central mailbox locations/pulloffs should be incorporate into the plans. At the hearing, Ms. Bell stated they had not spoken to the post office yet to determine if central mailbox locations/pulloffs should be incorporated into the plans. Mr. Keilty explained a concern has been that there needs to be enough queuing area and room to park for people to get their mail in larger projects.

(b) Adequacy of traffic circulation, parking, and loading facilities.

40. Without seeing the proposals for the individual lots, it is impossible to determine how the circulation will work between the lots, if there will be sufficient parking and pedestrian and vehicular connections, and if there will be any safety issues due to access for emergency vehicles. In general, the Applicant should familiarize himself with the requirements of the Site Plan and PUD regulations and ensure that circulation and parking will be adequately addressed as the property builds out. In particular for Lot 5, there will likely be concerns about safety and access for this lot due to the potential for a substantial amount of units off of a lengthy dead-end road. The Zoning Regulations now include a prohibition on more than 50 units being served off of a dead end road. This information is being provided to the Applicant now, so he can be prepared for potential future issues that may arise when individual lot's developments are reviewed.

(c) Impacts on capacity of roadways and other transportation facilities in the vicinity.

41. The Applicant has submitted a traffic study, which has been reviewed by the Town Engineer. The Town Engineer did not have any comments on the traffic study at this time; however, the traffic study will need to be updated with each Site Plan application when the actual uses are determined.

(d) Adequacy of landscaping, screening, and outdoor lighting.

42. Section 855.4 states that landscaping is a key element of the design of PUDs in the mixed-use districts. The Applicant has submitted a landscaping plan and a lighting plan. The plans include street trees along Streets 1 and 2 and a planting schedule that is phased in accordance with the infrastructure phasing schedule. Landscaping cost estimates have been submitted for each phase. It will be necessary to update the cost estimates when each phase is established, as it may be several years before this occurs. The landscaping sureties will be established as each corresponding infrastructure phase is built (prior to a zoning permit for each phase). The draft Declaration includes language stating the commercial lot owners will be responsible for the maintenance of the landscaping within the Street 1 and Street 2 rights-of-way. The landscaping plan for the median should include what the ground cover and other landscaping will be within the median and what the responsibilities of the Association will be to maintain the median (e.g. will there be grass? Mulch?). Landscaping easements to the Association will need to be included on the plat and site plan for the median and any other street trees within the future public right-of-way that the Association will be responsible for maintaining.

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43. The Water/Wastewater Superintendent is concerned about the location of some of the trees in relation to the water and sewer mains. He has requested the Applicant's engineer take another look at their locations and adjust them as needed, so that they are not 10' on either side of the main and not directly over water and sewer service laterals. The trees should be located within the street rights-of-way wherever it is possible to do so. At the hearing, Ms. Bell stated she would work with the Water/Wastewater Superintendent on the locations of the street trees.
44. The lighting plan includes the lamp style that was selected by the townspeople as the preferred lighting style for the Town Core during the charettes for the “A Town Core Accessibility Design and Streetscape Study.” The lighting plan includes lighting along both sides of the beginning of Street 1 up to the first intersection with Driveways 5 and 6, then along the beginning of Driveways 5 and 6, and continuing along the multi-use path down through Street 2 to the end of Lot 6 (essentially corresponding to the commercial portion of the proposed development).
45. Section 820.3 of the Zoning Regulations states that the maximum height for streetlights should not exceed 20 feet from the ground to the top of fixture. The plans show that the streetlights proposed are 25' tall mounting height. The Applicant's engineer has explained that the taller mounting height allows for larger dispersal of the light, so that more of the multi-use path will be illuminated. She stated that if the height is reduced, it will result in more hot spots and the path will not be as well lit. She also noted that the lights are only proposed within the commercial portion of the project, so there shouldn't be any issues with the lights bothering anyone. In the Preliminary Plan decision, the DRB found that in this situation, there are benefits of lighting the multi-use path to increase the safety of its users, and the DRB granted a waiver from Section 820.3 to allow 25' tall mounting heights for the street lights. The phasing plan indicates the street lights will be installed when the corresponding infrastructure phase is built. The street lights shall be maintained by the Association, not the Town (this provision has been included in the draft Declaration).
- (e) *Impacts on the Town's ability to provide adequate sewer, water, fire, police, or other municipal services and facilities.***
46. Municipal water and sewer are proposed for the project. Roger Hunt, Water/Wastewater Superintendent, and Andy Legg, Town Engineer, have reviewed the plans and provided comments that must be addressed. The Applicant has received water and wastewater allocation for the project.

Infrastructure Phasing Plan

47. Sheet SP-2 of the plan set is a phasing plan for the proposed future public infrastructure. The intent is for the Town to accept ownership and maintenance of Street 1 and Street 2 and the water and sewer mains within these rights-of-way and connecting to the existing public mains on Clifford Drive (sewer) and Racine Road (water). However, the Town will not accept ownership of this infrastructure until loop connections are made; the Town will not accept dead-end roads or water or sewer mains. Therefore, the infrastructure will remain private until such time that loop connections are made. The exception to this is the water main along Racine Road; since this is within the public right-of-way, the procedures for the acceptance of public infrastructure should be established for this section (including a surety) prior to construction, and the Town will accept it at the end of the warranty period. The other infrastructure will remain private (Streets 3 and 4 and the water and sewer servicing the

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individual lots, as well as the water and sewer mains along Streets 3 and 4).

48. Since there is no timetable for completion of the future public infrastructure loops, Staff has discussed how to handle the phasing of this infrastructure from the standpoint of acceptance of public infrastructure. The usual method of handling this infrastructure, where a surety is posted, held for a two-year warranty period, and then the infrastructure is accepted, is not suitable for this project, because the infrastructure may not be looped at the end of the two-year warranty period, and the Town will therefore not be taking it over at that time. The method that has been agreed upon for this project is similar to the usual process minus the sureties, and is described as follows:
49. Any infrastructure that is proposed to someday become public will be built to the standards for public infrastructure in the Public Works Specifications. The infrastructure will need to be certified by a professional engineer, then be inspected by the Town Staff as usual, and when construction is complete, an Irrevocable Offer of Dedication will be recorded.
50. If the Applicant wishes to complete the infrastructure upfront (meaning, complete the looping all at once), the usual procedure for the acceptance of public infrastructure must be followed.
51. The Applicant has submitted draft Irrevocable Offers of Dedication that have been reviewed by the Town Attorney. If additional legal documents are required or if revisions are needed, these must be addressed by the Applicant.
52. On Sheet P5, there appears to be a mislabeled 20' wide “sewer easement” to Lot 15; this should be corrected.
53. A draft easement deed, including a bill of sale for the infrastructure, and Irrevocable Offer of Dedication must be submitted for the sewer easement to connect to Clifford Drive.
54. In the Preliminary Plan decision, the DRB found that zoning permits will be required prior to construction of each phase of the public infrastructure. Due to the complexity of the project and the multiple phases, zoning permits will allow Staff to ensure the conditions of approval are met for each phase at that time and establish a record for each phase of the project.
55. The Applicant must address the comments received from the Water/Wastewater Superintendent. Steven Kilburn questioned why the Water/Wastewater Superintendent requested the Applicant connect to the main on the Ice Barn property. Ms. Violette read the reasons from Roger Hunt’s email: this will loop the Ice Barn main, eliminate a new tap on CWD’s transmission main, limit potential conflicts with street trees, and save the Applicant some money on the connection fees.
56. The Water/Wastewater Superintendent may require maintenance agreements for any of the water and/or sewer infrastructure prior to it being accepted by the Town.
57. The Applicant must address the comments received from the Town Engineer.
- (f) ***Suitability of the site for the proposed scope of development, including due regard for the preservation of existing natural and historical resources.***
58. The DRB finds the site is suitable for the proposed development. The Applicant is avoiding the Class Two wetlands on the site as much as possible.

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(g) Consistency with the Comprehensive Plan.

59. The subject property is located within the Town Core Planning Area. The Applicant has taken numerous steps to meet the goals for the Town Core Planning Area when designing this development, including enhancing the pedestrian environment through pedestrian connections and street trees.

Other

60. If the Applicant wishes, the 3 required full-size and reduced copies of the complete final plan sets may be submitted after the project receives its State approvals, so the Town will have the most up-to-date plan set in its records.

61. Steven Kilburn asked about Driveway 6, which is shown going to their property as a possible connection. He stated the way it is designed, it could possibly block their access to a public roadway and every property is entitled to one curb cut. He stated their property was not designed to have a driveway there, it is not the safest connection, and it is not something they are interested in at this point. Mr. Jorschick stated this must be worked out with Mr. McCormick. Mr. Jorschick stated the driveway is not shown connecting to Mr. Kilburn's property. Ms. Violette stated the plat shows an access easement to Mr. Kilburn's property, but that is something that will need to be worked out between the property owners. Mr. Kilburn provided a photograph of the neighboring property. Mr. Jorschick stated they are not a design review board, they are a development review board. Mr. Joachim made a copy of the photo for the file.

DECISION

MOTION by David Conley, second by Clayton Forgan, to **APPROVE** the Applicant's proposed Final Plan and Site Plan for a 28-lot, mixed-use PUD located at 400 & 414 Route 7 South, subject to the following conditions being completed to the satisfaction of Staff:

1. 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.
2. No changes, erasures, modifications, or revisions, other than those required by this decision, shall be made on the plans after approval unless revised plans are first submitted to the Department of Planning and Economic Development for approval.
3. The Applicant must submit 3 full-sized (to scale) sets and 3 reduced (11 x 17) sets of the complete final plan sets depicting the requested changes. The Applicant is advised to submit one full-sized (to scale) final plan set for staff review, to ensure that all the revisions required by this Decision have been properly addressed, prior to submitting all the required copies of the final plan sets. If the Applicant wishes, the 3 required full-size and reduced copies of the complete final plan sets may be submitted after the project receives its State approvals, so the Town will have the most up-to-date plan set in its records.
4. The survey must be submitted on mylar, signed by the DRB Chair, and recorded in the land records within 180 days of approval.

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5. The total acreage and parcel ID of the PUD noted in the plan set should be updated to include the Sears parcel (e.g., plan sheets SP1 and EC1 under “general notes”).
6. The lot area table subtracting out the land area within the access easements should be removed from the subdivision plat, since it is no longer necessary.
7. The DRB finds that the requested waivers from the setbacks and the frontage requirements are appropriate and are therefore granted. However, due to the request for increased density on Lots 5 and 8, and due to the uncertainty of what will ultimately be proposed on Lots 1 through 8, the DRB does not grant the requested lot coverage waivers.
8. On plan sheet SP-1, the maximum density should be corrected to read “7 units per 40,000 square feet.”
9. The DRB finds that the Applicant may be allowed to exceed the 7 units/40,000 square feet maximum density on Lots 5 and 8, up to a maximum of 292 units; however, the appropriate residential density for Lots 5 and 8 will be determined by the DRB when Site Plan applications are submitted for each lot.
10. If the boundary line adjustment with Turner is ever finalized, a right-of-way and road should be included on Lot 8 when it is developed to allow for a connection to Street 2.
11. The building envelopes for all the lots (including the 10’ Route 7 setback for the commercial lots) must be included on the plat.
12. The Association will be responsible for maintaining the stormwater infrastructure, not the Town.
13. The streets should be labeled more specifically on the site plan sheets as “60’ wide private right-of-way” or “60’ (or 86’) wide potential future public right-of-way.”
14. Note 8 on the plat should be clarified to indicate that when the Town assumes ownership of the Street 1 right-of-way, it will include the 0.06-acre “triangle” until such time that the road may be realigned. This should be clear in the deed as well.
15. The Applicant should submit an Irrevocable Offer of Dedication for the “future street” when the construction of Street 2 is complete. The Town will accept the Warranty Deed for the right-of-way for the “future street” when the Town accepts the Warranty Deed for Street 2.
16. The Applicant should work with the Town Engineer and VTrans on the relocation of the existing sidewalk along Route 7. This will require the dedication of land to the State as shown on the plans and the establishment of a surety with the State. The Town will be a co-applicant on the State Highway Access Permit for the sidewalk and will ultimately assume maintenance of the sidewalk.
17. All of the curb cuts to be located on a future public road will require Town Highway Access Permits.
18. The Applicant will need to obtain a Letter of Intent, and ultimately a Highway Access Permit from the State Agency of Transportation for the Route 7 access.

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19. The legal documents establishing the private roads must comply with Section 592.13 of the Zoning Regulations, including they must absolve the Town from taking over the private rights-of-way as a Town highway in the future.
20. The details for the private streets shall be required and subject to technical review prior to Site Plan approval (in the case of Street 3) or Zoning Permits (in the case of Street 4). They will need to meet the standards in the Public Works Specifications and Section 592 of the Zoning Regulations. Sidewalks must be included along at least one side of these streets when the plans are developed.
21. The DRB grants the requested 107' waiver for the length of the right-of-way for Street 4 to exceed 1,000' (to a length of 1,107').
22. The Applicant should speak with the Milton Post Office to determine if central mailbox locations/pulloffs should be incorporate into the plans.
23. The traffic study will need to be updated with each Site Plan application when the actual uses are determined.
24. It will be necessary to update the landscaping cost estimates when each phase is established, as it may be several years before this occurs. The landscaping sureties will be established as each corresponding infrastructure phase is built (prior to a zoning permit for each phase).
25. The landscaping plan for the median should include what the ground cover and other landscaping will be within the median and what the responsibilities of the Association will be to maintain the median (e.g. will there be grass? Mulch?).
26. Landscaping easements to the Association will need to be included on the plat and site plan for the median and any other street trees within the future public right-of-way that the Association will be responsible for maintaining.
27. The trees should be located within the street rights-of-way wherever it is possible to do so.
28. The Water/Wastewater Superintendent has requested the Applicant's engineer take another look at the locations of the trees and adjust them as needed, so that they are not 10' on either side of the main and not directly over water and sewer service laterals.
29. The street lights shall be maintained by the Association, not the Town.
30. Since the water main along Racine Road is within the public right-of-way, the procedures for the acceptance of public infrastructure must be followed for this section at the time it is constructed, including the establishment of a surety in the amount approved by the Town Engineer and Selectboard and the submission of a Bill of Sale.
31. Any infrastructure that is proposed to someday become public will be built to the standards for public infrastructure in the Public Works Specifications. The infrastructure will need to be certified by a professional engineer, then be inspected by the Town Staff as usual, and when construction is complete, an Irrevocable Offer of Dedication will be recorded.
32. If the Applicant wishes to complete the infrastructure upfront (meaning, complete the looping all at once), the usual procedure for the acceptance of public infrastructure must be

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followed.

33. If additional legal documents are required or if revisions are needed, these must be addressed by the Applicant.
34. On Sheet P5, there appears to be a mislabeled 20' wide “sewer easement” to Lot 15; this should be corrected.
35. A draft easement deed, including a bill of sale for the infrastructure, and Irrevocable Offer of Dedication must be submitted for the sewer easement to connect to Clifford Drive.
36. Zoning permits will be required prior to construction of each phase of the public infrastructure.
37. The Applicant must address the comments received from the Water/Wastewater Superintendent.
38. The Water/Wastewater Superintendent may require maintenance agreements for any of the water and/or sewer infrastructure prior to it being accepted by the Town.
39. The Applicant must address the comments received from the Town Engineer.

VOTE RECORD:

John Jorschick – yea/nay/abstain/absent/didn't vote
David Keelty – yea/nay/abstain/absent/didn't vote
Clayton Forgan - yea/nay/abstain/absent/didn't vote
Ronald Harding - yea/nay/abstain/absent/didn't vote
David Conley – yea/nay/abstain/absent/didn't vote

MOTION TO APPROVE PASSED BY A VOTE OF

5 / 0 / 0 / 0 / 0
YEA NAY ABSTAIN ABSENT DIDN'T VOTE

Decision made at the meeting on September 23, 2010.

Signed:

Dated at Milton, Vermont, this 24th day of SEPTEMBER, 2010.

By  _____
Chair
Milton Development Review Board

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30 Day Appeal Information:

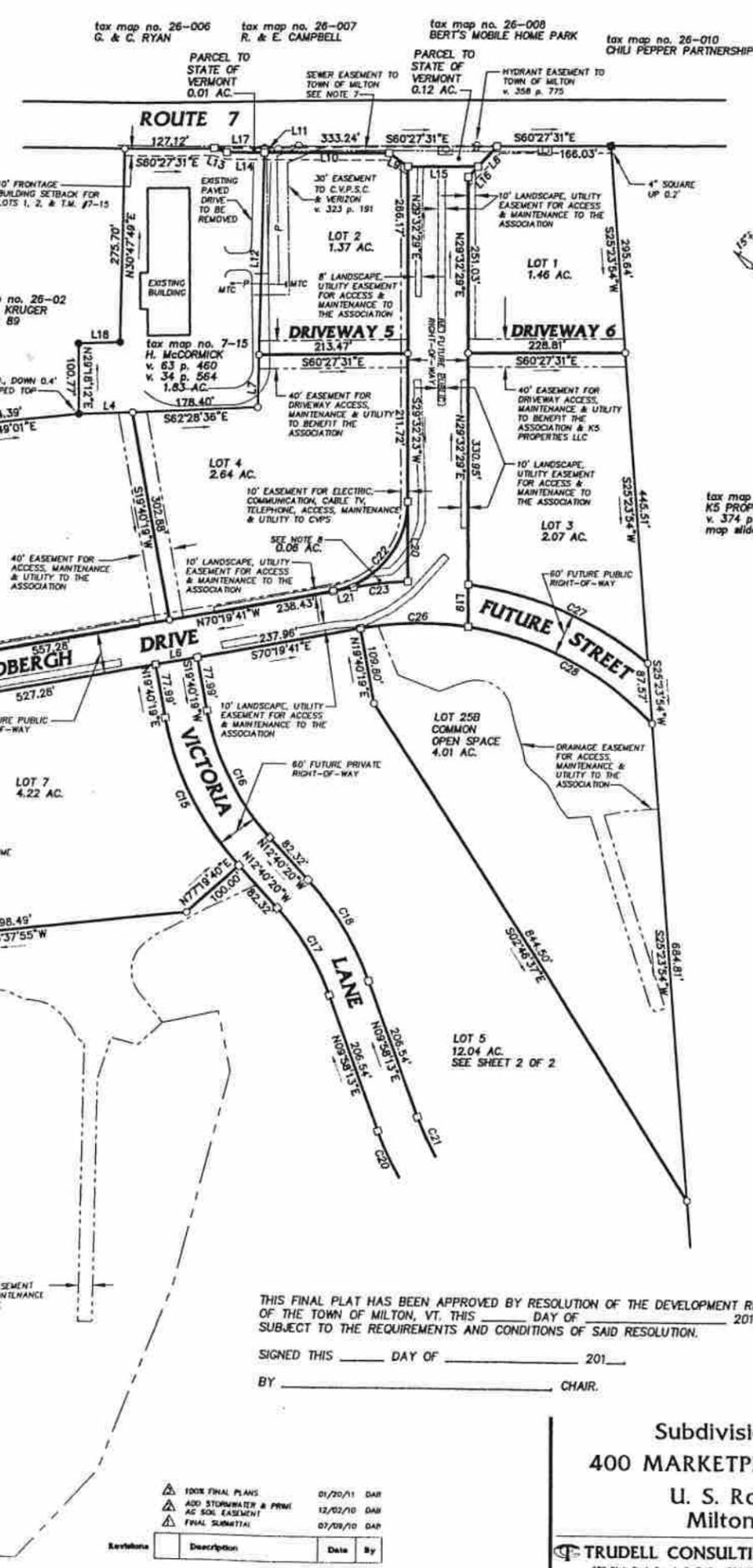
An “interested person”, who has participated in this proceeding, may appeal this decision to the Vermont Environmental Court within 30 days of the date the decision was signed. Participation shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. See V.S.A. Title 24, Chapter 117, Section 4465(b) 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 Milton Planning & Zoning Office at 43 Bombardier Road, Milton, VT 05468. Please contact the VT Environmental Court, 2418 Airport Road, Suite 1, Barre, VT 05641-8701, 802-828-1660, for more information on the filing requirements and fees.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	60.00	104.72	91.93	S05°15'37"W
C2	60.00	104.72	91.93	N85°35'36"E
C3	60.00	104.72	91.93	N14°24'23"W
C4	530.00	189.45	188.44	S05°50'02"W
C5	470.00	87.33	87.41	S00°53'44"W
C6	470.00	87.33	87.41	S12°04'30"W
C7	530.00	167.76	166.76	S16°58'47"W
C8	470.00	87.20	88.16	N75°39'48"W
C9	470.00	87.56	87.46	N84°14'29"W
C10	530.00	103.22	103.05	N83°41'41"W
C11	530.00	55.51	55.49	N75°08'54"W
C12	2970.00	92.59	92.59	N71°13'17"W
C13	3030.00	88.11	88.11	N71°28'14"W
C14	3030.00	26.35	26.35	N70°34'38"W
C15	428.00	241.61	238.42	S03°29'59"W
C16	368.00	207.74	204.99	S03°29'59"W
C17	572.00	147.01	146.05	N01°21'04"W
C18	432.00	170.72	169.61	N01°21'04"W
C19	428.00	77.36	77.25	S04°47'33"W
C20	368.00	66.51	66.42	S04°47'33"W
C21	129.00	180.41	186.06	N69°36'24"E
C22	530.00	78.24	78.17	S66°05'57"E
C23	470.00	154.20	153.51	S66°05'57"E
C24	530.00	288.11	284.57	N36°58'29"W
C25	470.00	307.20	301.81	N32°48'07"W

LINE	BEARING	DISTANCE
L1	S45°35'37"W	50.00
L2	N00°15'31"E	60.00
L3	N82°17'18"E	60.49
L4	S82°28'46"E	77.58
L5	S72°08'52"E	60.00
L6	S70°19'41"E	60.00
L7	N31°01'42"E	78.03
L8	S72°55'14"W	39.67
L9	N24°34'37"W	32.78
L10	N59°25'15"W	120.30
L11	N31°01'42"E	77.53
L12	N31°01'42"E	288.24
L13	N43°08'09"W	19.24
L14	N58°25'15"W	54.34
L15	N60°23'05"W	100.18
L16	N72°55'14"E	20.65
L17	S60°27'31"E	72.88
L18	S62°50'30"E	59.85
L19	N25°23'54"E	87.57
L20	S29°32'41"W	114.38
L21	N70°19'49"W	29.53
L22	S11°53'04"W	78.01
L23	S11°53'04"W	90.16

TOWN OF MILTON, VT
 Received for record _____ 201____
 at _____ o'Clock _____ m. and Recorded _____
 in Milton Land Records Slide _____
 Attest: _____
 Town Clerk



- NOTES:
- 1) THIS PLAT IS BASED ON DEEDS RESEARCHED IN THE TOWN OF MILTON LAND RECORDS AND A CLOSED FIELD TRAVERSE CONDUCTED WITH A TOTAL STATION ON 9/9/09. BEARINGS ARE BASED ON VERMONT STATE GRID NORTH TAKEN WITH GPS.
 - 2) REBAR SET ARE NO. 5 REINFORCING BARS WITH ALUMINUM CAPS STAMPED "TRUDELL CONSULTING ENGINEERS, LS 488".
 - 3) THIS LAND IS THE REMAINING PORTION OF THE LANDS CONVEYED TO HUBERT MCCORMICK IN VOLUME 123 PAGE 199, VOLUME 63 PAGE 460, VOLUME 50 PAGE 65, VOLUME 49 PAGE 505 AND VOLUME 34 PAGE 564.
 - 4) DISTANCES ARE SHOWN TO THE HUNDRETH OF A FOOT AND BEARINGS ARE SHOWN TO THE SECOND FOR MATHEMATICAL CLOSURE PURPOSES ONLY.
 - 5) AN ATTEMPT HAS BEEN MADE TO IDENTIFY OR DELINEATE EASEMENTS, RIGHTS OF WAY, LEASE LANDS, ENCROACHMENTS, ETC. OBSERVED IN THE FIELD OR READILY FOUND IN THE LAND RECORDS. ADDITIONAL ENCUMBRANCES MAY EXIST WHICH ARE NOT SHOWN ON THIS PLAT.
 - 6) UNDERGROUND UTILITY LINES SHOWN ARE BASED ON ABOVE GROUND STRUCTURES AND PLANS OF RECORD. ACTUAL LOCATION OF UNDERGROUND LINES MAY VARY.
 - 7) THIS LAND IS SUBJECT TO A SEWER EASEMENT ALONG ROUTE 7 TO THE TOWN OF MILTON AS DESCRIBED IN VOLUME 246 PAGE 702.
 - 8) THIS 0.06 ACRE PARCEL MAY BE CONVEYED TO THE OWNER OF LOT 4 WHEN THE TOWN ASSUMES OWNERSHIP OF THE LINDBERGH DRIVE RIGHT-OF-WAY AND THE ROAD REALIGNMENT OCCURS.



THIS FINAL PLAT HAS BEEN APPROVED BY RESOLUTION OF THE DEVELOPMENT REVIEW BOARD OF THE TOWN OF MILTON, VT, THIS _____ DAY OF _____ 201____
 SUBJECT TO THE REQUIREMENTS AND CONDITIONS OF SAID RESOLUTION.

SIGNED THIS _____ DAY OF _____ 201____
 BY _____ CHAIR.

Subdivision Plat
 400 MARKETPLACE SOUTH
 U. S. Route 7
 Milton, Vt.
 TRUDELL CONSULTING ENGINEERS (TCE)
 478 Main Park Road P. O. Box 308 W. Milton, Vermont 05495 (802) 879-6331

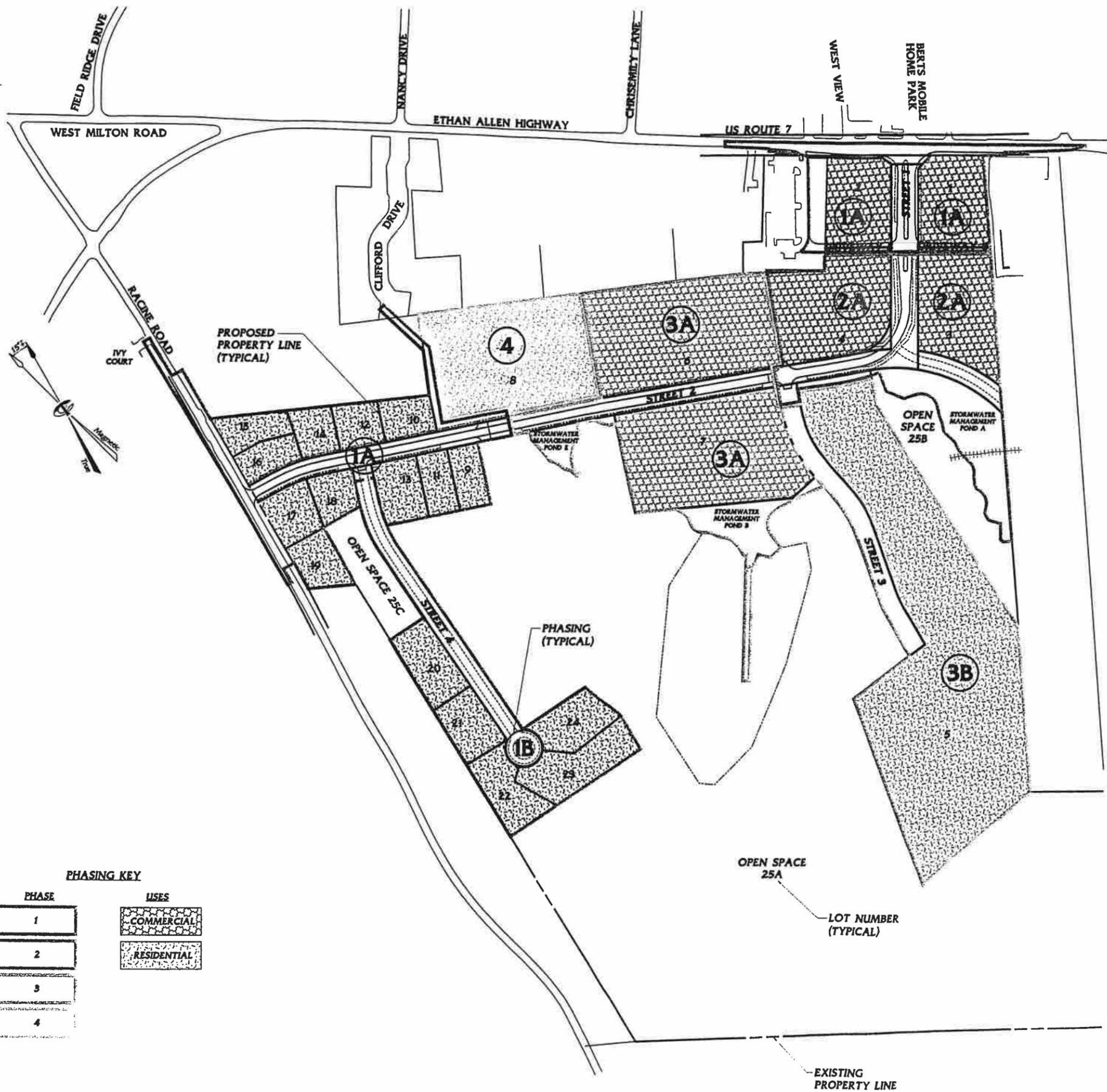
Drawing number 2006130-41 Est. 1
 Project no. DAD Drawn SDT
 Date 3/24/10 Scale 1"=100'
 Field Book 269 Disk 1.01
 Sheet 1 of 2

- LEGEND
- REBAR (TO BE SET)
 - IRON PIPE (FOUND)
 - CONCRETE MONUMENT (FOUND)
 - CONCRETE MONUMENT (TO BE SET)
 - REINFORCING BAR (FOUND)
 - △ CALCULATED POINT
 - UTILITY POLE
 - UNDERGROUND UTILITY LINES
 - BARBED WIRE FENCE
 - C1 CURVE DATA TABLE REFERENCE
 - L1 LINE DATA TABLE REFERENCE

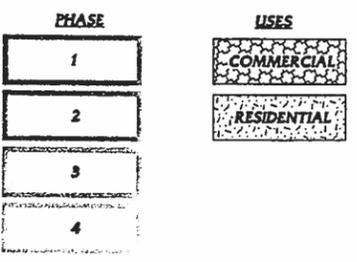


Revisions	Description	Date	By
1	100% FINAL PLANS	01/20/11	DAW
2	ADD STURMWERBER & PRIME AC SOLS EASEMENT	12/02/10	DAW
3	FINAL SUBMITTAL	07/09/10	DAW

SEE SHEET 2 OF 2



PHASING KEY



GENERAL INFO

A MIXED USE COMMERCIAL AND RESIDENTIAL SUBDIVISION IS PROPOSED ON THE EXISTING APPROXIMATELY 126+ ACRE PROPERTY LOCATED SOUTH OF ROUTE 7 AND EAST OF RACINE ROAD. THE APPLICANT IS SEEKING APPROVAL AT THIS TIME TO PHASE CONSTRUCTION OF THE ROADS AND INFRASTRUCTURE NECESSARY TO MARKET THE INDIVIDUAL LOTS. USES, LAYOUT AND THE SITE DETAILS FOR EACH LOT ARE TO BE DETERMINED INDIVIDUALLY AND AS SEPARATE DEVELOPMENT REVIEW AS PROSPECTIVE TENANTS ARE SECURED. SPECULATIVE USES BASED ON COMMUNITY NEEDS AND NATURE OF THE PROPOSAL HAVE BEEN GENERATED TO DETERMINE INFRASTRUCTURE CAPACITY FOR DESIGN PURPOSES.

PHASE 1A (COMMERCIAL)

THE FOLLOWING IMPROVEMENTS ARE PLANNED IN CONJUNCTION WITH THE INDEPENDENT DEVELOPMENT OF PROPOSED COMMERCIAL LOTS 1 & 2 NEAR RACINE ROAD. IMPROVEMENTS WITHIN THE FUTURE PUBLIC RIGHT OF WAY ARE TO BE INSPECTED AND CONSTRUCTED TO MEET MILTON PUBLIC WORKS STANDARDS FOR THEIR EVENTUAL ACCEPTANCE AS PUBLIC INFRASTRUCTURE UPON MEETING THE TOWN'S "LOOPING" CONNECTIVITY REQUIREMENTS DURING SUBSEQUENT PHASES.

- ROAD:**
- ROUTE 7 GEOMETRIC & STREET 1 SIGNALIZED INTERSECTION IMPROVEMENTS
 - CONSTRUCTION OF STREET 1 0+00 TO STA. 5+00 TO ACCESS LOTS 1 & 2 AND ADJOINING PROPERTIES
 - CONSTRUCTION OF DRIVEWAY 3 TO CONNECT TO EXISTING SEARS PROPERTY
 - CONSTRUCTION OF DRIVEWAY 6 0+00 TO STA. 2+10 TO ALLOW CONNECTION TO EXISTING ICE BARN PROPERTY.
 - CHANGES TO SEARS ACCESS FROM ROUTE 7 AND PARKING LOT CONFIGURATION
 - CHANGES TO ICE BARN ACCESS FROM ROUTE 7
 - SIDEWALK, MULTI-USE PATH, LANDSCAPING, GRADING AND DRAINAGE IMPROVEMENTS ASSOCIATED WITH ROAD CONSTRUCTION

- UTILITIES:**
- CONNECTION OF SEWER, WATER AND OTHER UTILITIES TO EXISTING MAINLINES IN ROUTE 7 ROW
 - INSTALLATION OF SEWER, WATER, STREET LIGHTS, AND OTHER UTILITY MAINLINES AND SERVICES WITHIN STREET 1
 - CONSTRUCTION OF STORMWATER APPURTENANCES AND POND A TO SERVE LOTS 1-4 & STREET 1
 - CONSTRUCTION OF GRASS CHANNELS AROUND THE PERIMETER OF PARCELS 1, 2 AND CONVEYED TO POND A

PHASE 1A (RESIDENTIAL)

THE FOLLOWING IMPROVEMENTS ARE PLANNED IN CONJUNCTION WITH THE INDEPENDENT DEVELOPMENT OF PROPOSED RESIDENTIAL LOTS 9 THROUGH 18 NEAR RACINE ROAD. IMPROVEMENTS WITHIN THE FUTURE PUBLIC RIGHT OF WAY ARE TO BE INSPECTED AND CONSTRUCTED TO MEET MILTON PUBLIC WORKS STANDARDS FOR THEIR EVENTUAL ACCEPTANCE AS PUBLIC INFRASTRUCTURE UPON MEETING THE TOWN'S "LOOPING" CONNECTIVITY REQUIREMENTS DURING SUBSEQUENT PHASES.

- ROAD:**
- CONSTRUCTION OF STREET 2 INTERSECTION IMPROVEMENTS AT RACINE ROAD
 - CONSTRUCTION OF STREET 2 TO STA. 8+00 TO ACCESS RESIDENTIAL LOTS 9-14 AND 16-18. RESIDENTIAL LOTS 15 AND 19 ACCESS RACINE RD. DIRECTLY
 - CONSTRUCTION OF STREET 4 INTERSECTION TO FACILITATE FUTURE EXTENSION
 - MULTI-USE PATH, LANDSCAPING, GRADING AND DRAINAGE IMPROVEMENTS ASSOCIATED WITH ROAD CONSTRUCTION

- UTILITIES:**
- EXTENSION OF WATER MAIN FROM EXISTING STUB AT IVY COURT DOWN RACINE RD TO TERMINAL HYDRANT AND FAR SOUTHERN SERVICE OF LOT 18.
 - EXTENSION OF GAS MAIN DOWN RACINE RD.
 - INSTALLATION OF WATER, GAS, AND SEWER MAINS AND SERVICES DOWN STREET 2
 - CONNECTION OF SEWER MAIN TO EXISTING MANHOLE AT CLIFFORD DRIVE.
 - INSTALLATION OF SEWER MAIN CROSS-COULVERT OR DR TO STREET 2 MAIN
 - INSTALLATION OF DRAINAGE CULVERTS AND ROADSIDE GRASS CHANNELS, POND E, C & D
 - REGRADE RACINE ROAD, ROADSIDE DITCH & RESET CULVERTS

PHASE 2A (COMMERCIAL)

THE FOLLOWING IMPROVEMENTS ARE PLANNED IN CONJUNCTION WITH THE INDEPENDENT DEVELOPMENT OF PROPOSED RESIDENTIAL LOTS 19 THROUGH 24 NEAR RACINE ROAD. IMPROVEMENTS WITHIN THE FUTURE PUBLIC RIGHT OF WAY ARE TO BE INSPECTED AND CONSTRUCTED TO MEET MILTON PUBLIC WORKS STANDARDS FOR THEIR EVENTUAL ACCEPTANCE AS PUBLIC INFRASTRUCTURE UPON MEETING THE TOWN'S "LOOPING" CONNECTIVITY REQUIREMENTS DURING SUBSEQUENT PHASES.

- ROAD:**
- CONSTRUCTION OF STREET 2 STA. 17+00 TO 22+88.10 TO PROVIDE FUTURE ACCESS TO LOT 4
 - CONSTRUCT STREET 3 INTERSECTION TO FACILITATE FUTURE EXTENSION
 - MULTI-USE PATH, LANDSCAPING, GRADING AND DRAINAGE IMPROVEMENTS ASSOCIATED WITH ROAD CONSTRUCTION.

- UTILITIES:**
- EXTEND UTILITIES (WATER, SEWER, GAS, AND ELECTRICAL) TO STA. 17+00 ON STREET 2
 - GRASS CHANNELS TO MANAGE LOT 3, 4 & STREET RUNOFF CONTRIBUTION
 - INSTALLATION OF STREET LIGHTS.

PHASE 1B (RESIDENTIAL)

THE FOLLOWING IMPROVEMENTS ARE PLANNED IN CONJUNCTION WITH THE INDEPENDENT DEVELOPMENT OF PROPOSED RESIDENTIAL LOTS 20 THROUGH 24. IMPROVEMENTS WITHIN THE PRIVATE RIGHT OF WAY ARE TO BE INSPECTED AND CONSTRUCTED TO MEET MILTON PUBLIC WORKS STANDARDS. THEIR ACCEPTANCE AS PUBLIC INFRASTRUCTURE IS NOT PLANNED.

- ROAD:**
- STREET 4 WILL BE EXTENDED FROM ITS INTERSECTION WITH STREET 2 TO A CUL-DE-SAC TO PROVIDE ACCESS FOR RESIDENTIAL LOTS 20 TO 24
 - SIDEWALK, GRADING AND DRAINAGE IMPROVEMENTS ASSOCIATED WITH ROAD CONSTRUCTION.

- UTILITIES:**
- WATER, SEWER, GAS AND ELECTRIC UTILITIES WILL BE EXTENDED DOWN STREET 4 TO DEAD-END CONNECTIONS.
 - SEWER STUB IN STREET 4 NEAR STREET 2 WILL REQUIRE PRESSURE SEWER SERVICE FOR LOTS LOCATED NEAR CUL-DE-SAC OF STREET 4
 - CONSTRUCT GRASS CHANNELS AND IMPLEMENT ROOF TOP DISCONNECT DRAINAGE MEASURES.

PHASE 3A (COMMERCIAL)

THE FOLLOWING IMPROVEMENTS ARE PLANNED IN CONJUNCTION WITH THE INDEPENDENT DEVELOPMENT OF PROPOSED LOTS 6 & 7. IMPROVEMENTS WITHIN THE FUTURE PUBLIC RIGHT OF WAY ARE TO BE INSPECTED AND CONSTRUCTED TO MEET MILTON PUBLIC WORKS STANDARDS FOR THEIR EVENTUAL ACCEPTANCE AS PUBLIC INFRASTRUCTURE. THIS PHASE IS INTENDED TO MEET MILTON'S "LOOPING" CONNECTIVITY REQUIREMENTS.

- ROAD:**
- COMPLETE LOOPING CONNECTION OF STREET 2 AND PROVIDE ACCESS FOR REMAINING LOTS FRONTING THIS STREET.
 - MULTI-USE PATH, LANDSCAPING, GRADING AND DRAINAGE IMPROVEMENTS (GRASS CHANNELS) ASSOCIATED WITH ROAD CONSTRUCTION.
 - INSTALLATION OF STREET LIGHTS.

- UTILITIES:**
- COMPLETE LOOPING CONNECTION OF WATER MAIN FROM PHASES 1A & 1B
 - EXTEND SEWER MAIN AND SERVICES TO REMAINING LOTS ON STREET 2.
 - EXTEND ADDITIONAL GAS AND ELECTRIC UTILITIES ALONG STREET 2
 - CONSTRUCTION OF STORMWATER APPURTENANCES AND POND B TO SERVE LOTS 6 & 7. STREET
 - SEWER STUB IN STREET 3 NEAR STREET 2 IS PROVIDED FOR POTENTIAL GRAVITY SEWER SERVICE OF FUTURE DEVELOPMENT ON LOT 5.

PHASE 3B (RESIDENTIAL)

THE FOLLOWING IMPROVEMENTS ARE PLANNED IN CONJUNCTION WITH THE INDEPENDENT DEVELOPMENT OF PROPOSED LOT 5. IMPROVEMENTS WITHIN THE PRIVATE RIGHT OF WAY ARE TO BE INSPECTED AND CONSTRUCTED TO MEET MILTON PUBLIC WORKS STANDARDS. THEIR ACCEPTANCE AS PUBLIC INFRASTRUCTURE IS NOT PLANNED.

- ROAD:**
- STREET 3 WILL BE EXTENDED FROM ITS INTERSECTION WITH STREET 2 TO ACCESS LOT 5
 - COMPLETE LOOPING CONNECTION OF WATER MAIN FROM PHASES 1 & 1B
 - SIDEWALK, GRADING AND DRAINAGE IMPROVEMENTS (GRASS CHANNELS) ASSOCIATED WITH ROAD CONSTRUCTION.

- UTILITIES:**
- WATER, SEWER, GAS AND ELECTRIC UTILITIES WILL BE EXTENDED DOWN STREET 3 TO SERVE DEVELOPMENT AT DEAD-END CONNECTIONS. A GRAVITY SEWER CONNECTION FOR LOT 5 IS INTENDED.
 - ON-SITE STORMWATER MANAGEMENT

PHASE 4 (RESIDENTIAL)

LOT 8 DEVELOPMENT WITH ON-SITE STORMWATER MANAGEMENT, UTILITY SERVICE CONNECTIONS FOR SEWER & WATER STUBBED TO LOT.

TRUDELL CONSULTING ENGINEERS (TCE)
 478 Blair Park Road P.O. Box 908 (802) 879-0331 (phone)
 Williston, Vermont 05495 (802) 879-0600 (fax)

Visit Us on the Web at www.TrudellConsulting.com

THESE PLANS ARE PREPARED FOR THE PURPOSE ON

<input type="checkbox"/>	CONCEPTUAL APPROVAL SUBMISSION
<input type="checkbox"/>	PRELIMINARY APPROVAL SUBMISSION
<input type="checkbox"/>	ACT 250 SUBMISSION
<input type="checkbox"/>	FINAL APPROVAL SUBMISSION
<input type="checkbox"/>	CONSTRUCTION DRAWINGS

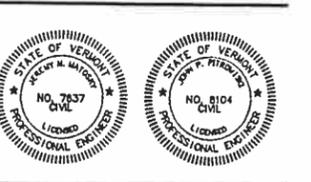
- USE AND INTERPRETATION OF THE DRAWINGS**
- Drawings prepared for a specific use are intended for that use only. They are not intended for any other use, including construction, without the written consent of the Engineer.
 - Drawings prepared for construction are intended to be used in conjunction with contract documents, specifications, and other documents. They are not to be used for any other purpose. If any drawings are used for any other purpose, the user assumes all liability for any errors or omissions. The Engineer represents that the drawings are prepared, approved, and sealed in accordance with the provisions of the Professional Engineer Act.
 - An instrument of service does not constitute an approval of the drawings by the Engineer or his property. Changes to the drawings may only be made by the Engineer.
 - It is the User's responsibility to ensure this copy contains the most current revisions.



Project Location

No.	Description	Date	By
1	100% Final Plans	01/20/2011	DAB
2	Act 250 Findings	09/27/2010	DAB
3	Final Submittal	07/09/2010	DAB
4	Preliminary Submittal	03/24/10	JMM

No.	Description	Date	By
1	Revisions		



Project Title

400 MARKETPLACE SOUTH MILTON, VERMONT

Sheet Title

Phasing Plan

Drawing Number	2008130-503	Extension	1
Project manager	DAB	Drawn by	NTH
Date	03/24/2010	F.B.	259
Project reference	2008072	X-Ref	2008130-1
Bench File	xxx		
Approved			

SP2





TECHNICAL ADVISORY COMMITTEE

Time:..... 3:30 p.m.
Place:..... Municipal Building Planning Department
Address:..... 43 Bombardier Road Milton, VT 05468
Contact:..... (802) 893-1186
Website: www.miltonvt.org

TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, November 10, 2016

Date of Review: 10-25-16

Department: FIRE Dept.

TAC Member: C. Poirien

Hubert McCormick, Owner & Appellant -- Appeal of Zoning Permit Denial

None

James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty, Owners/Applicants - Boundary Line Adjustment -- 568 Westford Road

None

James & Janet Harrison, Owners/Applicants - Minor Conventional Subdivision Sketch Plan -- Westford Road

Road spec. Hamstead spec. Turning Radius for Road.



TECHNICAL ADVISORY COMMITTEE

Time: 3:30 p.m.
 Place: Municipal Building Planning Department
 Address: 43 Bombardier Road Milton, VT 05468
 Contact: (802) 893-1186
 Website: www.miltonvt.org

TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, November 10, 2016

Date of Review: 10-20-16

Department: Police

TAC Member: BRET VAN NOORDI

Hubert McCormick, Owner & Appellant -- Appeal of Zoning Permit Denial

NO COMMENTS
OR CONCERNS.

James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty, Owners/Applicants - Boundary Line Adjustment -- 568 Westford Road

RECEIVED

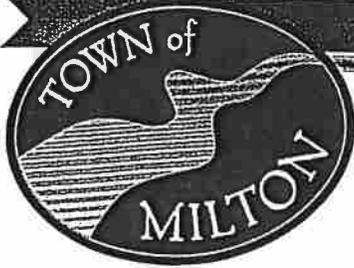
OCT 20 2016

Planning & Economic Development
Milton, Vermont

NO COMMENTS
OR CONCERNS.

James & Janet Harrison, Owners/Applicants - Minor Conventional Subdivision Sketch Plan -- Westford Road

NO COMMENTS
OR CONCERNS.



TECHNICAL ADVISORY COMMITTEE

Time: 3:30 p.m.
Place: Municipal Building Planning Department
Address: 43 Bombardier Road Milton, VT 05468
Contact: (802) 893-1186
Website: www.miltonvt.org

TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, November 10, 2016

Date of Review: 10-19-16

Department: Recreation

TAC Member: Rigm Buchsneay

RECEIVED
OCT 19 2016
RECREATION DEPARTMENT
MILTON, VERMONT

Hubert McCormick, Owner & Appellant -- Appeal of Zoning Permit Denial

No comments

RECEIVED
OCT 19 2016
Planning & Economic Development
Milton, Vermont

James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty,
Owners/Applicants - Boundary Line Adjustment -- 568 Westford Road

No comments

James & Janet Harrison, Owners/Applicants - Minor Conventional Subdivision Sketch Plan -- Westford
Road

No comments



DEVELOPMENT REVIEW BOARD

Meeting Type:.....**Regular Meeting**
Date:.....**Thursday, October 27, 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 7:06 p.m.
3

4 **2. ATTENDANCE**

5 **Members Present:** Bruce Jenkins, Chair; Henry Bonges, Clerk; Bob Brisson.

6 **Members Absent:** David Conley, Vice-Chair; Julie Rutz.

7 **Staff Present:** Jeff Castle, Town Planner.

8 **Public Present:** Lawrence Rowley; Philip LeClaire; Eric Lemieux; Cheryl Zeigler; Meghann
9 Rowley; Connor Rowley; Brian Tremback; Sidney Reynolds; Matthew Apgar; Bob Provost.

10
11 **3. AGENDA REVIEW**

12 None.
13

14 **4. PUBLIC FORUM**

15 None.
16

17 **5. OLD HEARINGS/BUSINESS**

18 **5(A). Bylaw Review & Goals**

19 Unanimously TABLED until the full board is present.
20

21 **6. NEW HEARINGS/BUSINESS**

22 **6(A). Minor Conventional Subdivision Final Plan - Lake Road & Hibbard Road - Rowley**
23 **Family Real Estate II, LLC, Owner/Connor & Meghann Rowley, Applicants.**

24
25 The Chair read the following summary to open the hearing:
26

27 **Rowley Family Real Estate II, LLC, Owner/Connor & Meghann Rowley, Applicants** request **Final**
28 **Plan** approval for a proposed 2-lot **Minor Conventional Subdivision** located at Lake Road &
29 Hibbard Road, described as Tax Map 14, Parcel 6 and SPAN #13077. A single family home is also
30 proposed for the newly created 10-acre lot, to be served by on-site private septic and water and
31 accessed from Hibbard Road. The subject property contains approximately 255.10 acres and is
32 located within the "Agricultural/Rural Residential" (R5) Zoning District.
33

34 The Chair administered the Oath to Interested Persons. Representing the Applicant(s) were Brian
35 Tremback of Lamoureux & Dickinson Engineers, Inc., Connor Rowley and Meghann Rowley,
36 hereafter referred to as "applicant(s)."
37

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

- 2 1. The applicant agreed the Final Plat shall include a signature block for signature by the
3 Chair of the DRB.
- 4 2. The applicant agreed the Final Plat shall be in compliance with SR610, and include the
5 seal of the licensed land surveyor.
- 6 3. The applicant agreed the Surveyor will submit a letter or e-mail attesting that all corner
7 markers have been set prior to recording the final Plat.
- 8 4. The applicant agreed that the proposed driveway shall be constructed according to
9 ZR593 and the driveway specifications as defined in the Public Works Specifications.
- 10 5. The applicant agreed to obtain a Town Highway Access prior to the issuance of a
11 Zoning Permit for the new driveway, per ZR594, *Highway Access Permit*.
- 12 6. The applicant requested clarification of the following, "The location of a storm water
13 drainage easement of such width as to encompass the twenty-five (25) year flood area of
14 the water course within the subdivision shall be included in the Final Plat application."
15 The applicant stated there was a somewhat undefined flood plain for the brook, and that
16 it could be hundreds of feet wide at the north end of the property, and much more
17 defined at the southern end. The applicant explained the topography of the area and
18 proposed that a 50-foot wide "buffer" be shown on either side of Streeter Brook on the
19 Final Plat. The Applicant explained that the 100-year flood plain does not come
20 anywhere near the new parcel, so the 25-year flood area obviously wouldn't either.
21 Discussion about elevations and mound systems followed; questions were asked and
22 answered.
- 23 7. The applicant agreed to submit draft deeds and any other associated legal instruments
24 for all impacted lots for review and approval by the Town Attorney, that all requested
25 revisions must be complete before the Plat may be recorded, and that only instruments
26 approved by the Town may be recorded in the Town of Milton Land Records.
- 27 8. The applicant agreed to submit one paper or electronic .PDF version of the revised final
28 Plat (and any associated plans) for review and approval by Staff prior to submitting the
29 mylar. The applicant also agreed to submit one full-sized (to scale) paper Final Plat and
30 one 11x17 paper plat depicting the requested changes, to be maintained in the Planning
31 Office's application file.
- 32 9. The applicant agreed that the final Plat shall be submitted on mylar (18" x 24"), signed by
33 the licensed surveyor and the Chair of the DRB, and recorded in the Town Clerk's Office
34 within 180 days of the date of the DRB's Final Approval Decision per Subdivision
35 Regulations Section 940. The applicant agreed that Final approval expires if not filed
36 within 180 days, unless extended by the Zoning Administrator for pending local or state
37 approvals, and that in the event a subdivision plat is recorded without complying with
38 this requirement, the plat shall be considered null and void.

39
40 Hearing no further questions or comments, the Chair closed the hearing at 7:25 p.m.

41
42 **6(B). Minor Convention Subdivision Sketch Plan - 161 Westford Road - Philip LeClair,**
43 **Owner & Applicant.**

44
45 The Chair read the following summary to open the hearing:
46

1 **Philip LeClaire, Owner/Applicant** requests **Minor Conventional Subdivision Sketch Plan**
2 approval for a proposed 2-lot subdivision located at **161 Westford Road**. A pre-existing single
3 family residence will remain on the property and a 4-bedroom single family residence is
4 proposed for the newly created lot. The new home is proposed to be accessed off of Forest
5 Road and serviced by on-site water and wastewater. The property is described as Tax Map 16,
6 Parcel 54, SPAN # 12043, contains approximately 25 acres and is located in the
7 "Agricultural/Rural Residential" (R5) Zoning District and "East Milton" Planning Area.
8

9 The Chair administered the Oath to Interested Persons. Representing the Applicant(s) was Philip
10 LeClaire, hereafter referred to as "applicant(s)."
11

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

- 13 1. The applicant agreed that the DRB may require that the applicant schedule a site visit
14 prior to final plat hearing.
- 15 2. The applicant agreed that an additional dwelling unit may not be accessed via Forest
16 Road unless Forest Road meets the standards for a Private Road as defined in ZR592.
17 The Chair asked the current condition of Forest Road; the applicant advised that it is a
18 60-foot right of way constructed of gravel. Brisson asked what the requirements of
19 ZR592 were; Staff read them aloud.
- 20 3. The applicant agreed that the DRB may waive the maximum length requirement for a
21 private right-of-way if it is determined that the roadway proposed can provide safe
22 access for emergency vehicles.
- 23 4. The applicant agreed that approval of a sketch plan shall not constitute approval of a
24 subdivision plat and is merely an authorization for the applicant to file a final plan
25 application.
- 26 5. The applicant agreed to submit -- within six (6) months of classification by the DRB of the
27 sketch plan as a minor subdivision -- an application for approval of a subdivision plat,
28 that the application shall contain those items set forth in Section 610 of these regulations,
29 and shall conform to the layout shown on the sketch plan plus any recommendations
30 made by the DRB.
- 31 6. The applicant agreed that the location of a storm water drainage easement of such width
32 as to encompass the twenty-five (25) year flood area of the water course within the
33 subdivision shall be included in the Final Plat application.
34

35 Hearing no further questions or comments, the Chair closed the hearing at 7:46 p.m.
36

37 **6(C). Subdivision Final Plat Approval - North Gardens Lane - 26 McMullen Road LLC,**
38 **Owner & Applicant.**
39

40 The Chair read the following summary to open the hearing:
41

42 **26 McMullen Road LLC, Owner/Applicant,** requests **Subdivision Final Plat/Amendment**
43 approval in order to create non-conforming footprint lots pursuant to the Vermont Common
44 Interest Ownership Act within a previously approved Minor Conventional Subdivision. No
45 other changes are proposed. The properties are located on **North Gardens Lane** and described
46 as Tax Map 29, Parcels 62-5, 62-6, 62-7, 62-8 and 62-9, and SPAN numbers 14908, 14909, 14910,

1 14911, respectively. The properties are located within the Old Towne Residential (R1) Zoning
2 District and Town Core Planning Area.

3
4 The Chair administered the Oath to Interested Persons. Representing the Applicant was Bob
5 Provost, hereafter referred to as "applicant(s)."

6
7 Staff advised that there is a slight defect in the Warning, where it states, "No other changes are
8 proposed." In fact, Lots 4 and 5 are proposed to be merged. This was clarified.

9
10 The applicant gave a summary of the situation that brought him to this point, talking about the
11 Common Ownership Act, State regulations and Act 250, mortgage financing, etc. This is a new
12 process for both the applicant and the Town. Staff advised that due diligence had been done by
13 researching the issue and reaching out to neighboring communities to determine how they handle
14 this type of application.

15
16 In response to the following numbered items within the Staff Report:

- 17 1. The applicant agreed that all previous approvals and conditions of this subdivision shall
18 remain in full effect except as amended herein.
- 19 2. The applicant agreed that, for the purposes of the Town of Milton Zoning Regulation,
20 the four (4) footprint lots proposed in this subdivision shall be considered two (2) lots
21 (Lot 6, containing footprint lot unit 101 and 102, and Lot 3, containing footprint lot unit
22 301 and 302) as approved previously. The applicant further agreed to record a "Notice
23 of Condition" to this effect which has been approved by the Town Attorney prior to
24 recording the final plat.
- 25 3. The applicant agreed that the project shall be completed as shown on the plat submitted
26 by the applicant and on file in the Town of Milton Planning Office.
- 27 4. The applicant agreed that the Final Plat shall be revised to show the changes below per
28 ZR610:
 - 29 a. The license number, seal and signature of a licensed land surveyor.
 - 30 b. Space shall be reserved thereon for endorsement by all appropriate agencies,
31 including a signature block for the Chair of the DRB.
- 32 5. The applicant agreed to submit any associated legal instruments for all impacted lots for
33 review and approval by the Town Attorney, that all requested revisions must be
34 complete before the Plat may be recorded, and that only instruments approved by the
35 Town may be recorded in the Town of Milton Land Records.
- 36 6. The applicant agreed to submit one paper or electronic .PDF version of the revised final
37 Plat (and any associated plans) for review and approval by Staff prior to submitting the
38 mylar, and also to submit one full-sized (to scale) paper Final Plat (18x24) and one 11x17
39 paper plat depicting the requested changes, to be maintained in the Planning Office's
40 application file.
- 41 7. The applicant agreed that the final Plat shall be submitted on mylar (18" x 24"), signed by
42 the licensed surveyor and the Chair of the DRB, and recorded in the Town Clerk's Office
43 within 180 days of the date of the DRB's Final Approval Decision per Subdivision
44 Regulations Section 940. The applicant agreed that Final approval expires if not filed
45 within 180 days, unless extended by the Zoning Administrator (an additional 90 days)
46 for pending local or State approvals, and that in the event a subdivision plat is recorded

1 without complying with this requirement, the plat shall be considered null and void and
2 in violation.

3
4 Hearing no further questions or comments, the Chair closed the hearing at 8:03 p.m.
5

6 **7. OTHER BUSINESS/ PLANNING STAFF REPORT**

7 Staff inquired about the DRB meeting scheduled for Thanksgiving Day. The group discussed
8 the options and agreed to cancel that meeting. Additionally, they agreed to move their
9 December 2016 meetings up by one week. The December 2016 DRB meetings will be held on
10 the first and third (rather than second and fourth) Thursdays of the month: December 1, 2016
11 and December 15, 2016.
12

13 Staff then shared a brief update of upcoming DRB Hearings and applications that have been
14 submitted.
15

16 **8. MINUTES**

17 **8(A). Minutes of October 13, 2016**

18 MOTION by Bonges to APPROVE the Minutes of October 13, 2016 as written; SECOND by
19 Brisson. Unanimously APPROVED.
20

21 **9. ADJOURNED**

22 MOTION by Bonges to adjourn at 8:15 p.m.; SECOND by Brisson. Unanimously APPROVED.
23

24 Minutes approved by the Commission this _____ day of _____, 2016.
25

26 _____
27 Bruce Jenkins, Chair /kt
28

29 Draft filed with the Town Clerk this 1st day of November, 2016.
30

31 Filed with the Town Clerk this _____ day of _____, 2016.