



TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

Planning Commission Agenda

Martin Memorial Hall – 5259 Route 5, Ascutney, Vermont 05030

Monday, 9 September 2019 - 7 PM

1. Call to order
2. Agenda Review – 9 September 2019
3. Comments from Citizens
4. Approval of Meeting Minutes – 26 August 2019
5. Final plat review:
 - Address: 482 Skyline Drive
 - Owners: Allan H. & Jean K. Swanson
 - Parcel ID: 13-01-02
 - Acreage: 59.222ac. to be subdivided into:
(1) 50.391ac. & (2) 8.931ac.
6. Discussion regarding Roisman subdivision (decided 2 November 2017)
7. Zoning Bylaw Updates
 - (a) Discussion of potential forestry / wood processing bylaw
 - (b) Conservation of Natural Resources bylaw
 - Agricultural soils
 - Ponds
 - Steep Slopes and High Elevation
 - Riparian buffers
8. Bylaw updates – Status spreadsheet review
9. Next meeting agenda
10. Adjourn

The next regularly scheduled meeting of the Planning Commission will be **Monday, 23 September 2019 - 7 PM**, Martin Memorial Hall

DRAFT
TOWN OF WEATHERSFIELD, VERMONT
MINUTES OF PLANNING COMMISSION MEETING
Monday, 26 August, 2019

I. Call to Order - Vice-Chair, Paul Tillman called the meeting to order at 7:03pm.
Planing Commission: Howard Beach, Sven Fedorow (Land Use Administrator), Paul Tillman, Michael Todd, Julia Lloyd Wright (Energy Coordinator, ex-officio)
Visitors: Nikita Lenahan, Fred Kowalik, Norwich Solar Technologies; Doug Reed, Mountain & Valley.

II. Agenda Review - Minutes of 22 July, 2019 were added for approval.
A motion was made by Michael Todd to move the Minutes of 22 July, 2019 and 12 August, 2019 following Item 6. Comments on materials submitted to PUC on Weathersfield Transfer Station project, seconded by Howard Beach. Voted: Unanimously.

III. Comments from Citizens -
Nikita Lenahan said, regarding the solar array the Town proposes to instal at the Transfer Station, that she is not upset with the Town but with the process.

V. Discussion of potential forestry/wood processing bylaw
The Commission reviewed and discussed Title 24 V.S.A. and Forestry Operations 10 V.S.A. s/s 2602 definition (6) which “includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.” Doug Reed said that the “Town Bylaws say that ‘Forestry’ does not need a permit.”
Paul Tillman said he wants to see the Future Land Use Map which was not included in the Zoning Bylaws Draft of May 31, 2017.
Sven agreed that the Town bylaws need to be written more clearly because under State law (on forestry operations) it’s the State that governs.
Howard Beach voiced his concerns that the Commission should not be holding this discussion outside the court. Doug Read is currently waiting for a decision to be handed down by the Environmental Court. Paul Tillman said he wants to talk about the proposed bylaw and understand how using this information the Commission would want the Town to go forward on what we know to make things more clear. Sven Fedorow suggested making some changes like reduced setbacks and to reduce some restrictions; to reiterate what is not State Law, only reference, and do away with Town Law where the Town of Weathersfield has no jurisdiction. Paul Tillman said that potentially the Commission would remove Section C.10 4.3.2 - Conservation, but Michael Todd said we need to look at all districts and then get rid of it.

Doug Reed showed the commission a copy of a petition with his proposed bylaw drawn up by his attorney to go on the ballot at Town Meeting. It was not accepted by the Commission and Paul Tillman said the Commission should not comment on it; it needs to go to the Selectboard for approval for the Town Ballot. Howard Beach reiterated that the Commission should not be talking and the Commission should not be crafting regulations for Doug Reed’s zoning. Sven Fedorow will contact the Town attorney to see if he is available for the next meeting and send him an e-mail regarding the Planning Commission concerns. He will also contact the

Southern Windsor County Regional Planning Commission (SWCRPC) to obtain sub-division maps and tables and look at the zoning maps with a reference on business.

Doug Reed said that he wants to change the bylaw so what he wants is a permitted use.

VI. Comments on materials submitted to PUC on Weathersfield Transfer Station project.

Sven Fedorow said he had reviewed the application that went to the PUC (Public Utility Commission) and abutting neighbors and had two to three comments.

Esthetics - There will be very limited use and it will not be visible

Audible effects - minor decibels comparable to a whisper

Ground Water/Storm Water - the construction will not impede the flow of water

There are no issues for September 9, 2019, when the PUC comment period ends.

Sven Fedorow said the Town now has to negotiate lease terms for the project.

He will draft a note from the Planning Commission to the Selectboard stating they have no comments for the PUC.

IV. Approval of Meeting Minutes - 22 July, 2019 and 12 August, 2019

A motion was made by Michael Todd to approve the Minutes of 22 July, 2019, seconded by Howard Beach. Voted: Unanimously.

A motion was made by Michael Todd to approve the Minutes of 12 August, 2019, seconded by Howard Beach. Voted: Unanimously

VII. Zoning Bylaw Updates

- (a) Conservation of Natural Resources bylaw
 - Agricultural soils
 - Ponds
 - Steep Slopes and High Elevation
 - Riparian buffers
 - C10 Conservation bylaw

VIII. Bylaw updates - Status spreadsheet review

IX. Next meeting agenda, 9 September, 2019

* Final plat review, 482 Skyline Drive/Allan Swanson: Monday, 9 September, 2019

X. Adjourn

A motion was made by Michael Todd to adjourn at 9:10pm, seconded by Howard Beach. Voted: Unanimously

Town of Weathersfield

Final Plat Checklist

Plat/Mapping and Document Requirements (include all applicable):

- ☐ Subdivision name/Title
- ☐ Municipality name
- ☐ Name and address of landowner
- ☐ Name and address of applicant
- ☐ Date, north arrow, legend
- ☐ Preparer information
- ☐ Revision dates
- ☐ Certifications
- ☐ Scale (not greater than 1 inch = 200 feet unless waived for large parcels)
- ☐ Surveyed project boundaries
- ☐ Surveyed property lines
- ☐ Zoning district designations and boundaries
- ☐ Existing elevations (contour lines at 5 foot intervals within 100 feet of any development)
- ☐ Proposed elevations (contour lines at 5 foot intervals within 100 feet of any development)
- ☐ Supplemental drawings (road profiles, intersection, parking areas)
- ☐ State permits & documents (wastewater, Act 250, Project Review Sheet)
- ☐ Existing and proposed traffic generation rates and volumes
- ☐ Easements (including water, wastewater)
- ☐ Deed reference, tax map reference, deed restrictions
- ☐ If applicable, homeowner/tenant association agreements

Surveyed existing:

- ☐ Lot lines
- ☐ Dimensions
- ☐ Parcel numbers
- ☐ Lot numbers

Surveyed proposed:

- ☐ Lot lines
- ☐ Dimensions
- ☐ Parcel numbers
- ☐ Lot numbers

Adjoining:

- ☐ Land uses
- ☐ Subdivisions
- ☐ Roads
- ☐ Drainage and utilities (including location and size of culverts and water and sewer mains)

Specific boundaries of the following development limitation areas, including:

- ☐ slopes with a gradient of 25% or greater
- ☐ deer wintering habitat areas
- ☐ rare plant and animal communities
- ☐ historic sites and features (e.g. cellar holes, stone walls)
- ☐ flood hazard areas
- ☐ surface waters
- ☐ wetlands and associated buffers
- ☐ scenic vistas
- ☐ prime agricultural soils
- ☐ statewide significant agricultural soils

The Planning Commission may require additional information depending upon the scope and location of the proposed subdivision, including but not limited to the following:

- ☐ Stormwater management plans
- ☐ Erosion control plans
- ☐ Grading plans (showing proposed areas of cut and fill)
- ☐ Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)
- ☐ Open space management plan
- ☐ Visual impact analysis and mitigation plan
- ☐ Master plan for large subdivisions or subdivisions of large parcels
- ☐ Fiscal impact analysis (analysis of financial costs and benefits to the Town)
- ☐ Other information or studies necessary for the Commission to conduct a comprehensive review

Sven Fedorow

From: Anthony Z. Roisman <aroisman@nationallegalscholars.com>
Sent: Monday, September 2, 2019 10:59 AM
To: Sven Fedorow
Cc: 'Amy Plavin'
Subject: RE: Swanson subdivision

Sven:

Thanks for sending along the zoning regulations. According to 4.3.2(d) under "area, land & structural requirements" a lot must have 200 foot frontage. The sketch plan shows 86.09, or maybe 186.09 frontage. In either event that is insufficient to meet the frontage requirement. Why has that not been identified as a deficiency sufficient to reject the application from the outset without the need for a Planning Commission meeting?

Regarding the issue of discrimination, failure to apply the same standards to similarly situated applicants is unacceptable. It violates the "common benefit" provision of the Vermont Constitution. Chapter I of the Vermont Constitution, entitled "A Declaration of the Rights of the inhabitants of the State Of Vermont," declares in Article 7:

That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community; and that the community hath an indubitable, unalienable, and infeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.

The Vermont Supreme Court has interpreted the "common benefit" provision of the Vermont Constitution to involve the following issues:

To determine whether a legal requirement violates the Common Benefits Clause, we consider the following questions: "(1) what 'part of the community' is disadvantaged by the legal requirement; (2) what is the governmental purpose in drawing the classification; and (3) does the omission of part of the community from the benefit of the challenged law bear 'a reasonable and just relation to the governmental purpose?' " In re Hodgdon, 2011 VT 19, ¶ 23, 189 Vt. 265, 19 A.3d 598 (quoting Badgley v. Walton, 2010 VT 68, ¶ 21, 188 Vt. 367, 10 A.3d 469).

Michael Quinlan, Executor of the Estate of Lincy Sullivan v. Five-Town Health Alliance, Inc., d/b/a Mountain Health Center and Sean May, PA-C, Nos. 2017-102 & 2017-103 (May 18, 2018) at Paragraph 23.

The Planning Commission inconsistent application of the sketch plan requirements disadvantages us and any others who were required to produce all of the additional details and drawings and serves no legitimate purpose. Since we were required to have all the tests and drawings, then Swanson is required to do the same or we are entitled to recoup the excess expense we were forced to incur.

I do not want to see this matter require further legal process which will be costly for the Town. Just require Swanson to do what we were required to do, assuming the application is not rejected immediately for failing to meet the frontage requirement.

Tony

P.S. If Swanson intends to avoid the requirement of having a legally acceptable driveway cut by allowing the use of the existing driveway on his property, that detail needs to be disclosed on the sketch plan to avoid any possibility that Swanson will attempt to use our easement to provide access to the new lot.

Anthony Z. Roisman
394 Skyline Drive
Weathersfield, VT 05156
802-885-4162
aroisman@nationallegalscholars.com

From: Sven Fedorow [mailto:Landuse@weathersfield.org]
Sent: Tuesday, August 27, 2019 1:51 PM
To: Anthony Z. Roisman
Cc: Amy Plavin
Subject: RE: Swanson subdivision

Dear Tony,

In light of your concerns, I would strongly encourage attendance at the final plat hearing on September 9th. I can, however, address some of your concerns myself:

(1) No evidence of septic design, perc tests or well location is required as no development is currently proposed with this subdivision. Any future development on the newly created parcel will be subject to all State septic and wastewater permit requirements.

(2) The Zoning District is RRR-35 (see attached excerpt of the zoning bylaws). The minimum lot size is 3 acres in the RRR-35 district. The proposed new lot is in conformance with the minimum lot size requirement.

(3) Surveys with contour lines included are available for inspection at the town office to verify compliance with driveway grade restrictions not to exceed 15% over 50 feet or more. My understanding is that the proposed new lot is served by an existing driveway and as such, no new curb cut will be required. If the existing driveway exceeds those grade standards, that might be an issue worth addressing at the hearing.

To the extent you perceive that your past application was treated in a discriminatory manner, I apologize if there has been any inconsistency in the approach taken by any of my predecessors in office and/or the Planning Commission. State wastewater permit requirements and driveway standards are not conditions precedent to obtaining subdivision approval; section 350.2(b) of the Subdivision Regulations merely states that "the Planning Commission **urges** the applicant to obtain a state on-site wastewater permit before submitting a final subdivision application". Driveway requirements might foreseeably, in some uncommon cases, cause a proposed subdivision to be rejected if, e.g., the Planning Commission finds that due to a proposed parcel's unique topography, it would be impossible to construct a driveway in compliance with restrictions on maximum grade. Here, by my understanding, there is already an existing driveway.

I hope that addresses some of your concerns, & would certainly recommend you attend the hearing. I can include your below e-mail in the hearing packet if you would like to refer those specific inquiries to the Planning Commission and applicant.

Thanks,

Sven Fedorow
Land Use Administrator
Town of Weathersfield
PO Box 550 5259 VT Route 5

Ascutney, VT 05030
802.674.2626
landuse@weathersfield.org

From: Anthony Z. Roisman <aroisman@nationallegalscholars.com>
Sent: Monday, August 26, 2019 8:33 PM
To: Sven Fedorow <Landuse@weathersfield.org>
Cc: Amy Plavin <whconnemaras@gmail.com>
Subject: Re: Swanson subdivision

Where is his septic design or at least evidence of a successful perc test? Where is the proposed location for a well? Where is the evidence from the highway department that the lot has an acceptable access point to Skyline drive? Where is the evidence that the driveway will not be too steep? Where is the evidence showing that the new lot is in an area for residential housing and the lot meets the size minimum? We had to show all of that to get planning commission approval and it would be a gross discrimination if the same standards were applied to all subdivision applicants. Tony

Anthony Roisman
394 Skyline Drive
Weathersfield VT
802-885-4162
aroisman@nationallegalscholars.com

On Aug 26, 2019, at 11:16 AM, Sven Fedorow <Landuse@weathersfield.org> wrote:

Dear Amy/Tony,

My apologies for the delayed response to your inquiries regarding the proposed subdivision at 482 Skyline Drive as I have just returned from a week long vacation. See the attached for details of the proposal to divide the 59.222ac. parcel into two parcels measuring (1) 50.391ac. & (2) 8.931ac. The final plat hearing will be on September 9th. I did not require that a separate application form be submitted, so the attached sketch plan represents the entirety of the documentation relating to the proposal, other than payment of the \$215 fee.

Let me know if you have any other questions,

Sven Fedorow
Land Use Administrator
Town of Weathersfield
PO Box 550 5259 VT Route 5
Ascutney, VT 05030
802.674.2626
landuse@weathersfield.org

From: Allan Swanson <ahs482@sover.net>
Sent: Monday, August 5, 2019 3:56 PM

To: Sven Fedorow <Landuse@weathersfield.org>
Cc: Jean Swanson <jeank@sover.net>; 'Allan Swanson' <ahs482@sover.net>
Subject: FW: Sketch

Sven

Here is the latest plan of our two lot subdivision on the west side of Skyline Drive. I have called Hayner/Swanson requesting plans showing the boundaries and topographic contours at a scale of 100 feet to an inch to be sent direct to you at P.O. Box 550.
I think there is sufficient info on these plans to cover the SKETCH plan requirements.

Allan

From: Paul Carideo [<mailto:pcarideo@hayner-swanson.com>]
Sent: Thursday, July 25, 2019 11:05 AM
To: Allan Swanson; Paul Liversidge
Subject: RE: Sketch

Allan,

I have revised Detail "B" and corrected my scriveners error relative to the tie course bearing.
This should make it more legible and easier to understand.

Thank you for your review and comment.

Paul Carideo
Survey Project Manager/Septic Designer
Hayner/Swanson, Inc.
Civil Engineers & Land Surveyors
3 Congress Street
Nashua, NH 03062
phone: 603.883.2057 x152
fax: 603.883.5057
pcarideo@hayner-swanson.com
www.hayner-swanson.com

From: Allan Swanson [<mailto:ahs482@sover.net>]
Sent: Thursday, July 25, 2019 6:51 AM
To: 'Paul Carideo' <pcarideo@hayner-swanson.com>; 'Paul Liversidge' <pliversidge@hayner-swanson.com>
Subject: Sketch

FYI

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

<3745 WS61-2019-Boundary-Revised.pdf>

2.5.6 Conservation (C-10)

(A) Purpose. In order to preserve large contiguous areas of forest and agricultural resource lands, lot sizes may be as small as one (1) acre within a parcel area in the C-10 District, provided the Lot Area Minimum in subsection (D) below is met. Any development involving more than one lot will require a subdivision application. The parcel areas are defined as the acreage on the effective date of this provision **<EFFECTIVE DATE>** of the contiguous taxable property under the same ownership or control. The C-10 District consists of areas in which sparse development is wise for one or more of the following reasons: remote from roads or utility services; location of scarce mineral resources, prime agricultural or forested land, significant or irreplaceable natural, historic, recreational or scenic resources; slope elevations exceeding 25%; land over 1,500 feet in elevation; severe soil limitations; risk of flooding; or the presence of flood ways.

(B) Permitted Uses:

1. Accessory Dwelling Unit (Section 4.1)
2. Accessory Use or Structure
3. Adult Day Care Service (Section 4.2.2)
4. Athletic Structures
5. Bed and Breakfast
6. Family Child Care Home (Section 4.2)
7. Home-based Business, Level 1 (Section 4.5)
8. Ponds (Section 3.2.5)
9. Seasonal Roadside Stand
10. Signs (Section 3.8)
11. Single-family Dwelling
12. Swimming Pool
13. Two-family Dwelling

No permit required, but must inform Land Use Administrator:

1. Agriculture/Forestry
2. Babysitting Service
3. Home-based Occupation
4. Minor Structures
5. Temporary Signs

(C) Conditional Uses:

1. Adult Day Care Facility^{A,B} (Section 4.2.2)
2. Campground, Children's Camp or Resort^{A,B}
3. Cemetery
4. Community Non-Profit^{A,B} (See definition)
5. Contractor's Storage^{A,B}
6. Dock
7. Family Child Care Facility^{A,B} (See definition)
8. Home-based Business, Level 2 (Section 4.5)
9. Inn or Small Hotel^{A,B}
10. Medical Facility^{A,B} (See definition)
11. Outdoor Recreation Facility^{A,B} (See definition)
12. Public Water or Sewage Treatment Plant^{A,B}
13. Resource Extraction^{A,B} (Section 4.3)
14. School^{A,B} (See definition)
15. Wireless Communication Facility^B (See Section 4.19 and definition)
- 16.*** **Other uses** (as determined by the Zoning Board of Adjustment to be of a similar type and character to the uses listed above and consistent with the purposes of this District)

^A Site Plan Review required

^B Certificate of Occupancy required

(D) Lot Area Minimum

Parcel Area (Acres)	Permitted Number of Lots
1-9.9	1
10-19.9	2
20-29.9	3
30-39.9	4
40-49.9	5
50-59.9	6
60-99.9	10
100+	15

(E) Dimensional Standards

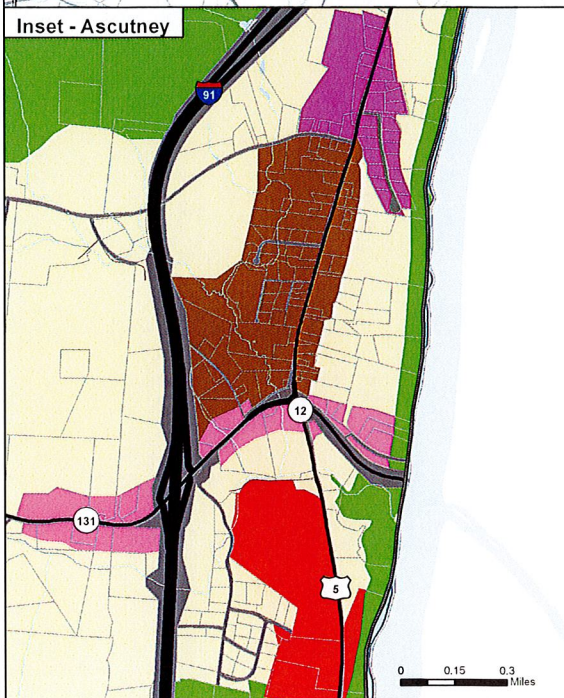
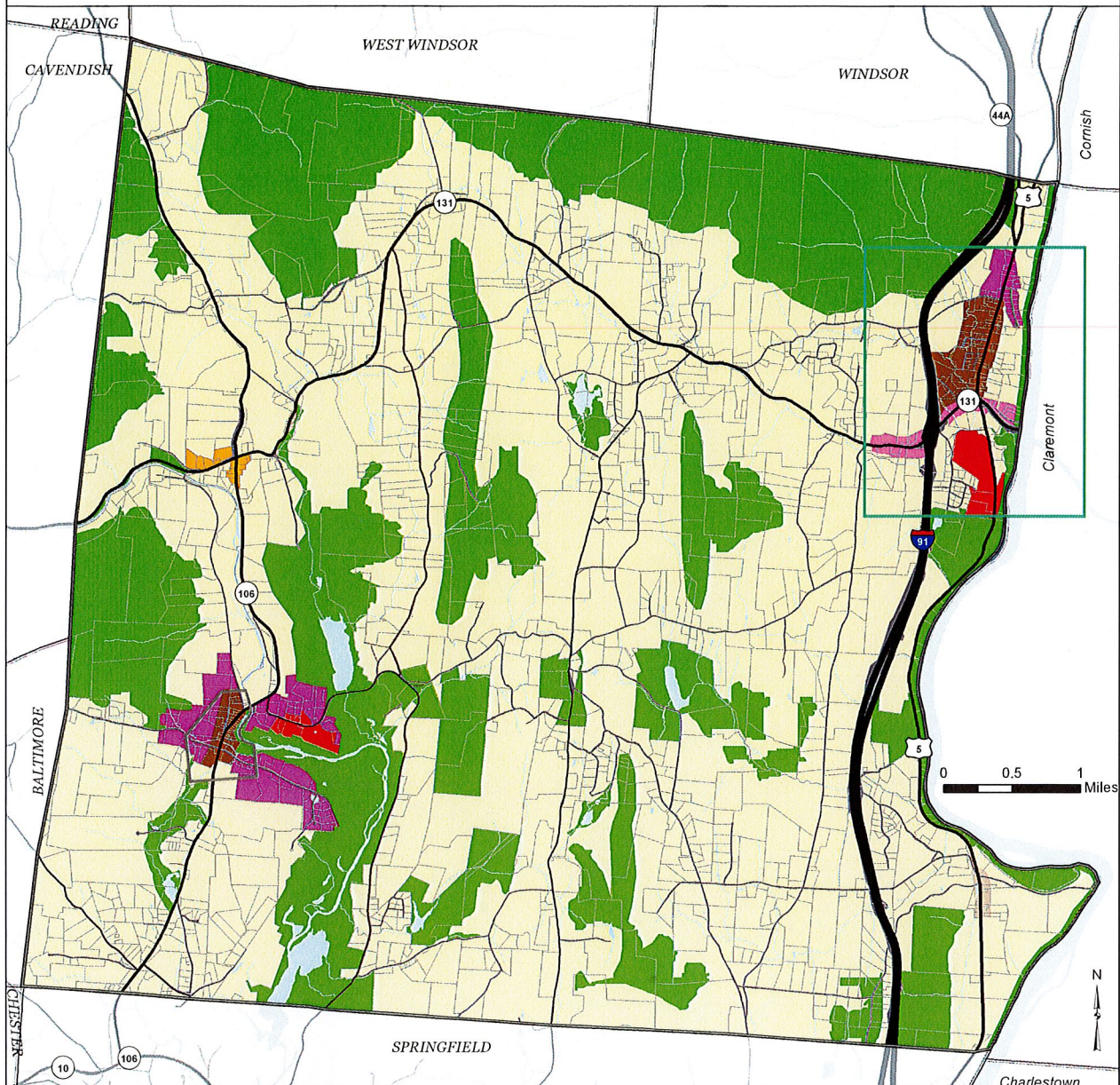
Minimum Lot Size	See Table (D)
Minimum Frontage	200 feet
Minimum Front Setback	40 feet
Minimum Rear Setback	25 feet
Minimum Side Setback	25 feet
Maximum Height	35 feet (see Height definition)

(F) Supplemental District Standards

- (1) Only one principal residential use is allowed per parcel of land.
- (2) All uses within this district must meet the requirements of **Off-Street Parking** (Section 3.5), **Outdoor Lighting** (Section 3.6), and **Performance Standards** (Section 3.7).
- (3) A **Driveway Access Permit** is required for any use or development of a parcel with frontage on a town road without existing road access. The VTrans B-76 Standard applies to the construction of all driveways. See Section X.X.X for a complete list of requirements.
- (4) Special rules apply to uses or developments in or near the following areas: **Prime Agricultural Soils** (Section 3.2.1), **Connecticut River** (Section 3.2.3), **Habitat Areas** (Section X.X.X), **Streambank Conservation Areas** (Section 3.2.8), **Wetlands Areas** (Section 3.2.9), and **Flood Plains and Floodways** (Section 5.7).

Town of Weathersfield, Vermont
Town Plan Update 2017

Future Land Use Map
Adopted: May 1, 2017



Future Land Use Categories

- Village
- Hamlet
- Light Industrial
- Mixed Use - Downer's Corners
- Mixed Use - Interchange
- Residential
- Rural
- Conservation

ROW

- Interstate
- US and State Highway
- Class 2 Town Highway
- Class 3 Town Highway

- River
- Lakes and Ponds
- Parcel Boundary
- Village of Perkinsville
- Weathersfield Boundary
- Other Town Boundaries

Future Land Use categories were last amended in September 2016 and May 2013. 2013 categories were likely adopted in 2013 as part of the Town Plan. The 2016 was adopted as part of the Town Plan on May 1, 2017.

Data Sources: Future Land Use Categories (Town and RPC 2017), Parcel Boundary (CA 2016), Roads (VTrans 2015), Town & Village Boundaries (VCGI 2012 & NHGranit 2009), Rivers and Ponds (VHD 2008).

VT State Plane, Meters, NAD 83

For planning purposes only.
 Not for regulatory interpretation.

Data depicted on this map is based on best available information.



SOUTHERN WINDSOR COUNTY
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Map Drawn 09/28/2016