



## MILTON DEVELOPMENT REVIEW BOARD PUBLIC NOTICE OF MEETING & HEARINGS

Meeting Type: **Regular Meeting**  
Date: **Thursday, August 27, 2015**  
Time: **7:00 p.m.**  
Place: **Municipal Building Community Room**  
Address: **43 Bombardier Road, Milton, Vermont 05468-3205**  
Contact: **(802) 893-1186**  
Website: **miltonvt.org**

*Bruce Jenkins, Chair*

*David Conley, Vice-Chair*

*Henry Bonges, Clerk*

*Clayton Forgan*

### 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

*None*

#### 6. New Hearings/Business

**6(A). Minor Conventional Subdivision Sketch Plan & Variance Application -- 947- 951 US Route 7 South -- General Stannard House Committee, Applicant/Miller Realty Group LLP, Owner**  
The Applicant seeks a 2-lot Minor Conventional Subdivision Sketch Plan approval per Subdivision Regulations Article III to place the existing Stannard House on a new, non-conforming, 68,000 square foot lot with access from US Route 7; the remaining 860,374 square foot lot would contain the existing Gardener's Supply distribution warehouse. The property is described as 947-951 US Route 7 South; Tax Map 8, Parcel 1; SPAN #13967; contains approximately 19.75 acres; and is located within the General Industrial (I-2) Zoning District and the Catamount Planning Area. The Applicant seeks a Variance approval according to Section 1070 of the Zoning Regulations from Subdivision Regulations Sections 700.5 and 880.1 as well as Zoning Regulations Section 620 and 394.

**6(B) Boundary Line Adjustment Application - Cold Spring Road 171 & 232 - Robert & Carolyn Clark and Molly M. Hastings Revocable Trust c/o Brent & Molly Hastings, Owners/Applicants.**  
The Applicants are requesting Boundary Line Adjustment approval to adjust the property boundary between two adjacent lots located at 171 and 232 Cold Spring Road described as SPAN #s 10522 and 12636, Tax Map 39, Parcels 4-3 and 4-1. The proposal would transfer a total of 0.30 acres from the Clark lot to the Hastings lot. The subject properties contain a total of approximately 3.09 acres and are located within the "Shoreland Residential" (R6) and "Agricultural/Rural Residential" (R5) Zoning Districts.

#### **6(C) Site Plan Amendment II Application - 121 Gonyeau Road - NG Advantage, Applicant/Clean Energy, Owner**

The Applicant requests Site Plan Amendment approval from the Development Review Board per the Milton Zoning Regulations to reconfigure and expand the natural gas production and fueling equipment. The proposal would reconfigure internal circulation, lighting, electrical service as well as add 4 electrical compressors, 2 fuel dispensers, and other associated equipment and fencing. The Applicant proposes no building, access, parking or water/wastewater changes to the site. The property is described as 121 Gonyeau Road, Tax Map 3, Parcel 8-6; SPAN #13971; contains

approximately 6.3 acres and is located within the "General Industrial" (I2) Zoning District and the Catamount Planning Area.

**7. Other Business**

**7(A). Approve Fiscal Year 2016 Meeting Schedule**

**7(B). Staff Update**

**8. Minutes of August 13, 2015**

**9. Possible Deliberative Session**

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

**9(A). 37 Centre Drive, Site Plan Amendment IV, Gilbert**

**10. Adjournment**

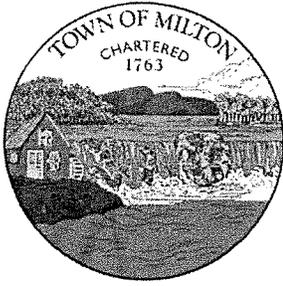


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Jeff Castle, Town Planner

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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.



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

## DEVELOPMENT REVIEW BOARD STAFF REPORT

<b>Hearing Date:</b> August 27, 2015	
<b>Case No:</b> 2015-23	
<b>Application(s):</b> Minor Conventional Subdivision Sketch Plan and Variance	
<b>Existing Use:</b> Distributing/Warehouse	
<b>Proposed Use:</b> Distributing and Possible Public/Private Facility	
<b>Application Received:</b> July 22, 2015	
<b>Application Deemed Complete:</b> July 22, 2015	
<b>Staff Report Finalized:</b> August 21, 2015	
<b>Applicant(s):</b> Stannard House Committee 13 School Street, Milton, VT 05468 802.734.0758 * generalstannardhouse@gmail.com	<b>Owner(s):</b> Miller Realty Group LLP 599 Ave. D, Williston, VT 05495 802.864.5830 * info@rem-development.com
<b>Engineer/License:</b> Lamoureux & Dickinson 14 Morse Drive, Essex, VT 05452 802.878.4450 * roger@ldengineer.com	<b>Surveyor/License:</b> None
<b>E-911/Postal Address:</b> 947-951 Route 7 South	
<b>Tax Map, Parcel(s):</b> 8, 1	
<b>School Parcel Account Number(s) (SPAN):</b> 13967	
<b>Deed(s):</b> Book 410, Page 41	
<b>Existing Size:</b> 19.75	
<b>Zoning District(s):</b> General Industrial "I2"	
<b>Comprehensive Plan Planning Area/Sub-Area:</b> Catamount/None	
<b>Location:</b> US Route 7 and Gonyeau Road	

## SUMMARY OF PROPOSAL

**Summary of Proposal:** The Applicant seeks a two-lot (2) Minor Conventional Subdivision Sketch Plan approval per Subdivision Regulations Article III to place the existing Stannard House on a new, non-conforming, 68,000 square foot lot with direct access from US Route 7; the remaining 860,374 square foot lot would contain the existing Gardener's Supply distribution warehouse. The Applicant also seeks a Variance approval according to Section 1070 of the Zoning Regulations from Subdivision Regulations Sections 700.5 and 880.1 as well as Zoning Regulations Section 620 and 394. The property is described as 947-951 US Route 7 South; Tax Map 8, Parcel 1; SPAN #13967; contains approximately 19.75 acres; and is located within the General Industrial (I-2) Zoning District and the Catamount Planning Area.

**Comments:** Jacob Hemmerick, Planning Director herein referred to as Staff, has reviewed the application, materials and plans submitted and have the following comments. The numbered items below requests points of clarification, frame discretionary decisions for the DRB and recommend conditions of approval.

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## INTRODUCTION AND PROCEDURAL HISTORY

**Application:** This matter comes before the Town of Milton Development Review Board (DRB) for Minor Conventional Subdivision Sketch Plan to create a non-conforming lot requiring a Variance from Subdivision Regulations Section 700.5 and 880.1, as well as Zoning Regulations Section 620 and 394.

**Applicant(s):** The application was submitted by General Stannard House Committee care of Chairman Bill Kaigle referred to hereafter as the "applicant".

**Application Submission:** The application form and associated exhibits were received by the Planning and Economic Development Department on July 22, 2015. 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 July 22, 2015.

**Landowner(s):** The property is owned by Miller Realty Group LLP. All owners are signatories to this application.

**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 (the purposes of which are stated in SR120).

**Subdivision Specific Jurisdiction:** SR110.2 states, "Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for drainage, water, sewage, and capital improvements such as schools, parks, recreation facilities and transportation facilities."

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."

SR300 further 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 [ . . . ]."

**Variance Specific Jurisdiction:** ZR1071 states, "A variance from provisions of these Zoning Regulations may be granted only after appeal to the Development Review Board in accordance with the following (ZR1071 *Required Findings*) provisions."

**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.

1. The DRB may schedule a site visit and recess the hearing.

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

- Sketch Plan by Lamoureux & Dickinson last revised 5/4/15.

**Staff Exhibits:**

- Technical Advisory Committee (TAC) Recreation Review Sheet dated 8/4/15; and
- TAC Police Review Sheet dated 8/10/15;
- Miller Realty Group Site Plan & Boundary Line Adjustment DRB Decision dated 8/11/2011.

**Approval History:** The subject property has the following approvals that staff has found relevant to this application:

- Site Plan and Boundary Line Adjustment approval dated 8/11/2011.
- The associated Act 250 permit 9/15/2011 includes the condition that "Any proposed changes to the Stannard House, including but not limited to, stabilization, rehabilitation, relocation, or demolition will be submitted to the Division of Historic Preservation and the District Commission for review and comment prior to the commencement of the proposed changes."
- On April 6, 2015, the Selectboard moved that the Town accept the donation, by Miller Realty Group, of the General George Stannard House/building and a 100 foot by 70 foot lot located at 947 Route 7 South conditional upon the DRB granting subdivision approval and the Agency of Transportation permitting access to Route 7 (agenda, minutes, and agenda item materials maintained in the file).

**Property Location:** The subject property is located at 947-951 US Route 7 South and shown on Milton's Tax Map 8 as Parcel 1. The corresponding School Parcel Account Number (SPAN) is 13967.

**Size/Area:** According to the evidence presented, the subject parcel is approximately 19.75 acres or 860,374 square feet. The Assessor's Grand List records this property as approximately 19.75 acres.

**Property Deeds:** A deed of ownership is recorded in Book 410, Page 41 of the Town of Milton Land Records.

**Zoning District:** The site is located within the General Industrial I2 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 ZR 391 states that the purpose of this district is to:

Provide adequate space for industrial uses, specified large scale retail uses which require room for EXPANSION, and space for OUTDOOR STORAGE. These areas are not intended for businesses that will create a high level of retail traffic. PLANNED UNIT DEVELOPMENTS will be encouraged to CLUSTER development in order to preserve and maintain agriculture, open space, natural areas, and FORESTRY lands, and maintain separation from residential neighborhoods.

**Comprehensive Planning Area:** The site is located within the Catamount Planning Area, as delineated in Map 2 of the 2013 Comprehensive Plan. The Plan states the following goals for this area (p.122):

#### 9.2. Catamount Area Goals

There are two primary future land uses recommended for this section of Milton: low density clustered residential development and industrial development. The proposed uses in the Catamount Area are not intended to compete with the services and land uses planned for the Town Core Area. The Zoning Regulations were amended in 2010 to allow for certain retail uses. Only large-scale retail uses such as garden centers, construction and agricultural equipment sales, home supplies, and retail associated with manufacturing establishments are permitted so that they do not compete with the services and land uses planned for the Town Core Area.

There are three recently developed large parcels in the Catamount Area: the new Gardner's Supply distribution facility and the Highview Estates residential development on the west side of Route 7, and the Charlebois Company and Premier Coach on the east side of Route 7, adjacent to Colchester. This area is close to the Vermont Agency of Transportation maintenance facility and the Colchester Park and Ride; therefore it would be useful to establish a bike/multi-use path within this area.

**Goal 9.7.1.** Encourage high quality industrial development in a sub-regional growth center, which will provide greater employment opportunities and broaden the tax base.

**Objective 9.7.1.a.** Develop standards to enhance the appearance and quality of development in this major gateway into the Town of Milton.

**Objective 9.7.1.b.** Maintain buffer zones to prevent encroachment of industrial and commercial uses into the residential areas.

**Goal 9.7.2.** Ensure an aesthetically pleasing approach into Milton.

**Objective 9.7.2.a.** Develop a plan to work towards enhancing the character of Route 7.

**Objective 9.7.2.b.** Encourage high quality planned unit developments to cluster new housing in a way that minimizes visual impacts from Route 7.

**Goal 9.7.3.** Enhance multi-modal transportation opportunities.

**Physical Characteristics/Natural Features:** The site is generally flat and slopes to the rear of the lot. The lot contains soils of statewide agricultural significance, as well as prime agricultural soil as depicted in Map 7 of the Comprehensive Plan. The site drains directly to Lake Champlain via Allen Creek, with mapped stream courses along the northwest and northern property boundaries. The rear, vegetated, and northern corner of the lot contains wetlands, as depicted on Milton's Mapviewer and Map 6 of the Comprehensive Plan. The site contains a significant historic and cultural resource, the home of Civil War General George Stannard.

**Existing Use/Structure:** The site is approved for a warehouse/distribution use currently occupied by Gardeners Supply. The use is a conforming, permitted by ZR392 of the Zoning Regulations.

**Proposed Use:** No change to the existing principal warehouse/distribution use and structure is proposed. A proposed use for the Stannard House has not been identified at this stage, although staff anticipates that the subdivision, if approved, would be followed by a Site Plan and Conditional Use application for a "private/public facility" -- a conditionally permitted use in the I2 District per ZR393.

**Existing Improvements to be Removed:** The applicant proposes the removal of the rear portion of the Stannard House, which has been found not to be historically significant in a *Conditions Assessment* of the house by 106 Associates Historical Preservation Consulting by Scott Newman dated May 27, 2014 (contained in the application file). An additional reason for removal is that this section of house would be bisected by the proposed property boundary. For this reason (and if this application is approved) the applicant would have to apply for a zoning permit for demolition and remove the house prior to recording the final survey plat, an item that can be addressed at final.

**Proposed Improvements:** With the exception a new highway access, the application includes no new improvements.

**Existing Access:** The site is currently accessed from US Route 7 and Gonyeau Road.

**Proposed Access:** The proposal includes an access from US Route 7 South, which has been reviewed by VTrans and found to meet the requirements for work within the highway right-of-way subject to certain conditions (contained in the application file).

**Existing Utilities:** The warehouse/distribution center is served by municipal water and sewer and no changes are proposed.

**Proposed Utilities:** The applicant has not yet determined how the Stannard lot will be served by water or wastewater, but the applicant is in communication with the State to ascertain what options are available. This is an item to address at final.

**Waivers Requested:** No waivers were requested.

**Existing Restrictions or Covenants:** The site contains a twenty-foot (20) sewer easement.

**Proposed Restrictions or Covenants:** The applicant proposes an easement from the proposed US Route 7 highway access across the warehouse/distribution lot to benefit the Stannard House lot.

**Surrounding Use/Structures:** The site is bordered by Mansfield Heliflight to the north, Charlebois to

the east, a residential duplex to the south (with Site Plan approval for a public warehousing [self-storage] facility), two single family dwellings to the south, and a vacant lot to the west

### SUBDIVISION SKETCH PLAN REVIEW

**SR110.2, Subdivision Policy:** Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for drainage, water, sewage, and capital improvements such as schools, parks, recreation facilities and transportation facilities.

**SR120, Purposes:** The Subdivision Regulations aim to achieve the purposes defined by this section:

- To protect and provide for the public health, safety, and general welfare of the Town of Milton.
- To guide the future growth and orderly development of the Town in accordance with the Comprehensive Plan, Zoning Regulations and all other By-Laws enacted to implement the Plan.
- To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent over-crowding of the land and undue congestion of population.
- To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools parks, playgrounds, recreation and other public requirements and facilities.
- To provide the most beneficial relationship between the uses of land and buildings, and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and highways.
- To insure that public facilities are available and will have a sufficient capacity to serve any proposed subdivision.
- To present the pollution of air, streams, ponds and Lake Champlain; to assure the adequacy of drainage facilities; to safeguard the water tables; and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity; stability, and beauty of the community and the value of land.
- To preserve the natural beauty and topography of the Town and to insure appropriate development with regard to these natural features.
- To further the purposes contained in the Vermont Planning and Development Act, and in particular, those purposes set forth in Section 4302 of the Act.

**SR320, Subdivision Classification:** The section states, "The DRB shall classify the sketch plan at the meeting as either a minor subdivision or a major subdivision." The proposal is a two-lot (2) subdivision, originating with one (1) parent lot and resulting in two (2) individual lots. SR200.5 defines a minor subdivision as, "Any subdivision containing less than seven lots; any planned residential development or planned unit development containing less than seven units." Staff, therefore, finds that the proposal is a minor subdivision.

**SR330, Regulatory Conformance:** The section states, "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."

**SR340, Effect of Sketch Plan Approval:** The section states, "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."

**SR400, Minor Subdivision Application:** The section states (if approved):

2. Within six (6) months of classification by the DRB of the sketch plan as a minor subdivision, the subdivider shall submit an 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.

**Section 700, Standards of Evaluation:** 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 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 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 proposal includes sufficient open space for recreation."
- 700.4, Run-off and Erosion Control During & After Construction: "The proposal includes adequate provision for control of runoff and erosion during and after construction."
- 700.5, Compliance with Comprehensive Plan, Regulations & Bylaws: "The proposed development is in compliance with the Milton Comprehensive Plan, Zoning Regulations and other By-Laws then in effect."
- 700.6, Undue Water or Air Pollution: "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 proposed development is compatible with surrounding properties."
- 700.8, Suitability for Proposed Density: "The site is suitable for the proposed density."
- 700.9, Pedestrian Safety: "The proposal contains adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination and attractiveness."

Staff recommends that the DRB be cautious in advancing a project to the next stage if there are concerns about the proposal's conformance to these standards in subsequent applications. Staff finds that the land is suitable for development, and directly addresses the purpose to preserve historic resources.

14. The Applicant shall address any current concerns that the DRB may have related to the SR700 Standards above, and (if approved) the Final Plan application shall include Section 700 narrative, specifically addressing how the proposal meets each finding above.

**SR800, Streets:** The proposal includes no streets.

**SR810, Curbs and Sidewalks:** The section states, "Curbs and sidewalks may be required when deemed appropriate by the DRB." Neither the Town's Sidewalk Plan of 2007 nor the Comprehensive Plan Map 11 identifies planned sidewalks in this location.

**SR820, Outdoor Lighting:** The section states, "Outdoor lighting may be required where deemed appropriate by the DRB to illuminate areas such as streets, sidewalks, and parking areas." Staff finds that this can be evaluated in further detail at Final.

**SR830, Street Trees:** The section states that the DRB may require street trees. Staff finds that there are street trees along US Route 7.

**SR840, Drainage:** The section states that a drainage plan shall be provided.

3. The Final Plans shall include a drainage plan.

**ZR850/860, Water and Wastewater Systems:** No changes are proposed to the parent parcel's water service, but water and wastewater service for the 6,800 square foot lot containing the Stannard House has not been identified.

4. The Final Plan application shall identify proposed water and wastewater service.

**SR870 Utilities:** The Section states, "Easements - Easements of sufficient width shall be provided so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision." While not a utility, the plans shows a driveway easement the width of which is not noted.

5. The Final Plans shall label the dimensions of all new and existing easements.

**SR880.1, Lot Layout:** The section states, "The layout of lots shall conform to the requirements of the Town's Zoning Regulations."

## ZONING REGULATION LOT CONFORMANCE

**Applicability of Dimensional Requirements, ZR150:** "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 the I2 Zoning District.

**ZR620, Reduction of Lot Size:** "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."

**District Dimensional Requirements, ZR304:** The tables below shows the required dimensional requirement for the subject property's applicable Zoning District and proposed compliance.

Lot 1 - Parent Parcel	R1 Required	Proposed
Minimum LOT AREA (sq. ft.)	100,000	860,374
Minimum Road FRONTAGE (linear ft.)	200	1285
Minimum FRONT SETBACK (linear ft.)	50	>50
Minimum SIDE SETBACK (linear ft.)	35	166
Minimum REAR SETBACK (linear ft.)	35	869
Maximum Lot Coverage	75%	32.8

Lot 1 would continue to conform to the dimensional standards.

Lot 2 - Proposed Stannard House Lot	R1 Required	Proposed
Minimum LOT AREA (sq. ft.)	100,000	68,000
Minimum Road FRONTAGE (linear ft.)	200	100
Minimum FRONT SETBACK (linear ft.)	50	29
Minimum SIDE SETBACK (linear ft.)	35	10
Minimum REAR SETBACK (linear ft.)	35	10
Maximum Lot Coverage	75%	<75%

The proposed lot does not meet the required minimum lot area or road frontage. The existing non-complying structure does not meet the required front setback, side setback and rear setback. The proposed lot would therefore create a non-conforming lot and increase the non-conformity of the existing building by making its side and rear setback more non-complying. It is for this reason that the applicant seeks a Variance.

**ZR520, Non-Complying Structures:** The Applicant should be aware that, if approved, non-complying structures have certain limitations placed on them by this section, in terms of expansion, although public facilities are given some leeway by ZR700.

**ZR540, Number of Structures on Lots:** The section states, "There shall be only one PRINCIPAL STRUCTURE and its approved ACCESSORY STRUCTURES on a LOT." The proposal would not place two principal structures on a lot.

**ZR700, Public Facilities:** Since the Selectboard has agreed to accept the donation of the property, if subdivided, it's is worth noting this language:

### VARIANCE REVIEW

**ZR1070, Variances:** ZR1070 states, "A variance from provisions of these Zoning Regulations may be granted only after appeal to the Development Review Board in accordance with the following provisions [of ZR1071]."

**ZR1071, Required Findings:** ZR1071 states, "The DRB may grant variances, and render a decision in favor of the appellant, if all the following facts are found and the finding is specified in its decision."

**ZR1071.1, Unique Physical Circumstances or Conditions Standard:** ZR1071.1 states:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located.

The existing house does not comply with the minimum front setback and is grandfathered as such. Staff finds that while the location of the existing house and internal circulation drive create a unique physical condition that would be make it difficult to make the rear setback conform without the removal of the internal circulation drive or the dedication of an access easement. While this hardship is not created by the Zoning Regulations, the condition would likely not be considered and exceptional physical condition by an average person. Further, staff estimates that the lot design could be proposed in conformance with the minimum lot area and frontage requirements.

**ZR1071.2, Possibility of Reasonable Use Standard:** ZR1071.2 states:

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulation and that the authorization of a variance is therefore necessary to enable the reasonable USE of the property;

The variance, in this case, would enable the reasonable use of a cultural and historical asset prioritized throughout the Town's Planning documents, at a critical time, when it could otherwise fall into disrepair and be lost to history. On the other hand, alternative development and legal arrangements, not involving subdivision, could allow for development in conformity with the Regulations.

**ZR1071.3, Unnecessary Hardship Standard:** ZR1071.3 states, "That such unnecessary hardship has not been created by the appellant".

Staff finds that these are not hardships created by the applicant. Staff understands that the owner is has generously offered to donate the lot as proposed, and no larger.

**ZR1071.4, Alteration of Essential Character or Use Impairment Standard:** ZR1071.4 states:

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate USE or development of adjacent property, reduce access to RENEWABLE ENERGY RESOURCES, nor be detrimental to the public welfare.

Staff finds that the variance would not alter the essential character of the area, as this is a long-standing element of the neighborhood's character, and would not impair the reasonable use of adjacent properties or renewable energy, nor be detrimental to the public welfare.

**ZR1071.5 Minimum Relief Standard:** ZR1071.5 states, "That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Regulations and from the *Plan*."

6. The DRB may grant a variance from SR700.5 and 880.1 as well as ZR620 and ZR394 in accordance with ZR1071

### RETURN TO SUBDIVISION REVIEW

**SR880.2, Corner Lots:** The section states, "Corner lots shall have extra width to permit a front yard setback on each street." The proposal would not create a new corner lot.

**SR880.3, Side Lot Lines:** The section states, "Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines." Staff finds that the proposed new lot lines are at generally right angles.

**SR880.4, Topography:** The section states, "Consideration in lot layout shall be given to topographic, drainage and soil conditions." Staff finds that this can be evaluated at Final, if approved.

**SR880.5, Access:** The section states, "Lots shall be laid out so as to avoid direct access to heavily travelled streets or highways." Staff finds that the new lot would be directly accessed from US Route 7 South, a heavily travelled street, a situation not easily resolved given the existing layout and placement of the Stannard House.

**SR920, Legal Data:** The Town of Milton Selectboard has agreed to accept ownership of the property conditional upon successful subdivision. SR920 states,

7. The final plat application for a minor subdivision, shall be accompanied by a certificate of title showing the ownership of all property and easements to be dedicated to the Town. All proposed deeds conveying property or easements to the Town shall also accompany the final application. In addition, a draft of all restrictions of all types which will run with the land and become covenants shall be filed with the final application. The DRB may require the filing of such other legal data as it deems necessary in the enforcement of these regulations."

**SR930, Subdivision Regulation Waivers:** The section states, "The DRB may waive, subject to appropriate conditions, the provisions of any or all improvements and application submission requirements as in its judgment of special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety and general welfare, or which in its judgment are inappropriate because of an inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision."

**TAC:** The Technical Advisory Committee had no comments or concerns.

### STATE PERMITS

**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 is advised, prior to submitting a final plan, to obtain a state project review sheet.

### STAFF RECOMMENDATION

The staff does not find that this meets the required findings for a variance; nonetheless, staff supports approval given the Town's language in favor of preserving historical assets: the preservation of historic resources is prioritized in the subject zoning district's conditional uses, in the Zoning Regulations consideration of site design, in the Subdivision Regulation standards of evaluation, and in the Comprehensive Plan's vision statement and goals. This house is at a critical juncture. The owner has proposed a non-conforming lot and staff understands that the owner will not support an application for a conforming lot. Staff finds that the public interest in preserving cultural and historic heritage presents an exceptional circumstance that outweighs the variance criteria.

Staff recommends that the DRB **approve** the 2-lot Minor Conventional Subdivision Sketch Plan and Variance application for the property described as 947-951 US Route 7 South; Tax Map 8, Parcel 1; SPAN #13967, subject to the conditions proposed above.

Respectfully Submitted,



Jacob Hemmerick, Town Planner

#### ATTACHMENTS:

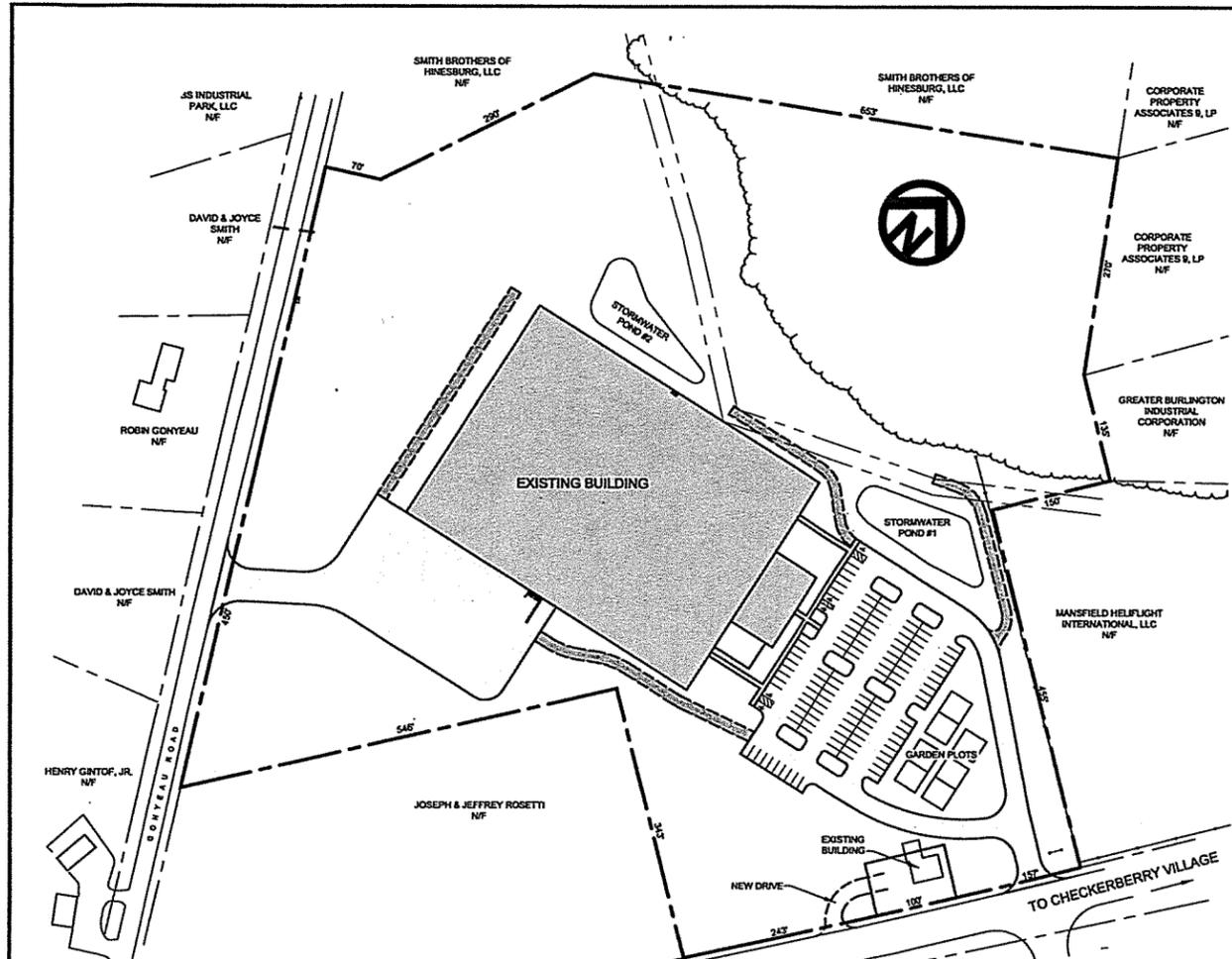
- Sketch Plan by Lamoureux & Dickinson last revised 5/4/15.

#### Staff Exhibits:

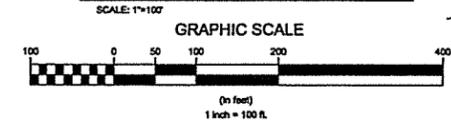
- Technical Advisory Committee (TAC) Recreation Review Sheet dated 8/4/15; and
- TAC Police Review Sheet dated 8/10/15;
- Miller Realty Group Site Plan & Boundary Line Adjustment DRB Decision dated 8/11/2011.
- General Stannard House Committee letter of March 11, 2015 to the Select board (and associated materials).

#### COPIES TO:

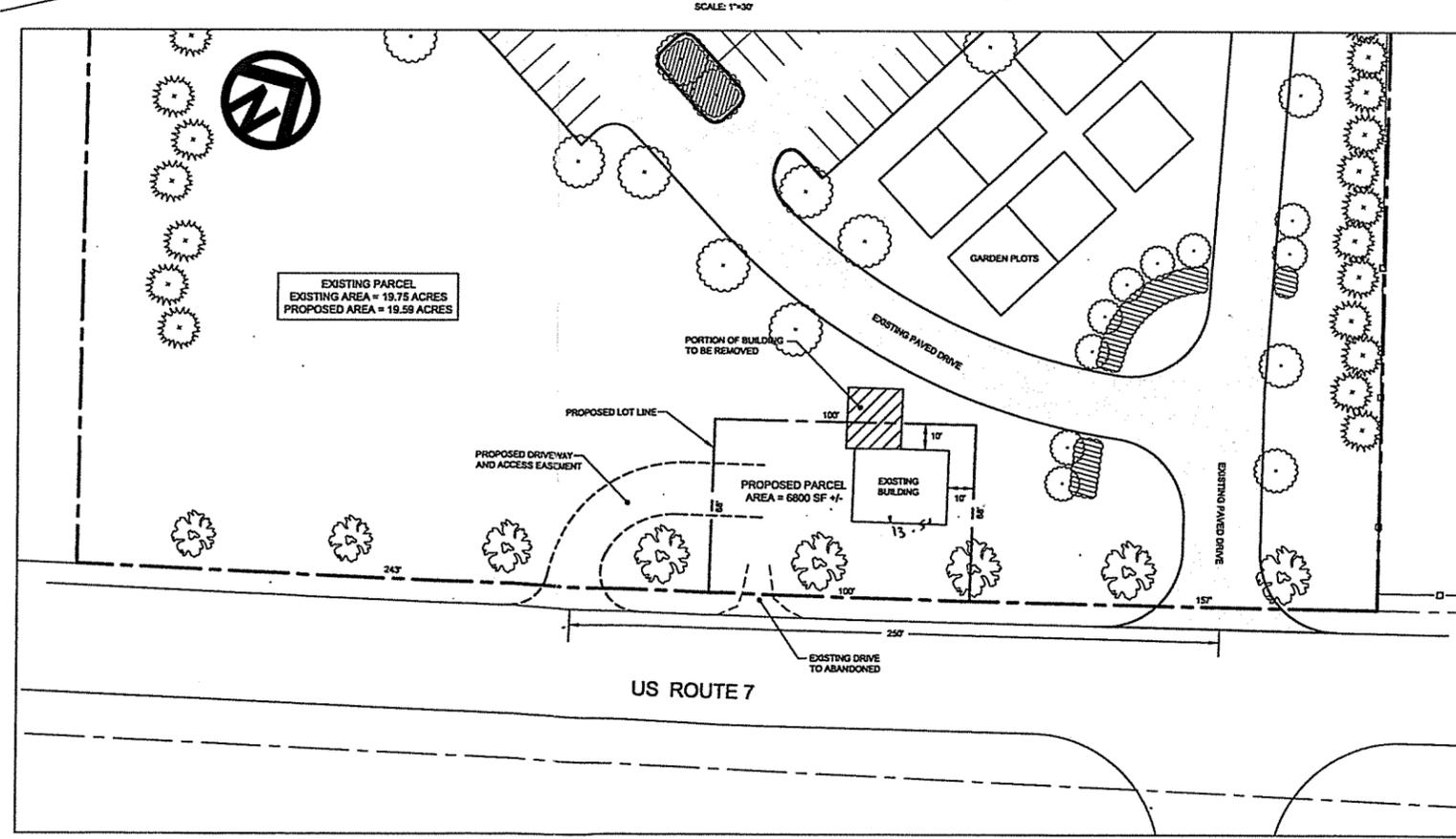
1. Applicant(s)
2. Owners(s)
3. Engineer/Surveyor



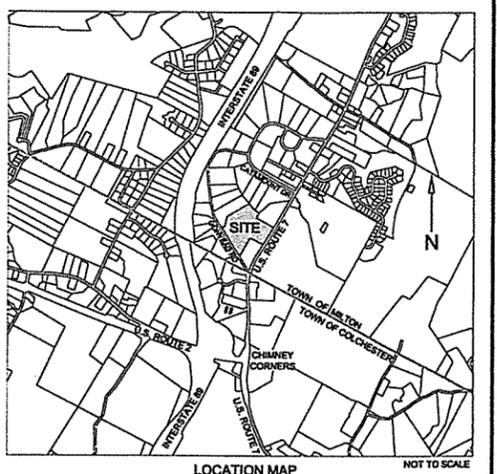
**OVERALL PROJECT SITE**



**PROPOSED NEW PARCEL**



SCALE: 1"=30'

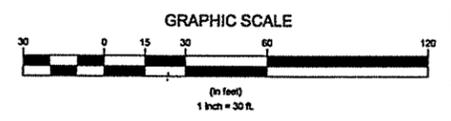


**LEGEND**

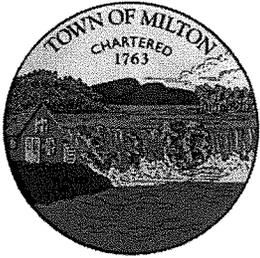
	PROJECT PROPERTY LINE
	ADJUTING PROPERTY LINE
	SIDELINE OF EASEMENT
	STRUCTURE SETBACK
	EXISTING TREELINE

**RECEIVED**  
JUN 25 2015

Planning & Economic Development  
Milton, Vermont



05-04-15	ADD DRIVE & EASEMENT FOR PROPOSED PARCEL	ABR
Date	Revision	By
These plans shall only be used for the purpose shown below:		
<input checked="" type="checkbox"/> Sketch/Concept	<input type="checkbox"/> Act 250 Review	
<input type="checkbox"/> Preliminary	<input type="checkbox"/> Construction	
<input type="checkbox"/> Final Local Review	<input type="checkbox"/> Record Drawing	
THE MILLER REALTY GROUP, LLP LOTS 1 & 2 - CATAMOUNT INDUSTRIAL PARK GONYEAU ROAD & U.S. ROUTE 7 MILTON, VT		Project No. 11018 Survey ADP/DH Design OTHERS Drawn ABR Checked DJG Date 12-30-14 Scale AS SHOWN Sheet number 1
<b>SKETCH PLAN</b>		
Lamoureux & Dickinson Consulting Engineers, Inc. 14 Morse Drive, Essex, VT 05452 802-878-4450 www.LDengineering.com		



**TOWN OF MILTON**  
**Planning & Economic Development Department**  
43 Bombardier Road  
Milton, Vermont 05468-3205  
802.893.1186  
miltonvt.org

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## TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, August 27, 2015

Date of Review: 08.10.15

Department: Police

TAC Member: BRET VAN NORDT

Minor Conventional Subdivision Sketch Plan & Variance Application -- 947- 951 US Route 7 South --  
General Stannard House Committee, Applicant/Miller Realty Group LLP, Owner

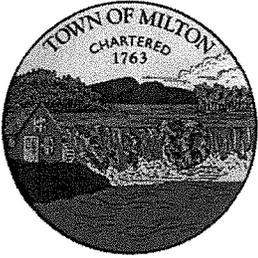
NO COMMENTS or CONCERNS.

Boundary Line Adjustment Application - Cold Spring Road 171 & 232 - Robert & Carolyn Clark and Molly  
M. Hastings Revocable Trust c/o Brent & Molly Hastings, Owners/Applicants

NO COMMENTS or CONCERNS.

Site Plan Amendment II Application - 121 Gonyeau Road - NG Advantage, Applicant/Clean Energy,  
Owner

NO COMMENTS or CONCERNS.



**TOWN OF MILTON**

**Planning & Economic Development Department**

43 Bombardier Road  
Milton, Vermont 05468-3205  
802.893.1186  
miltonvt.org

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**TECHNICAL ADVISORY COMMITTEE REVIEW SHEET**

Development Review Board Meeting of Thursday, August 27, 2015

Date of Review: 8-4-15

Department: Recreation

TAC Member: Kym Buchesneay

Minor Conventional Subdivision Sketch Plan & Variance Application -- 947- 951 US Route 7 South --  
General Stannard House Committee, Applicant/Miller Realty Group LLP, Owner

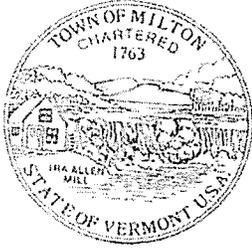
*No comments*

Boundary Line Adjustment Application - Cold Spring Road 171 & 232 - Robert & Carolyn Clark and Molly  
M. Hastings Revocable Trust c/o Brent & Molly Hastings, Owners/Applicants

*No comments*

Site Plan Amendment II Application - 121 Gonyeau Road - NG Advantage, Applicant/Clean Energy,  
Owner

*No comments*



## TOWN OF MILTON, VERMONT 05468-3205

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

August 12, 2011

Miller Realty Group LLC  
599 Avenue D  
Williston, VT 05495

Greater Burlington Industrial Corporation  
P.O. Box 786  
Burlington, VT 05401

**NOTICE OF DECISION for Miller Realty Group LLC  
Site Plan & Boundary Line Adjustment Approval**

On August 11, 2011, the Milton Development Review Board (DRB) granted approval for your proposed Site Plan and Boundary Line Adjustment located on US Route 7 and Gonyeau Road. The DRB's Notice of Decision is enclosed for your records. The approval is subject to the conditions listed on pages 6 and 7 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: *Andy Rowe*

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

**NOTICE OF DECISION for  
The Miller Realty Group, LLC/GBIC  
SITE PLAN & BOUNDARY LINE ADJUSTMENT APPLICATION**

This matter came before the Milton Development Review Board (DRB) on the application of Greater Burlington Industrial Corporation (GBIC), Owner, and The Miller Realty Group, LLC, Applicant, referred to hereafter as the "Applicant." The Applicant is requesting Boundary Line Adjustment approval to merge two lots located on US Route 7 and Gonyeau Road described as Tax Map 3, Parcels 8-1 and 8-2. Also proposed is a 138,000 s.f. warehouse and distribution center with associated administrative offices on the new 19.75 acre lot, and a potential 30,000 s.f. future expansion. The DRB held a warned public hearing on July 28, 2011. Andy Rowe from Lamoureux and Dickinson Consulting Engineers and Bob Miller 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 Boundary Line Adjustment approval to merge two lots located on US Route 7 and Gonyeau Road described as Tax Map 3, Parcels 8-1 and 8-2. Also proposed is a 138,000 s.f. warehouse and distribution center with associated administrative offices on the new 19.75 acre lot, and a potential 30,000 s.f. future expansion. The existing house will remain. The property is proposed to be serviced by municipal water and sewer.
2. The subject properties contain a total of approximately 19.75 acres and are located within the "General Industrial" (I2) Zoning District. The property owner is Greater Burlington Industrial Corporation (GBIC). The Applicant is The Miller Realty Group, LLC.
3. The DRB held a warned public hearing on July 28, 2011. The DRB members present and participating in the hearing were Ron Harding, Bruce Jenkins, David Conley, Clayton Forgan, and John Jorschick. Andy Rowe from Lamoureux and Dickinson Consulting Engineers and Bob Miller represented the Applicant at the hearing.

**CONCLUSIONS**

**Background**

1. The subject lots are Lots #1 & #2 of the Catamount Industrial Park. The Catamount Industrial Park received Final Approval from the Planning Commission on June 21, 1983. One of the conditions of the Final Approval was that the Planning Commission reserved the right to review the specific development of each site under Section 700.4, 700.6, 700.9, and 700.10 of the Subdivision Regulations, because they stated that Site Plan review did not include consideration of the elements contained within those sections of the Subdivision Regulations. The Section 700 elements in question involve review of erosion and stormwater runoff control (700.4), water and air pollution (700.6), adequate provision for pedestrian traffic (700.9), and burdens upon municipal services (700.10). The DRB finds that these elements are now sufficiently covered through Site Plan review; therefore, a separate review of the previously noted Section 700 elements should not be required.

2. The subject lot is covered by Land Use Permit #4C0550 and associated amendments.
3. The most recent survey of the subject property is recorded in the Town of Milton land records at Slide 321/Map 449. The recorded survey meets the requirement of Section 803.4.

### **BOUNDARY LINE ADJUSTMENT**

#### ***Lot Layout***

4. The proposal is to merge the two lots currently described as Tax Map 3, Parcel 8-1 (11.98 acres) and Tax Map 3, Parcel 8-2 (7.7 acres), resulting in one new lot that is 19.75 acres. The Applicant has submitted a plat that illustrates this change. There are existing easements on the property to the Town for access to the sewer system. It appears that additional or alternative easements may be necessary. The Applicant has discussed the proposed locations of the sewer easements to the Town with the Water/Wastewater Superintendent, and submitted revised plans on July 27, 2011. The Applicant proposes an undefined access easement for access to the sewer main. If the Water/Wastewater Superintendent or Town Attorney has any comments on the proposed access easement, these must be addressed.
5. The survey must be submitted on mylar, 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 Decision.
6. The survey must meet the requirements of Section 610.1 of the Subdivision Regulations.
7. Draft easement language for any relocated or additional sewer easements to the Town must be submitted for review by the Town Attorney.
8. The Applicant must submit \$500.00 to be held in escrow by the Town to cover the costs of legal review by the Town Attorney. Any funds not expended on this proposal's legal review shall be refunded to the Applicant.

#### **Site Plan Review Standards**

9. A 138,000 square foot building is proposed to house Gardener's Supply's warehouse and distribution center, with associated administrative offices. No nursery operations are proposed. The plans also include a potential 30,000 square foot future expansion. Warehousing and distribution are permitted uses within the I2 Zoning District. The proposal meets the dimensional requirements for the I2 Zoning District.
10. An existing house is located on the property along the Route 7 frontage. This is the historic Stannard House. This house is located within the front setback of Route 7; however, this is a pre-existing situation. Section 540 of the Zoning Regulations states that there shall be only one principal structure or use and its approved accessory structures on a lot, unless it is approved as a PUD. The DRB finds that since the Stannard House must remain on the lot due to its historical nature (it cannot be removed by the Applicant), but it is not being used, this does not constitute an additional primary structure or use. Therefore, it can be considered an accessory structure and does not require PUD approval. However, if in the future, this house is rehabilitated for an additional use, then the PUD issue may need to be revisited at that time.
11. 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.**

12. Access to the site is proposed via two curb cuts, one off of Gonyeau Road and one off of Route 7. The Gonyeau Road access will be the truck access to the loading area. The Route 7 access will be the access to the parking lot for employees and visitors. Section 813.2 states that unless specifically approved by the DRB, there shall not be more than one driveway for each lot. The DRB finds this is an appropriate situation for two accesses in order to keep the employee and visitor traffic separate from the large truck traffic. A Town Highway Access Permit will be required for work within the Gonyeau Road public right-of-way. A State Highway Access Permit will be required for the Route 7 access.
13. The Gonyeau Road access is 40' wide and the Route 7 access is approximately 30' wide, which then narrows to 24' wide (although they are both wider where they intersect with the public roads), which meets the requirement of Section 814.4 of the Zoning Regulations. In accordance with Section 814.5, the required minimum curb return radius is 20', which is met for the proposed parking lots. The internal aisle widths of the parking lot are 24', which meets the requirement in Section 814.3. Both parking lots meet the minimum queue length in Section 814.7. Section 814.3(4) requires that parking lots with 50 or more spaces require an internal circulation road that meets the minimum design and construction standards of a public road. The roads leading to the parking area meet the criteria for an internal circulation road. In accordance with Section 815.2 of the Zoning Regulations, visibility triangles must be maintained. There are no parking spaces proposed within the visibility triangles, in accordance with Section 815.2. The plans also include an existing gravel drive off of Route 7 at the eastern end of the property. Sheet 2 indicates that this will be removed and replaced with topsoil.
14. The plans include 5' and 6' wide concrete sidewalks leading from the parking lot to the entrance of the proposed building. As there are no sidewalks to connect to along Catamount Drive and no immediate plans to construct sidewalks within the industrial park, the DRB does not find it necessary to include a sidewalk along the public roads.

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

15. According to Section 812.2 of the Zoning Regulations, warehousing requires 2 parking spaces for each 3 employees. The Applicant proposes 130 parking spaces for 150 employees, which exceeds the minimum parking requirement (which is 100 parking spaces). The parking spaces are the required 9' x 18' and are wider for the 5 handicap accessible spaces. The Applicant is requesting approval for the potential future expansion as part of the current application. Therefore, another site plan approval will not be required for the addition as proposed, although a zoning permit and water/wastewater connection permit will be required prior to construction of the addition. The Applicant does not anticipate additional employees as a result of the building addition, so additional parking will not be required. A note on the plan indicates that the fire lane will be relocated when the future expansion is completed.
16. The Site Plan includes a designated loading area off of Gonyeau Road. In accordance with Section 818: *Off-Street Loading and Unloading Space* of the Zoning Regulations, a minimum of one space (10' x 60') shall be required for each 10,000 square feet of gross floor area. Based on the size of the building (138,000 square feet), this would require 14 loading spaces. The Applicant has indicated that there will be 12 loading docks and one at-grade overhead door, which results in 13 loading spaces. The DRB finds that this is sufficient.

17. Section 812.6 states that all parking lots shall be properly drained. The plans include stormwater basins. A State permit for stormwater discharge may be necessary. A copy of the State stormwater permit application and permit should be submitted to the Town. Additionally, the Town Engineer has requested a stormwater narrative. The Applicant submitted the stormwater narrative to the Town Engineer on July 26, 2011. The Applicant has addressed the comments from the Town Engineer, which were attached to the staff report.

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

18. The Applicant's engineer has provided estimates of traffic generation using the Institute of Transportation Engineers (ITE) Trip Generation Manual, 7<sup>th</sup> Edition. The estimates are for 77 vehicle trips in the AM when employees arrive and 77 trips in the PM when employees depart. The employees will arrive and depart prior to the US Route 7 AM and PM peak hours, but due to vendor traffic, the traffic study estimates there will be approximately 8 trips during the AM and PM peak hours. The Town Engineer reviewed the traffic generation estimates and did not have any comments.

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

19. Section 806 of the Zoning Regulations requires the submission of a landscaping plan and estimate, which the Applicant has provided. The parking lot includes landscaping in accordance with Section 814.6. The Applicant has submitted a landscaping cost estimate prepared by a professional landscape architect in the amount of \$79,320. The Applicant has stated that the total land development cost is \$7,000,000, so the landscaping estimate exceeds the minimum requirement of 1% of the total land development cost prescribed in Section 806.4 of the Zoning Regulations. In accordance with Section 806.3, a landscaping surety will be required to guarantee the completion of the landscaping and will be held to guarantee its survival for a period of three years from installation. The surety must be established prior to the issuance of a zoning permit.

20. At the hearing, Mr. Rowe stated that the neighbors on Gonyeau Road would like additional pine trees and they are fine with adding those. The additional pine trees must added to the landscaping plan and included in a revised landscaping cost estimate.

21. The plans indicate the trash and recycling containers will be located within the loading area and will be screened on three sides by the building, a retaining wall, and a 6' high chain link fence with vinyl privacy slats.

22. The Applicant is proposing outdoor lighting and has submitted a lighting plan that shows illumination levels approaching zero at the property boundaries. The lighting specifications submitted with the application show compliance with Section 820 of the Zoning Regulations.

**(e) Impacts on the Town's ability to provide adequate sewer, water, fire, police, or other municipal services and facilities.**

23. The proposal is to connect the building to municipal water and sewer using services that will remain private. The Applicant has received Water and Wastewater Allocation from the Water/Wastewater Superintendent and has also received a letter of availability from the Champlain Water District. The Water/Wastewater Superintendent has TAC comments (attached to the staff report) that must be addressed. Some of the comments are technical in nature, but others reflect concern over access to the Town's sewer infrastructure. There

are currently sewer easements to the Town and a gravel access road that may be impacted by this proposal. The Applicant proposes an undefined access easement for access to the sewer main. If the Water/Wastewater Superintendent or Town Attorney has any comments on the proposed access easement, these must be addressed.

24. The Fire Department submitted comments, which the Applicant addressed after meeting with the Fire Chief on July 26, 2011. The Fire Chief sent a follow-up email on July 26 that confirms the Fire Department's original concerns have been addressed (the revised plans submitted on July 27 illustrate the requested changes). The Applicant will be responsible for ensuring the remaining comments from the Fire Department, as outlined in the email from the Fire Chief dated July 26, 2011, and the TAC comments dated July 19, 2011, are addressed. A maintenance agreement will be required with the Town Water Department for maintenance of the fire hydrant.

25. The subject lot is covered by Land Use Permit #4C0550 and associated amendments and will require an amendment for the proposed project. All the necessary State permits must be obtained prior to construction.

**(f) Suitability of the site for the proposed scope of development, including due regard for the preservation of existing natural and historical resources.**

25. The plans show all proposed development is outside of the Class Two wetland and buffer zone and the sensitive archaeological area on the property. The DRB finds that the site itself is suitable for the proposed development.

**(g) Consistency with the Comprehensive Plan.**

26. The subject property falls in the Catamount Planning Area identified in the Comprehensive Plan as a mixed use area. The Comprehensive Plan identifies two goals for the Catamount Planning Area. These goals include encouraging high quality industrial development in a sub regional growth center and to provide an aesthetically pleasing approach to Milton. At the hearing, Mr. Rowe stated that the site slopes down from Gonyeau Road and Route 7 so the building sits below the road. He added that the Rosetti parcel also helps to screen the property. Mr. Miller stated that the existing trees along Route 7 also help. The DRB finds the proposed landscaping and screening is sufficient. The Applicant has submitted building elevations as required by Section 803.7. The building will be below the maximum height of 35 feet.

**Other**

27. The Applicant must obtain a Zoning Permit from the Zoning Administrator before commencing any work. Once construction is complete, a Certificate of Occupancy must be obtained before the building can be occupied. No Zoning Permits will be granted until all of the applicable conditions of approval are met.

28. The Applicant must submit 3 full-sized (to scale) and 3 reduced (11 x 17) complete final plan sets depicting the requested changes. The Applicant is advised to submit one full-sized (to scale) plan set for staff review prior to submitting all the required copies of the final plan sets.

**DECISION**

MOTION by Clayton Morgan, second by Bruce Jenkins, to APPROVE

NOTICE of DECISION – The Miller Realty Group, LLC/GBIC – SITE PLAN & BOUNDARY LINE ADJUSTMENT

the Applicant's proposed Boundary Line Adjustment application to merge two lots located on US Route 7 and Gonyeau Road, and the Applicant's proposed Site Plan application for a 138,000 s.f. warehouse and distribution center with associated administrative offices on the new 19.75 acre lot, 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 Site Plan after approval, unless a revised Site Plan is first submitted to the Department of Planning and Economic Development for approval.
3. The Applicant must submit 3 full-sized (to scale) and 3 reduced (11 x 17) complete final plan sets depicting the requested changes. The Applicant is advised to submit one full-sized (to scale) plan set for staff review prior to submitting all the copies of the final plan sets.
4. If the Water/Wastewater Superintendent or Town Attorney has any comments on the proposed access easement, these must be addressed.
5. The survey must be submitted on mylar, 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 Decision.
6. The survey must meet the requirements of Section 610.1 of the Subdivision Regulations.
7. Draft easement language for any relocated or additional sewer easements to the Town must be submitted for review by the Town Attorney.
8. The Applicant must submit \$500.00 to be held in escrow by the Town to cover the costs of legal review by the Town Attorney. Any funds not expended on this proposal's legal review shall be refunded to the Applicant.
9. A Town Highway Access Permit will be required for work within the Gonyeau Road public right-of-way.
10. A State Highway Access Permit will be required for the Route 7 access.
11. The Applicant must submit the State stormwater permit application and permit to the Town.
12. The additional pine trees, requested by the neighbors on Gonyeau Road, must be added to the landscaping plan and included in a revised landscaping cost estimate.
13. In accordance with Section 806.3, a landscaping surety will be required to guarantee the completion of the landscaping and will be held to guarantee its survival for a period of three years from installation. The surety must be established prior to the issuance of a Zoning Permit.
14. The comments from the Water/Wastewater Superintendent (attached to the staff report) must be addressed.
15. The Applicant will be responsible for ensuring the remaining comments from the Fire

NOTICE of DECISION – The Miller Realty Group, LLC/GBIC – SITE PLAN & BOUNDARY LINE ADJUSTMENT

Department, as outlined in the email from the Fire Chief dated July 26, 2011, and the TAC comments dated July 19, 2011, are addressed.

16. A maintenance agreement will be required with the Town Water Department for maintenance of the fire hydrant.
17. All the necessary State permits must be obtained prior to construction.
18. A zoning permit is required prior to construction.

VOTE RECORD:

David Conley – ~~yea~~/nay/abstain/absent/didn't vote  
Bruce Jenkins – ~~yea~~/nay/abstain/absent/didn't vote  
John Jorschick – ~~yea~~/nay/abstain/absent/didn't vote  
Ron Harding – ~~yea~~/nay/abstain/absent/didn't vote  
Clayton Forgan – ~~yea~~/nay/abstain/absent/didn't vote

MOTION TO APPROVE PASSED/FAILED BY A VOTE OF 5 / 0 / 1 / 0 / 0  
YEA NAY ABSTAIN ABSENT DIDN'T VOTE

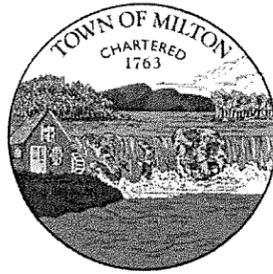
Dated at Milton, Vermont, this 11<sup>th</sup> day of AUGUST, 2011.

By  \_\_\_\_\_  
Chair  
Milton Development Review Board

**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.



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

## DEVELOPMENT REVIEW BOARD STAFF REPORT

<b>Hearing Date:</b> August 27, 2015	
<b>Case No:</b> 2015-24	
<b>Application(s):</b> Boundary Line Adjustment	
<b>Existing Use:</b> Single Family Dwelling	
<b>Proposed Use:</b> Single Family Dwelling	
<b>Application Received:</b> July 23, 2015	
<b>Application Deemed Complete:</b> July 23, 2015	
<b>Staff Report Finalized:</b> Friday, August 21, 2015	
<b>Owner(s)/Applicant(s):</b> Robert M. Clark & Carolyn H. Clark 122 Cold Spring Road, Milton, VT 05468	<b>Owner(s)/Applicant(s):</b> Brent Hastings & Molly Hastings 232 Cold Spring Road, Milton, VT 05468
<b>Engineer</b> Trudell Consulting Engineers 478 Blair Park Road, Williston, VT 05465 802.879.6331	<b>Surveyor/License:</b> Scott D. Taylor, 488
<b>E-911/Postal Address:</b> 171 Cold Spring Road & 232 Cold Spring Rd.	
<b>Tax Map, Parcel(s):</b> 39, 4-3 & 39, 4-1	
<b>School Parcel Account Number(s) (SPAN):</b> 10522 & 12636	
<b>Deed(s):</b> Book 305, Page 382 & Book 423, Page 893	
<b>Existing Size(s):</b> 0.4 acres & 2.69 acres	
<b>Zoning District(s):</b> Shoreland Residential "R6" & Agricultural Rural Residential "R5"	
<b>Comprehensive Plan Planning Area/Sub-Area:</b> West Milton/None	
<b>Location:</b> Approximately 1 mile from Beebe Hill Road on Cold Spring Road.	

### SUMMARY OF PROPOSAL

**Noticed Summary of Proposal:** The Applicants are requesting Boundary Line Adjustment approval to adjust the property boundary between two adjacent lots located at 171 and 232 Cold Spring Road described as SPAN #s 10522 and 12636, Tax Map 39, Parcels 4-3 and 4-1. The proposal would transfer a total of 0.30 acres from the Clark lot to the Hastings lot. The subject properties contain a total of approximately 3.09 acres and are located within the "Shoreland Residential" (R6) and "Agricultural/Rural Residential" (R5) Zoning Districts.

**Comments:** Jacob Hemmerick, Planning Director herein referred to as Staff, has reviewed the application, materials and plans submitted and have the following comments. The numbered items below requests points of clarification, frame discretionary decisions for the DRB and recommend conditions of approval.

---

### INTRODUCTION AND PROCEDURAL HISTORY

**Application:** This matter comes before the Town of Milton Development Review Board (DRB) for Boundary Line Adjustment approval.

**Applicant(s):** The application was submitted by Robert M. Clark, Carolyn H. Clark, Brent Hastings and Molly Hastings referred to hereafter as the "applicant".

**Application Submission:** The application form and associated exhibits were received by the Planning and Economic Development Department on July 23, 2015. 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 July 23, 2015.

**Landowner(s):** The property at 171 Cold Spring Road is owned by Robert M. Clark and Carolyn H. Clark. The property at 232 Cold Spring Road is owned by Molly M. Hastings Revocable Trust, Molly M. & Brent W. Hastings, Trustees. All owners are signatories to this application.

**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 that the, "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.

**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:

- A Boundary Line Adjustment Plat [date unclear]

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

- Technical Advisory Committee (TAC) Recreation Review Sheet dated 8/4/15
- TAC Police Review Sheet dated 8/10/15
- DRB Boundary Line Adjustment Decision dated 12/11/14.

**Zoning History:** The subject property received Boundary Line Adjustment approval for an identical proposal on December 11, 2014. A condition of that proposal required that the applicant record the final Plat in the Town of Milton land records within 180 days. This deadline passed, and the approval expired. The applicant has re-submitted an identical proposal for your consideration.

**Property Location:** The subject properties are located at 171 and 232 Cold Spring Road shown on Milton's Tax Map 39 as Parcels 4-3 and 4-1, respectively. The respective corresponding School Parcel Account Numbers (SPAN) are 10522 and 12636

**Size/Area:** According to the evidence presented, the respective subject parcels are approximately 117,612 square feet and 19,502 square feet, for a total of 137,214 square feet. The Assessor's Grand List records the respective subject parcels as approximately 2.69 acres and 0.4 acres, for a total area of 3.09 acres.

**Property Deeds:** The respective deeds of ownership are recorded in the Town of Milton Land Records in Book 305, Page 382 & Book 423, Page 893.

**Zoning District:** The site is located within the Shoreland Residential "R6" and Rural Agriculture "R5" Zoning Districts 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.

**Comprehensive Planning Area:** The site is located within the West Milton Planning Area, as delineated in Map 2 of the [2013 Comprehensive Plan](#).

**Existing/Proposed Use:** Each lot contains a principal single family dwelling. The proposal includes no changes to uses or structures.

**Proposal:** The applicant proposes to transfer 13,068 square feet from the Clark Lot at 171 Cold Spring Road to the Hastings Lot at 232 Cold Spring Road.

**Recommended Conditions:** Staff finds that this application recently underwent review and was approved by the DRB and there has been no change to the proposal. Staff, therefore, recommends the following conditions - consistent with the prior approval -- that have not otherwise already been addressed.

1. **Future Subdivision Notation:** The Final Plat shall include a note stating, "No further subdivision shall occur on the subject lots pursuant to the Milton Zoning Regulations Section 621(2) and the Development

Review Board's Boundary Line Adjustment Decision dated [to be determined], unless so enabled by subsequent Zoning Regulations."

2. Plat Formatting: The plat shall be in compliance with the sizing and formatting requirements of Subdivision Regulations Section 610.1.
3. Survey Pin Attestation: The surveyor shall submit a letter attesting that the new pins have been set prior to recording plat.
4. Plat Improvements: The Final Plat shall show the location of all the improvements referred to in Article VIII according to Subdivision Regulation 610.1(7).
5. Legal Instruments: The Applicant shall submit deeds and any other legal instruments associated with this adjustment for review and approval by the Town Attorney. All requested revisions must be complete and on file with the Planning Office before the Plat may be recorded. Only approved instruments may be recorded in the Town of Milton Land Records.
6. Legal Escrow: The Applicant shall submit \$500 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
7. Revised Plat for Staff Review: The Applicant shall submit one reduced (11 x 17) paper or electronic PDF version of the Final Plat for review and approval by Staff prior to submitting the Final (mylar) Plat for signature and recording.
8. Final Plat Submission: The Final Plat shall be submitted on mylar, 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 Decision per Subdivision Regulations Section 940. The Applicant shall also submit one full-sized (to scale), paper Final Plat depicting the requested changes, to be maintained in the Planning Office's application file.

#### STAFF RECOMMENDATION

The Planning Staff recommends that the DRB render a consistent decision and **approve** the Boundary Line Adjustment proposal to adjust the property boundary between two adjacent lots located at 171 and 232 Cold Spring Road described as SPAN #s 10522 and 12636, Tax Map 39, Parcels 4-3 and 4-1, subject to the conditions proposed above.

Respectfully Submitted:



Jacob Hemmerick, Planning Director

#### ATTACHMENTS:

1. A Boundary Line Adjustment Plat
2. Technical Advisory Committee (TAC) Recreation Review Sheet dated 8/4/15

3. TAC Police Review Sheet dated 8/10/15
4. DRB Boundary Line Adjustment Decision dated 12/11/14.

**COPIES TO:**

1. Applicant(s)
2. Owners(s)
3. Engineer/Surveyor



**TOWN OF MILTON**  
**Planning & Economic Development Department**  
43 Bombardier Road  
Milton, Vermont 05468-3205  
802.893.1186  
miltonvt.org

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## TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, August 27, 2015

Date of Review: 8-4-15

Department: Recreation

TAC Member: Kym Buchesneal

Minor Conventional Subdivision Sketch Plan & Variance Application -- 947- 951 US Route 7 South --  
General Stannard House Committee, Applicant/Miller Realty Group LLP, Owner

*No comments*

Boundary Line Adjustment Application - Cold Spring Road 171 & 232 - Robert & Carolyn Clark and Molly  
M. Hastings Revocable Trust c/o Brent & Molly Hastings, Owners/Applicants

*No comments*

Site Plan Amendment II Application - 121 Gonyeau Road - NG Advantage, Applicant/Clean Energy,  
Owner

*No comments*



**TOWN OF MILTON**  
**Planning & Economic Development Department**  
43 Bombardier Road  
Milton, Vermont 05468-3205  
802.893.1186  
miltonvt.org

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## TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, August 27, 2015

Date of Review: 08-10-15

Department: POLICE

TAC Member: BRETT VAN NORDT

Minor Conventional Subdivision Sketch Plan & Variance Application -- 947- 951 US Route 7 South --  
General Stannard House Committee, Applicant/Miller Realty Group LLP, Owner

NO COMMENTS or CONCERNS.

Boundary Line Adjustment Application - Cold Spring Road 171 & 232 - Robert & Carolyn Clark and Molly  
M. Hastings Revocable Trust c/o Brent & Molly Hastings, Owners/Applicants

NO COMMENTS or CONCERNS.

Site Plan Amendment II Application - 121 Gonyeau Road - NG Advantage, Applicant/Clean Energy,  
Owner

NO COMMENTS or CONCERNS.



## TOWN OF MILTON, VERMONT 05468-3205

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

December 12, 2014

Robert & Carolyn Clark  
122 Cold Spring Road  
Milton, VT 05468

Brent & Molly Hastings  
232 Cold Spring Road  
Milton, VT 05468

**NOTICE OF DECISION for 171 & 232 Cold Spring Road  
Boundary Line Adjustment Approval**

On November 13, 2014, the Milton Development Review Board (DRB) granted Boundary Line Adjustment approval to adjust the property boundaries between two adjacent lots located at 171 and 232 Cold Spring Road. The DRB's Notice of Decision is enclosed for your records. The approval is subject to the conditions listed on pages 6 and 7 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

**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 enclosed decision was signed. Participation shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. See V.S.A. Title 24, Chapter 117, Section 4465b for clarification on who qualifies as an "interested person".

Notice of the Appeal, along with applicable fees, should be sent by certified mail to the Vermont Environmental Court. A copy of the notice of appeal should also be mailed to the Town of 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.

**TOWN OF MILTON  
DEVELOPMENT REVIEW BOARD**  
43 Bombardier Road, Milton, Vermont 05468  
802.893.1186  
[www.miltonvt.org](http://www.miltonvt.org)

**NOTICE OF DECISION**  
***Boundary Line Adjustment & Variance***  
***171 & 232 Cold Spring Road***  
***Clark & Hastings***

This matter came before the Milton Development Review Board (DRB) on the application of Robert M. Clark, Carolyn H. Clark, and Hastings Revocable Trust c/o Brent & Molly Hastings, referred to hereafter as the "Applicant," for Boundary Line Adjustment approval to adjust the property boundary between two adjacent lots located at 171 and 232 Cold Spring Road described as SPAN #s 10522 and 12636, Tax Map 39, Parcels 4-3 and 4-1. The proposal would transfer a total of 0.30 acres from the Clark lot to the Hastings lot. The subject properties contain a total of approximately 3.09 acres and are located within the "Shoreland Residential" (R6) and "Agricultural/Rural Residential" (R5) Zoning Districts. Because the proposal would transfer a primary wastewater disposal system, the Applicant also applied for a Variance from Zoning Regulations Section 621(4).

Application: The Boundary Line Adjustment application was received by the Milton Department of Planning and Economic Development Department Staff on October 9, 2014 and deemed complete.

Hearing: The DRB conducted a warned public hearing on the Boundary Line Adjustment application on November 13, 2014, during which the Applicants requested a Variance. Public warning was issued for the November 12, 2014 hearing according to Vermont Statutes Annotated Chapter 24 §4464.

DRB Participation: The DRB members who were present and participated at the hearing were: Allen Lasell (Chair), Bruce Jenkins (Vice-Chair), Tom Cole (Clerk), Clayton Forgan, and David Conley.

Representation: The Applicant was represented at the hearing by Robert M. Clark.

Interested Persons: At the outset of the hearings, the DRB afforded those persons wishing to achieve status as an interested person an opportunity under 24 VSA §4465 to be sworn in and sign the hearing sheet. A record of the name and address of the persons seeking status as an interested person is maintained in the application's file.

Regulations: Both applications are subject to and reviewed according to the Town of Milton Zoning Regulations (ZR) last amended on August 25, 2014; and the Town of Milton Subdivision Regulations (SR), last amended on June 28, 2010.

Based upon testimony provided at the public hearing and the evidence 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 & CONCLUSIONS**

1. Summary: Because the proposal would transfer a primary wastewater disposal system, the Applicant is requesting a Variance from Zoning Regulations Section 621) in order to adjust the property boundary between two adjacent lots located at 171 and 232 Cold Spring Road described as SPAN #s 10522 and 12636, Tax Map 39, Parcels 4-3 and 4-1.
2. Size & Zoning District: The proposal would transfer a total of 0.30 acres from the Clark Lot to the Hastings Lot. The subject properties contain a total of approximately 3.09 acres and are located within the "Shoreland Residential" (R6) and "Agricultural/Rural Residential" (R5) Zoning Districts.
3. Existing Conditions & Use: The subject lots each contain a single family residential dwelling unit, the locations of which are indicated on the draft Plat. The portion of land proposed for transfer would also transfer the Hastings' septic to the Hastings' Lot. In other words, the Hastings' septic is currently located on the Clark Lot.
4. Boundary Line Adjustment Qualifier: The subject area contains 2 parcels/lots, and the Boundary Line Adjustment will result in 2 parcels. Because no new lots are being created, this application qualifies as a Boundary Line Adjustment.
5. Area Calculations: The Assessor describes the lot acreage as follows:

Lot	Acreage	Square Feet
Clark	2.69 acres	117,176 sq. ft.
Hastings	0.40 acres	32,670 sq. ft.
Totals	3.09 acres	149,846 sq. ft.

The Applicant listed the existing and proposed sizes as follows:

Lot	Existing Size	Proposed Size	Increase/Decrease
Clark	117,612 sq. ft.	104,544 sq. ft.	- 13,068 sq. ft.
Hastings	19,602 sq. ft.	32,670 sq. ft.	+ 13,068 sq. ft.
Totals	137,214 sq. ft.	137,214 sq. ft.	0

The Applicant's account of the existing square footage is negligibly less than the Assessor's record. The total property proposed for transfer by the Applicant equals.

6. Dimensional Standards: The Hastings Lot is entirely within the Shoreland Residential District (R6). The Clark Lot is within both the Agriculture/Rural Residential (R5) Zoning District and the Shoreland Residential District (R6). The portion of the property being transferred is located entirely within the Shoreland Residential District (R6). Both the R5 & R6 Districts distinguish between residential and non-residential uses; residential dimensional requirements are listed in ZR§344 and ZR 354, respectively. Both lots contain residential dwelling units, the locations of which are indicated on the draft Plat. The Clark Lot has one accessory garage structure, and no accessory structures are shown on the Hastings Lot. No water sources or other utilities are shown on the Plat.
7. Reduction of Lot Size: According to ZR§620, "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."

8. Clark Lot Dimensional Conformity:

Residential Use	R5 (\$344) Required	R6 (\$354) Required	Existing	Proposed
Min. Lot Area	400,000 ft. <sup>2</sup>	100,000 ft. <sup>2</sup>	117,612ft. <sup>2</sup>	104,544ft. <sup>2</sup>
Min. Frontage	400 ft.	200 ft	148.9 ft.	148.9 ft.
Min. Front Setback	35 ft.	Road: 35 ft Shore: 50 ft.	Road :100.2 ft Shore: n/a	Road :100.2 ft Shore: n/a
Min. Side Setback	50 ft.	35 ft	29.2 ft.	29.2 ft.
Min. Rear Setback	50 ft.	35 ft.	51.4 ft.	51.4 ft.
Max. Building Coverage	40%	40%	10.4%	11.7%

The Clark Lot does not currently conform to the minimum lot area requirement for the R5 District. The proposal makes the lot area more non-conforming.

The Clark Lot does not currently conform to the side setback requirement for the R5 or R6 Districts. The proposal has no impact on side setback conformity.

9. Hastings Lot Dimensional Conformity:

Residential Use	R6 (\$354) Required	Existing	Proposed
Min. Lot Area	100,000 ft. <sup>2</sup>	19,602 ft. <sup>2</sup>	32,670 ft. <sup>2</sup>
Min. Frontage	200 ft	100.5 ft. (road)	121.5 ft. (road)
Min. Front Setback	Road: 35 ft Shore: 50 ft.	Road: 33.9 ft Shore: 105.5 ft.	Road: 33.9 ft Shore: 105.5 ft.
Min. Side Setback	35 ft	3.4 ft.	3.4 ft.
Min. Rear Setback	35 ft.	105.5 ft.	105.5 ft.
Max. Building Coverage	40%	8.0 %	4.8%

The Hastings Lot does not currently conform to the minimum lot area requirement for the R6 District. The proposal makes the lot area less non-conforming.

The Hastings Lot does not currently conform to the minimum road frontage requirement for the R6 District. The proposal makes the frontage less non-conforming.

The Hastings Lot does not currently conform to the minimum side setback requirement for the R6 District. The proposal has no impact on side setback conformity.

10. Exception to Reduction of Lot Size: Notwithstanding the ZR§620, ZR§621 allows the DRB to "approve a Boundary Line Adjustment between two adjoining existing, non-conforming lots, provided that there be no potential for the further subdivision of either lot subject to 5 restrictions in *italics* below. In this case, the two lots are adjoining, existing, and nonconforming lots.

11. Development Rights: ZR§621(a) states that, "*Neither lot may enjoy additional building or development rights that did not exist prior to the lot line adjustment; for the lot receiving additional land, any STRUCTURE which was permitted prior to the lot line adjustment may be*

situated any place within the newly formed lot in accordance with the LOT AREA and dimensional requirements of its particular district". The DRB finds and concludes that neither lot would be eligible for further subdivision or principal structure building rights that would constitute additional development rights.

12. Further Subdivision: ZR§621(b) states that "Neither lot may be further subdivided". The Applicant agreed that the Final Plat shall include a note stating, "No further subdivision shall occur on the Hastings or Clark lots pursuant to the Milton Zoning Regulations Section 621(2) and the Development Review Board's Boundary Line Adjustment Decision dated \_\_\_\_\_, unless so enabled by subsequent Zoning Regulations."
13. New Non-Conformity: ZR§621(c) states that "The Boundary Line Adjustment may not result in a non-conformity that did not previously exist for either lot." The DRB finds and concludes that the proposal would not result in a non-conformity that did not previously exist for either lot.
14. Primary Structure or Wastewater Disposal Transfer: ZR§621(d) states that "No land containing a primary structure or waste water disposal system may be transferred through this exception". The proposal would transfer a wastewater disposal system. In this case, the septic system being transferred is being transferred to the primary structure which it serves. Staff stated that in order to approve the Boundary Line Adjustment, a Variance from ZR§621(4) would have to be granted by the DRB in order to be able to transfer land containing a wastewater disposal system. The Applicant requested a Variance from this provision, which is evaluated below.
15. Septic Replacement Capability: ZR§621(e) states that "A statement must be submitted to the Development Review Board by a certified site technician or engineer verifying that the lot to be diminished in size will have an adequate septic replacement area after the reduction in lot size authorized herein." The Applicant did not provide a letter from the State Drinking Water and Groundwater Protection Division stating that the Boundary Line Adjustment does not need a State Water/Waste Water permit as it does not adversely affect the wastewater disposal system per VSA Section 1-304(a)(11)(A)(iv). Staff requested that the DRB make this item a condition of approval, and the Applicant agreed to provide a letter from the State Drinking Water and Groundwater Protection Division stating that the Boundary Line Adjustment does not need a State Water/Waste Water permit as it does not adversely affect the waste water disposal system per VSA Section 1-304(a)(11)(A)(iv). This must be submitted prior to the signing of the Final mylar Plat by the DRB Chair.
16. Required Findings for a Variance, ZR §971: Section 971 states that, "A variance from provisions of these Zoning Regulations may be granted only after appeal to the Development Review Board in accordance with the following provisions" (of ZR§971, reviewed below). The Applicant requested a Variance from Zoning Regulations Sections 621(4) in order to transfer a waste water disposal system.
17. Unique Conditions & Hardship: ZR§971.1 states that the following fact must be found to grant a variance, "That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located." The DRB finds and concludes that the criterion is met.

18. Development & Reasonable Use: ZR§971.2 states that the following fact must be found to grant a variance, *"That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulation and that the authorization of a variance is therefore necessary to enable the reasonable USE of the property."* The DRB finds and concludes that the criterion is met.
19. Cause of Hardship: ZR§971.3 states that the following fact must be found to grant a variance, *"That such unnecessary hardship has not been created by the appellant."* The DRB finds and concludes that the criterion is met.
20. Character & Impairment to Adjacent Property: ZR§971.4 states that the following fact must be found to grant a variance, *"That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate USE or development of adjacent property, reduce access to RENEWABLE ENERGY RESOURCES, nor be detrimental to the public welfare."* The DRB finds and concludes that the criterion is met.
21. Scope of Variance: ZR§971.5 states that the following fact must be found to grant a variance, *"That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Regulations and from the Plan."* The DRB finds and concludes that the criterion is met.
22. Width to Depth Ratio: ZR§640 (*Lot Width*) states, "The width of any new lot shall not be less than one-third (1/3) of the depth of the lot." The DRB measures the proposed depth at the longest straight line roughly perpendicular to the frontage, and width at the longest straight line roughly parallel to the frontage. The DRB finds and concludes that both lots meet the width to depth ratio.
23. General Plat Requirements: Subdivision Regulations Section 610: Final Plat for Major and Minor Subdivisions lists the requirements for the Final Plat, which is defined by SR§200.5 as "The Final drawings on which the subdivision is presented to the DRB for approval and which, if approved, shall be filed for record with the Town Clerk." The subsections of SR§610 listed below are not in compliance; and those subsections of 610 either in compliance or not applicable to this application are not listed below.
24. Plat Formatting: The Applicant agreed that the Plat shall be revised to be in compliance with the sizing and formatting requirements of Subdivision Regulations Section 610.1.
25. Survey Pins: The Applicant agreed that the Surveyor shall submit a letter to the Planning Office stating that the new pins have been set prior to recording the mylar plat, in accordance with Subdivision Regulations 610.1(9).
26. Improvements (SR§610.1(7)): The Draft Plat does not show the location of all improvements referred to in SR, Article VII. The Applicant agreed that the Final Plat shall show the location of all the improvements referred to in Article VIII according to Subdivision Regulation 610.1(7); this includes: streets, curbs/sidewalks, outdoor lighting, shade trees, drainage, water systems, sewage disposal, utilities and layout.
27. Road Easement: The Applicant agreed that the Final Plat shall reference the Cold Spring Private Road easement.

28. Legal Documents (SR§920): Subdivision Regulations Section 920 states that the DRB may require the filing of such other legal data as it deems necessary in the enforcement of these regulations. The Applicant proposed no new restrictions that will run with the land or become covenants. The Applicant agreed to submit new deeds and any other legal instruments associated with this adjustment for review and approval by the Town Attorney. All requested revisions must be complete and on file with the Planning Office before the Plat may be recorded. Only approved instruments may be recorded in the Town of Milton Land Records.
29. Legal Escrow: The Applicant agreed to submit \$500 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.
30. Technical Advisory Committee: The Technical Advisory Committee had no questions or concerns with this application.
31. Revised Plat for Staff Review: The Applicant shall submit one reduced (11 x 17) paper or electronic PDF version of the Final Plat for review and approval by Staff prior to submitting the Final (mylar) Plat for signature and recording.
32. Final Plat Submission: The Final Plat shall be submitted on mylar, 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 Decision per Subdivision Regulations Section 940. The Applicant shall also submit one full-sized (to scale) paper Final Plat depicting the requested changes, to be maintained in the Planning Office's application file.
33. State Project Review: The Applicant must obtain a 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.

#### **DECISION & CONDITIONS OF APPROVAL**

**MOTION** by Bruce Jenkins, **SECOND** by Clayton Forgan, to **APPROVE** a Variance from Zoning Regulations Section 621 and the Boundary Line Adjustment application in order to adjust the property boundary between two adjacent lots located at 171 and 232 Cold Spring Road described as SPAN #s 10522 and 12636, Tax Map 39, Parcels 4-3 and 4-1., 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.
3. Further Subdivision Notation: The Final Plat shall include a note stating, "No further subdivision shall occur on the Hastings or Clark lots pursuant to the Milton Zoning Regulations Section 621(2) and the Development Review Board's Boundary Line Adjustment Decision dated \_\_\_\_\_ TBD \_\_\_\_\_, unless so enabled by subsequent Zoning

Regulations.”

4. Wastewater Impact Statement: The Applicant shall provide a letter from the State Drinking Water and Groundwater Protection Division stating that the Boundary Line Adjustment does not need a State Water/Waste Water permit as it does not adversely affect the waste water disposal system per VSA Section 1-304(a)(11)(A)(iv). This must be submitted prior to the signing of the Final mylar Plat by the DRB Chair.
5. Plat Formatting: The Plat shall be revised to be in compliance with the sizing and formatting requirements of Subdivision Regulations Section 610.1.
6. Survey Pin Attestation: The Surveyor shall submit a letter to the Planning Office stating that the new pins have been set prior to recording the mylar plat, in accordance with Subdivision Regulations 610.1(9).
7. Plat Improvements: The Final Plat shall show the location of all the improvements referred to in Article VIII according to Subdivision Regulation 610.1(7), unless waived by the DRB according to SR§930 Waivers. This includes: Streets, Curbs/Sidewalks, Outdoor Lighting, Shade Trees, Drainage, Water Systems, Sewage Disposal, Utilities and Layout.
8. Cold Spring Road Easement: The Final Plat shall reference the Cold Spring Private Road easement.
9. Legal Instruments: The Applicant shall submit new deeds and any other legal instruments associated with this adjustment for review and approval by the Town Attorney. All requested revisions must be complete and on file with the Planning Office before the Plat may be recorded. Only approved instruments may be recorded in the Town of Milton Land Records.
10. Legal Escrow: The Applicant shall submit \$500 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
11. Revised Plat for Staff Review: The Applicant shall submit one reduced (11 x 17) paper or electronic PDF version of the Final Plat for review and approval by Staff prior to submitting the Final (mylar) Plat for signature and recording.
12. Final Plat Submission: The Final Plat shall be submitted on mylar, 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 Decision per Subdivision Regulations Section 940. The Applicant shall also submit one full-sized (to scale) paper Final Plat depicting the requested changes, to be maintained in the Planning Office's application file.
13. State Project Review: The Applicant must obtain a 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.

#### VOTE RECORD

Allen Lasell, Chair:                    yea/nay/abstain/absent/recusal  
Bruce Jenkins, Vice-Chair:        yea/nay/abstain/absent/recusal

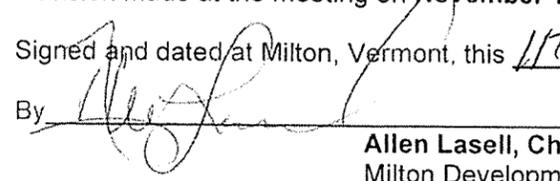
Thomas Cole, Clerk: yea/nay/abstain/absent/recusal  
Clayton Forgan: yea/nay/abstain/absent/recusal  
David Conley: yea/nay/abstain/absent/recusal  
Mitch McClellan, Alternate: yea/nay/abstain/absent/not assigned to hearing

**MOTION TO APPROVE PASSED BY A VOTE OF:**

YEA 5 ;NAY 0 ;ABSTAIN 0 ;ABSENT 0 ;RECUSAL 0

Decision made at the meeting on **November 13, 2014**

Signed and dated at Milton, Vermont, this 11th day of **December, 2014**

By  **Allen Lasell, Chair**  
Milton Development Review Board

/jmh

**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 Environmental Court, 2418 Airport Road, Suite 1, Barre, VT 05641-8701, 802-828-1660, for more information on the filing requirements and fees.



PROJECT LOCATION

TOWN OF MILTON, VT

Received for record \_\_\_\_\_ A.D. 201\_\_\_\_  
 at \_\_\_\_\_ O'clock \_\_\_\_\_ m. and recorded  
 in Milton Land Records Slide \_\_\_\_\_  
 Attest: \_\_\_\_\_ Town Clerk

THIS BOUNDARY LINE ADJUSTMENT TO THE FINAL PLAT DATED \_\_\_\_\_ HAS  
 BEEN APPROVED BY RESOLUTION OF THE DEVELOPMENT REVIEW BOARD  
 OF THE TOWN OF MILTON, VERMONT, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 201\_\_\_\_  
 SUBJECT TO THE REQUIREMENTS AND CONDITIONS OF SAID RESOLUTION.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 201\_\_\_\_  
 BY \_\_\_\_\_ CHAIR.

RECEIVED  
 OCT 09 2014  
 Planning & Economic Development  
 Milton, Vermont

LOT	EXISTING	AREAS	PROPOSED
CLARK	2.70 ACRES	117612 SQ. FT.	2.40 ACRES 104644 SQ. FT.
HASTINGS	0.45 ACRE +	19602 SQ. FT. +	0.75 ACRE + 32670 SQ. FT. +

TIE LINES		
LINE	BEARING	DISTANCE
A-B	S65°23'01"E	34.06'
C-D	N64°27'59"W	29.72'

OWNERS:  
 Brent & Molly Hastings  
 232 Cold Spring Road  
 Milton, VT 05468  
 Robert & Carolyn Clark  
 122 Cold Spring Road  
 Milton, VT 05468

ZONING DISTRICT - SHORELAND RESIDENTIAL (R8)

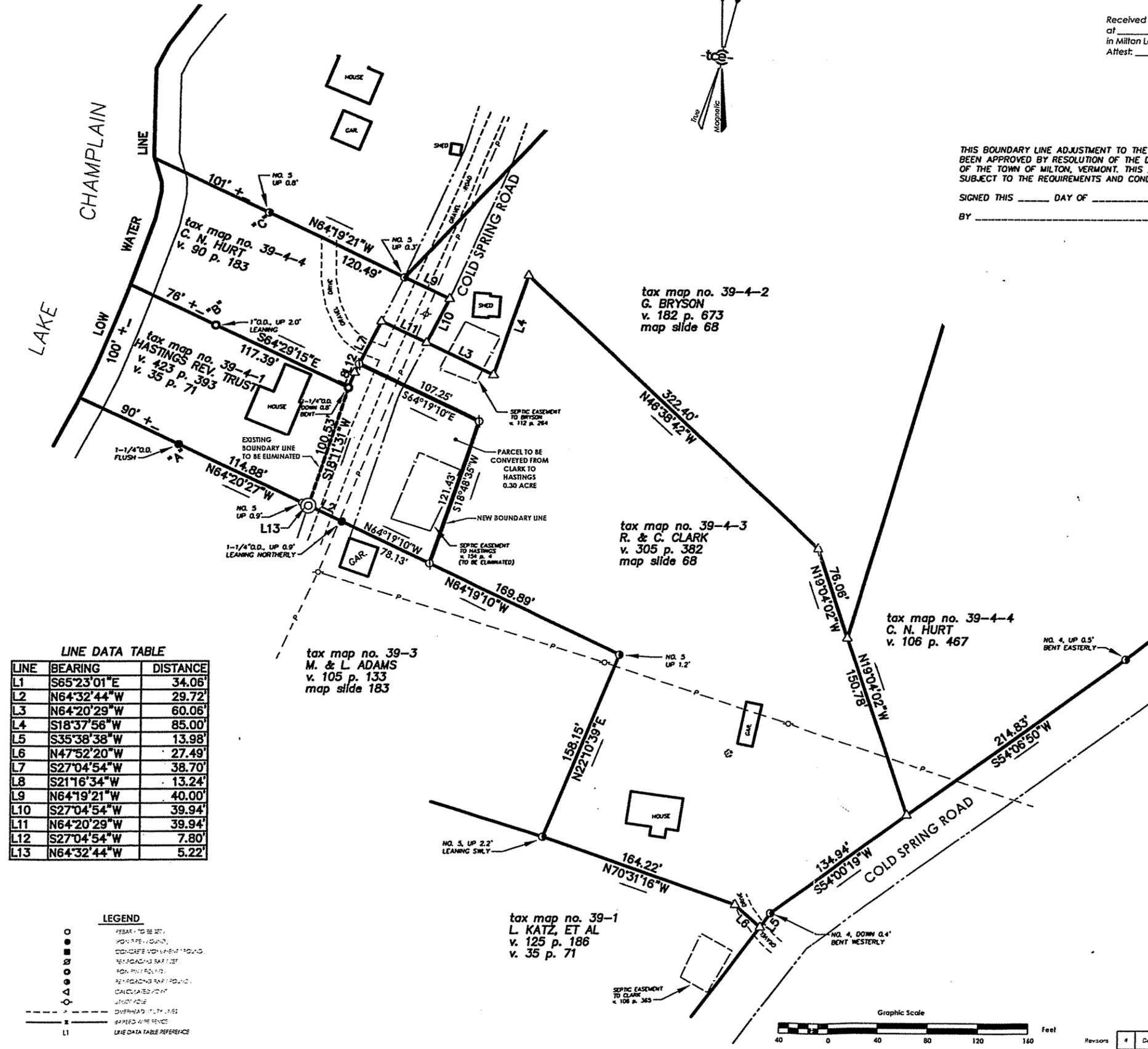
- NOTES:
- THIS PLAT IS BASED ON DEEDS RESEARCHED IN THE TOWN OF MILTON LAND RECORDS AND A CLOSED FIELD TRAVERSE CONDUCTED WITH A TOTAL STATION ON 7/28/10. BEARINGS ARE BASED ON MAGNETIC NORTH TAKEN ALONG A LEG OF THE TRAVERSE.
  - REBAR SET ARE NO. 5 REINFORCING BARS WITH ALUMINUM CAPS STAMPED TRUDELL CONSULTING ENGINEERS, LS 488.
  - THE HASTINGS LAND WAS CONVEYED TO THE MOLLY M. HASTINGS REVOCABLE TRUST IN VOLUME 423 PAGE 393. THE CLARK LAND WAS CONVEYED TO ROBERT AND CAROLYN CLARK IN VOLUME 305 PAGE 382.
  - DISTANCES ARE SHOWN TO THE HUNDREDTH OF A FOOT AND BEARINGS ARE SHOWN TO THE SECOND FOR MATHEMATICAL CLOSURE PURPOSES ONLY.
  - 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.
  - UNDERGROUND UTILITY LINES SHOWN ARE BASED ON ABOVE GROUND STRUCTURES AND PLANS OF RECORD. ACTUAL LOCATION OF UNDERGROUND LINES MAY VARY.



Boundary Line Adjustment Plat  
 MOLLY HASTINGS REV. TRUST  
 232 Cold Spring Road  
 Milton, Vermont

Date:	8/18/10
Scale:	1"=40'
Project Number:	13-028
Drawn by:	SDI
Project Manager:	SDI
Approved by:	
Field Book:	285
Call No.:	2010251
Sheet:	

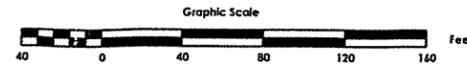
TRUDELL CONSULTING ENGINEERS  
 418 BLAIR PARK ROAD | WILLISTON, VERMONT 05495 | 802.828.6331 | WWW.TCEVT.COM



LINE	BEARING	DISTANCE
L1	S65°23'01"E	34.06'
L2	N64°32'44"W	29.72'
L3	N64°20'29"W	60.06'
L4	S18°37'56"W	85.00'
L5	S35°38'38"W	13.98'
L6	N47°52'20"W	27.49'
L7	S27°04'54"W	38.70'
L8	S21°16'34"W	13.24'
L9	N64°19'21"W	40.00'
L10	S27°04'54"W	39.94'
L11	N64°20'29"W	39.94'
L12	S27°04'54"W	7.80'
L13	N64°32'44"W	5.22'

LEGEND

- REBAR - TO BE SET
- NON-FEELING FOUND
- CONCRETE FOUNDMENT FOUND
- ▨ REINFORCING BARS SET
- NON-FEELING FOUND
- REINFORCING BARS FOUND
- △ CALCULATED POINT
- UTILITY POLE
- OVERHEAD UTILITY LINES
- - - - - ADJACENT PROPERTY
- L1 LINE DATA TABLE REFERENCE



This plat meets the requirements of 27 VSA 1403.

(Signature)



## SUMMARY OF PROPOSAL

**Summary of Proposal:** The Applicant requests Site Plan Amendment approval from the Development Review Board per the Milton Zoning Regulations to reconfigure and expand the natural gas production and fueling equipment. The proposal would reconfigure internal circulation, lighting, electrical service as well as add 4 electrical compressors, 2 fuel dispensers, and other associated equipment and fencing. The Applicant proposes no building, access, parking or water/wastewater changes to the site. The property is described as 121 Gonyeau Road, Tax Map 3, Parcel 8-6; SPAN #13971; contains approximately 6.3 acres and is located within the "General Industrial" (I2) Zoning District and the Catamount Planning Area.

**Comments:** Jacob Hemmerick, Planning Director and herein referred to as staff, has reviewed the application, materials and plans submitted and have the following comments. The numbered items below requests points of clarification, frame discretionary decisions for the DRB and recommend conditions of approval.

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## INTRODUCTION AND PROCEDURAL HISTORY

**Application:** This matter comes before the Town of Milton Development Review Board (DRB) for approval to amend the approved Site Plan; this is the second DRB amendment to the original site plan approval, which has also been administratively amended twice. Combining DRB and Zoning Administrator amendments, this the fourth amendment to the site plan.

**Applicant(s):** The application was submitted by NG Advantage, LLC referred to hereafter as the "applicant".

**Application Submission:** The application form and associated exhibits were received by the Planning and Economic Development Department on July 30, 2015. 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 July 30, 2015.

**Landowner(s):** The property is owned by Clean Energy. All owners are signatories to this application.

**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.

**Site Plan 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."

ZR130 states, "In accordance with Section 1000 of this Ordinance, no LAND DEVELOPMENT, excavation or construction shall be started on any land parcel or STRUCTURE and no EXPANSION, ALTERATION or change of USE shall be started within any existing STRUCTURE without a Zoning Permit issued by the Zoning Administrator."

ZR170 states: "The following requirements and reviews shall be fulfilled by all applicants before a Zoning Permit is granted, unless specifically exempted in this Ordinance:

- (1) Sewage Disposal - Section 570
- (2) Roads and Drives - Section 590
- (3) Site Plan Review - Section 800

ZR800 states: "Site Plan approval, granted in accordance with this Section by the Milton Development Review Board, shall be required before a Zoning Permit is issued for any USE in any district with the exception of SINGLE FAMILY DWELLINGS, DUPLEXES, and TRIPLEX - OWNER OCCUPIED on single lots, ACCESSORY residential STRUCTURES, and all agricultural USES."

**Site Plan Review Standards & Procedures:** ZR802.2(a) states that the DRB "may consider the following in its review of a Site Plan application.

- **Site Circulation Safety:** 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
- **Circulation, Parking, Loading Adequacy:** Adequacy of traffic circulation, parking, and loading facilities.
- **Transportation Impacts:** Impacts on capacity of roadways and other transportation facilities in the vicinity.
- **Landscaping, Screening, Lighting Adequacy:** Adequacy of landscaping, screening, and outdoor lighting.
- **Municipal Service Impact:** Impacts on the Town's ability to provide adequate sewer, water, fire, police, or other municipal services and facilities.
- **Suitability for Development:** Suitability of the site for the proposed scope of development, including due regard for the preservation of existing natural and historical resources.
- **Comprehensive Plan Consistency:** Consistency with the Comprehensive Plan.

Unless otherwise stated herein, staff finds that the standards above have been met.

**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:

- A Site Plan by Green Mountain Engineering dated 7/27/2015
- A Project Description & Discussion

**Staff Exhibits:**

- Technical Advisory Committee (TAC) Recreation Review Sheet dated 08/4/15;
- TAC Police District Review Sheet dated 08/10/15;
- DRB Site Plan Decision of 2012
- DRB Site Plan Amendment I Decision of 2013

**Zoning History:** The subject property has the following approvals that Staff has found relevant to this application:

- DRB's original Site Plan approval dated 8/9/2012
- Zoning Permit 2012-184A approval for the site's original development.
- Certificate of Occupancy/Compliance 2012-184A issuance on 3/5/2013.

- DRB Site Plan Amendment I dated 6/13/2013 to remove office headquarter building in lieu of a 12 x 60 foot office trailer.
- Administrative Site Plan Amendment I of 2/10/ 2014 to add an 8 x 32 foot office trailer.
- Administrative Site Plan Amendment II of 10/10/2014 to add 2 compressors and expand equipment area.
- Zoning Permit 2014-180 denial for 8x32 office trailer and 12x60 office trailer.
- Zoning Permit 2014-190 approval to add 2 compressors and expand equipment area.
- Zoning Permit 2015-5 approval to add 8x32 office trailer and 12x60 office trailer.
- Certificate of Occupancy/Compliance 2015-5 on 3/4/2015.

**Compliance:** Staff located no enforcement action in Planning Department records. However, staff notes that the two existing trailers are shown on the proposed plans within the side setback, but were not shown out of compliance with setback requirements in previous plans. These trailers received Certificates of Occupancy/Compliance from the Town; however it is unknown if the structures were, at the time of CO (or currently are), within the setback; further, the Certificate was based on plans presented with the Zoning Permit and approved by the DRB that clearly show that the structures were to be located outside of the side setback.

ZR550 states, "No STRUCTURE or portion of a STRUCTURE shall project into any minimum front, side, or REAR SETBACK area, except as provided by Sections 551 and 580. This regulation shall apply whether the STRUCTURE is ATTACHED to the principal structure or not and whether the STRUCTURE is open or ENCLOSED."

1. The Final Plans shall show the office trailers outside of the side setback (consistent with ZP2015-5 and as the previously approved Site Plan); the trailers shall be placed consistent with the plans prior to the issuance of a Certificate of Compliance.

Additionally, staff saw some compliance issues driving by the site on August 23, 2015 in preparation for the hearing, including but not limited to two structures (a large concrete slab with picnic table and an accessory storage container) as well as unscreened outdoor storage (barrels and other materials) in violation of the regulations. These are not shown on the plans as existing or proposed and have not been permitted.

ZR1110 defines a STRUCTURE:

"Anything constructed or erected, the use of which requires location on or within the ground or attachment to something having location on or within the ground. For the purposes of these regulations, MOBILE/MANUFACTURED HOMES shall be considered STRUCTURES. For the purposes of these regulations, a driveway, parking area, sidewalk or bicycle path, sign, bicycle rack, recreational vehicle, trailer or other vehicle on wheels not regularly used for the manufactured purpose, private septic system or well is not considered a structure." (If, however, the structure is located in the Flood Hazard Area, see the definition of STRUCTURE in the Special Flood Hazard Area in Appendix A, Section X1.

Within the I2, I3 and M4 Zoning Districts, outdoor storage is permitted when enclosed, and ENCLOSED OUTDOOR STORAGE may be established as a principal or ACCESSORY USE in the I2, per ZR391(5) and 580.8, which states, "Only permitted or CONDITIONAL USES allowed in a district can be an ACCESSORY USE in that district." The definition of ENCLOSED OUTDOOR STORAGE is, "The storage of materials fully or

partially enclosed by a STRUCTURE such that the materials are not visible from off-site or from STREETS and provide adequate safeguards."

2. The Applicant shall consider this as notice of voluntary compliance for having outdoor storage and unpermitted structures on the site, as observed by staff on 8/23/2015, and shall contact the Zoning Administrator to discuss a plan for compliance within seven days of this hearing, per the Town's Zoning Enforcement Policy.

Further, the proposed plans also remove elements shown on previously approved plans, including but not limited to: dumpster screening and landscaping information. It is important that only those elements being changed through the proposal be altered on the approved plans. All other content should carry-through, since this Site Plan, if approved, will replace all others and must contain all information for the Town and public to understand all of the content depicted.

3. The Final Plans shall be revised to show all elements included in the previously approved Site Plan, as well as ZR803, only those items specifically labeled as site changes may be altered through this proposal.

**Property Location:** The subject property is located at 121 Gonyeau Road and shown on Milton's Tax Map 3 as Parcel 8-6. The corresponding School Parcel Account Number (SPAN) is 13971.

**Size/Area:** The subject parcel is approximately 6.3 acres.

**Property Deeds:** A Deed of ownership is recorded in Book 189, Page 313 of the Town of Milton Land Records.

**Zoning District:** The site is located within the General Industrial I2 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 ZR391 states that the purpose of this district is to:

Provide adequate space for industrial uses, specified large scale retail uses which require room for EXPANSION, and space for OUTDOOR STORAGE. These areas are not intended for businesses that will create a high level of retail traffic. PLANNED UNIT DEVELOPMENTS will be encouraged to CLUSTER development in order to preserve and maintain agriculture, open space, natural areas, and FORESTRY lands, and maintain separation from residential neighborhoods.

**Comprehensive Planning Area:** The site is located within the Catamount Planning Area, as delineated in Map 2 of the 2013 Comprehensive Plan. The site is located in the New Downtown Sub Area, as delineated in Figure 9.1 of the 2013 Comprehensive Plan (p.112). The Plan states the following goals for this area (p.122):

#### **9.2. Catamount Area Goals**

There are two primary future land uses recommended for this section of Milton: low density clustered residential development and industrial development. The proposed uses in the Catamount Area are not intended to compete with the services and land uses planned for the Town Core Area. The Zoning Regulations were amended in 2010 to allow for certain retail uses. Only large-scale retail uses such as garden centers, construction and agricultural equipment sales, home supplies, and retail associated

with manufacturing establishments are permitted so that they do not compete with the services and land uses planned for the Town Core Area.

There are three recently developed large parcels in the Catamount Area: the new Gardner's Supply distribution facility and the Highview Estates residential development on the west side of Route 7, and the Charlebois Company and Premier Coach on the east side of Route 7, adjacent to Colchester. This area is close to the Vermont Agency of Transportation maintenance facility and the Colchester Park and Ride; therefore it would be useful to establish a bike/multi-use path within this area.

**Goal 9.7.1.** Encourage high quality industrial development in a sub-regional growth center, which will provide greater employment opportunities and broaden the tax base.

**Objective 9.7.1.a.** Develop standards to enhance the appearance and quality of development in this major gateway into the Town of Milton.

**Objective 9.7.1.b.** Maintain buffer zones to prevent encroachment of industrial and commercial uses into the residential areas.

**Goal 9.7.2.** Ensure an aesthetically pleasing approach into Milton.

**Objective 9.7.2.a.** Develop a plan to work towards enhancing the character of Route 7.

**Objective 9.7.2.b.** Encourage high quality planned unit developments to cluster new housing in a way that minimizes visual impacts from Route 7.

**Goal 9.7.3.** Enhance multi-modal transportation opportunities.

Staff generally finds that the proposal is consistent with the goals of the area, although would encourage that the applicant construct a permanent office, as originally proposed, in lieu of construction trailers to aim for the community's goal to have high-quality development that enhances the appearance of the area.

**Physical Characteristics/Natural Features:** The site is developed and relatively flat near the road with a rear embankment (resulting from fill and grading) and sheet flow primarily directed towards the rear corner of the property. The entire parcel contains agricultural soil of statewide significance. The site drains to Lake Champlain via Allen Brook and contains no presumed wetlands or habitat crossings of importance. The plans show that the site is landscaped with no wooded area.

**Existing Use:** ZR392.25 lists "distributing" as a permitted use. The use is defined by the regulations in ZR1110 as "the storage, receipt, or transportation of goods, products, cargo and/or other materials for the purpose of distribution to other locations." The use, as defined by Milton's Regulations, was never specifically classified in prior decisions, but staff finds that the principal use is "distributing" and a conforming use. No change in use is proposed.

**Existing Improvements to be Retained:** The applicant proposes no building, access, parking, landscaping, stormwater or water/wastewater changes to the site.

**Proposed Improvements:** The applicant proposes to reconfigure and expand the natural gas production and fueling equipment. Specifically, the proposal would reconfigure internal circulation, lighting, electrical service as well as add 4 electrical compressors, 2 fuel dispensers, and other associated equipment and fencing. Refer to attached *Project Description & Discussion*.

**Existing Access:** The site is accessed from two curb cuts on Gonyeau Road. No changes are proposed to these highway accesses.

**Existing Utilities:** The site is served by municipal water and sewer, natural gas, underground electric, underground telephone. No changes are proposed.

**Waivers Requested:** None

**Existing Restrictions or Covenants:** The lot is bisected by a Vermont Gas Right of Way, and is Lot 6 of the Catamount Industrial Park, and therefore subject to their covenants.

**Proposed Restrictions or Covenants:** No new easements are shown.

**Surrounding Use/Structures:** The lot is bordered by I-89 to the West, single family residential dwellings to the south, and industrial facilities to the south east and north.

**ZR150, Applicability of Dimensional Requirements:** The section states:

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.

Staff finds that the proposed structures would comply with the dimensional requirements for the I2 Zoning District, as listed in ZR294; however the existing trailers are moving out of compliance from the previously approved Site Plans, which would make them non-complying structures subject to regulation by ZR520 in the future if this issue is not corrected.

## GENERAL PROVISIONS

**ZR530, Required Frontage & Approved Access:** Staff finds that the site is conforming and has frontage meeting the requirements of this section.

**ZR540, Number of Structures on Lots:** The section states, "There shall be only one PRINCIPAL STRUCTURE and its approved ACCESSORY STRUCTURES on a LOT. The following are exceptions: ACCESSORY farm DWELLINGS in accordance with Section 872 "ACCESSORY Dwelling"; DUPLEXES, TRIPLEXES and MULTIFAMILY DWELLINGS in accordance with the provisions of the District Regulations (Articles III and IV), and PLANNED UNIT DEVELOPMENTS in accordance with Section 850 "PLANNED UNIT DEVELOPMENTS". PRINCIPAL STRUCTURE is defined as:

A STRUCTURE having significant or primary USE and justifying its own utilization (such as a dwelling or office building) as contrasted to ACCESSORY STRUCTURES which are incidental or subordinate to primary STRUCTURES and do not alone justify their utilization (such as a tool shed or auto garage used in conjunction with a dwelling). Certain STRUCTURES may be either principal or ACCESSORY depending upon utilization, such as a parking garage as an ACCESSORY STRUCTURE to a high-rise apartment or as a PRINCIPAL STRUCTURE when operated commercially in a business area.

This provision is new since the last administrative amendment. Staff interprets the primary structure to be the largest building housing the indoor functions of the use, but this site is somewhat unusual to other industrial

park sites in that it is comprised of many small structures, all housing or supporting the principal use. The largest structure's ground footprint is the 12 x 60 foot office trailer, therefore staff finds that this is the principal structure with all other structures being accessory.

**ZR550, Use of Setback Areas:** The section states, "No STRUCTURE or portion of a STRUCTURE shall project into any minimum front, side, or REAR SETBACK area, except as provided by Sections 551 and 580. This regulation shall apply whether the STRUCTURE is ATTACHED to the principal structure or not and whether the STRUCTURE is open or ENCLOSED." This is addressed above.

**ZR560, Height Restrictions:** "No STRUCTURE shall exceed thirty-five (35) feet in HEIGHT above ground level except as noted in Articles III and IV for specific zoning districts and as noted below." The applicant did not submit elevations of the proposed equipment, without which staff cannot evaluate compliance.

4. The height of all proposed structures shall be compliant with ZR560.

**ZR570, Sewage Disposal:** The applicant proposes no change to water or wastewater service.

**ZR580, Accessory Structures & Uses:** Staff finds that all structures serve the principal use and that the proposed changes (smaller trailer location excepted) meet all requirements of ZR580.

**ZR590, Roads and Drives:** The section states, "All roads and drives shall conform to the requirements of this Section " No roads, driveway, or highway access are proposed; the only change to a traveled way is internal circulation.

**ZR650, Temporary Structures and Construction Offices or Trailers:** The section states, "During the period of construction, temporary STRUCTURES, construction offices, and construction trailers used in conjunction with construction work are permitted. Such STRUCTURES as are permitted under this Section shall not be used as dwellings. Zoning Permits for such STRUCTURES shall be issued for a maximum six month period and may be renewed for an additional six months upon request." This has not been interpreted by the Zoning Administrators to preclude a permanent trailer, as exists on this site. The applicant proposes no temporary structures, which must be permitted according to this section and can remain for a maximum of six months unless extended another six by the ZA.

**ZR710, Prohibited Uses:** The applicant should keep the following in mind, since this is a automobile-dependent use.

ZR710.1, Prohibition of Outdoor Storage of Unregistered, Uninspected Vehicles

The OUTDOOR STORAGE of more than one (1) vehicle on the same property without a valid Vermont State Inspection Sticker and a valid Registration is specifically prohibited in all districts. All such pre-existing USES shall be required to conform to these Regulations and all applicable State and local regulations.

ZR710.2, Prohibition of Noxious and Offensive Uses

No USES shall be permitted which are noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes, or which present a hazard to public health and safety. This Section shall not be interpreted to prohibit agricultural USES in ZONING DISTRICTS in which AGRICULTURE is a permitted USE.

The Fire Department did not submit comments on this application, but did mention (during the Technical Advisory Committee meeting) that they have responded to calls related to off-gassing near this site. This is prohibited by ZR710.2 The DRB might want the applicant to explain the handling of fuel, safety precautions taken, and why off-gassing may have occurred at the site.

5. The site shall not emit gas and shall be maintained in compliance with ZR710.2.

### SITE PLAN REVIEW

**ZR802.1, Appropriate Conditions:** The section states, "The DRB may impose appropriate conditions and safeguards to meet the standards of this section."

**ZR806, Landscape Plan Requirements:** No changes are proposed to the approved landscaping. Staff finds that no additional changes are merited.

**ZR810, Parking, Loading and Driveway Requirements:** No additional parking is proposed. The regulations require 2 spaces for each 3 employees.

6. The applicant shall state how many people are currently employed on site and if the proposal will result in additional employees.
7. The final plans shall delineate 10 parking spaces by adding an additional parking line, as labeled on the plans (9 are shown); and include a note showing the dimensions in compliance with ZR812.1.

**ZR812.3, ADA Parking:** The section states:

Parking lots for other than single FAMILY, DUPLEX, TRIPLEX – OWNER OCCUPIED, and multifamily residential dwellings shall include parking for DISABLED PERSONS according to the following specifications and shall comply with the latest standards of the Americans with Disabilities Act. Parking spaces for the DISABLED shall be set aside in close proximity to entrances and identified with SIGNS for USE by individuals with physical disabilities. Building entrances shall be designed for access by individuals with physical DISABILITIES. Handicapped parking spaces shall have minimum dimensions of 14 feet in width and 18 feet in length. The parking spaces for the DISABLED shall be included in the total number of spaces required.

8. The Final Plans shall designate an handicapped parking space in compliance with ZR812.3

**ZR814.3, Minimum Internal Road/Driveway/Aisle Widths:** The section states, "For parking lots with five or more spaces, the minimum width for DRIVEWAYS, which do not directly access parking spaces, shall be twelve feet for one-way traffic and 24 feet for two-way traffic." The applicant maintains a one-way width of 14 feet. Since the internal circulation is changing to make the north highway access egress only, staff makes the following recommendation.

9. The site's northern highway access egress shall be painted with durable road paint with egress arrows, that two signs be erected on each side of the entrance closer to the property boundary (in compliance with ZR551,815 and 830) and the sign content shall say, "DO NOT ENTER, EXIT ONLY".

**ZR817, Pedestrian Circulation:** The section states, "The DRB may require pedestrian walkways to facilitate pedestrian movements to shopping, schools and recreation areas." Staff does not recommend any pedestrian amenities on this site. The pathway planned to connect the Park-and-Ride with W. Milton road along I-89 is best placed on the west side of Gonyeau Road, on the other side of the street from this site.

**ZR819, Bicycle Parking Space:** The section states, "At least one bicycle parking or storage facility shall be provided for all uses subject to Site Plan Review. Additional such facilities may be required as deemed necessary by the Development Review Board."

10. The final plans shall show a bike rack in compliance with ZR819.

**ZR820, Outdoor Lighting:** The applicant is relocating lighting fixtures previously approved.

11. If any lighting fixture is to be replaced instead of relocated; the fixture shall be compliant with ZR820.

## ADMINISTRATION

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

**State Project Review Zoning Permit:** Per 24 VSA4449 "Any application for an approval or permit and any approval or permit 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."

12. The Applicant shall obtain a 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 prior to construction.

### **Final Plan Submission:**

13. The Applicant shall submit two (2) full-sized (to scale) and two (2) reduced (11 x 17) complete final plan sets depicting the requested changes. The revised plans must be deemed Final by the Town Planner prior to being eligible for a Zoning Permit from the Zoning Administrator. *The Applicant is advised to submit ONE plan set for staff review prior to submitting all the copies of the Final Plan sets.*

### **ZR1000/ZR1010, Zoning Permits/Certificate of Compliance/Occupancy:**

14. A Zoning Permit is required prior to construction and an associated Certificate of Compliance is required after construction is complete (and prior to occupation/use of the new structures).

**ZR1030, Maintenance of Approvals and Permits:** A Zoning Permit, variance or CONDITIONAL USE approval shall expire one year from the date of issue. If the work has not been completed, the applicant shall apply to the Zoning Administrator for an extension. The Zoning Administrator may grant a single one-year extension for the identical project only. In addition to any other remedies provided for by law, a Zoning Permit, Sign Permit, variance, CONDITIONAL USE approval, or Site Plan approval may be revoked by the Zoning Administrator or 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

**Completion, Operation, Maintenance, Amendment:** 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. No changes, erasures, modifications, or revisions, other than those required by this Decision, shall be made on the plan after approval unless a revised plan is first submitted to the Department of Planning and Economic Development for approval.

### CONCLUDING REVIEW

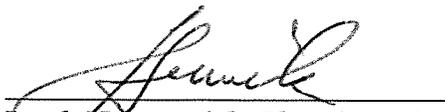
- **Site Circulation Safety:** Maximum safety of vehicular and pedestrian circulation on site, between the site and adjacent roads and sidewalks, and between the site and adjacent land uses
- **Circulation, Parking, Loading Adequacy:** Adequacy of traffic circulation, parking, and loading facilities.
- **Transportation Impacts:** Impacts on capacity of roadways and other transportation facilities in the vicinity.
- **Landscaping, Screening, Lighting Adequacy:** Adequacy of landscaping, screening, and outdoor lighting.
- **Municipal Service Impact:** Impacts on the Town's ability to provide adequate sewer, water, fire, police, or other municipal services and facilities.
- **Suitability for Development:** Suitability of the site for the proposed scope of development, including due regard for the preservation of existing natural and historical resources.
- **Comprehensive Plan Consistency:** Consistency with the Comprehensive Plan.

15. The applicant shall respond to any remaining questions or concerns from the DRB related to the standards above.

### STAFF RECOMMENDATION

The Planning Staff recommends that the DRB **continue the hearing** to the meeting of September 24, 2015 in order to allow for a site visit as well as allow the applicant an opportunity to determine what they want to do with the unpermitted structures (remove or formalize) for the site described as 121 Gonyeau Road, Tax Map 3, Parcel 8-6; SPAN #13971.

Respectfully Submitted:

  
Jacob Hemmerick, Planning Director

### ATTACHMENTS:

- A Site Plan by Green Mountain Engineering dated 7/27/2015
- A Project Description & Discussion
- Technical Advisory Committee (TAC) Recreation Review Sheet dated 08/4/15;
- TAC Police District Review Sheet dated 08/10/15;
- DRB Site Plan Decision of 2012

Development Review Board Case Number 2015-25 Staff Report  
Site Plan Amendment II - 121 Gonyeau Road - NG Advantage LLC

- DRB Site Plan Amendment I Decision of 2013
- 

**COPIES TO:**

1. Applicant(s)
2. Owners(s)
3. Engineer/Surveyor

# NG Advantage, LLC. Intermodal Station Expansion Project

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RECEIVED

JUL 30 2015

Planning & Economic Development  
Milton, Vermont

## PROJECT DESCRIPTION & DISCUSSION

The proposed expansion projects general description is as follows:

“The expansion and re-configuration of the existing natural gas equipment area to allow for an increase in production capabilities for truck fueling. The improvements include the addition of (4) electrical compressors for a total of (10) of which (6) were permitted originally. Also included is the final placement (construction) of (2) of the originally, permitted (not constructed) (4) fueling dispensers. These dispensers will be able to fill trucks (as currently) and fleet cars (originally permitted) when called upon. The addition of other equipment to properly operate the facility including a gas chiller, electrical transformer, switch gear station, heat exchanger and a dryer is being proposed. The existing fenced equipment area will be expanded northerly approximately 60 and easterly 70 (see site plan). All the new equipment will be enclosed by a chain link safety fence of the same type as exists on the property currently”.

This document was prepared to support the Development Review Board Application to specifically outline the improvements and address 803.1 thru 803.11 items specifically.

Section 803.1 – All items presented in this requirement, have been included on the proposed conditions site plan.

Section 803.2 – The deed references, Lister’s tax map, and parcel number are noted on the proposed conditions site plan.

Section 803.3 – All existing features are noted on the site plan except some of the underground electrical and telecommunication lines on the property. This was done purposely for clarity reasons.

Section 803.4 – The property was surveyed in 2012 when the project was originally permitted. The parcel was surveyed again in 2014 when the property was transferred from NG Advantage, LLC to Clean Energy.

Section 803.5 – The proposed improvements include concrete pads for equipment and the expansion of the equipment area including a chain link fence. The easterly traffic loop located on the property will be converted from (2) way traffic as originally permitted to single lane traffic. This is due to the final desired locations of the gas dispensers and the (2) plus years of the site being active and monitoring the truck traffic circulation. A (14’) wide lane will be maintained for one way traffic. Do not enter signs will be placed at the northerly end of the proposed equipment area to deter traffic from entering the one way zone.

The paved area just northerly of the equipment area, will be expanded by (11’) (at its widest location) to provide a minimum of (25’) travel width around the equipment area.

## NG Advantage, LLC. Intermodal Station Expansion Project

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Finally, a new directionally bored electrical feed will be constructed from Power Pole #3 to a new transformer located within the equipment area. The ability to serve letter from Green Mountain Power has been obtained by NG Advantage, LLC for this increase in electrical usage.

Section 803.6 – All existing landscaping is shown on the plan and no additional landscaping is proposed as part of this project. The existing landscaping screens the active production site adequately and as originally permitted. It will continue screen adequately, with the proposed equipment expansion area.

Section 803.7 – There are no additional buildings being proposed by this application.

Section 803.8 – The existing lighting is adequate to serve the proposed expansion area. The project will require (2) light poles to be relocated approximately (12') and (20') to provide room for one of the dispensers and the widened paved area. The luminaires for these relocations will not change the site lighting significantly.

Section 803.9 – All public utilities (beside electrical noted above) are existing. No changes to these utilities are proposed per this application.

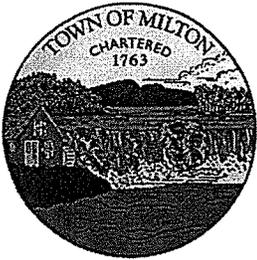
Section 803.10 – The original project was permitted for an additional 400 Daily Trip Ends (DTE) which included fleet car fueling, employees and truck fueling. Currently, there is no fueling of fleet cars taking place. This expansion is specifically for truck fueling which will bring the active total of the DTE's to approximately (65), which is well under the originally permitted 400. Should the fleet car portion of the business develop in the future, NG Advantage LLC, proposes to update its traffic report at that time.

RECEIVED

JUL 30 2015

Planning & Economic Development  
AMH





**TOWN OF MILTON**  
**Planning & Economic Development Department**  
43 Bombardier Road  
Milton, Vermont 05468-3205  
802.893.1186  
miltonvt.org

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## TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, August 27, 2015

Date of Review: 8-4-15

Department: Recreation

TAC Member: Kym Buchesneal

Minor Conventional Subdivision Sketch Plan & Variance Application -- 947- 951 US Route 7 South --  
General Stannard House Committee, Applicant/Miller Realty Group LLP, Owner

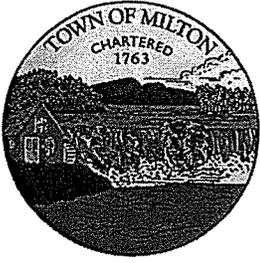
*No comments*

Boundary Line Adjustment Application - Cold Spring Road 171 & 232 - Robert & Carolyn Clark and Molly  
M. Hastings Revocable Trust c/o Brent & Molly Hastings, Owners/Applicants

*No comments*

Site Plan Amendment II Application - 121 Gonyeau Road - NG Advantage, Applicant/Clean Energy,  
Owner

*No comments*



**TOWN OF MILTON**  
**Planning & Economic Development Department**  
43 Bombardier Road  
Milton, Vermont 05468-3205  
802.893.1186  
miltonvt.org

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## TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, August 27, 2015

Date of Review: 08-10-15

Department: POLICE

TAC Member: BRETT VAN NORDT

Minor Conventional Subdivision Sketch Plan & Variance Application -- 947- 951 US Route 7 South --  
General Stannard House Committee, Applicant/Miller Realty Group LLP, Owner

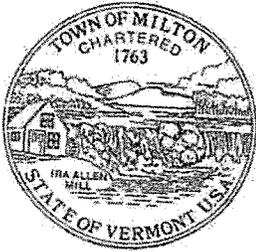
NO COMMENTS or CONCERNS.

Boundary Line Adjustment Application - Cold Spring Road 171 & 232 - Robert & Carolyn Clark and Molly  
M. Hastings Revocable Trust c/o Brent & Molly Hastings, Owners/Applicants

NO COMMENTS or CONCERNS.

Site Plan Amendment II Application - 121 Gonyeau Road - NG Advantage, Applicant/Clean Energy,  
Owner

NO COMMENTS or CONCERNS.



## TOWN OF MILTON, VERMONT 05468-3205

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

August 10, 2012

NG Advantage LLC  
P.O. Box 817  
Milton, VT 05468

**NOTICE OF DECISION for Greater Burlington Industrial Corp/NG Advantage  
Site Plan Application**

On July 26, 2012, the Milton Development Review Board (DRB) approved your Site Plan Application for the construction of a compressed natural gas filling station and headquarters building located on Gonyeau Road. The DRB's Notice of Decision is enclosed for your records. The reason for approval is listed on page 6 to 8 of the Notice of Decision.

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

Sincerely,

  
Amanda Rasco  
Planning Assistant

Enclosure

CC: Greater Burlington Industrial Corp, Brad Washburn

**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 enclosed decision was signed. Participation shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. See V.S.A. Title 24, Chapter 117, Section 4465b for clarification on who qualifies as an "interested person".

Notice of the Appeal, along with applicable fees, should be sent by certified mail to the Vermont Environmental Court. A copy of the notice of appeal should also be mailed to the Town of 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.

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

**NOTICE OF DECISION for  
Greater Burlington Industrial Corp/NG Advantage**

***SITE PLAN APPLICATION***

This matter came before the Milton Development Review Board (DRB) on behalf of Greater Burlington Industrial Corp., Owner and NG Advantage, Applicant, referred to hereafter as the "Applicant." The Applicant is requesting Site Plan approval for the construction of a compressed natural gas filling station and headquarters building, located on Gonyeau Road and described as Tax Map 3, Parcel 8-6. Proposed is a 60' x 120' concrete pad with up to 6 electric compressors, up to six dispensing bays, and up to 4 fueling dispensers for fleet vehicles. Also proposed is a 24' x 80' office building with associated parking and two access points off of Gonyeau Road. The DRB held a public hearing on July 26, 2012. Neale Lunderville from NG Advantage and Brad Washburn from Green Mountain Engineering represented the Applicant at the hearings.

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 Site Plan approval for the construction of a compressed natural gas filling station and headquarters building, located on Gonyeau Road and described as Tax Map 3, Parcel 8-6. Proposed is a 60' x 120' concrete pad with up to 6 electric compressors, up to six dispensing bays, and up to 4 fueling dispensers for fleet vehicles. Also proposed is a 24' x 80' office building with associated parking and two access points off of Gonyeau Road.
2. The subject property contains a total of 6.30 acres and is located within the "General Industrial" (I2) Zoning District. The property owners are Greater Burlington Industrial Corp. The Applicant is NG Advantage.
3. The DRB held a public hearing on July 26, 2012. The DRB members present and participating at the hearing were David Conley, Bruce Jenkins, and Clayton Forgan. Neale Lunderville of NG Advantage and Brad Washburn from Green Mountain Engineering represented the Applicant at the hearing.

**CONCLUSIONS**

**SITE PLAN REVIEW STANDARDS**

1. 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.***

2. The Applicant's narrative states that vehicular traffic to the site will be directed to use the southern Catamount Drive entrance as the access point to the subject property from Route 7. The Applicant's narrative states that this is preferable because of the existing left turn lane on Route 7 at the southern Catamount Drive entrance to the Catamount Industrial Park.
3. Once at the site, the Applicant proposes that there be two driveway access points serving the subject property from Gonyeau Road. Section 813.2 of the Zoning Regulations states that there shall not be more than one driveway per lot unless specifically approved by the DRB. The DRB finds the Applicant's request for a second driveway access point to be acceptable for proper circulation on the site. The Applicant will need to obtain a Town Highway Access Permit before a Zoning Permit can be issued.
4. The "southern" curb cut on Gonyeau Road is approximately 190 ft. wide. The "northern" curb cut on Gonyeau Road is approximately 100 ft. wide. The "northern" curb cut is only 60 ft. from an existing driveway across the street on Gonyeau Road per Section 814.1 of the Zoning Regulations "driveways should be in direct alignment. If direct alignment cannot be provided, a minimum separation of 150 feet between driveways is required." The Applicant must move the "northern" curb cut directly across from the existing driveway on Gonyeau Road or maintain a 150 foot separation distance. Staff finds direct alignment is preferable because it minimizes points of conflict along Gonyeau Road. During a meeting with Staff on July 19, 2012, Brad Washburn of Green Mountain Engineering expressed concern about the separation distance requirement. He stated that adequate sight distance cannot be maintained if the "northern" curb cut is moved anywhere along Gonyeau Road because of the curved road and the hill on Gonyeau Road north of the subject property. Mr. Washburn submitted a request for a waiver from Section 814.1 on behalf of the Applicant on July 20, 2012. The DRB finds the Applicant's waiver request is appropriate.
5. Turning radii for each curb cut have been provided on the site plan with the exception of western side of the "northern" curb cut. This radius must be shown on the site plan and must be at least 20 ft. as required per Section 814.5 of the Zoning Regulations. All other radiuses are in compliance with Section 814.5.
6. The Applicant has not shown the visibility triangles for either proposed driveway access. There is some concern that there is existing landscaping within some of the visibility triangles. If true, the existing landscaping must be removed. All visibility triangles shall be free of obstruction. Sight distances for the each driveway access shall be provided on the plan per the Town Engineer's comments. Sight distances shall comply with the Town's Public Works Specifications.
7. There appears to be a sidewalk providing pedestrians from the parking lot to the office building on site, however it is not labeled as a sidewalk. The Applicant shall label the sidewalk in front of the office building on the site plan.

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

8. The Applicant's narrative states that transport trailers will have to back into each fueling bay in order to be resupplied with compressed natural gas. A truck turning template is provided on Sheet 3 of the site plan. It appears that there is adequate room for a transport trailer to back into each fueling bay given the substantial amount of paved surface and existence of the

"turnout lane" and "bypass lane" located to the east of the proposed location of the fueling bays and fenced equipment area. These two lanes essentially constitute an internal circulation road. The width of these two "lanes" combined is 25 feet which meets the standard for two way traffic circulation as noted in Section 814.3 of the Zoning Regulations. The Applicant's proposal meets the required minimum driveway queue storage length of 50 feet as stated in accordance with Section 814.7.

9. The Applicant is proposing 10 parking spaces for employees and visitors. The Applicant states that there will be never be more than 9 employees on site at one time. Overall, there will be a maximum of 12 employees employed at the site working two different shifts. The Applicant is also proposing 4 parking spaces to be used for empty compressed natural gas containers. The Applicant states in the project narrative that "portions of the empty container parking area is likely to be available for overflow parking as it is unlikely that four empty containers will be stored at any one time at the site." The most comparable use in Section 812 of the Zoning Regulations (Parking Specifications) is warehousing, public and private. This use requires 2 parking spaces for every 3 employees. Using this calculation as a guide, the DRB finds the Applicant's proposal for 10 parking spaces to be adequate.
10. The Applicant has not proposed any handicapped parking spaces. Handicapped parking spaces are required per Section 812.3 of the Zoning Regulations. All handicapped spaces must be at least 14 feet x 18 feet in dimension. Handicapped spaces shall be included in the total number of parking spaces required by the DRB. Given the low traffic volume on site, the DRB finds that 1 handicapped parking space will be appropriate.
11. Section 812.6 of the Zoning Regulations requires all parking lots to be properly drained. It also requires Site Plans to show the location and type of all stormwater drainage facilities. Furthermore, Section 812.6 prohibits any increase in stormwater runoff as a result of any development approval. To the greatest extent possible, on-site stormwater drainage facilities are encouraged. The Site Plan does include contours. It appears from the proposed plans that stormwater drainage and runoff will be contained on the site in a stormwater infiltration basin on the eastern part of the property. The Applicant notes on the Erosion Prevention and Sediment Control Plan that there will be a temporary stormwater infiltration basin used on site during construction of the project. The plan also depicts the location of silt fencing that will be used during construction. However, there are some comments from the Town Engineer in regards to the Stormwater Narrative and calculations that must be addressed.
12. Section 818 requires one loading space (10 feet x 60 feet) for each 10,000 square feet of gross floor area. The Applicant is proposing a structure that is only 1920 square feet in size. The DRB finds that a loading space shall not be required.

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

13. Section 803.10 of the Zoning Regulations requires all Site Plans to include an estimate of daily and peak hour traffic generation, and a report on traffic impacts at project access points, major intersections nearby, and other locations. The Applicant has not submitted a traffic study, yet has submitted a "Traffic Impacts Summary" that summarizes the predicted impact of the proposed project within the Catamount Industrial Park. Given the nature of the proposed use, the Applicant's Engineer has estimated 400 daily trips to the subject property. The Catamount Industrial Park has been allocated 6400 total daily trips per its Act 250 Permit. The Park currently experiences 3022 daily trips. The additional impact of the proposed NG Advantage project would result in an increase in daily trip to the park resulting in 3422 daily trips, much

below the 6400 allocated by Act 250. The Applicant testified at the hearing that there will only be minimal traffic impacts at nearby major intersections.

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

14. Section 806.1 of the Zoning Regulations requires a landscaping plan to be submitted with all Site Plans. Section 806.2 of the Zoning Regulations requires such landscaping plans to show all existing plantings and wooded areas on the site, the location of all proposed landscaping, and planting specifications. Section 806.3 of the Zoning regulations further requires all landscaping plans to include a written cost estimate, which shall be used to determine the amount of a performance bond to guarantee the completion of all landscaping and to guarantee all plantings for 3 years from the date of installation.
15. The Applicant has included a landscaping plan as well as a cost estimate for \$20,721, well above the \$5,000 required per Section 806.4. Staff finds that the estimate is adequate; however the estimate should not include delivery because this cost should not be put up in a surety. The landscaping plans include apple serviceberry along the eastern property line to screen the proposed office building, and Austrian pines along the remaining eastern and northern property lines. Japanese spirea and hedge maple will line the lot's frontage on Gonyeau Road. Existing landscaping that will be removed due to development must be removed from the landscaping plan. The Applicant is proposing that a dumpster be located in the vicinity of the empty container parking. The Applicant has indicated that the dumpster location will be screened using a green slat privacy chain link fence.
16. In accordance with Section 806.3, a landscaping surety will be required to guarantee the completion of the landscaping and will be held to guarantee its survival for a period of three years from installation. The surety must be established prior to the issuance of a Zoning Permit.
17. The Applicant has provided the locations of exterior lighting on the site plan. The Applicant must include the light pole and light fixture shapes in the legend on Sheet 2 of the site plan. There appears to be 10 light pole fixtures and 7 lighting fixtures. In addition, the Applicant has submitted the light specifications which meet Section 820 of the Zoning Regulations. The electrical service to the outdoor lighting fixtures should be underground.
18. The equipment area in the middle of the site will be fenced using chain link fence. Slating of the fence or privacy screening shall not be permitted per the Fire Department's comments.

***(e) Impacts on the Town's ability to provide adequate sewer, water, fire, police, or other municipal services and facilities.***

19. The Applicant is proposing that the site be serviced by municipal water and sewer. The Applicant has received Water and Wastewater Allocation from the Water/Wastewater Superintendent. The Water/Wastewater Superintendent has TAC comments (attached to the end of the Staff Report) that must be addressed. An approved Water/Wastewater Permit must be acquired before obtaining a Zoning Permit.
20. If approved, the Applicant will need a Wastewater and Potable Water Supply permit for the State prior to obtaining a Zoning Permit.

21. The Applicant must address the comments from the Town Engineer attached at the end of the Staff Report.

22. The Fire Department has some concerns about the equipment used on site and the potential fire hazards on site given the nature of the handling natural gas. The Fire Department requires that the Applicant provide specialized training in the use of emergency systems and the locations of those systems. All training shall be provided prior to the Zoning Administrator issuing a certificate of occupancy. The Fire Department has indicated that there shall be an access box placed at the gate of the equipment area and the primary entrance to the office building.

***(f) Suitability of the site for the proposed scope of development, including due regard for the preservation of existing natural and historical resources.***

23. The Applicant has indicated the location of all natural features as referenced in Section 803.3 of the Zoning Regulations. The DRB finds the location suitable for development. The Applicant has submitted building elevations for the proposed office building. The Applicant shall submit building elevations for the proposed fueling bay locations and fleet fueling stations.

***(g) Consistency with the Comprehensive Plan.***

24. The subject property falls in the Catamount Planning Area identified in the Comprehensive Plan as a mixed use area. The Comprehensive Plan identifies two goals for the Catamount Planning Area. These goals include encouraging high quality industrial development in a sub-regional growth center and to provide an aesthetically pleasing approach to Milton. The proposed development is in compliance with the stated goals of the Catamount Planning Area, so long as the comments in this staff report are adequately addressed.

**Other**

25. The Applicant is proposing to install a new transformer on a concrete pad in the southwest section of the lot along Gonyeau Road. The transformer and concrete pad are approximately 10 feet x 15 feet. This constitutes a structure and therefore needs to meet the front setback requirements of the I2 Zoning District which is 50 feet. The structure as proposed would only have a 25 foot front setback. The structure will need to be relocated on the site to meet the 50 foot front setback requirement.

26. The Applicant hopes to open the facility in January 2013. Since paving is not possible during this time, the Applicant is proposing to surface all paved areas on the site plan with gravel until the spring of 2013. The Zoning Administrator could issue a Certificate of Compliance conditional upon the Applicant completing paving of the site by July 1, 2013. The Applicant spoke to the Town Engineer on July 20, 2012, who supports the Applicant's proposal. The DRB finds this proposal to issue a conditional CO to be acceptable.

27. The Applicant testified at the hearing that they are seeking approval for the future fueling bays as part of the current application.

28. Setbacks from all structures to the property lines should be shown on the site plan. In addition, the "Town of Milton Zoning Information" table on Sheet One shall be correctly and completely filled out.

29. All the necessary State permits must be obtained prior to construction.
30. If and when Development Review Board approval is granted, the Applicant will need to obtain a Zoning Permit from the Zoning Administrator before commencing any work. Once construction is complete, a Certificate of Occupancy must be obtained before the building can be occupied. No Zoning Permits will be granted until all of the applicable conditions of approval are met.

### DECISION

MOTION by David Conley, second by Clayton Forgan, to **APPROVE** the Applicant's proposed Site Plan Application for the construction of a compressed natural gas filling station and headquarters building, located on Gonyeau Road. Proposed is a 60' x 120' concrete pad with up to 6 electric compressors, up to six dispensing bays, and up to 4 fueling dispensers for fleet vehicles. Also proposed is a 24' x 80' office building with associated parking and two access points off of Gonyeau Road. The approval is subject to the following conditions being completed to the satisfaction of Staff:

1. This project shall be completed, operated, and maintained consistent with the Applicant's representation & testimony at the public hearing, 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 findings of fact, conclusions of law, and conditions of this approval.
2. No changes, erasures, modifications, or revisions, other than those required by this decision, shall be made on the Site Plan after approval unless a revised Site Plan is 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.
4. The Applicant will need to obtain a Town Highway Access Permit before a Zoning Permit can be issued.
5. The turning radius on the western side of the "northern" curb cut must be shown on the site plan. This turning radius must be at least 20 ft. as required per Section 814.5 of the Zoning Regulations.
6. The Applicant must show visibility triangles on the site plan. All visibility triangles must be free of obstruction.
7. The Applicant shall note the sight distances for each driveway access on the site plan.
8. The Applicant shall label the sidewalk in front of the office building on the site plan.
9. The Applicant must provide at least 1 handicapped parking space on the site plan per Section 812.3 of the Zoning Regulations. Handicapped parking spaces must be 14 feet x 18

feet in dimension and shall include appropriate signage.

10. The comments from the Town Engineer in regards to stormwater management must be addressed.
11. In accordance with Section 806.3, a landscaping surety will be required to guarantee the completion of the landscaping and will be held to guarantee its survival for a period of three years from installation. The surety must be established prior to the issuance of a Zoning Permit.
12. Existing landscaping that will be removed due to the proposed project must be removed from the landscaping plan.
13. The Applicant must include the light pole and light fixture shapes in the legend on Sheet 2 of the site plan.
14. The electrical service to the outdoor lighting fixtures should be underground.
15. Slating of the chain link fence or privacy screening shall not be permitted per the Fire Department's comments.
16. The Applicant will need to address all comments from the Water/Wastewater Superintendent (attached to the end of the Staff Report). An approved Water/Wastewater Permit must be acquired before obtaining a Zoning Permit.
17. If approved, the Applicant will need a Wastewater and Potable Water Supply permit from the State prior to obtaining a Zoning Permit.
18. The Applicant must address the comments from the Town Engineer (attached to the end of the Staff Report).
19. The Applicant shall provide specialized training in the use of emergency systems and the locations of those systems. All training shall be provided prior to the Zoning Administrator issuing a certificate of occupancy.
20. The Applicant shall place access boxes at the gate to the equipment area and the primary entrance to the office building.
21. The Applicant shall submit building elevations for the proposed fueling bay locations and fleet fueling stations.
22. The transformer and concrete pad must be relocated on site to meet the 50 foot front setback requirement.
23. Setbacks from all structures to the property lines should be shown on the site plan. In addition, the "Town of Milton Zoning Information" table on Sheet One shall be correctly and completely filled out.
24. All the necessary State permits must be obtained prior to construction.
25. A zoning permit is required prior to construction.

VOTE RECORD:

Bruce Jenkins – 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  
David Conley - yea/nay/abstain/absent/didn't vote  
John Jorschick - yea/nay/abstain/absent/didn't vote

MOTION TO APPROVE PASSED BY A VOTE OF

3 / 0 / 2 / 0 / 0  
YEA NAY ABSTAIN ABSENT DIDN'T VOTE

Decision made at the meeting on July 16, 2012

Signed:

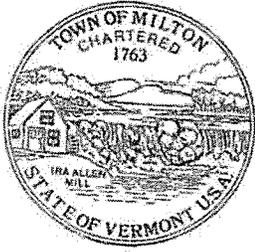
Dated at Milton, Vermont, this 9<sup>th</sup> day of August, 2012

By Bruce Jenkins  
~~Chair~~ Clerk  
Milton Development Review Board

**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.



## TOWN OF MILTON, VERMONT 05468-3205

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

June 14, 2013

NG Advantage LLC  
c/o Steve Palmer  
P.O. Box 817  
Milton, VT 05468

**NOTICE OF DECISION for NG Advantage's  
Site Plan Amendment Application**

On May 23, 2013, the Milton Development Review Board (DRB) approved your Site Plan Amendment Application for the amendments to modify the location of the enclosed chain link fenced area, a Vermont Gas Service line, additional lighting and a 16'x60' office trailer on-site at their previously approved compressed natural gas facility located at 121 Gonyeau Road. The DRB's Notice of Decision is enclosed for your records. The reason for approval is listed on page 4-5 of the Notice of Decision.

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

Sincerely,

  
Amanda Pitts  
Planning Assistant

Enclosure

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NOTICE OF DECISION FOR NG Advantage – Site Plan Amendment

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

**NOTICE OF DECISION for  
NG Advantage**

***SITE PLAN AMENDMENT APPLICATION***

This matter came before the Milton Development Review Board (DRB) on behalf of NG Advantage, Owner/Applicant, referred to hereafter as the "Applicant." The Applicant is requesting Site Plan Amendment approval to modify the location of an enclosed chain link fenced area at their compressed natural gas facility located at 121 Gonyeau Road and described as Tax Map 3, Parcel 8-6. The Applicant is also proposing a Vermont Gas service line, additional outdoor lighting, and a 12'x60' office trailer on site. The DRB held a public hearing on May 23, 2013. Steve Palmer from NG Advantage 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 Site Plan Amendment approval to modify the location of an enclosed chain link fenced area at their compressed natural gas facility located at 121 Gonyeau Road and described as Tax Map 3, Parcel 8-6. The Applicant is also proposing a Vermont Gas service line, additional outdoor lighting, and a 12'x60' office trailer on site.
2. The subject property contains a total of 6.30 acres and is located within and is located within the Catamount Industrial Park the "General Industrial" (I2) Zoning District. The Owner/Applicant is NG Advantage.
3. The DRB held a public hearing on May 23, 2013. The DRB members present and participating at the hearing were David Conley, Ron Harding, Allen Lasell, Bruce Jenkins, and Clayton Forgan. Steve Palmer of NG Advantage represented the Applicant at the hearing.

**CONCLUSIONS**

**SITE PLAN REVIEW STANDARDS**

1. 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.***

NOTICE OF DECISION FOR NG Advantage – Site Plan Amendment

2. The DRB finds that the Applicant is not proposing any changes to vehicular and pedestrian circulation on site or between the site and adjacent land uses.

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

3. The Applicant is proposing to use a construction trailer to house Staff on site instead of the previously approved office building. The construction trailer shown on the site plan was permitted by Staff in October 2012 to serve as a temporary construction trailer during construction on site. Staff finds that if the office building is not going to be constructed right now, it shall be removed from the site plan. If the office building is going to be constructed in the future, the site plan will need to be amended at that time. There cannot be two principal structures on one parcel.
4. The Applicant has shown the construction trailer on the site plan in its current location. The construction trailer is located in the empty gas container parking area, a parking area that was approved for the large empty gas containers when they are not in use. The location of the construction trailer will render three of the four empty gas container parking spaces unusable. The DRB will need to determine whether or not to approve the reduction in the gas container parking spaces. The 10 parking spaces for employees on site will remain unaltered.
5. The Applicant is also proposing to expand the fenced equipment area located in the central part of the site. The expansion is needed to enclose a "chiller unit" on site. The expansion of this area shall have no impact upon the parking or circulation on site.
6. The fleet vehicles fueling stations are not on the submitted site plan. The Applicant shall confirm whether or not they are still proposing the fleet vehicles fueling stations.

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

7. Staff finds that the Applicant is not proposing any changes that will have an impact upon the capacity of roadways or other transportation facilities in the vicinity.

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

8. The Applicant has not shown any landscaping on site. The Applicant shall clarify that they are not proposing any changes to landscaping on site. In addition, the Applicant shall show the currently approved landscaping on site plan.
9. The Applicant is proposing additional light fixtures on site. The Applicant shall clarify what type of fixtures are being proposed. All light fixtures must be in compliance with Section 820 of the Zoning Regulations. All previously approved light fixtures on site are in compliance with this standard. The Applicant shall update their lighting plan.
10. The Applicant's site plan shows a free standing sign in a different location than where it was shown on the last site plan. The new location is only five (5) feet from the property line. All free standing signs must be at least ten (10) feet from all property lines in accordance with Section 834(4) of the Zoning Regulations. The free standing sign shall be moved on the site plan to ensure compliance with this requirement.

***(e) Impacts on the Town's ability to provide adequate sewer, water, fire, police, or other***

NOTICE OF DECISION FOR NG Advantage – Site Plan Amendment

***municipal services and facilities.***

11. The Applicant is proposing that the site be serviced by municipal water and sewer. The Applicant has received Water and Wastewater Allocation and Water and Waste Water Connection Permit from the Water/Wastewater Superintendent. The Water/Wastewater Superintendent has no comments regarding the proposed project. However, the Applicant should contact the State to see if the State Wastewater and Potable Water Supply permit must be amended because a different structure is being used on site.
12. The Town Engineer has noted that the gas line must be installed to Public Works standards and that the Applicant should use proper erosion control methods during construction per comments made on May 6, 2013. The Fire Department has made no comments at this time.
13. The Applicant is adding the gas line connection between the facility and the Vermont Gas Distribution Main. This addition will have no impact on municipal services, but does provide necessary information to Police and Fire Departments in case of an accident on site.

***(f) Suitability of the site for the proposed scope of development, including due regard for the preservation of existing natural and historical resources.***

14. The Applicant has indicated the location of all natural features as referenced in Section 803.3 of the Zoning Regulations. Staff finds the location suitable for development.

***(g) Consistency with the Comprehensive Plan.***

15. The subject property falls in the Catamount Planning Area identified in the Comprehensive Plan as a mixed use area. The Comprehensive Plan identifies two goals for the Catamount Planning Area. These goals include encouraging high quality industrial development in a sub-regional growth center and to provide an aesthetically pleasing approach to Milton. The proposed development is in compliance with the stated goals of the Catamount Planning Area.

**Other**

16. 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.
17. There seems to be some inconsistencies between the legend on the site plan and the site plan itself. Namely, the property line for the parcel is not properly delineated and the fenced area is improperly marked. The Applicant shall ensure that all lines and symbols within the legend match the site plan.
18. Setbacks from all structures to the property lines should be shown on the site plan.
19. All the necessary State permits must be obtained prior to construction.

NOTICE OF DECISION FOR NG Advantage – Site Plan Amendment

20. All conditions of the original site plan approval that are not specifically amended by this approval shall remain in effect.
21. A zoning permit is required prior to construction.

DECISION

MOTION by David Conley, second by Clayton Forgan, to **APPROVE** the Applicant's proposed Site Plan Amendment Application modify the location of an enclosed chain link fenced area the addition of a Vermont Gas service line, additional outdoor lighting, and a 12'x60' office trailer on site The approval is subject to the following conditions being completed to the satisfaction of Staff. Where appropriate, all plans will be revised to address the following items:

1. This project shall be completed, operated, and maintained consistent with the Applicant's representation & testimony at the public hearing, 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 findings of fact, conclusions of law, and conditions of this approval.
2. No changes, erasures, modifications, or revisions, other than those required by this decision, shall be made on the Site Plan after approval unless a revised Site Plan is 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.
4. If the office building is not going to be constructed at present, it shall be removed from the site plan. If the office building is going to be constructed in the future, the site plan shall to be amended at that time.
5. The Applicant shall show the currently approved landscaping on site plan.
6. All light fixtures must be in compliance with Section 820 of the Zoning Regulations.
7. All free standing signs must be at least ten (10) feet from all property lines. The free standing sign shall be moved on the site plan to ensure compliance with this requirement.
8. The Applicant should contact the State to see if the State Wastewater and Potable Water Supply permit must be amended because a different structure is being used on site.
9. The Applicant must address the comments from the Town Engineer dated May 6, 2013 attached at the end of this Staff Report.
10. There seems to be some inconsistencies between the legend on the site plan and the site

NOTICE OF DECISION FOR NG Advantage – Site Plan Amendment

plan itself. Namely, the property line for the parcel is not properly delineated and the fenced area is improperly marked. The Applicant shall ensure that all lines and symbols within the legend match the site plan.

11. Setbacks from all structures to the property lines should be shown on the site plan.
12. All the necessary State permits must be obtained prior to construction.
13. All conditions of the original site plan approval that are not specifically amended by this approval shall remain in effect.
14. A zoning permit is required prior to construction.

VOTE RECORD:

Bruce Jenkins – ~~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  
David Conley - ~~yea~~/nay/abstain/absent/didn't vote  
Allen Lasell - ~~yea~~/nay/abstain/absent/didn't vote

MOTION TO APPROVE PASSED BY A VOTE OF 6 10 1 0 1 0 1 0  
YEA NAY ABSTAIN ABSENT DIDN'T VOTE

Decision made at the meeting on May 23, 2013

Signed:

Dated at Milton, Vermont, this 13 day of JUNE, 2013

By Roll Hewitt  
Chair  
Milton Development Review Board

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## Jacob Hemmerick

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**From:** Chris Poirier [cp.poirier@comcast.net]  
**Sent:** Monday, August 24, 2015 9:08 AM  
**To:** Jacob Hemmerick; Don Turner  
**Subject:** NG advantage review

Good morning Jake, The Milton fire department has been dispatched to the NG advantage site on multiple occasions for the smell of gas onsite and the surrounding area. On two occasions the incidents have involved the emergency evacuation of natural gas from the transport trailers. On the other occasions the incidents have involved the intentional release of gas from the transport trailers to perform annual maintenance. It is the feeling of the Milton fire department that this is not a safe practice. Both myself and the chief have spoken with representatives of NG advantage about the intentional release of gas from the transport trailers. Our preferred method of evacuating the gas from the transport trailers is to flare (burn) the gas off. We have discussed possible locations onsite for this method of released to occur. I asked that the applicant provide a location on the site plan for this method to occur. I also request that the development review board require no open air venting of the transport trailers onsite unless emergency conditions exist.

Chris Poirier  
Assistant chief,  
Milton fire department

Sent from my iPhone



## DEVELOPMENT REVIEW BOARD MEETING MINUTES

Meeting Type: **Regular Meeting**  
Date: **Thursday, August 13, 2015**  
Time: **7:00 p.m.**  
Place: **Municipal Building Community Room**  
Address: **43 Bombardier Road, Milton, Vermont 05468-3205**  
Contact: **(802) 893-1186**  
Website: **miltonvt.org**

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1 **1. CALL TO ORDER**

2 The Chair called the meeting to order at 7:01 p.m.

3  
4 **2. ATTENDANCE**

5 **Members Present:** Bruce Jenkins, Vice Chair and Acting Chair; Clayton Forgan; David Conley; Henry  
6 Bonges

7 **Members Absent:** none

8 **Staff Present:** Jacob Hemmerick, Planning Director; Kristen Treanor, Planning Assistant

9  
10 **3. AGENDA REVIEW**

11 **Correction:** Hemmerick noted that a correction needed to be made to Item #6, which stated that the DRB  
12 last updated their bylaws March 2014 when in fact the bylaws were last updated March 2015.

13 **Additions:** Hemmerick stated that the Agenda should include an item 9(B) in order to sign the plat for the  
14 Cooper Road Boundary Line Adjustment, as well as an item 10(B), to approve the meeting minutes of July  
15 9, 2015.

16 The DRB unanimously CONSENTED to move Agenda items #5 and #6 (Election of Officers and Bylaw  
17 Review, respectively) to the end of the meeting.

18  
19 **4. PUBLIC FORUM**

20 None

21  
22 **5. PUBLIC HEARINGS**

23  
24 **5.1 Site Plan Amendment - 37 Centre Drive - Gordon & Margaret Gilbert, Owners/Applicants**

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

27  
28 **37 Centre Drive - Site Plan Application - Gordon & Margaret Gilbert, Owners/Applicants.** The  
29 Applicants are requesting Site Plan approval from the Development Review Board according to the Town  
30 of Milton Zoning Regulations for a proposed 5' x 60' new public warehousing (self-storage) building  
31 located at 37 Centre Drive, described as SPAN# 11286, Tax Map 27, Parcel 9-14. No other site changes are  
32 proposed. The property contains six existing storage buildings and a carport. The subject property  
33 contains a total of 1.49 acres and is located within the "Downtown Business (DB1)" Zoning District.

34  
35 The Chair administered the oath to Interested Persons. The Applicants were represented at the hearing by  
36 Gordon Gilbert and Lloyd Gilbert.

37  
38 Lloyd Gilbert prefaced the discussion by stating that the proposed project was approved by the Selectboard as  
39 qualifying under Interim Zoning and that the only change to the existing Site Plan was the proposed addition  
40 of a 5' by 60' self-storage building. Lloyd Gilbert also stated that a correction to the Staff Report was needed

1 because the site and driveway are not on Bombardier Road; they are on Centre Drive. Jenkins confirmed that  
2 the correct address is 37 Centre Drive.

3  
4 In response to the following numbered items in the Staff Report:  
5

- 6 1. In response to Item 1, requesting that the Final Plans include building elevations as well as listing the  
7 site's lot coverage per ZR489, Lloyd Gilbert stated the proposed building would be 9' at the highest  
8 point and that overall lot coverage, not including the driveways, was 20% and including the driveways  
9 was 36%. The proposal would add 2% to the overall square footage of the buildings. Jenkins asked  
10 what the final overall lot coverage would be including the proposed new building, and Lloyd Gilbert  
11 stated 38%.
- 12 2. In response to Item 2, requesting that the Applicant state whether the proposed structure would be  
13 principal or accessory, Jenkins surmised that the proposed use would be principal (versus accessory),  
14 and Lloyd Gilbert stated he wasn't sure how to answer that question. Jenkins asked how the Town  
15 interprets this and Hemmerick responded that he sees it as principal. Conley inquired as to whether  
16 or not the existing carport would be considered accessory, which led to a discussion of the carport's  
17 permit status. Staff stated the carport had never received a Zoning Permit or Certificate of Occupancy;  
18 Lloyd Gilbert contended that was not true. Lloyd and Gordon Gilbert reiterated that everything that  
19 had been done at the site was fully permitted. Hemmerick acknowledged that he did not personally  
20 verify the permit status, but the Zoning Administrator informed him that the site was not fully  
21 compliant and referenced page 2 of the Staff Report for specific examples. Lloyd asserted that no  
22 violations had been issued, but conceded that it was possible a Certificate of Compliance had been  
23 overlooked. In turn, this led to a discussion of overall compliance issues, specifically landscaping.  
24 Staff asserted that the required landscaping had not been maintained in accordance with the approved  
25 site plan; Lloyd countered that they were not there to discuss the original Site Plan, only the proposed  
26 addition. Lloyd noted the landscaping had been guaranteed for 3 years when initially planted 20 years  
27 ago, and that some trees had died in the interim. Gordon Gilbert concurred. Jenkins and Conley  
28 inquired about how long the landscaping requirements were to be upheld. Staff explained that the  
29 expectation is that the landscaping be maintained as proposed and approved. Lloyd inquired as to  
30 where that was stated, and Gordon asked if that might be an assumption on Staff's part, as he has not  
31 seen that written down anywhere. Staff cited current Zoning Regulation 806.6 stating that sites "shall  
32 be landscaped in accordance with the approved Site Plans and maintained in good appearance", but  
33 conceded the 1994 Regulations may not have stated this at the time of the first site plan approval.  
34 Lloyd maintained that the site is an attractive property, with well-tended trees and grass.
- 35 3. In response to Item 3, requesting that all requirements not waived by the DRB be submitted with the  
36 Final Plans, the Applicants requested waivers from Zoning Regulations 803.1 through 803.9, per the  
37 authority granted the DRB in 803.12, but Lloyd went on to state that he believes all the requested items  
38 are on the plan regardless. Staff stated several items were not on the plan, and Jenkins explained that  
39 although the requested information might be on the application and/or Staff Report, it must also be on  
40 the actual Site Plan. Lloyd stated they could add the requested items to the Site Plan, but contended  
41 that every time he has received an approval for this site, that Site Plan replaced the previous one. He  
42 disagreed with referring to the original Site Plan and asserted that the current, valid Site Plan is the one  
43 dated 2014. Bonges inquired why a waiver of Zoning Regulation 803.6 was being requested; Lloyd  
44 replied it was because they do not plan on doing any landscaping, as all the landscaping requirements  
45 were met with the original Site Plan. Bonges stated he does not approve waiving 803.6. Conley and  
46 Lloyd discussed how many trees remain, with Lloyd stating that 14 of the original 20 remain. Conley  
47 inquired whether or not the 6 absent trees could simply be replanted, and Lloyd agreed, but expressed  
48 his desire to not establish a surety or do a new landscaping plan. Rather, the Applicant wished to  
49 simply put the trees in the ground and be done with it. Lloyd agreed to bring the number of trees back

1 up to 20.

- 2 4. In response to Item 4, requesting that the Final Plans label each building with a unique identifier and  
3 show the location and dimensions of the office, regarding the numbering of buildings, Lloyd  
4 remarked that the numbers/letters are on the buildings themselves and Bonges replied that they must  
5 also be shown on the documentation (referring to the Site Plan).
- 6 5. In response to Item 5, requesting that the Final Plan show street trees located five feet from the front  
7 property boundary:, Jenkins and Conley found that the 6 trees the Applicants already agreed to re-  
8 plant would meet this recommendation.
- 9 6. In response to Item 6, requesting the Final Plans show existing landscaping and that the site is  
10 screened by plantings on a year-round basis and include all originally approved landscaping, Lloyd  
11 asserted that screening of the property is not necessary as the surrounding buildings effectively screen  
12 the site. Conley inquired of Staff what the landscaping requirements are of the abutting Site (owned  
13 by Handy) and Staff stated that the Site Plan indicates the abutting property will be required to plant  
14 63 Arbor Vitae along the western boundary of the subject property.
- 15 7. In response to Item 7, requesting a performance bond or other form of security to guarantee the  
16 landscaping, Lloyd desires to plant the trees rather than establish a Landscaping Surety, and further  
17 stated that the Surety Bond should be his word. Jenkins stated that this would not be consistent with  
18 Town policy. Lloyd stated he received a \$60,000.00 tax bill that day. The surety process and the  
19 reasoning for it were explained by Staff. Lloyd declared that he believes they have fulfilled the  
20 landscaping requirements of the original plan. He added that he will add the 6 trees previously  
21 discussed, but does not want to tie up money in a surety.
- 22 8. In response to Item 8, requesting the site's landscaping be maintained in good appearance in  
23 compliance with ZR806.6, Bonges inquired about the maintenance of the landscaping, and Jenkins  
24 asked if any efforts had been made to replace the 6 trees when they died. Lloyd answered they were  
25 somewhat glad that the trees died, as it made mowing the lawn easier. Bonges remarked the  
26 Applicants were more comfortable with the trees gone and Lloyd confirmed this. Lloyd reiterated that  
27 the site is well maintained. Conley asked if a potential surety would be required for all of the  
28 landscaping or just the 6 trees that are to be replanted. Staff recommended a surety for the 6 new trees.
- 29 9. In response to Item 9, requesting Final Plans show the location of all lighting and parking in  
30 accordance with ZR806.7, Lloyd claimed that all lighting and parking has been approved in the past  
31 and was on all previous plans; Staff countered that no lighting has been depicted on a plan. Bonges  
32 asserted that lighting was not depicted on either of the plans he had in front of him. Lloyd  
33 acknowledged it might not be on these particular plans and Bonges pointed out that Lloyd should  
34 therefore not claim that lighting is shown on all plans when it is not. Jenkins spoke about adding the  
35 lighting to the plan and Bonges remarked that having a complete, accurate and up-to-date Site Plan is  
36 not too much to ask.
- 37 10. In response to Item 10, requesting the Final Plans state the number of employees and show parking in  
38 compliance with ZR812, Jenkins confirmed with the Applicant that there are no employees, with  
39 Gordon Gilbert remarking that they are a "mom and pop" operation. Jenkins inquired and Lloyd  
40 confirmed that the parking will remain the same. Staff advised that the parking spots in questions  
41 were amended away in 2012. Lloyd countered that they are shown on the 12/2014 Site Plan, and this  
42 was confirmed. Staff noted that the proposed amendment eliminates the parking on the 12/2014 plan.
- 43 11. In response to Item 11, requesting the Final Plans show ADA parking per ZR812.3, Gordon Gilbert  
44 asked what good a handicapped parking sign would be, as most patrons park in front of their  
45 particular unit, but agreed to put one up if the DRB wants one. Staff noted that this requirement is the  
46 law.. Gordon Gilbert agreed to designate a handicapped parking spot with a sign.
- 47 12. In response to Item 12, addressing stormwater drainage in compliance with ZR812.6, Lloyd explained  
48 how he believes the water will drain from the site. Bonges remarked that many of the requirements  
49 and issues being discussed all go back to the fact that they are not shown on the Site Plan, that the Site

1 Plan has been amended repeatedly and at this time it is important to get a current and complete Site  
2 Plan, including stormwater drainage facilities.

- 3 13. In response to Item 13, requesting that the Final Plans show the driveway in the configuration shown  
4 in the original 1994 approval, Gordon Gilbert stated that the highway access/driveway has never  
5 been changed from the original 1994 approval. Staff countered that it has, in fact, migrated east and  
6 will be in direct conflict with another approved Site Plan for a neighboring property (Handy's multi-  
7 family housing), because a sidewalk will be running down the center of it. Gordon Gilbert asserted  
8 that this is not a situation he created, nor should he be responsible for fixing it. Staff conceded that  
9 Gordon has a point and explained that the DRB has approved 2 conflicting Site Plans. A general  
10 determination was made that the driveway, because it has never been moved, was likely constructed  
11 out of compliance with the original 1994 Site Plan and later formalized, but nonetheless a Certificate of  
12 Compliance was issued as well as subsequent approvals of Site Plans amendments that depict the  
13 driveway in its actual, current location. Lloyd contended that no matter where the driveway is, it will  
14 cross a sidewalk.
- 15 14. Applicant agreed to install a bicycle rack for bicycle parking.
- 16 15. Applicant agreed to obtain a Zoning Permit and associated Certificate of Compliance for the project.
- 17 16. Applicant agreed to submit 2 full-sized and 2 reduced complete final plan sets depicting the requested  
18 changes.
- 19 17. Lloyd advised that he has been in contact with Jeff McMahon at the Agency of Natural Resources and  
20 therefore the Project Review Sheet is in process.
- 21 18. In response to Item 18, requesting the Applicant address any remaining concerns from the DRB, Lloyd  
22 asserted that this is a minor change to the Site Plan and they will complete any of the changes that they  
23 have agreed to. Conley explained that with any Site Plan review there is an opportunity to accomplish  
24 things that weren't done before or to do things differently. Lloyd argued that it's essentially a way to  
25 get something done at someone else's expense. The DRB had no further questions at this time.

26  
27 The Chair closed the hearing at 7:57 p.m.

## 28 29 **6. OTHER BUSINESS**

30  
31 6.1 Staff gave an update on Planning and Economic Development Department activities, as detailed in a  
32 Memo. The DRB was briefed on what projects are headed their way in upcoming meetings. Vacancies on  
33 the DRB were touched upon. Training and development opportunities were also discussed, with Bonges  
34 commenting that last year he attended the "When Governments Cooperate" workshop and found it to be  
35 informative and helpful. There was some discussion of what constitutes a complete Site Plan. Questions  
36 were asked and answered.

37  
38 A Final Plat for Cooper Road Boundary Line Adjustment, approved by the DRB on May 28, 2015, was  
39 signed.

## 40 41 **7. MINUTES**

42 MOTION by Bonges to approve the Minutes of July 9, 2015, SECOND by Forgan. Motion APPROVED;  
43 Conley abstained. MOTION by Forgan to approve Minutes of July 23, 2015 as presented, SECOND by  
44 Conley. Motion APPROVED; Bonges abstained.

## 45 46 **8. BYLAW REVIEW**

47 General review of the existing bylaws commenced. Conley asked how often they are required to review  
48 the Bylaws and Staff stated that it was not required, but thought it was best practice to review them

1 annually to keep everyone fresh and help train new members. No amendments to the Bylaws were  
2 proposed.

3  
4 **9. ELECTION OF OFFICERS**

5 MOTION by Conley to elect Bruce Jenkins as Chair, SECOND by Bonges. Unanimously APPROVED.  
6 MOTION by Forgan to elect Conley as Vice-Chair, SECOND by Jenkins. Unanimously APPROVED.  
7 MOTION by Jenkins to elect Bonges as Clerk, SECOND by Conley. Unanimously APPROVED.

8  
9 **10. DELIBERATIVE SESSION**

10 MOTION by Conley to enter Deliberative session at 8:34 p.m., SECOND by Jenkins. Unanimously  
11 APPROVED.

12  
13 MOTION by Jenkins to exit Deliberative session at 9:25 p.m., SECOND by Forgan. Unanimously  
14 APPROVED.

15  
16 **11. DECISIONS SIGNED**

17 **Variance Applicatio, Green Field Way ,Green Field Homeowners Inc., Owners/Applicants.**

18 Bruce Jenkins, Chair                   yea/**nay**/abstain/absent/recusal  
19 Dave Conley, Vice-Chair:           yea/**nay**/abstain/absent/recusal  
20 Henry Bonges, Clerk:               yea/**nay**/abstain/absent/recusal  
21 Clayton Forgan:                   yea/**nay**/abstain/absent/recusal  
22 Vacant Seat:                         yea/nay/abstain/absent/recusal

23  
24 **Major Conventional Subdivision, 159 East Road, Blondin/Martell**

25 Vacant, Chair                         yea/nay/abstain/absent/recusal  
26 Bruce Jenkins, Vice-Chair:       **yea**/nay/abstain/absent/recusal  
27 Thomas Cole, Clerk:               **yea**/nay/abstain/absent/recusal  
28 Henry Bonges:                       **yea**/nay/abstain/absent/recusal  
29 Clayton Forgan:                   **yea**/nay/abstain/absent/recusal  
30 David Conley:                       yea/nay/abstain/**absent**/recusal

31  
32 **Conditional Use, 698 Everest Road, Mattos/Cavitt**

33 Vacant, Chair                         yea/nay/abstain/absent/recusal  
34 Bruce Jenkins, Vice-Chair:       **yea**/nay/abstain/absent/recusal  
35 Henry Bonges:                       yea/nay/abstain/**absent**/recusal  
36 Clayton Forgan:                   **yea**/nay/abstain/absent/recusal  
37 David Conley:                       **yea**/nay/abstain/absent/recusal

38  
39 **12. ADJOURNED**

40 MOTION by **Bonges** to adjourn **9:26** p.m., SECOND by **Forgan**. Unanimously APPROVED.

41  
42 **Minutes approved by the Commission this \_\_\_\_\_ day of \_\_\_\_\_, 2015.**

43  
44  
45  
46 **Bruce Jenkins, Vice-Chair & Acting Chair**

/kt

47  
48 **Filed with the Town Clerk this \_\_\_\_\_ day of \_\_\_\_\_, 2015**