



# 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**

**Remote option – Zoom details below**

**Monday, July 11, 2022 – 6:30 PM**

- 
1. Call to Order
  2. Agenda Review
  3. Comments from the Chair and Land Use Administrator
  4. Comment from Citizens regarding items not on the agenda
  5. Approval of Meeting Minutes – June 27, 2022
  6. Sketch Plan Review – Martel
  7. Subdivision – Bylaws / PUD Review / Checklist – State mandated items to verify
  8. Discussion of plotter and mapping software for Land Use office
  9. Discussion of the Planning Commission page on the Town website – content / responsible parties
  10. Town Plan – Energy section
  11. Town Plan – General
  12. Bylaws – PUD Review
  13. Bylaws – Flood Plains and Floodways
  14. Bylaws – Conditional Use Review, Permit Exemptions, Waivers
  15. Discussion of Items for Future Agendas
  16. Any other business that can be legally discussed
  17. Adjourn

The next regularly scheduled meeting of the Planning Commission will be **Monday, July 25, 2022 - 6:30 PM**, Martin Memorial Hall.

Due to public demand and COVID-19; the Town has changed its public meeting platform from GoToMeeting to Zoom. For computer access, please go to this website, where you will find instructions and links to the meeting: <https://www.weathersfieldvt.org/home/news/public-meetings-zoom>

To join any public meeting via phone, dial (929) 205-6099. When prompted, enter meeting ID 542-595-4364. You will not have a participant ID. Please press # when prompted to skip this section. The passcode for all meetings is 8021.

AGENDA ITEM

5

Planning Commission  
Martin Memorial Hall  
5459 Rte 5 Ascutney, VT  
Planning Commission Meeting  
DRAFT Monday, June 27, 2022 6:30 PM

Planning Commission Members Present:

Paul Tillman  
Howard Beach  
Michael Todd  
Joseph Bublat

Planning Commission Members Absent: Tyler Harwell

Ryan Gumbart, Land Use Administrator

Attendees: deForest Bearse, Patti Arrison, Steve Aikenhead, Beth Hunton, Brian Bosenberg, Jonah Blum, Rika Henderson, Kathy Brown-Blum, Maureen Rogan, Beth Gorton, Mary Gulbransen, Ginger Wimberg, Bart Mair, Hank Ainley, Marina Garland, George Ainley, Julie Levy

Online Attendees: Lynn Beach, Brandon Gulnick, Todd Hindinger

1.) Call to Order made by Paul Tillman, Chair at 6:34 pm.

2.) Agenda Review

None

3.) Comments from the Chair and Land Use Administrator

Paul Tillman noted that the majority of the people in attendance likely there for the discussion on Agenda Item #7, which will be discussed, but Item #7 will be a long process and there will be much more discussion. No decisions will be made tonight on that topic.

4.) Comments from Citizens regarding items not on the agenda.

None

5.) Comments from Town Manager on any items not on the agenda

None

6.) Approval of Meeting Minutes –May 9, 2022 and June 13, 2022

Howard Beach made a motion to approve the minutes from 5-9-22

Joseph Bublat– 2<sup>nd</sup>

No discussion

Vote – unanimous

Howard Beach made a motion to approve the minutes from 6-13-22

Paul Tillman– 2<sup>nd</sup>

No discussion

Vote – unanimous

7.) Discussion on Bylaws and Future Land Use map based on June 20, 2022, Selectboard Hearing outcome

Paul Tillman made everyone aware that the bylaws and map that were sent up to the Selectboard for approval were not accepted by the Selectboard. Brandon Gulnick collected some information from the Selectboard that they would like to see as well as Paul Tillman as received a lot of information from Citizens.

Ryan Gumbart has sent the Planning Commission a copy of the bylaws as they are with everything up to date to the best of their (Ryan Gumbart and deForest Bearse) ability.

Paul Tillman went around the table asking the Planning Commission what they would like while working on this. He would like more data to back up their decisions such as the changes to the C-10.

Bart Mair asked if the Selectboard provided the Planning Commission with any specific instructions. Paul Tillman said at this time they have not received anything specific, however Paul and Mike are on the Selectboard so they have an idea of what they want as well as Brandon Gulnick is collecting information from the Selectboard.

Beth Hunton asked if there would be further discussion on the definitions. Paul said there will be discussion at some point but right now they are going to focus on what the Selectboard wants. Beth also wanted to clarify that the yellow was what was added and the strikeout was what was deleted. Paul confirmed this was correct.

Brian Bosenberg asked if they could add the land that is conserved and can't be developed and if they could make it available in layers online for everyone. Paul said they are going to have further discussion regarding the maps later in the meeting about the maps.

Steve Aikenhead wanted to know if the messages that Paul received were distributed to all the commission members. Paul said not yet as they are still be collected, however, they are all public. They will be given to everyone in a packet.

Ginger Winberg wanted to know from the Commission why they think these changes are better? And is it true that in-Town would go from 1-Acre to ½ acre? Paul said they were thinking more development, less taxes for everyone. The ½ acre lots were not just for development, some of them were for the non-conforming lots.

Rika Henderson compared the waterways in our area to ponds and area in the Cape. Michael Todd agreed that there are many similarities between the 2 and that the Planning Commission tries to take those things into consideration.

Mary Gulbranson suggested that any land that belongs to the Corps of Engineers or the State of Vermont, can it not be listed as C-10? Paul Tillman said that they had discussed this and would be labeled differently when they update the map.

Patti Arrison had the feeling over the past few meetings that there might be some things missing from the Planning Commissions consideration. The problematic areas are the C-10 and development in the Villages. She said that David Fuller had said that there are no farms in Weathersfield anymore, and while there are no commercial dairy farms in Weathersfield there are a number of commercial farms; Split Rock, Cas Cad Nac, and Deep Meadow Farm. There is also Goulden Ridge Farm, Four Square Farm, and at the last meeting the family that have small family farms.

deForest Barse noted that the Town Plan under the facilities should have the long-range plan for the Fire Departments. It has not had it recently, but it should have.

Marina Garland said that affordability has come up a few times and someone said that if we go from C-10 to 3-5 that 3-5 would go for what C-10 used to go for. Changing zoning seems separate from how affordable the housing is. The power to decide our zoning does not give us the power to make the housing affordable.

Todd Hindinger wanted to hear about the process and he had sent eight or so comments to the Planning Commission and he wanted to make sure they received them. Paul confirmed that they were received. As for the process, the Planning Commission is back at square one. They want to have a much clearer document before having another hearing.

Beth Gorton stated that no one has brought up that the tax base goes up just by having smaller lot sizes because if you have 2 to 3 buildable lots in your 10-acres, you can be taxed as if you have 3 buildable lots. Michael Todd address this, he has 2 buildable lots.

Paul Tillman asked Ryan Gumbart for a clean map and bylaws to start fresh. He would also like a copy at the library and at Town Hall for people to have access to who don't have internet.

#### 8.) Discussion on remote vs in-person board member participation

Paul Tillman asked that the Planning Commission members to start attending meetings in person again.

#### 9.) Subdivision – Bylaws/PUD Review/Checklist – State mandated items to verify

10.) Discussion of plotter for Land Use Office – to print maps for review and meetings

Item #10 and #12 were combined. Paul would like to have Ryan get prices on plotters and printing process for multiple places as well as software titles and pricing to present at the next meeting so they the Planning Commission does not have rely on other sources for printing.

11.) Discussion of the Planning Commission Page on the Town website – content/responsible parties

Ryan and Paul will work with Brandon to update the Planning Commission web page. Going forward Paul and Ryan will be responsible for updates to the page.

12.) Discussion of a mapping software program – read and change maps as needed

Item #10 and #12 were combined. Paul would like to have Ryan get prices on plotters and printing process for multiple places as well as software titles and pricing to present at the next meeting so they the Planning Commission does not have rely on other sources for printing.

13.) Discussion of the Role of Regional Planning has with our board and what would be needed to move forward with any bylaw/bylaw/map/town plan changes – State statute of legal obligations. – tabled for a future meeting.

14.) Town Plan – Energy Section – tabled for a future meeting.

15.) Town Plan – General tabled for a future meeting.

16.) Bylaws – 2<sup>nd</sup> Round update – tabled for a future meeting.

17.) Discussion of Items for Future Agendas

- Plotter pricing
- Mapping software pricing
- Town Plan – Energy Section
- Town Plan – General
- Bylaws

18.) Any other business that can be legally discussed

None

19.) Adjourn

Howard Beach made a motion to adjourn at 8:53 pm

Michael Todd – 2<sup>nd</sup>

No discussion

Vote - unanimous

Next Planning Commission Meeting is scheduled for Monday, July, 11 2022 at 6:30 pm at Martin Memorial Hall.

Respectfully,  
Chauncie Tillman  
Recording Secretary



**Planning Commission**

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Howard Beach, Vice - Chair

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Joseph Bublat, Clerk

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Tyler Harwell, Chairperson

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Paul Tillman, Chair

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Michael Todd, Chairperson



DRAFT



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AGENDA ITEM

6

# Town of Weathersfield

## Subdivision Application

Town of Weathersfield, ATTN: Land Use Administrator, P.O. Box 550, Ascutney, VT 05030  
 (802) 674-2626 | landuse@weathersfield.org

### Property Information

Address 7228 VT Rt 131  
 Town, State, Zip Perkinsville, VT 05151  
 Parcel ID & Zoning District 07-02-03 HCEC10  
 Lot Size (acres) 19.7  
 Road Frontage (ft) 55.56'  
 Existing Principal Use of Land residential

### Subdivision Details

Total Number of Parcels to be Created: 2

Parcel 1: 9.81 acres Parcel 7: \_\_\_\_\_ acres  
 Parcel 2: 7.25 acres Parcel 8: \_\_\_\_\_ acres  
 Parcel 3: \_\_\_\_\_ acres Parcel 9: \_\_\_\_\_ acres  
 Parcel 4: \_\_\_\_\_ acres Parcel 10: \_\_\_\_\_ acres  
 Parcel 5: \_\_\_\_\_ acres Parcel 11: \_\_\_\_\_ acres  
 Parcel 6: \_\_\_\_\_ acres Parcel 12: \_\_\_\_\_ acres

If more than 12 parcels, attach information on separate sheet

### Applicant

Name(s) Mandy Martel  
 Name(s) Greg Martel  
 Mailing Address 4125 Rt. 106  
 Town, State, Zip Perkinsville, VT 05151  
 Telephone # 802-299-1969  
 Mobile # 802-738-6229  
 E-mail Address mandy.martel19@gmail.com

### Landowner (if different)

Name(s) Heidi Mitchell  
 Name(s) \_\_\_\_\_  
 Mailing Address 300 Old Post Road  
 Town, State, Zip Bradford, VT 05033  
 Telephone # 802-222-9649  
 Mobile # \_\_\_\_\_  
 E-mail Address Heidi.R.Mitchell@hitchcock.org

### Road Access Information -- by Parcel

	EXISTING			NON-EXISTING		
	State	Local	Easement/Right-of-way	State	Local	Easement/Right-of-way
Parcel 1:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 2:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 3:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 4:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 5:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 6:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 7:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 8:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 9:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 10:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 11:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parcel 12:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Permit Details -- by Agency (if multiple, list all)

Wastewater Permit # : in process  
 (ALWAYS applicable, call Regional Permit Specialist, (802) 279-4747 or john.fay@vermont.gov)

Act 250 Permit # : N/A  
 (IF applicable, call Act 250 District Coordinator, (802) 289-0597 or stephanie.gile@vermont.gov)

Is the subdivision for ten lots or more, or cumulatively ten lots of more in a five year period?  Yes  No

If yes, you must obtain an Act 250 permit for the subdivision. Contact Stephanie Gile, Natural Resources Board, Act 250 District Coordinator, District 2 at stephanie.gile@vermont.gov or (802) 289-0597

Description

In the space provided below, please provide a description of how the proposed subdivision will likely reflect the district settlement pattern where it is located (see Section 330 of the Subdivision Regulations for district settlement pattern descriptions), and how the proposed subdivision will reflect the goals and objectives set forth in the Town Plan, with particular emphasis on the Land Use section. If additional space is required, attach additional sheets to this page.

We plan to build a small single family home with a garage using the existing log landing for our home site and the existing log road for our driveway that were created decades ago. This will help us achieve our goal of clearing the least amount of land.

Landowner & Applicant Acknowledgements

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

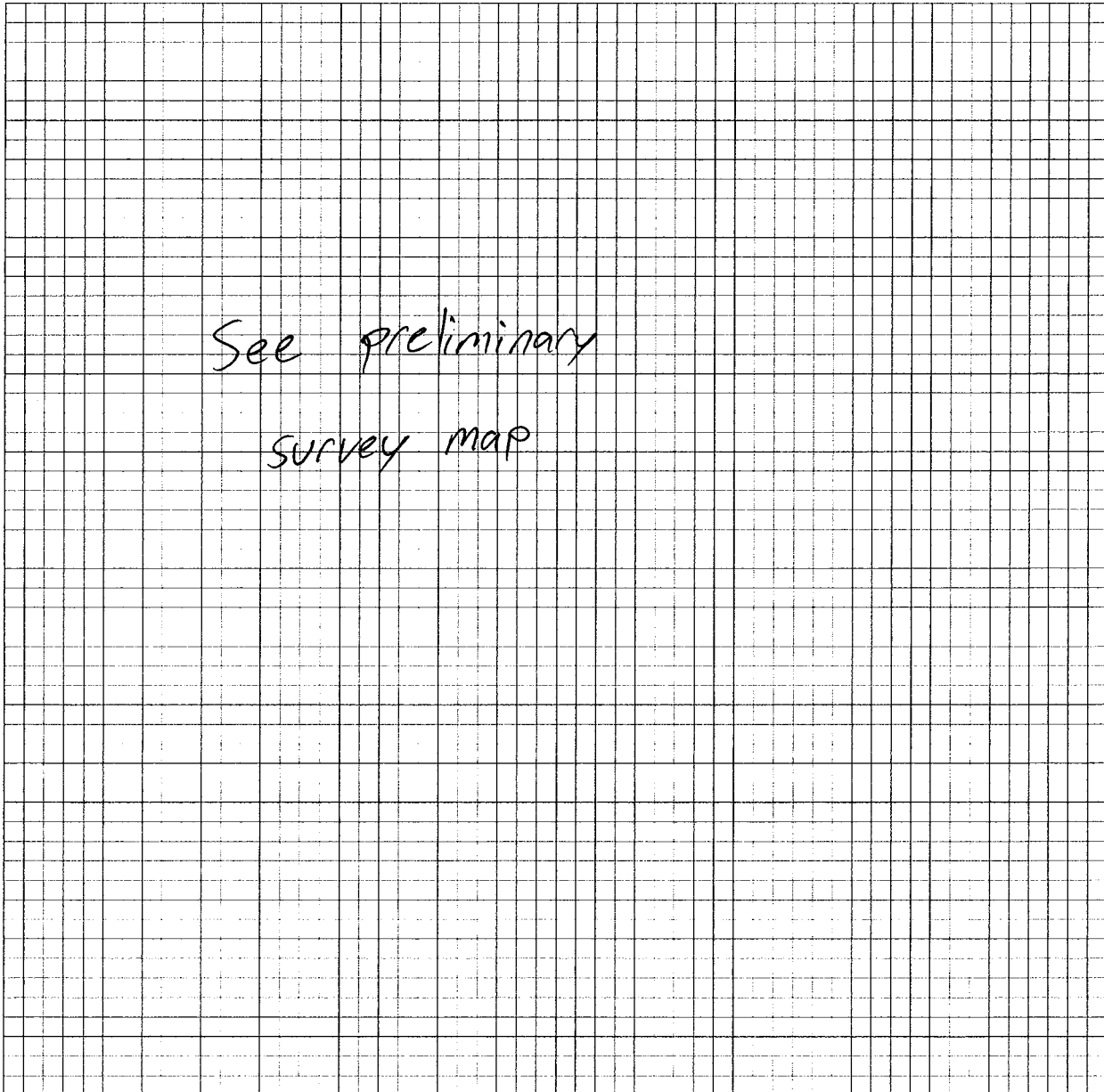
- ◆ Applications will not be considered properly filed and vested for rights to review under any applicable laws until fees are paid in full and all items necessary to determine compliance with this bylaw are complete and submitted;
- ◆ Vermont law allows the Land Use Administrator 30 days to act on this application;
- ◆ All submissions are public record available for inspection and copy;
- ◆ All representations made in this application and the materials accompanying it are true and accurate to the best of my knowledge. Omission or misstatement of any material fact on this application (which would warrant refusing the permit or approval) shall be grounds for revoking the permit or approval;
- ◆ Private agreements (such as covenants, deed restrictions and easements) may apply, be more or less restrictive than Weathersfield's bylaws and may affect this project. By signing, I acknowledge that it is my responsibility to disclose and comply with these agreements;
- ◆ State and Federal regulations may apply, be more or less restrictive than Weathersfield's bylaws, and may affect this project. By signing, I acknowledge that it is my responsibility to obtain all required State and Federal permits;
- ◆ No development or work may commence until receipt of all applicable permits and approvals;
- ◆ If this application is approved, I must post the Zoning Permit within view of the public right-of-way most nearly adjacent to the subject property until the period in which an appeal may be filed has expired; and
- ◆ Reasonable access to the subject property is to be granted to the Land Use Administrator, Planning Commission, designees, and the Listers Office for the purpose of establishing compliance with this permit and for the purpose of determining what, if any consequence the development will have on the property's assessment.

Landowner Signature Heidi Mitchell  
Date 2/8/22

Applicant Signature Stephanie Gile  
Date 2/8/22

**Sketch Plan Drawing**

*Draw an aerial view of the property described in this application showing the actual shape, property lines, and dimensions of land. Include the shape, size and location of all **existing and proposed structures** (principal and accessory) on the property with measurements to the front, side and rear property boundary lines (setbacks) and distances between each structure. Identify the existing and intended uses and areas of the use of and all buildings, and the existing and intended location of **septic/sewer, electric, telephone, cable and water utilities**. It is strongly recommended that you review all of Article III: Subdivision Standards from the Subdivision Regulations prior to completing this sketch.*



Land Use Administrator Signature \_\_\_\_\_ Applicant Signature \_\_\_\_\_

February 7, 2022

Town of Weathersfield

To Whom It May Concern,

I fully give my permission for Greg and Mandy Martel to stand in place for me at the Planning Board Meetings coming up to discuss the Sub-Division of my property located at 7228 Rte 131, Perkinsville.

I have reviewed and approve the Survey Map completed by Gary Rappanotti.

I believe this would be a beneficial transaction for both parties.

Should question come up I can be reached by telephone at 802-222-9649.

Thank you



Heidi Mitchell

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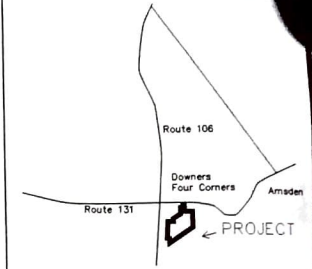
# ZONED HIGHWAY COMMERCIAL (HC)

LAND OF  
Patrick & Victoria  
Walsh  
V.181 P.2  
TAX MAP 7-02-5&10

### Waiver of Development Rights for Lot 2

In order to comply with State Of Vermont, wastewater regulations, the grantees shall not construct or erect any structure or building on the above mentioned lots if the useful occupancy of that structure will require the installation of a sewage disposal system. The restriction does not apply if the grantee or assigns obtains an approved permit from the town. This condition runs with the land and binds the grantee and successors in interest.

### LOCATION MAP



LAND OF  
David & Nancy Behn  
TAX MAP 7-02-16



LAND OF  
Jeffrey Spurr  
V.85 P.297  
TAX MAP 7-02-15A

LAND OF  
Harold Lamica  
V.160 P.648  
TAX MAP 7-02-15

LOT 2  
7.25 ACRES±

LOT 1  
9.81 ACRES±

Cell Tower Easement  
American Towers  
V.188 P.144,151  
100' x 100' 740

LAND OF  
James W. & Shirley A. Parry  
V.138 P.26  
TAX MAP 7-02-4

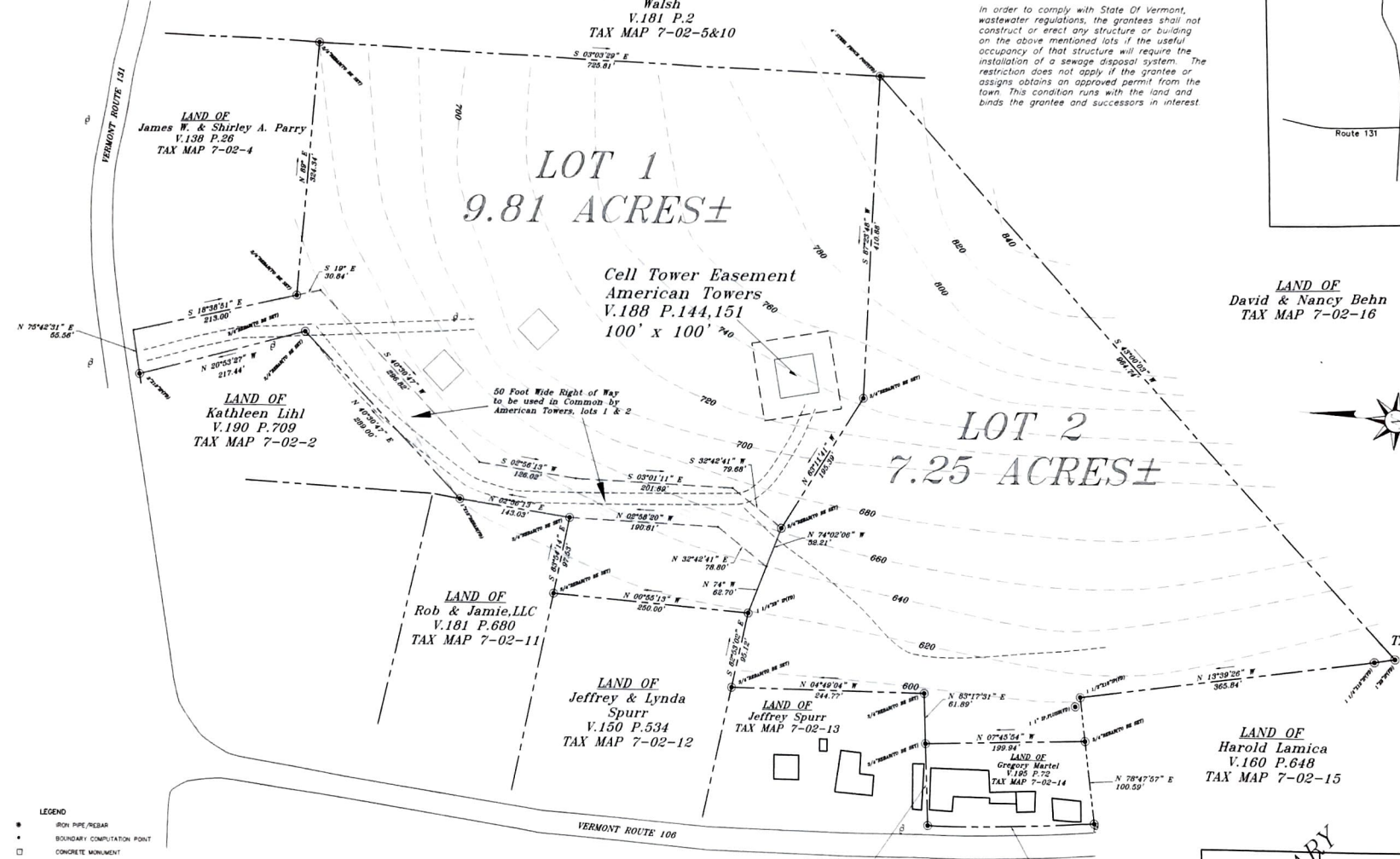
LAND OF  
Kathleen Lihl  
V.190 P.709  
TAX MAP 7-02-2

LAND OF  
Rob & Jamie, LLC  
V.181 P.680  
TAX MAP 7-02-11

LAND OF  
Jeffrey & Lynda  
Spurr  
V.150 P.534  
TAX MAP 7-02-12

LAND OF  
Jeffrey Spurr  
TAX MAP 7-02-13

LAND OF  
Gregory Martel  
V.185 P.72  
TAX MAP 7-02-14



- LEGEND
- IRON PIPE/REBAR
  - BOUNDARY COMPUTATION POINT
  - CONCRETE MONUMENT
  - PROPERTY LINE
  - STONERAIL
  - - - - - BARRIERS FENCE
  - ~ ~ ~ ~ ~ STREAM
  - ⊕ UTILITY POLE
  - WET AREA
  - ==== PAVED ROAD
  - GRAVEL ROAD
  - TRAIL
  - ===== CULVERT

- NOTES
- The parcel shown was plotted from a closed theodolite and E.D.M. survey that meets the requirements for a subdivision survey as set forth by the State of Vermont.
  - The bearings shown on this plan refer to Vermont State Plane True North and same only to define angular relationships between the courses shown.
  - The parcel shown was conveyed to the Heidi Mitchell in volume 180 page 448 of the Weatherfield Land Records.
  - The parcel shown is subject to existing utility easements of record.

WEATHERFIELD TOWN CLERK  
RECEIVED FOR RECORD  
NOV 20 2012  
AT \_\_\_\_\_ o'clock \_\_\_\_\_ min. \_\_\_\_\_ AM  
and recorder in file \_\_\_\_\_ map \_\_\_\_\_  
attest \_\_\_\_\_ town clerk

FINAL PLAT

I, the undersigned, being duly qualified and authorized to do so, do hereby certify that the above is a true and correct copy of the original plan as shown to me by the applicant.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

Notary Public for the State of Vermont

I hereby certify to the best of my knowledge that the boundaries shown on this plan are consistent with physical evidence as found in the field, deeds and plans of record and other sources shown on this plan.

VT L.S. #031

PRELIMINARY

Subdivision Plan  
*Heidi Mitchell*  
Weatherfield Vermont

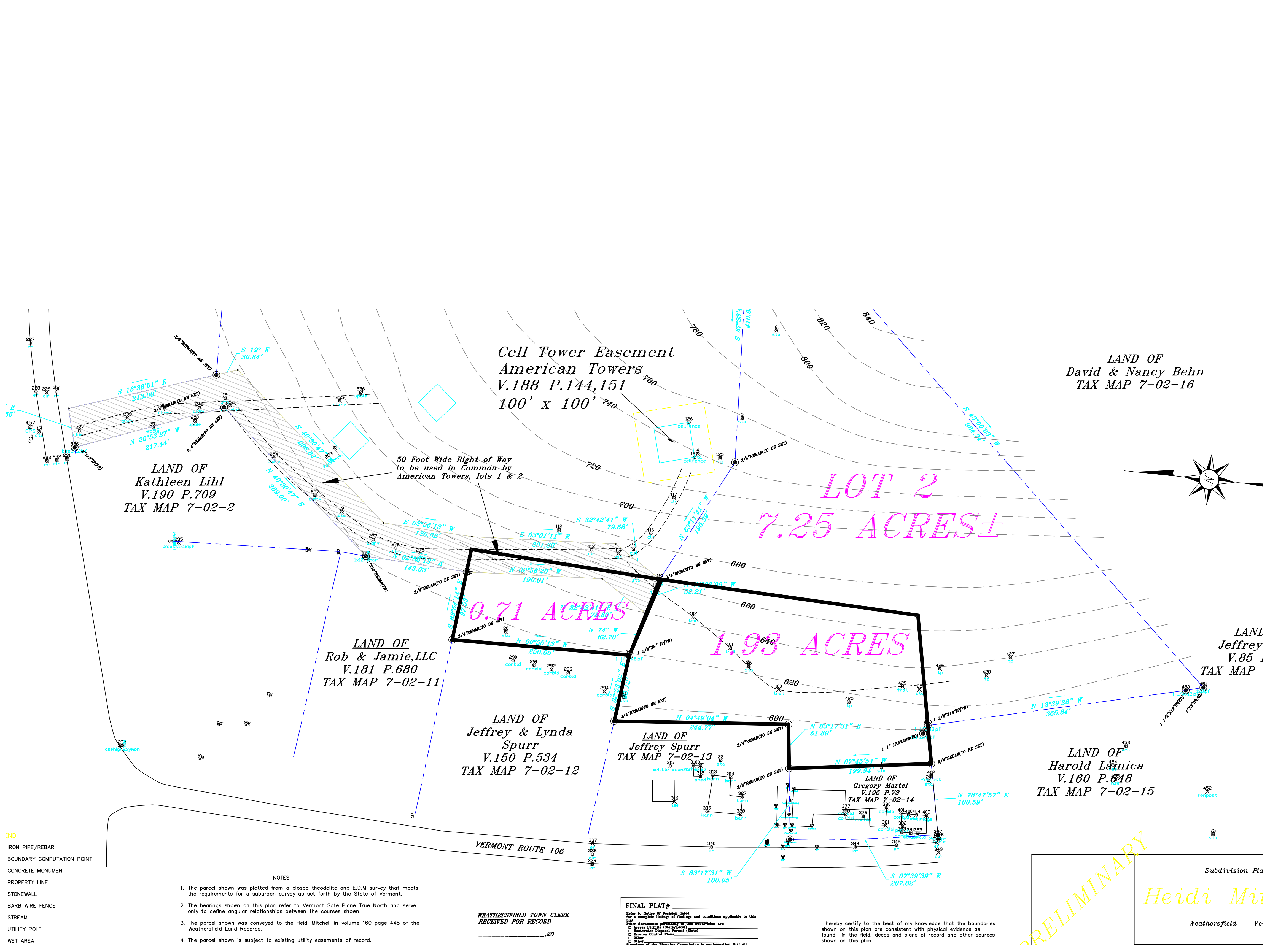
GARY RAPANOTTI L.S.  
Jan 7, 2022 17:40 21-1297



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**Cell Tower Easement**  
**American Towers**  
**V.188 P.144,151**  
**100' x 100'**

**LAND OF**  
**David & Nancy Behn**  
**TAX MAP 7-02-16**

**LAND OF**  
**Kathleen Lihl**  
**V.190 P.709**  
**TAX MAP 7-02-2**

**LOT 2**  
**7.25 ACRES±**

**LAND OF**  
**Rob & Jamie, LLC**  
**V.181 P.680**  
**TAX MAP 7-02-11**

**LAND OF**  
**Jeffrey & Lynda Spurr**  
**V.150 P.534**  
**TAX MAP 7-02-12**

**LAND OF**  
**Jeffrey Spurr**  
**TAX MAP 7-02-13**

**LAND OF**  
**Gregory Martel**  
**V.195 P.72**  
**TAX MAP 7-02-14**

**LAND OF**  
**Harold Lamica**  
**V.160 P.648**  
**TAX MAP 7-02-15**

**LAND OF**  
**Jeffrey**  
**V.85 P.1**  
**TAX MAP**

**VERMONT ROUTE 106**

**NOTES**

- The parcel shown was plotted from a closed theodolite and E.D.M survey that meets the requirements for a suburban survey as set forth by the State of Vermont.
- The bearings shown on this plan refer to Vermont State Plane True North and serve only to define angular relationships between the courses shown.
- The parcel shown was conveyed to the Heidi Mitchell in volume 160 page 448 of the Weathersfield Land Records.
- The parcel shown is subject to existing utility easements of record.

**WEATHERSFIELD TOWN CLERK**  
**RECEIVED FOR RECORD**

<b>FINAL PLAT#</b>
Refer to Notice of Decision dated
For a complete listing of findings and conditions applicable to this
plat.
Other documents pertaining to this subdivision are:
<input type="checkbox"/> Access Permits (State/Local)
<input type="checkbox"/> Statewide General Permit (State)
<input type="checkbox"/> Erosion Control Plans
<input type="checkbox"/> Other
Signature of the Planning Commission in confirmation that all

I hereby certify to the best of my knowledge that the boundaries shown on this plan are consistent with physical evidence as found in the field, deeds and plans of record and other sources shown on this plan.

**PRELIMINARY**

Subdivision Plat  
**Heidi Mitchell**  
 Weathersfield Vermont

IND  
 IRON PIPE/REBAR  
 BOUNDARY COMPUTATION POINT  
 CONCRETE MONUMENT  
 PROPERTY LINE  
 STONEWALL  
 BARB WIRE FENCE  
 STREAM  
 UTILITY POLE  
 WET AREA

AGENDA ITEM

7

# The Vermont Statutes Online

## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4418)

#### § 4418. Subdivision bylaws

In order to guide community settlement patterns and to ensure the efficient extension of services, utilities, and facilities as land is developed, a municipality may regulate the division of a lot or parcel of land into two or more lots or other division of land for sale, development, or lease. Subdivision bylaws shall establish standards and procedures for approval, modification, or disapproval of plats of land and approval or modification of plats previously filed in the office of the municipal clerk or land records.

(1) Subdivision bylaws shall be administered in accordance with the requirements of subchapter 10 of this chapter, and shall contain:

(A) Procedures and requirements for the design, submission, and processing of plats, any drawing and plans, and any other documentation required for review of subdivisions.

(B) Standards for the design and layout of streets, sidewalks, curbs, gutters, streetlights, fire hydrants, landscaping, water, sewage and stormwater management facilities, public and private utilities, and other necessary improvements as may be specified in a municipal plan. Standards in accordance with subdivision 4412(3) of this title shall be required for lots without frontage on or access to public roads or public waters.

(C) Standards for the design and configuration of parcel boundaries and location of associated improvements necessary to implement the municipal plan and achieve the desired settlement pattern for the neighborhood, area, or district in which the subdivision is located.

(D) Standards for the protection of natural resources and cultural features and the preservation of open space, as appropriate in the municipality.

(2) Subdivision bylaws may include:

(A) Provisions allowing the appropriate municipal panel to waive or modify, subject to appropriate conditions, the provision of any or all improvements and requirements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

(B) Procedures for conceptual, preliminary, partial, and other reviews preceding submission of a subdivision plat, including any administrative reviews.

(C) Specific development standards to promote the conservation of energy or to permit the utilization of renewable energy resources, or both.

(D) State standards and criteria under 10 V.S.A. § 6086(a). (Added 2003, No. 115 (Adj. Sess.), § 95.)

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**Section 230. Sketch Plan Review (all subdivisions)** - Discussion sheet

Sketch Plan # \_\_\_\_\_

Subdivider's Name \_\_\_\_\_

Date of Sketch Plan Review \_\_\_\_\_

*NOTE: The purpose of this sketch plan review is to have a preliminary discussion with the subdivider about the proposed project.*

1. Ask the subdivider to present the project to the Commission. Focus the discussion on:
  - the overall project concept
  - the project's context with the surrounding neighborhood and related resources.
  
2. Is there anyone from the general public here with input on this project? ( ) Yes ( ) No  
Have any written comments from the general public on this project been received?  
( ) Yes ( ) No
  
3. Is there anyone from the municipality here with input on this project? ( ) Yes ( ) No  
Have any written comments from the municipality regarding this project been received?  
( ) Yes ( ) No
  
4. Review the project taking into consideration the requirements of:
  - the subdivision regulations
  - the zoning bylaws
  - other ordinances and policies in effectDoes the proposed project conform to the subdivision regulations? ( ) Yes ( ) No  
Does the proposed project conform to the zoning bylaws? ( ) Yes ( ) No  
Does this project conform to all other ordinances and policies in effect? ( ) Yes ( ) No  
No  
Are waivers being sought to resolve conflicts? ( ) Yes ( ) No
  
5. Does the sketch plan conform to the Town Plan? ( ) Yes ( ) No

6. Will the project be in conflict with developments proposed by any public agency, existing private and public development, facilities and services? ( ) Yes ( ) No
7. Are there any special problems with the project? ( ) Yes ( ) No
8. Is this the best possible design for both the applicant and the Town? ( ) Yes ( ) No

### Planning Commission Recommendations

Within thirty (30) days of the final meeting with the applicant, the Planning Commission, **based on the information provided in the application**, shall issue recommendations in writing:

(1) A preliminary determination that the proposed subdivision generally

( ) conforms ( ) does not conform

to applicable planning and design standards pursuant to Article 3 of these regulations, and with the goals, objectives and policies of the Town Plan, and other municipal regulations currently in effect.

(2) Recommendations for changes in the design of this project include:

---

(3) The following additional information is requested for the final subdivision application for this project (see Table 2.1).

---

(4) The following additional studies or supporting documentation is required for this project:

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(5) A preliminary plan review ( ) is ( ) is not required for this project in accordance with Section 240.

(6) A master plan ( ) is ( ) is not required for this project because the land may support subsequent subdivisions or public facilities are planned for the vicinity in the Capital Budget and Program and/or Town Plan. The master plan is intended to plan for all possible future subdivisions in accordance with these Regulations and the Zoning Bylaws in effect, to achieve the most efficient subdivision infrastructure plan, and not preclude the potential for future subdivisions. The master plan is to help guide the subdivider and Planning Commission in any subsequent subdivision applications for the affected lands.



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# Town of Weathersfield VT

## Final Plat/Subdivision Checklist



### Plat/Mapping and Document Requirements

- 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 designation and boundaries
- Existing elevation (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, intersections, parking areas)
- State permits & documents (wastewater, Act 250, Project Review Sheet)

#### Continued:

- 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
- Existing structures (house, sheds, garage, outbuildings)

#### Approved Final Plat Mylar Title Block: Rev 0

FINAL PLAT# \_\_\_\_\_

Refer to Notice Of Decision dated \_\_\_\_\_ for a complete listings of findings and conditions applicable to this plat.

other documents pertaining to this subdivision are:

- Access Permits (State/Local)
- Wastewater Disposal Permit (State) \_\_\_\_\_
- Erosion Control Plans \_\_\_\_\_
- Other \_\_\_\_\_

Signature of the Planning Commission is conformation that all of the conditions of approval for this subdivision have been:

- Completed
- Bonded for completion within one (1) year of the date of signature.

Signature \_\_\_\_\_

Date \_\_\_\_\_

### Surveyed

#### Existing:

- Lot lines
- Dimensions
- Parcel numbers
- Lot numbers

#### 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

#### Development Limitation Areas:

- Slopes with a gradient of 25% or greater
- Deer wintering habitat areas
- Rare plants 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

### Additional Information

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 cost and benefits to the Town)
- Other information of studies necessary for the Commission to conduct a comprehensive review

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# The Vermont Statutes Online

## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4417)

#### § 4417. Planned unit development

(a) Any municipality adopting a bylaw should provide for planned unit developments to permit flexibility in the application of land development regulations for the purposes of section 4302 of this title and in conformance with the municipal plan. The following may be purposes for planned unit development bylaws:

(1) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in downtowns, village centers, new town centers, and associated neighborhoods.

(2) To implement the policies of the municipal plan, such as the provision of affordable housing.

(3) To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.

(4) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.

(5) To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.

(6) To provide for efficient use of public facilities and infrastructure.

(7) To encourage and preserve opportunities for energy-efficient development and redevelopment.

(b) The application of planned unit development bylaws to a proposed development may:

(1) Involve single or multiple properties and one owner or multiple owners. Procedures for application and review of multiple owners or properties under a common application, if allowed, shall be specified in the bylaws.

(2) Be limited to parcels that have a minimum area specified in the bylaws or a minimum size or number of units.

(3) Be mandatory for land located in specified zoning districts or for projects of a specified type or magnitude as provided in the bylaws.

(c) Planned unit development bylaws adopted pursuant to this section at a minimum shall include the following provisions:

(1) A statement of purpose in conformance with the purposes of the municipal plan and bylaws.

(2) The development review process to be used for review of planned unit developments to include conditional use or subdivision review procedures, or both, as specified in the bylaws.

(3) Specifications, or reference to specifications, for all application documents and plan drawings.

(4) Standards for the review of proposed planned unit developments, which may vary the density or intensity of land use otherwise applicable under the provisions of the bylaws in consideration of and with respect to any of the following:

(A) The location and physical characteristics of the proposed planned unit development.

(B) The location, design, type, and use of the lots and structures proposed.

(C) The amount, location, and proposed use of open space.

(5) Standards requiring related public improvements or nonpublic improvements, or both; and the payment of impact fees, incorporating by reference any development impact fee ordinance adopted pursuant to chapter 131 of this title.

(6) Provisions for the proposed planned unit development to be completed in reasonable phases, in accordance with the municipal plan and any capital budget and program.

(7) Provisions for coordinating the planned unit development review with other applicable zoning or subdivision review processes, specifying the sequence in which the various review standards will be considered.

(8) Reviews that are conducted in accordance with the procedures in subchapter 10 of this chapter.



(d) Planned unit development bylaws may provide for, as part of the standards described in subdivisions (c)(4) and (c)(5) of this section, the authorization of uses, densities, and intensities that do not correspond with or are not otherwise expressly permitted by the bylaws for the area in which a planned unit development is located, provided that the municipal plan contains a policy that encourages mixed use development, development at higher overall densities or intensities, or both.

(e) Standards for the reservation or dedication of common land or other open space for the use or benefit of the residents of the proposed planned unit development shall include provisions for determining the amount and location of that common land or open space, and for ensuring its improvement and maintenance.

(1) The bylaws may provide that the municipality may, at any time, accept the dedication of land or any interest in land for public use and maintenance.

(2) The bylaws may require that the applicant or landowner provide for and establish an organization or trust for the ownership and maintenance of any common facilities or open space, and that this organization or trust shall not be dissolved or revoked nor shall it dispose of any common open space, by sale or otherwise, except to an organization or trust conceived and established to own and maintain the common open space, without first offering to dedicate the same to the municipality or other governmental agency to maintain those common facilities or that open space.

(f) The approval of a proposed planned unit development shall be based on findings by the appropriate municipal panel that the proposed planned unit development is in conformance with the municipal plan and satisfies other requirements of the bylaws.

(g) The appropriate municipal panel may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in the zoning bylaws, provided the rules and regulations are not inconsistent with any municipal bylaw. The panel shall hold a public hearing after public notice, as required by section 4464 of this title, prior to the enactment of any supplementary rules and regulations. (Added 2003, No. 115 (Adj. Sess.), § 95.)

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## 5.6 Planned Unit Development

### 5.6.4 General Standards

In addition to the standards set forth in Weathersfield's Subdivision Regulations, the following general standards must be met in order for the Planning Commission to approve a PUD application:

- a) PUD is consistent with Town Plan.
- b) The density requirements do not exceed the number of units permitted if the land were subdivided in accordance with district regulations.
- c) All Site Plan Review requirements in Section 5.3 have been met.
- d) The PUD is an appropriate and unified treatment for the proposed development.
- e) The development is designed so as to be compatible with the character of the area. Particular attention will focus on the aural and visual impacts.
- f) The development will not place an undue burden on municipal services.
- g) State and local standards for fire and safety regulations by local fire and police officials are in compliance.
- h) Adequate water supply and sewage disposal facilities are provided.

## 5.3 Site Plan Review

In accordance with 24 V.S.A. Sect. 4416, for any use other than a one- or two- family dwelling, and where indicated in the bylaws, the approval of site plans by the Zoning Board of Adjustment is required prior to the issuance of a zoning permit. In reviewing site plans, the Zoning Board of Adjustment may impose appropriate conditions and safeguards with respect to impact on character of the area, adequacy of traffic access, circulation and parking; landscaping and screening; compatibility with surrounding development; noise, vibration, erosion, and dust; and protection of natural resources. Consideration shall be given to traffic mobility and safety on affected streets, impacts on surrounding uses, and to desired land use patterns as encouraged by the Town Plan and the zoning bylaws of the affected district(s). A performance bond or other surety may be required as a condition for approval as authorized in 24 V.S.A. Sect. 4464. Conditions may include, but are not limited to, the following:

### 5.3.1 Compatibility with surrounding development

The Zoning Board of Adjustment may require the design and placement of structures to conform with the existing relationship of surrounding buildings to the street, the landscape, and to each other, including setback distances, physical orientation, construction materials, and architectural design. Design shall not be limited to any particular style or period, but should be consistent with established trends and patterns in the surrounding area.

### 5.3.2 Traffic access and circulation

Among other appropriate safeguards and conditions, the Zoning Board of Adjustment may:

- a) Require the installation of frontage roads, speed change lanes, or other highway design elements on a street or adjacent to any access or connecting roads, if deemed necessary based on current or anticipated conditions.
- b) Limit the number and width of access drives; require consolidation of existing access points.
- c) Limit access to a property to a side street or secondary road in order to avoid access to heavily traveled streets and highways
- d) Require shared access and/or parking for adjoining properties or for future users of the remainder of a parcel; require the reservation of shared rights-of-way for future roads, parking areas, and pedestrian facilities; allow for consolidation or shared use of required parking spaces between uses.
- e) Require an applicant to commission a traffic impact study from a qualified consultant according to the Weathersfield Traffic Impact Study Guidelines (Refer to Appendix #2).
- f) Require the location or relocation of access points on one side of a street or highway directly across from existing access points on the opposite side.
- g) Prohibit the location of parking facilities between the front line of building(s) and the street.
- h) Accommodate existing or future facilities for non-vehicular travel.

### ***5.3.3 Protection of natural resources***

The Zoning Board of Adjustment may require that structures, parking facilities and other development be located so as to avoid impacts to surface waters, wetlands, wildlife habitat, agricultural land, important scenic resources, and significant natural and cultural features. These requirements may include modification of the minimum setback distances of the district. (Refer to Sect. 6.10.9 "1992 Biological Natural Areas of Weathersfield, Vermont".)

### ***5.3.4 Storm water management and drainage***

Adequate provisions shall be made for the management of erosion, sedimentation and storm water runoff. For all projects undergoing Site Plan Review, except one- or two-family dwellings, appropriate storm water management measures shall be incorporated into the final site design to ensure that no additional storm water runoff is generated beyond the boundaries of the property and that existing drainage patterns are not altered in a manner which impacts neighboring properties, town highways or surface waters.

The Zoning Board of Adjustment may require a storm water management and erosion control plan prepared by a professional engineer licensed by the State of Vermont. The plan shall provide detailed information regarding proposed erosion and sedimentation control measures to be employed during all stages of the development (including site preparation, construction and post- construction). The Zoning Board of Adjustment may waive compliance with this provision in situations involving minimal disturbance of the site and/or limited areas of steep slope in which the development clearly poses a negligible risk to water quality, public facilities and roads, and nearby properties.

### ***5.3.5 Landscaping and screening***

Landscaping shall enhance the features and conditions unique to each site and shall include a combination of shade and street trees, shrubs, planting beds, well-kept grasses and ground covers. Landscaping is required in front and side yards, adjacent to parking areas, where rear yards abut residential properties or public roads, and as otherwise necessary to provide adequate screening and without compromising vehicular and pedestrian safety by blocking visibility and site lines.

Landscaping plans shall emphasize the following:

- a) The preservation of existing ground cover and trees, especially those that are mature or determined to be of special horticultural or landscape value.
- b) The use of both deciduous and coniferous shade trees in available yard area, especially front and side yards and parking areas. Shade trees shall be placed to interrupt the facades of buildings, break-up expanses of parking, visually reduce the scale and bulk of large buildings, integrate the site with the surrounding landscape and to enhance environmental quality (e.g. wildlife habitat, soil stabilization, storm water retention, air quality, energy conservation).
- c) The use of street trees along well-traveled roads. Street trees should be planted where site conditions make such planting practical. Such trees shall be planted along the edge of the road right-of-way to create a canopy effect and shall be indigenous, deciduous species tolerant of road- salt, soil compaction and drought.

A three-year plan for all proposed landscaping shall be prepared and bonding or other surety may be required to ensure installation and maintenance. The Zoning Board of Adjustment may require a professional landscape architect to prepare a plan on a case-by-case basis

## **5.4 Conditional Use Review**

For development requiring one or more approvals from an Appropriate Municipal Panel prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Administrative Officer. Conditional Use Process:

Applicant applies to the Administrative Officer, who must refer the application because conditional use approval is required.

The applicant must then ask the Zoning Board of Adjustment to schedule a public hearing on the issue, and such hearing must be held within thirty (30) days of such request.

The Board of Adjustment shall act to approve or disapprove any such request for conditional use within 45 days after the date of the final public hearing and failure to so act within such period shall be deemed approved.

The Board will base its decision on whether the proposed use will result in an undue adverse effect on:

- a) the capacity of existing or planned community facilities;
- b) the character of the area

c) traffic

d) as well as whether all applicable general and special provisions of these Bylaws would be met.

The Board may attach certain additional requirements or conditions to a permit. After such decision is made, the applicant shall have fourteen (14) days to present the conditional use approval and conditions to the Administrative Officer along with an application for a zoning permit. Appeals from a decision of the Board of Adjustment are filed in the Environmental Court.

A performance bond or other surety may be required by the Zoning Board of Adjustment for a conditional use permit. The amount, term and conditions of forfeiture shall be stated in the decision which requires the surety and shall be reflected in the surety contract. The surety contract shall be satisfactory to the Administrative Officer as to form, sufficiency and manner of execution, and shall be filed with the Town Clerk.

## **5.5 Combined Review**

In accordance with 24 V.S.A. '4462, in cases where a proposed project will require more than one type of development review, the Planning Commission or Zoning Board of Adjustment may warn and hold a joint hearing or single hearing for the purpose of reviewing and acting on the proposal. The Administrative Officer shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.

Notice for a combined review hearing shall be made in accordance with 24 V.S.A. §4464(a)(1).

The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing.

As applicable, the combined review process shall be conducted in the following order:

- a) Site Plan Review
- b) Access by right-of-way
- c) Requests for Waivers
- d) Requests for Variances
- e) PUD Review
- f) Subdivision Review (preliminary and final)
- g) Conditional Use Review

All hearing and decision requirements and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated where appropriate.

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# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

To: Weathersfield Planning Commission

From: Ryan Gumbart, Land Use Administrator

Date: June 15, 2022

Re: Duffy - Planned Unit Development Review

Vermont State Statute 4417(c)(2) requires the bylaws to specify if the PUD review process will be done under established conditional use review procedures or subdivision review procedures, or both. Weathersfield Bylaw 5.6.4 specifies PUD Review be done under the subdivision review procedures.

Bylaw section 5.6.4(c) requires all Site Plan Review requirements to be met. This is consistent with the C10 Use Table which lists Single family PRD<sup>1,2,3</sup> as a Conditional Accessory Use. As indicated by superscript 1, Site Plan Review is required.

According to Statute 4460(e) "The following review functions shall be performed by the appropriate municipal panel authorized by a municipality as specified in the municipal bylaws...". This includes 4460(e)(7), "site plan review as authorized in section 4416 of this title". Weathersfield Bylaw 5.3 specifies "for any use other than a one- or two- family dwelling, and where indicated by the bylaws, the approval of site plans by the Zoning Board of Adjustment is required prior to the issuance of a zoning permit." Additionally, Bylaw 6.1.3(b) specifies the Board of Adjustment will be the appropriate municipal panel for site plan approval.

Due to Single family PRD being listed as a Conditional Use in the Conservation district, conditional use review would also be required before issuance of a zoning permit.

A Combined Review is allowed by Bylaw 5.5 where the appropriate municipal panel may hold a joint hearing for reviewing and acting on the proposal.

The following seems to be the logical PUD Review process for the Duffy PUD application.

1. Applicant submits PUD/Subdivision Sketch Plan Review application
2. PC conducts Sketch Plan Review and determines next steps
3. Applicant submits necessary applications
  - a. Highway access, State wastewater, ZBA review
4. ZBA holds hearing for Combined Review
5. Applicant submits Final Plat Review application following receipt of other necessary permits
6. PC holds hearing for Final Plat Review
7. Administrative Officer issues permit



AGENDA ITEM

8



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

To: Weathersfield Planning Commission

From: Ryan Gumbart, Land Use Administrator

Date: July 6, 2022

Re: Plotter and Mapping Software

At the June 27 Weathersfield Planning Commission meeting the commission discussed purchasing a plotter and mapping software to decrease the Town's dependence on the Regional Planning office. Below are options and alternatives for achieving this goal.

Todd Hinderger shared the following plotter information with me following last month's meeting.

*In my office I use the HP Designjet T120 large format printer. Has a 24" roll, so it prints the typical 24x36 we all use. Looks like it has been replaced by the T600 or slightly cheaper T200 series. Either way for less than \$1500 you can get a pretty nice setup. Plan on a good budget for printing in color to replace cartridges. I print maybe 50 color sheets a year and use maybe \$300 dollars or so in paper and ink. If you imagine printing less than 50 or so a year, it might be a good fit, since it is cheap enough that if it kicks the bucket you can toss it, but when working it is sweeet to have around. If you want to do mass printing of large stuff that is ink heavy it is my suggestion that it may be best to send it to Doolittles, since the printers that can do mass printing well and reliably are spendy, and finding anyone to fix fancy printers is challenging. Just my two cents. Todd*

## Plotter Options:

**\$700 - HP DesignJet T210 - 24" Large Format Compact Wireless (8AG32A)**



The 24" plotters increase to \$2,000 with the primary difference being print speed.



# TOWN OF WEATHERSFIELD

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## **\$1,900 - HP DesignJet T630 Large Format Wireless Plotter Printer - 36"**



The 36" plotters increase to \$6,800 with the primary difference being print speed.

## **\$1,155 – Canon imagePROGRAF TA-20, 24"**



This is Canon's only new 24" plotter.

## **\$2,200 – Canon imagePROGRAF TA-30, 36"**



Prices for 36" plotters jump to \$5,000 up to \$11,000



# TOWN OF WEATHERSFIELD

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P.O. BOX 550 ASCUTNEY, VT 05030

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## Printing alternatives:

### **Town of Weathersfield**

Size: 17"x11"

### **Mount Ascutney Regional Planning Commission – Ascutney, VT**

Size: 36"

Cost: Free on individual or collaborative projects, or 33x44 = \$30

### **Doolittle's Print Serve – Claremont, NH**

Size: Up to 36"

Cost: \$2/sqft Color, 20lb bond blueprint paper (36x36 map = \$18)

### **Staples – W. Lebanon, NH**

Size: Up to 36"

Cost: \$0.90/sqft Color, 20lb bond blueprint paper (36x36 map = \$10)

## Mapping Software Options:

### **\$100/month - ESRI ArcGIS Pro for Personal Use**

- GIS software, data, and training for personal use
- Great for graduates and GIS professionals

### **\$700/month – ESRI ArcGIS Pro Basic for Business**

- Map, visualize, analyze, and manage data with ArcGIS Pro
- Combine 3D, CAD, imagery, and other types of data on a single map
- Connect people and data with ArcGIS Online and ArcGIS Living Atlas of the World

### **Free – QGIS Open Source Software**

QGIS is a user friendly Open Source Geographic Information System (GIS) licensed under the GNU General Public License. QGIS is an official project of the Open Source Geospatial Foundation (OSGeo). It runs on Linux, Unix, Mac OSX, Windows and Android and supports numerous vector, raster, and database formats and functionalities.

AGENDA ITEM

10

## 7.7 Energy Goals

- 7.7.1 To make efficient use of energy, provide for the development of renewable energy resources, and reduce emissions of greenhouse gases.

## 7.8 Energy Policies

- 7.8.1 Weathersfield has limited potential for utility-scale wind energy development, as areas with sufficient access to consistent wind are generally small in size and more than a mile away from three-phase power lines. The prime wind sites (e.g. Weathersfield Center, Butterfield Hill, Pikes Peak) are relatively close to established residences and/or specifically identified scenic, historic or natural resources in the Town Plan and/or Biologic Natural Areas of Weathersfield. The secondary wind sites (e.g. Skyline Drive, Hawks Mountain, Little Ascutney, Pierson Peak, Mount Ascutney) are largely in scenic or natural resources areas also specifically identified in the Town Plan and/or Biologic Natural Areas of Weathersfield. Development in these areas would have a profoundly negative impact on critical viewsheds throughout the community, as the natural profile of the mountain forms an iconic backdrop from both in-town and rural valley locations. Because no other locations in Weathersfield have suitable wind resource, infrastructure availability, or are free from significant environmental constraints (Figure 6), no utility-scale (100 KW capacity or greater) wind energy facilities should be located in the town. Smaller scale wind projects, including residential-scale turbines (generally less than 10 KW) and turbines that may be installed at farms, residences or small businesses, up to 100 KW, may be appropriate as long as noise from the turbines does not adversely affect neighboring residential properties and as long as they are not prominently visible from any town-identified historic district.
- 7.8.2 The town particularly encourages solar energy development, of any scale, on building rooftops.
- 7.8.3 The town strongly supports the development of small-scale (150 KW capacity or less) electricity generation from solar energy at homes, businesses, schools, and other institutions.
- 7.8.4 The town strongly encourages community solar projects (between 15 KW and 150KW in size) provided they are located on sites identified as having high potential for electricity generation based on solar resource availability and avoid “prohibited areas” as identified below. Moreover, any community solar project located on a site that is not a prohibited/exclusion area shall be considered as being located on a “preferred site” and eligible for all of the regulatory and financial incentives associated with larger scale solar energy installations pursuant to Public Utility Commission Rule 5.100 and 30 V.S.A. Section 248.
- 7.8.5 Any larger scale solar development (greater than 150 kW capacity) shall be subject to the following Solar Energy Facility Siting Policy and Map, and the Solar Electric Facility Siting Guidelines.

### 7.8.6 Solar Energy Facility Siting Policy and Map

The Solar Energy Resource Map shall serve as a guide for developers wishing to identify land suitable for larger-scale solar energy generation facilities (greater than 150 kW capacity) within the Town of Weathersfield. This map identifies sites which have been determined by the Town of Weathersfield, through official action of the Select Board, to be suitable for solar facilities and sites which are not suitable due to the presence of constraints. Only sites identified as “preferred sites” (on this map or through the Town of Weathersfield’s Preferred Site Policy) or located in a “preferred area” as defined in the Solar Facility Siting Criteria, below, may be developed with solar generating facilities in excess 150 KW of rated capacity.

The Solar Energy Resource Map shall be used in concert with the Town’s Screening of Solar Facilities Ordinance and the Solar Facility Siting Guidelines (incorporating the Community Standards and Siting Criteria) included in this section of the Town Plan to direct the development and design of solar facilities. Although solar energy development at these preferred sites and locations is an appropriate land use, all such development shall be carefully planned to limit adverse impacts to neighboring properties and to public viewsheds, giving consideration to The Town’s Screening of Solar Facilities Ordinance and Solar Facility Siting Guidelines.

The sites indicated on this map as suitable for solar energy development were selected after a thorough analysis of available geographic data, including an assessment of access to solar energy as well as environmental, aesthetic, cultural, and related regulatory constraints. State-identified environmental constraints are discussed in more detail in the Mount Ascutney Regional Energy Plan, and include the following resource areas:

- a) Class 1 and 2 wetlands, vernal pools, and hydric soils;
- b) Mapped river corridors and FEMA-defined floodways;
- c) Natural communities and rare, threatened, and endangered species;
- d) Federal wilderness areas;
- e) “Primary” and “Statewide” significant agricultural soils;
- f) FEMA-defined special flood hazard areas;
- g) Lands protected for conservation purposes;
- h) Deer wintering areas; and
- i) State-identified high priority “Conservation Design Forest Blocks.”

#### 7.8.7 Solar Electricity Facility Siting Guidelines

The term “solar facility” shall have the following meaning: a solar electricity generation and transmission facility with a 150kW (AC) or greater capacity, including all on-site and offsite improvements necessary for the development and operation, and on-going maintenance of the facility.

The Town of Weathersfield has developed community standards and siting standards for the development of solar facilities for reference and use by facility developers and local property owners and for consideration in Section 248 proceedings (30 VSA §248). These standards are set forth below. In addition, the Weathersfield Planning Commission, in consultation with the Mount Ascutney Regional Commission, has

identified and mapped (Figure 7) those areas of Weathersfield that are most suitable for solar facility development based on facility siting requirements and municipal energy, conservation, and development policies and objectives set forth in the Weathersfield Town Plan.

#### 7.8.7.2 Community Standards

The following community standards are to be considered in undertaking municipal solar electricity projects and programs, in updating Weathersfield's Zoning Bylaws to address solar facilities subject to local regulation, and in the review of any new or upgraded solar facilities in excess of 15 kW capacity, by the Town of Weathersfield and the Public Utility Commission (Section 248 review).

- a) **Plan Conformance:** New solar facilities and proposed system upgrades should be consistent with the Vermont Comprehensive Energy Plan, the Vermont Long-Range Transmission Plan, and utilities Integrated Resource Planning (IRP).
- b) **Benefits:** A demonstrated statewide public need that outweighs adverse impacts to local residents and resources must be documented for municipal support of new solar facilities located within or which may otherwise affect Weathersfield. Facility development must benefit Town of Weathersfield and State residents, businesses, and property owners in direct proportion to the impacts of the proposed development.
- c) **Impacts:** New solar facilities must be evaluated for consistency with community and regional development objectives and shall avoid undue adverse impacts to significant cultural, natural, and scenic resources and aesthetic values identified by the community in the Weathersfield Town Plan and the Scenic Resources Inventory. When evaluating impacts of a proposed solar facility under the criteria set forth in this Town Plan, the cumulative impact of existing solar facilities, approved pending solar facilities and the proposed solar facility shall be considered. It is explicitly understood that a proposed solar facility which by itself may not have an adverse impact may be deemed to have an adverse impact when considered in light of the cumulative impacts of the proposed solar facility and existing solar facilities and pending already approved solar facilities.
- d) **Decommissioning:** All facility certificates shall specify conditions for system decommissioning, including required sureties (bonds) for facility removal and site restoration to a safe, useful, and environmentally stable condition. All hazardous materials and structures, including foundations, pads and accessory structures, must be removed from the site and safely disposed of in accordance with regulations and best practices current at the time of decommissioning.

#### 7.8.7.3 Solar Facility Siting Criteria

Weathersfield supports development of solar energy generation facilities consistent with the policies and guidelines set forth in this plan. It recognizes that financial considerations require projects to be located in close proximity to



electric power lines capable of distributing the load proposed to be generated and to have convenient access from major transportation networks for construction. However, the town desires to maintain the open landscape and scenic views important to Weathersfield's sense of place, tourism economy, and rural cultural aesthetic. Not all solar facilities proposed can meet this standard. Projects must meet the following criteria in order to be supported by this Town Plan:

- a) **Siting Requirements:** New solar facilities shall be sited in locations that do not adversely impact the community's traditional and planned patterns of growth, of compact village centers surrounded by a rural countryside, including working farms and forest land. Solar facilities shall, therefore, not be sited in locations that adversely impact scenic views, roads, or other areas identified in the Scenic Resources Inventory, nor shall solar facilities be sited in locations that adversely impact any of the following scenic attributes identified in the Scenic Resource Inventory: views across open fields, especially when those fields form an important foreground; prominent ridgelines or hillsides that can be seen from many public vantage points and thus form a natural backdrop for many landscapes; historic buildings and districts and gateways to historic districts; and, scenes that include important contrasting elements such as water. The impact on prime and statewide agricultural soils currently in production shall be minimized during project design.
- b) **Preferred Areas:** The following areas are specifically identified as preferred areas for solar facilities, as they are most likely to meet the siting requirements:
  - Roof-mounted systems;
  - Systems located in proximity to existing large scale, commercial or industrial buildings;
  - Proximity to existing hedgerows or other topographical features that naturally screen the entire proposed array;
  - Reuse of former brownfields;
  - Facilities that are sited in disturbed areas, such as gravel pits, closed landfills, or former quarries;
  - Areas specifically identified as suitable for solar facilities on the Solar Energy Resource Map.
- c) **Prohibited (Exclusion) Areas:** In addition to those areas that do not meet the siting requirements set forth above, development of solar generating facilities shall be excluded from (prohibited within), and shall not be supported by the Town, in the following locations:
  - Floodways shown on Flood Insurance Rate Maps (FIRMs);
  - River corridors as shown in the Town of Weathersfield Zoning Bylaws;
  - Class I or II wetlands;
  - A location that would significantly diminish the economic viability or potential economic viability of the town's working landscape, including

productive forest land and primary agricultural soils (as defined in Act 250 and as mapped by the U.S. Natural Resource Conservation Service);

- Rare, threatened, or endangered species habitat or communities as mapped or identified through site investigation, and core habitat areas, migratory routes and travel corridors;
  - Ridgelines: \_\_\_\_
  - Steep slopes (>25%)
  - Surface waters and riparian buffer areas (except for stream crossings);
  - Topography that causes a facility to be prominently visible against the skyline from public and private vantage points such as roads, homes, and neighborhoods;
  - A site in proximity to and interfering with a significant viewshed identified in the **Scenic Resource Inventory**;
  - A site on which a solar facility project cannot comply with **Weathersfield’s prescribed siting and screening standards, including the screening requirements set forth in \_\_\_\_\_ Screening of Solar Facilities Ordinance**;
  - A site that causes adverse impacts to historical or cultural resources, including state or federal designated historic districts, sites and structures, and locally significant cultural resources identified in the municipal plan. Prohibited impacts to historical and cultural resources include:
    - removal or demolition;
    - physical or structural damage, significant visual intrusion, or threat to the use;
    - significant intrusion in a rural historic district or historic landscape with a high degree of integrity;
    - significant visual intrusion into a hillside that serves as a backdrop to a historic site or structure;
    - creating a focal point that would disrupt or distract from elements of a historic landscape;
    - a significant intrusion in a rural historic district or historic landscape that has a high degree of integrity;
    - impairing a vista or viewshed from a historic resource that is a significant component of its historic character and history of use;
    - visually overwhelming a historic setting, such as by being dramatically out of scale;
    - isolating a historic resource from its historic setting, or introducing incongruous or incompatible uses, or new visual, audible or atmospheric elements.
- d) **Mass and Scale:** Except for projects located on preferred sites, solar facilities larger than 10 acres, individually or cumulatively, cannot be adequately

screened or mitigated to blend into the municipality's landscape and are, therefore, explicitly prohibited.

**7.9 Energy Recommendations**

- 7.9.1 Consider adopting a freestanding solar screening bylaw under 24 V.S.A. §4414 (15).
- 7.9.2 The Town of Weathersfield may participate in the Public Utility Commission's review of new and expanded generation facilities to ensure that local energy, resource conservation, and development objectives are identified and considered in proposed utility development. This may include joint participation and collaboration with other affected municipalities and the Mount Ascutney Regional Commission for projects that may have significant regional impact. It is acknowledged that the PUC's primary focus is on administering state public policy and regulating actions that are directed at ensuring that utility services promote the general good of the state.
- 7.9.3 The Planning Commission, in consultation with the Select Board, should develop guidelines to direct local participation in Section 248 proceedings related to solar facilities located in Weathersfield or in neighboring communities which may affect the town. The guidelines should reflect levels of participation or formal intervention in relation to the type, location, scale, operation, and magnitude of a proposed project, and its potential benefits, detriments to, and impacts on the community.

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# Article 2: Zoning Districts and District Standards

## 2.5 Table of Districts and Uses

### 2.5.1 Village (v)

### 2.5.2 Hamlet (H)

### 2.5.3 Rural Residential (RR-1)

### 2.5.4 Rural Residential Reserve (RRR 3-5)

### 2.5.5 Conservation (C-10)

### 2.5.6 Highway Commercial (HC)

### 2.5.7 Industrial (I)

#### **AREA, LAND & STRUCTURAL REQUIREMENTS:**

1. Only one principal use is allowed per parcel of land.
2. Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.
3. Establishment of multiple principal uses on a single parcel of land requires a PUD permit.
4. Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations.

# Article 5: Development Review

## 5.1 Application Submission Requirements

An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application.

### 5.1.3 Conditional Use Review

Applications shall include the following:

- a) **Application Form:** Supplied by the Administrative Officer; signed by the owner of record and, in the case of a non-owner applicant, by the applicant;
- b) **Site Plan:** A site plan shall meet all of the requirements of Section 5.1.2(b).
- c) **Project Narrative:** A description of the proposed project shall be required as part of a complete application. Also required is a narrative that clearly and succinctly explains how the project meets all applicable Conditional Use standards.
- d) **Application Fees:** All applicable fees must be paid as part of a complete application.

### 5.1.4 PUD Review

Applications for PUDs must include the following, in addition to the information required for subdivisions:

- a) A brief summary of the project and how it meets the PUD standards in this section;
- b) A statement setting forth the nature of all proposed modifications, changes, or supplements required to the Zoning Bylaws by the proposal. Any such modification approved under this section shall be specifically set forth in terms of standards and criteria

for the design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be required and these shall be noted or appended to the plat;

- c) A sound proposal for the financing and membership of the management organization which will maintain and operate the property in common ownership, such as community facilities, private roads, and/or open spaces; and,
- d) Additional information required by the Planning Commission to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth in Article 6, Article 8 and below.

## 5.6 Planned Unit Development

In accordance with the provisions set forth in Section 4417 of The Act, Planned Unit Developments (PUDs) are allowed to permit flexibility in the application of the Zoning Bylaws for the purposes of Section 4302 of The Act and in conformance with the Weathersfield Town Plan. Residential PUDs, also known as Planned Residential Development (PRD), are considered as a type of PUD for the purposes of these Bylaws.

### 5.6.1 Purpose

- a) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in downtowns, village centers, new town centers, and associated neighborhoods.
- b) To implement the policies of the municipal plan, such as the provision of affordable housing.
- c) To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.
- d) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.
- e) To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.
- f) To provide for efficient use of public facilities and infrastructure.
- g) To encourage and preserve opportunities for energy-efficient development and redevelopment.

### 5.6.2 Applicability

- a) The PUD provisions may be applied to any land development in any zoning district within the Town of Weathersfield at the request of the applicant.
- b) Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

### 5.6.3 PUD Review Procedures

- a) Complete applications for PUDs must include the information specified in Section 5.1.
- b) PUD applications are subject to approval by the Planning Commission in accordance with the requirements of Section 5.6 in these Bylaws.

- c) Applications for PUDs must be reviewed simultaneously with application for subdivision review in accordance with Weathersfield's Subdivision Regulations, as most recently amended.
- d) Approval granted under this section for a PUD that involves the development of one or more uses requiring approval under site plan review (Section 5.3) or conditional use review (Section 5.4) does not exempt the proposed development from both review processes, although applications for PUDs may be reviewed concurrently.

#### *5.6.4 General Standards*

In addition to the standards set forth in Weathersfield's Subdivision Regulations, the following general standards must be met in order for the Planning Commission to approve a PUD application:

- a) PUD is consistent with Town Plan.
- b) The density requirements do not exceed the number of units permitted if the land were subdivided in accordance with district regulations.
- c) All Site Plan Review requirements in Section 5.3 have been met.
- d) The PUD is an appropriate and unified treatment for the proposed development.
- e) The development is designed so as to be compatible with the character of the area. Particular attention will focus on the aural and visual impacts.
- f) The development will not place an undue burden on municipal services.
- g) State and local standards for fire and safety regulations by local fire and police officials are in compliance.
- h) Adequate water supply and sewage disposal facilities are provided.

#### *5.6.5 Standards for Residential PUDs*

- a) The total number of dwelling units in any Residential PUDs must not exceed 125% of the number of lots into which the parcel could be legally subdivided based upon minimum lot size requirements of these Bylaws.
- b) Only residential and residential accessory uses shall be permitted within a Residential PUD.
- c) Of the land left open within the Residential PUD for common usage or ownership, no more than 25% shall be developed for community facilities (excluding subsurface installations), access road, parking areas, or recreational structures.

#### *5.6.6 Modification of Zoning Regulations*

After a duly-warned public hearing (per Section 6.3), simultaneously with subdivision approval, and subject to the standards and conditions set forth in this section, the Planning Commission may modify the zoning district regulations for the proposed PUD as to the following requirements only:

- a) Setbacks, including provision for zero lot lines;
- b) Height, Bulk and Spacing of Buildings;
- c) Type of Building, including a mix of residential and commercial uses in one building, a variety of residential structures (one, two, and multi-family structures).
- d) Location of buildings; and
- e) Size of lots.

Any modification of the Bylaws for the proposed PUD granted by the Planning Commission shall be noted on the subdivision plat.

### 5.6.7 Decisions

At the time of PUD approval, the Planning Commission shall include in its decision a clear indication of all approved modifications of development standards, and may include conditions related to the location, scale, density, intensity, overall design of future development within the PUD, and/or posting of performance bonds for the completion of public facilities such as roads and water and sewer systems.

### 5.6.8 Legal Requirements

- a) Preserved open space shall be dedicated, either in fee or through a conservation easement to the Town, a community association comprising all of the present and future owners of lots or dwellings in the project, or a non-profit land conservation organization. The Zoning Board of Adjustment shall approve such easement.
- b) Formation of a homeowners association or similar legal arrangement must be required as a condition of approval for a PUD that includes privately-owned roads, common open space and/or common buildings, or infrastructure or facilities in order to ensure their ongoing maintenance. The obligations to maintain the common improvements must be clearly outlined in the property deeds of all affected owners. Specifically, each deed must have a clause stating the town is not responsible for maintenance or improvements of private roads or common land, buildings or infrastructure. Costs incurred by the town because of default on the part of the association or an owner shall be a lien on the property of the association or owner(s).

## Article 7: Definitions

**Planned Residential Development (PRD):** An area for strictly residential use, in which the design and development promotes the most appropriate use of the land, to facilitate the adequate and economic provision of streets and utilities, and to preserve open space. PRD's designated as single family contains only single family residential structures; those designated as multi-family contain one or more multi-family residential structures.

**Planned Unit Development (PUD):** One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

**Planned Unit Development (PUD):** A tool municipalities use to encourage or require flexibility, creativity, and innovation in the planning and design of development to achieve a variety of objectives.

1. Residential PUD: Planned residential developments, or PRDs, are no longer separately authorized under Chapter 117 but are still allowed as a type of PUD that includes primarily residential uses
2. Nonresidential PUD: A PUD that includes only nonresidential uses, for example, regional commercial centers or industrial parks.
3. Mixed-use PUD: A PUD to promote, or require, an integrated mix of residential and nonresidential uses at moderate to higher densities of development, as are found in traditional town and village centers, new town centers, and other designated growth centers.



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# The Vermont Statutes Online

## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4417)

#### § 4417. Planned unit development

(a) Any municipality adopting a bylaw should provide for planned unit developments to permit flexibility in the application of land development regulations for the purposes of section 4302 of this title and in conformance with the municipal plan. The following may be purposes for planned unit development bylaws:

(1) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in downtowns, village centers, new town centers, and associated neighborhoods.

(2) To implement the policies of the municipal plan, such as the provision of affordable housing.

(3) To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.

(4) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.

(5) To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.

(6) To provide for efficient use of public facilities and infrastructure.

(7) To encourage and preserve opportunities for energy-efficient development and redevelopment.

(b) The application of planned unit development bylaws to a proposed development may:

(1) Involve single or multiple properties and one owner or multiple owners. Procedures for application and review of multiple owners or properties under a common application, if allowed, shall be specified in the bylaws.

(2) Be limited to parcels that have a minimum area specified in the bylaws or a minimum size or number of units.

(3) Be mandatory for land located in specified zoning districts or for projects of a specified type or magnitude as provided in the bylaws.

(c) Planned unit development bylaws adopted pursuant to this section at a minimum shall include the following provisions:

(1) A statement of purpose in conformance with the purposes of the municipal plan and bylaws.

(2) The development review process to be used for review of planned unit developments to include conditional use or subdivision review procedures, or both, as specified in the bylaws.

(3) Specifications, or reference to specifications, for all application documents and plan drawings.

(4) Standards for the review of proposed planned unit developments, which may vary the density or intensity of land use otherwise applicable under the provisions of the bylaws in consideration of and with respect to any of the following:

(A) The location and physical characteristics of the proposed planned unit development.

(B) The location, design, type, and use of the lots and structures proposed.

(C) The amount, location, and proposed use of open space.

(5) Standards requiring related public improvements or nonpublic improvements, or both; and the payment of impact fees, incorporating by reference any development impact fee ordinance adopted pursuant to chapter 131 of this title.

(6) Provisions for the proposed planned unit development to be completed in reasonable phases, in accordance with the municipal plan and any capital budget and program.

(7) Provisions for coordinating the planned unit development review with other applicable zoning or subdivision review processes, specifying the sequence in which the various review standards will be considered.

(8) Reviews that are conducted in accordance with the procedures in subchapter 10 of this chapter.

(d) Planned unit development bylaws may provide for, as part of the standards described in subdivisions (c)(4) and (c)(5) of this section, the authorization of uses, densities, and intensities that do not correspond with or are not otherwise expressly permitted by the bylaws for the area in which a planned unit development is located, provided that the municipal plan contains a policy that encourages mixed use development, development at higher overall densities or intensities, or both.

(e) Standards for the reservation or dedication of common land or other open space for the use or benefit of the residents of the proposed planned unit development shall include provisions for determining the amount and location of that common land or open space, and for ensuring its improvement and maintenance.

(1) The bylaws may provide that the municipality may, at any time, accept the dedication of land or any interest in land for public use and maintenance.

(2) The bylaws may require that the applicant or landowner provide for and establish an organization or trust for the ownership and maintenance of any common facilities or open space, and that this organization or trust shall not be dissolved or revoked nor shall it dispose of any common open space, by sale or otherwise, except to an organization or trust conceived and established to own and maintain the common open space, without first offering to dedicate the same to the municipality or other governmental agency to maintain those common facilities or that open space.

(f) The approval of a proposed planned unit development shall be based on findings by the appropriate municipal panel that the proposed planned unit development is in conformance with the municipal plan and satisfies other requirements of the bylaws.

(g) The appropriate municipal panel may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in the zoning bylaws, provided the rules and regulations are not inconsistent with any municipal bylaw. The panel shall hold a public hearing after public notice, as required by section 4464 of this title, prior to the enactment of any supplementary rules and regulations. (Added 2003, No. 115 (Adj. Sess.), § 95.)

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# Article 5: Development Review

## 5.7 Flood Plains and Floodways

### 5.7.1 Statutory Authorization and Effect

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 §4414, there is hereby established a bylaw for areas at risk of flood damage in the Town of Weathersfield, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

### 5.7.2 Statement of Purpose

It is the purpose of this bylaw to:

- A. Implement the goals, policies, and recommendations in the municipal plan;
- B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
- C. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair fluvial geomorphic equilibrium, flood plain services, and ensures that cumulative development in the hazard zone does not adversely affect others;
- D. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753; the municipal hazard mitigation plan; and make the Town of Weathersfield, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

### 5.7.3 Other Provisions

#### A. Precedence of Bylaw

The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

#### B. Validity and Severability

If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

#### C. Warning of Disclaimer of Liability

This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. This regulation shall not create liability on the part of the Town of Weathersfield, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

### 5.7.4 Lands to Which these Regulations Apply

#### A. Regulated Flood Hazard Areas

These regulations shall apply to the River Corridors and Special Flood Hazard Areas (hereafter called "hazard areas") in the Town of Weathersfield, Vermont as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:

##### 1. River Corridors:

- a) River Corridors as mapped and published by the Vermont Agency of Natural

Resources, as most recently amended, are hereby adopted by reference.

- b) Where River Corridors are not mapped, the standards in 5.7.6 C shall apply to the area measured as fifty (50) feet from the top of the stream bank or the top of slope in steep valleys with no bank top.

[Note that stream buffer provisions also apply in accordance with Section 3.2.8.]

- 2. **Special Flood Hazard Areas** in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

**B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas**

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits *have not* been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

**C. Interpretation**

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

- 1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall *constitute proof*.
- 2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall *constitute proof*.

**5.7.5 Development Review in Hazard Areas**

**A. Permit**

A permit is required from the Administrative Officer for all development in all areas defined in Section 5.7.4 as indicated below. Development that requires conditional use approval, non-conforming use approval, or a variance from the Zoning Board of Adjustment (ZBA) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 5.7.5 and 5.7.6. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

**B. Permitted Use Review**

For the purposes of review under these regulations, the following development activities in the River Corridor and/or Special Flood Hazard area where outside of the floodway, and meeting the Development Standards in Section 5.7.6, require only an administrative permit from the ZA:

<b>Special Flood Hazard Areas:</b>	<b>River Corridors:</b>
(1) Non-substantial improvements to existing buildings;	(1) At-grade parking for existing buildings

(2) Small accessory structures;	(2) Small accessory structures;
(3) New or replacement fuel storage tanks;	(3) Channel management activities; and,
(4) New or replacement building utilities;	(4) New or replacement bridges and culverts.
(5) New or replacement bridges and culverts;	
(6) At-grade parking for existing buildings; and,	
(7) Recreational vehicles, provided they are fully licensed and ready for highway use.	

### **C. Prohibited Development in Special Flood Hazard Area and River Corridors**

<b>Special Flood Hazard Areas:</b>	<b>River Corridors:</b>
(1) Junk yards or outdoor storage;	(1) Junk yards or outdoor storage;
(2) New manufactured home parks; and,	(2) New manufactured home parks;
(3) New fill/piers except as necessary to elevate structures to the required elevation.	(3) New fill/piers except as necessary to elevate structures to the required elevation;
(4) New development within the Floodway except as allowed in Section 5.7.6(B).	(4) New residential or non-residential structures (including the placement of manufactured homes), except as allowed under Section 5.7.6(C)(3); and,
	(5) New encroachments, except for floodplain restoration projects; channel management activities; health and safety measures; public utilities; and minor improvements to existing structures or relating to bridges, culverts, roads.

### **D. Conditional Use Review**

Conditional use review and approval by the ZBA is required prior to the issuance of a permit by the ZA for the following proposed development:

<b>Special Flood Hazard Areas:</b>	<b>River Corridors:</b>
(1) New buildings;	(1) New residential or non-residential structures (including the placement of manufactured homes) as allowed for under Section 5.7.6(C)(3);
(2) Substantial improvement of existing buildings;	(2) Any increase in footprint to existing structures;
(3) Non-substantial improvement to existing buildings within a floodway;	(3) New fill/piers necessary to elevate structures to the required elevation;
(4) Development in a floodway;	(4) New or replacement water supply or septic systems;



(5) Recreational vehicles that are to be used as single-family dwellings;	(5) Grading, excavating or fill;
(6) Any increase in footprint to existing structures;	(6) Rebuilding an existing structure; and,
(7) New or replacement water supply or septic systems;	(7) Recreation facilities in accordance with Section 5.7.6(C).
(8) Grading, excavating or fill;	
(9) Rebuilding after substantial damage;	
(10) Roadway improvements;	
(11) Subdivisions;	
(12) Channel management; and,	
(13) All other development as defined in Article 7 that is not allowed under permitted use review or exempted under Section __.	

### **E. Exempted Activities**

The following are exempt from regulation under Section 5.7 of this bylaw:

1. Insignificant activities and/or repairs as defined in Article 7;
2. Maintenance of existing roads and existing stormwater drainage systems;
3. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices;
4. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices;
5. Facilities owned and operated by the State of Vermont in accordance with 24 V.S.A. §4413;
6. Public utility power generating plants and transmission facilities that are regulated under 30 V.S.A. §248.
7. Improvements to an existing structure – located within a River Corridor, but not within the Special Flood Hazard Area – that does not involve an increase in the existing footprint.

### **F. Variances**

Variances may be granted in writing by the ZBA only in accordance with all the criteria in 24 V.S.A. § 4469, and 44 CFR Section 60.6, after a public hearing noticed as described in Section VIII.

In addition:

1. A variance for development within the River Corridors may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights or velocities, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up

to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

### **G. Nonconforming Structures and Uses**

In addition to meeting the nonconformity provisions in Section 3.4 of these bylaws, the ZBA may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in Section 5.7.6 of this bylaw;
2. A nonconforming structure within the Special Flood Hazard Area that is substantially damaged or destroyed may be reconstructed in place only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. For structures within the SFHA, the lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. A nonconforming structure within the River Corridor is subject to the provisions of Section 5.7.6(C)(3);
4. Nonconforming uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months (Sec. 3.4.3 specifies 3 years); and
5. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

### **5.7.6 Development Standards**

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence, but all applicable standards apply. For example, a property that is located within both the River Corridor and Special Flood Hazard Area must avoid encroachment into the river corridor in accordance with Section 5.7.6(C), and the structure must also be elevated or flood-proofed and meet all other applicable flood hazard standards in accordance with Section 5.7.6(A).

### **A. Special Flood Hazard Area**

1. *All development* shall be:
  - a. Reasonably safe from flooding;
  - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
  - c. Constructed with materials resistant to flood damage;
  - d. Constructed by methods and practices that minimize flood damage;
  - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - f. Adequately drained to reduce exposure to flood hazards;
  - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
  - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed

underground, if securely anchored as certified by a qualified professional.

2. In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.
3. New, substantially improved or replacement primary structures in the special flood hazard area must not increase base flood elevations or flood velocities. Such development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 0.1 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer; or,
  - a. the proposal provides compensatory storage for floodwater (in the same reach and at elevations up to one foot above the base flood elevation) to offset the impacts of the proposal. A volumetric analysis and supporting data must be provided by the applicant and certified by a registered professional engineer; or,
  - b. The volumetric analysis will be waived for replacement or relocated primary structures where the proposal indicates no increase in the structure's footprint; or for new structures proposing a lowest floor elevation of at least two feet above the base flood elevation, an open foundation design, and no new fill.
4. New, substantially improved, rebuilt or relocated structures in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;
5. New or substantially-improved non-residential structures shall:
  - a. Meet the standards in 5.7.6(A)(4); or,
  - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
6. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
7. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding, shall
  - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
  - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or

devices provided that they permit the automatic entry and exit of floodwaters.

7. *Recreational vehicles* must be registered and ready for highway use;
8. A *small accessory* structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in 5.7.6(A)(6) above.
9. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
11. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
12. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
13. *Bridges and culverts*, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
14. *Subdivisions and Planned Unit Developments must be accessible by dry land access* outside the special flood hazard area.
15. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO* shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.
16. Minor above-ground improvements outside of the floodway, such as poles or fences that minimally displace or divert floodwaters, do not require compensatory storage.

## **B. Floodway Areas**

1. New encroachments within the regulatory floodway, except for minor improvements to existing structures or relating to bridges, culverts, roads, stabilization projects, access to water, public utilities or health and safety measures, are prohibited.
2. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
  - a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
  - b) Not increase flood velocities; and
  - c) Not increase flood or erosion risk to surrounding properties, facilities, or structures.
3. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
4. For any proposed encroachment within the regulatory floodway where hydrologic and hydraulic analyses are required, the applicant should provide a FEMA Conditional Letter of Map Revision (CLOMR) as proof to demonstrate that the proposed activity, if completed as proposed, will not result in any increase in flood levels (0.00') during the occurrence of the base flood.

## **C. River Corridors**

1. All development in River Corridors is subject to the following standards:
  - a. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
  - b. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion; and,
  - c. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
2. Except as provided for in Section 5.7.5 and Section 5.7.6(C)(3), new development shall not be allowed within the river corridor.
3. The following types of development are allowable within the River Corridor subject to the applicable standards:
  - a. The replacement of structures within a comparable footprint of legally existing structures or immediately adjacent to an existing structure, provided that the replacement structure is no closer to the river than the structure that is being removed.
  - b. Redevelopment and infill development within State-Designated Village Centers is subject to conditional use review by the ZBA, and shall meet the performance standards in subsection d below provided that the distance between the redevelopment or infill development and the river or stream is no less than the shortest distance between immediately adjacent existing above ground development and such river or stream.
  - c. Development within or adjacent to areas of existing development is subject to conditional use review by the ZBA, and shall meet the performance standards in subsection d below provided that the proposed development will not cause or contribute to fluvial erosion hazards.
  - d. One of the following performance standards must be met for all developments under Sections 5.7.6(C)(3) (b) and (c):

**1) In-Fill Between Existing Development:**

Development must be located no closer to the the channel than the average of the adjacent existing primary structures, within a gap that is no more than 300 feet, or 50 feet from top of bank, whichever is greater (see Figure 1).

Appendix A of the Vermont DEC Flood Hazard and River Corridor Procedures shall be used as guidance to meet this performance standard; or,

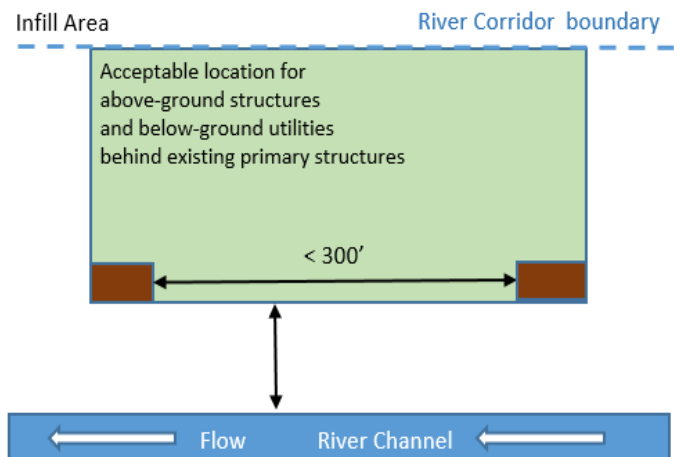


Figure 1: In-fill Development Standard

**2) Down-River Shadow:**

New development that is proposed adjacent to existing structures shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank; below-ground utilities may be placed within the same shadow dimensions of an existing below-ground system (see Figure 2). Appendix B of the *Vermont DEC Flood Hazard and River Corridor Procedures* shall be used as guidance to meet this performance standard.

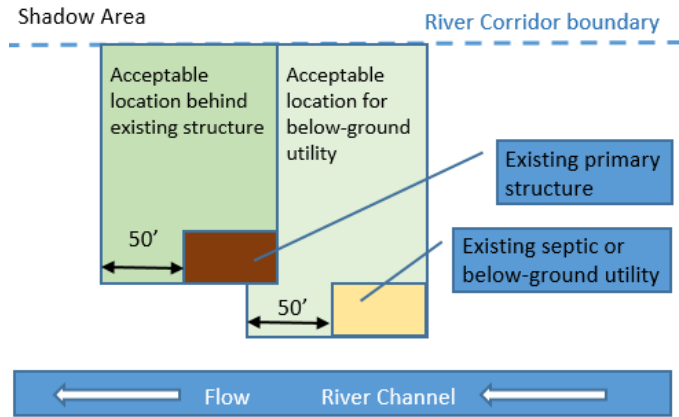


Figure 2: Shadow Area Development Standard

- e. Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.
  - f. Additions to existing structures shall not decrease the distance between the existing primary building and the top of bank.
  - g. Any improvements to existing buildings or the associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank.
  - h. Public recreation facilities that represent a minor investment, such as soccer fields, snowmobile trails, hiking or mountain bicycling trails, or multi-use paths, as long as they meet the standards in subsection (C)(1) above. Recreational-related structures such as public bathrooms, stadiums, concession stands and similar buildings must meet the same standards for structures.
4. Bridge, culvert, roadway and utility crossings, and channel management projects are allowed as authorized by a Stream Alteration Permit from the Agency of Natural Resources. A copy of the Stream Alteration Permit shall be provided as part of a complete application in order to demonstrate that the project meets the applicable standards.

**5.7.7 Administration**

**A. Application Submission Requirements**

Applications for development shall include:

- 1. Where applicable, a site plan that depicts the proposed development, all water bodies, special flood hazard areas, floodways, river corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
- 2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin;

## **B. Referrals**

1. Upon receipt of a complete application for new construction, a substantial improvement or development in the floodway, the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.

## **C. Decisions**

The ZBA shall consider comments from the NFIP Coordinator at ANR. The ZBA may recess the proceedings on any application pending submission of additional information.

## **D. Records**

The Administrative Officer shall properly file and maintain a record of:

1. All permits issued in areas covered by this bylaw;
2. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
3. All flood proofing and other certifications required under this regulation;
4. All determinations related to Substantial Damage and Substantial Improvement; and,
5. All decisions of the ZBA (including variances and violations) with the supporting findings of fact, conclusions and conditions.

### ***5.7.8 Certificate of Occupancy***

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area or River Corridors until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15<sup>th</sup> day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

### ***5.7.9 Enforcement and Penalties***

A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA Chapter 117 § 4451, § 4452. A copy of the notice of violation will be mailed the State NFIP

## Coordinator.

B. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

# Article 6: Administration and Enforcement

## 6.2 Permit Requirements

### 6.2.3 Limitations

The following uses are allowed as conditional uses in the districts specified in Section 4.3. However, they may be regulated only with respect to location, Size, Height, Building Bulk, Yards, Courts, Setbacks, density of buildings, off-street parking, loading facilities, Traffic, Noise, Lighting, Landscaping, screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

#### a) Public Facilities

1. State- or community-owned and operated institutions and facilities
2. Public and private schools and other educational institutions certified by the state department of education
3. Churches and other places of worship, convents, and parish houses
4. Public and private hospitals
5. Regional solid waste management facilities certified under 10 V.S.A. chapter 159
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

#### b) Flood Permits for State-Owned and –Operated Institutions and Facilities

1. State-owned and –operated institutions and facilities are exempt from a permit issued under Section 5.6; however, such uses are subject to a flood permit issued by the Vermont Department of Environmental Conservation.

#### c) Except as necessary to ensure compliance with the National Flood Insurance Program, a bylaw under this chapter shall not regulate any of the following:

1. An ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet.
2. The following improvements associated with the construction or installation of a communications line:
  - a. The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.
  - b. The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.



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## Title 10: Conservation And Development

### Chapter 32: Flood Hazard Areas

#### § 751. Purpose

The purpose of this chapter is to minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding; to ensure that the development of the flood hazard areas of this State is accomplished in a manner consistent with the health, safety and welfare of the public; to coordinate federal, State, and local management activities for flood hazard areas; to encourage local government units to manage flood hazard areas and other flood-prone lands; to provide State assistance to local government units in management of flood-prone lands; to comply with National Flood Insurance Program requirements for the regulation of development; to authorize adoption of State rules for management of uses exempt from municipal regulation in a flood hazard area; to maintain the agricultural use of flood-prone lands consistent with the National Flood Insurance Program; to carry out a comprehensive statewide flood hazard area management program for the State in order to ensure eligibility for flood insurance under the requirements of the National Flood Insurance Program. (Added 1973, No. 263 (Adj. Sess.), § 2, eff. 30 days from April 16, 1974; amended 2011, No. 138 (Adj. Sess.), § 1, eff. May 14, 2012.)

#### § 752. Definitions

For the purpose of this chapter:

- (1) "Agency" means the Agency of Natural Resources.
- (2) "Development," for the purposes of flood hazard area management and regulation, shall have the same meaning as "development" under 44 C.F.R. § 59.1.
- (3) "Flood hazard area" shall have the same meaning as "area of special flood hazard" under 44 C.F.R. § 59.1.
- (4) "Flood proofing" shall have the same meaning as "flood proofing" under 44 C.F.R. § 59.1.
- (5) "Floodway" shall have the same meaning as "regulatory floodway" under 44 C.F.R. § 59.1.
- (6) "Legislative body" means the selectboard, trustees, mayor, city council, and alderboard of a municipality.
- (7) "Municipality" means any town, city, or incorporated village.

(8) "Uses exempt from municipal regulation" means land use or activities that are exempt from municipal land use regulation under 24 V.S.A. chapter 117.

(9) "National Flood Insurance Program" means the National Flood Insurance Program under 42 U.S.C. chapter 50 and implementing federal regulations in 44 C.F.R. parts 59 and 60.

(10) "Regional planning commission" means the regional planning commission of which a municipality is a member or would be a member based upon its location.

(11) "River corridor" means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in section 1422 of this title, and for minimization of fluvial erosion hazards, as delineated by the Agency of Natural Resources in accordance with river corridor protection procedures.

(12) "Secretary" means the Secretary of Natural Resources or the Secretary's duly authorized representative. (Added 1973, No. 263 (Adj. Sess.), § 2, eff. May 16, 1974; amended 1987, No. 76, § 18; 2003, No. 115 (Adj. Sess.), § 15; 2011, No. 138 (Adj. Sess.), § 1, eff. May 14, 2012.)

### **§ 753. Flood hazard areas; cooperation; mapping**

(a) Cooperation to secure flood insurance. The Secretary and all municipalities, regional planning commissions, and departments and agencies of State government shall mutually cooperate to achieve the purposes of this chapter and to secure flood insurance for municipalities and the State of Vermont. All correspondence sent to a municipality pursuant to this chapter shall be sent to the municipal clerk, the municipal manager, if one exists, the legislative body, the planning commission, and the conservation commission, if one exists. Copies of this correspondence shall be sent to the regional planning commission and the Agency of Commerce and Community Development.

(b) Notice of designation of flood hazard areas; maps. The Secretary shall, as the information becomes available, provide each municipality with a designation of flood hazard areas. The designation shall include a map or maps.

(c) Procedure to authorize review of municipal permit applications. The Secretary shall establish a procedure for authorizing a representative of a municipality or a regional planning commission to conduct the review required under 24 V.S.A. § 4424(a)(2)(D), including eligibility requirements for authorization to conduct permit application review and an approved process or list of approved certifications that the Secretary shall accept as proof of expertise in the field of floodplain management. (Added 1973, No. 263 (Adj. Sess.), § 2, eff. May 16, 1974; amended 1977, No. 200 (Adj. Sess.), §§ 1-3, 5, eff. April 5, 1978; 1981, No. 222 (Adj. Sess.), § 42; 1983, No. 249 (Adj. Sess.), § 3; 1995, No. 190 (Adj. Sess.), § 1(a); 2011, No. 138 (Adj. Sess.), § 1, eff. May 14, 2012.)

### **§ 754. Flood hazard area rules; uses exempt from municipal regulation**

(a) Rulemaking authority.

(1) On or before November 1, 2014, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for the issuance and enforcement of permits applicable to:

(i) uses exempt from municipal regulation that are located within a flood hazard area or river corridor of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. chapter 117; and

(ii) State-owned and -operated institutions and facilities that are located within a flood hazard area or river corridor.

(2) The Secretary shall not adopt rules under this subsection that regulate agricultural activities without the consent of the Secretary of Agriculture, Food and Markets, provided that the Secretary of Agriculture, Food and Markets shall not withhold consent under this subdivision when lack of such consent would result in the State's noncompliance with the National Flood Insurance Program.

(3) The Secretary shall seek the guidance of the Federal Emergency Management Agency in developing and drafting the rules required by this section in order to ensure that the rules are sufficient to meet eligibility requirements for the National Flood Insurance Program.

(b) Required rulemaking content. The rules shall:

(1) set forth the requirements necessary to ensure uses exempt from municipal regulation are regulated by the State in order to comply with the regulatory obligations set forth under the National Flood Insurance Program.

(2) be designed to ensure that the State and municipalities meet community eligibility requirements for the National Flood Insurance Program.

(3) [Repealed.]

(c) Discretionary rulemaking. The rules may establish requirements that exceed the requirements of the National Flood Insurance Program for uses exempt from municipal regulation, provided that any rules adopted under this subsection that exceed the minimum requirements of the National Flood Insurance Program shall be designed to prevent or limit a risk of harm to life, property, or infrastructure from flooding.

(d) General permit. The rules authorized by this section may establish requirements for a general permit to implement the requirements of this section, including authorization under the general permit to conduct a specified use exempt from municipal regulation without notifying or reporting to the Secretary or an agency delegated under subsection (g) of this section.

(e) Consultation with interested parties. Prior to submitting the rules required by this section to the Secretary of State under 3 V.S.A. § 838, the Secretary shall solicit the recommendations of and consult with affected and interested persons and entities such as:

the Secretary of Commerce and Community Development; the Secretary of Agriculture, Food and Markets; the Secretary of Transportation; the Commissioner of Financial Regulation; representatives of river protection interests; representatives of fishing and recreational interests; representatives of the banking industry; representatives of the agricultural community; representatives of the forest products industry; the regional planning commissions; municipal interests; and representatives of municipal associations.

(f) Permit requirement. A person shall not commence or conduct a use exempt from municipal regulation in a flood hazard area or river corridor in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of a State-owned and -operated institution or facility located within a flood hazard area or river corridor, without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section. When an application is filed under this section, the Secretary or delegated State agency shall proceed in accordance with chapter 170 of this title.

(g) Delegation.

(1) The Secretary may delegate to another State agency the authority to implement the rules adopted under this section, to issue a permit under subsection (f) of this section, and to enforce the rules and a permit.

(2) A memorandum of understanding shall be entered into between the Secretary and a delegated State agency for the purpose of specifying implementation of requirements of this section and the rules adopted under this section, issuance of a permit or coverage under a general permit under this section, and enforcement of the rules and permit required by this section.

(3) Prior to entering a memorandum of understanding, the Secretary shall post the proposed memorandum of understanding on its website for 30 days for notice and comment. When the memorandum of understanding is posted, it shall include a summary of the proposed memorandum; the name, telephone number, and address of a person able to answer questions and receive comments on the proposal; and the deadline for receiving comments. A final copy of a memorandum of understanding entered into under this section shall be sent to the chairs of the House Committees on Energy and Technology and on Natural Resources, Fish, and Wildlife, the Senate Committee on Natural Resources and Energy, and any other committee that has jurisdiction over an agency that is a party to the memorandum of understanding.

(h) Municipal authority. This section and the rules adopted under it shall not prevent a municipality from adopting substantive requirements for development in a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 that are more stringent than the rules required by this section, provided that the bylaw or ordinance shall not apply to uses

exempt from municipal regulation. (Added 2011, No. 138 (Adj. Sess.), § 1, eff. May 14, 2012; amended 2013, No. 107 (Adj. Sess.), § 1, eff. April 18, 2014; 2015, No. 150 (Adj. Sess.), § 8, eff. Jan. 1, 2018; 2017, No. 113 (Adj. Sess.), § 44a.)

**§ 755. Municipal education; model flood hazard area bylaw or ordinance**

(a) Education and assistance. The Secretary, in consultation with regional planning commissions, shall provide ongoing education, technical assistance, and guidance to municipalities regarding the requirements under 24 V.S.A. chapter 117 necessary for compliance with the National Flood Insurance Program.

(b) Model flood hazard area bylaw or ordinance. The Secretary shall create and make available to municipalities a model flood hazard area bylaw or ordinance for potential adoption by municipalities pursuant to 24 V.S.A. chapter 117 or 24 V.S.A. § 2291. The model bylaw or ordinance shall set forth the minimum provisions necessary to meet the requirements of the National Flood Insurance Program. The model bylaw may include alternatives that exceed the minimum requirements for compliance with the National Flood Insurance Program in order to allow a municipality to elect whether it wants to adopt the minimum requirement or an alternate requirement that further minimizes the risk of harm to life, property, and infrastructure from flooding.

(c) Assistance to municipalities with no flood hazard area bylaw or ordinance. The Secretary, in consultation with municipalities, municipal organizations, and regional planning commissions, shall provide education and technical assistance to municipalities that lack a flood hazard area bylaw or ordinance in order to encourage adoption of a flood hazard area bylaw or ordinance that qualifies the municipality for the National Flood Insurance Program. (Added 2011, No. 138 (Adj. Sess.), § 1, eff. May 14, 2012.)

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## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4424)

#### **§ 4424. Shorelands; river corridor protection areas; flood or hazard area; special or freestanding bylaws**

(a) Bylaws; flood and other hazard areas; river corridor protection. Any municipality may adopt freestanding bylaws under this chapter to address particular hazard areas in conformance with the municipal plan or, for the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6. Such freestanding bylaws may include the following, which may also be part of zoning or unified development bylaws:

(1) Bylaws to regulate development and use along shorelands.

(2) Bylaws to regulate development and use in flood areas, river corridor protection areas, or other hazard areas. The following shall apply if flood or other hazard area bylaws are enacted:

(A) Purposes.

(i) To minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding, landslides, erosion hazards, earthquakes, and other natural or human-made hazards.

(ii) To ensure that the design and construction of development in flood, river corridor protection, and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property in a flood hazard area or that minimizes the potential for fluvial erosion and loss or damage to life and property in a river corridor protection area.

(iii) To manage all flood hazard areas designated pursuant to 10 V.S.A. § 753.

(iv) To make the State and municipalities eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

(B) Contents of bylaws. Except as provided in subsection (c) of this section, flood, river corridor protection area, and other hazard area bylaws may:



(i) Contain standards and criteria that prohibit the placement of damaging obstructions or structures, the use and storage of hazardous or radioactive materials, and practices that are known to further exacerbate hazardous or unstable natural conditions.

(ii) Require flood, fluvial erosion, and hazard protection through elevation, floodproofing, disaster preparedness, hazard mitigation, relocation, or other techniques.

(iii) Require adequate provisions for flood drainage and other emergency measures.

(iv) Require provision of adequate and disaster-resistant water and wastewater facilities.

(v) Establish other restrictions to promote the sound management and use of designated flood, river corridor protection, and other hazard areas.

(vi) Regulate all land development in a flood hazard area, river corridor protection area, or other hazard area, except for development that is regulated under 10 V.S.A. § 754.

(C) Effect on zoning bylaws. Flood or other hazard area bylaws may alter the uses otherwise permitted, prohibited, or conditional in a flood or other hazard area under a bylaw, as well as the applicability of other provisions of that bylaw. Where a flood hazard bylaw, a hazard area bylaw, or both apply along with any other bylaw, compliance with the flood or other hazard area bylaw shall be prerequisite to the granting of a zoning permit. Where a flood hazard area bylaw or a hazard area bylaw but not a zoning bylaw applies, the flood hazard and other hazard area bylaw shall be administered in the same manner as are zoning bylaws, and a flood hazard area or hazard area permit shall be required for land development covered under the bylaw.

(D)(i) Mandatory provisions. Except as provided in subsection (c) of this section, all flood and other hazard area bylaws shall provide that no permit for new construction or substantial improvement shall be granted for a flood or other hazard area until after both the following:

(I) A copy of the application is mailed or delivered by the administrative officer or by the appropriate municipal panel to the Agency of Natural Resources or its designee, which may be done electronically, provided the sender has proof of receipt.

(II) Either 30 days have elapsed following the mailing or the Agency or its designee delivers comments on the application.

(ii) The Agency of Natural Resources may delegate to a qualified representative of a municipality with a flood hazard area bylaw or ordinance or to a qualified representative for a regional planning commission the Agency's authority under this subdivision (a)(2)(D) to review and provide technical comments on a proposed permit for

new construction or substantial improvement in a flood hazard area. Comments provided by a representative delegated under this subdivision (a)(2)(D) shall not be binding on a municipality.

(b) Ordinances. A municipality may adopt a flood hazard area, river corridor protection area, or other hazard area regulation that meets the requirements of this section by ordinance under subdivision 2291(25) of this title.

(c) Permit; planting projects.

(1) As used in this subsection, "planting project" means planting vegetation to restore natural and beneficial floodplain functions, as defined in 42 U.S.C. § 4121(a), that include floodwater storage, water quality improvement, and supporting riparian and aquatic habitat.

(2) By operation of this subsection, a planting project in a flood or other hazard area or river corridor protection area is considered to have a permit under this chapter unless the project is:

(A) part of a larger undertaking that includes the construction or installation of structures, the creation of earthen berms or banks, or physical disturbance of land or water other than necessary for planting vegetation; or

(B) a forestry operation or part of a forestry operation as defined in 10 V.S.A. § 2602 and exempt from municipal regulation under subsection 4413(d) of this title.

(3) Notwithstanding any contrary provision of this chapter or municipal bylaw or ordinance, a planting project considered to have a permit by operation of this subsection shall not be required to file an application to obtain a permit under this chapter or approval under a municipal ordinance or to obtain the issuance of such a permit or approval by the municipality. (Added 2003, No. 115 (Adj. Sess.), § 95; amended by 2011, No. 138 (Adj. Sess.), § 13, eff. May 14, 2012; 2013, No. 34, § 15; 2017, No. 4, § 1, eff. March 6, 2017; 2017, No. 197 (Adj. Sess.), § 16.)

AGENDA ITEM

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# Article 5: Development Review

## 5.1 Application Submission Requirements

An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application.

### 5.1.3 Conditional Use Review

Applications shall include the following:

- a) **Application Form:** Supplied by the Administrative Officer; signed by the owner of record and, in the case of a non-owner applicant, by the applicant;
- b) **Site Plan:** A site plan shall meet all of the requirements of Section 5.1.2(b).
- c) **Project Narrative:** A description of the proposed project shall be required as part of a complete application. Also required is a narrative that clearly and succinctly explains how the project meets all applicable Conditional Use standards.
- d) **Application Fees:** All applicable fees must be paid as part of a complete application.

## 5.2 Permitted Use Review

See Section 6.2.

## 5.4 Conditional Use Review

For development requiring one or more approvals from an Appropriate Municipal Panel prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Administrative Officer.

Conditional Use Process:

Applicant applies to the Administrative Officer, who must refer the application because conditional use approval is required.

The applicant must then ask the Zoning Board of Adjustment to schedule a public hearing on the issue, and such hearing must be held within thirty (30) days of such request.

The Board of Adjustment shall act to approve or disapprove any such request for conditional use within 45 days after the date of the final public hearing and failure to so act within such period shall be deemed approved.

The Board will base its decision on whether the proposed use will result in an undue adverse effect on:

- a) the capacity of existing or planned community facilities;
- b) the character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located;
- c) traffic on roads and highways in the vicinity;
- d) ordinances then in effect;
- e) utilization of renewable energy resources;
- f) as well as whether all applicable general and special provisions of these Bylaws would be met.

The Board may attach certain additional requirements or conditions to a permit. After such decision is made, the applicant shall have fourteen (14) days to present the conditional use approval and conditions to the Administrative Officer along with an application for a zoning permit.

Appeals from a decision of the Board of Adjustment are filed in the Environmental Court.

A performance bond or other surety may be required by the Zoning Board of Adjustment for a conditional use permit. The amount, term and conditions of forfeiture shall be stated in the decision which requires the surety and shall be reflected in the surety contract. The surety contract shall be satisfactory to the Administrative Officer as to form, sufficiency and manner of execution, and shall be filed with the Town Clerk.

## **Article 6: Administration and Enforcement**

### **6.2 Permit Requirements**

#### *6.2.2 Exemptions*

No zoning permit shall be required for the following activities:

- a) Required Agricultural Practices (RAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)] and Section 6. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for RAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
- b) Accepted Silvicultural Practices (ASPs) for forestry as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
- c) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
- d) Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.
- e) Subdivisions of land that require subdivision approval under Section 6.1.
- f) Normal maintenance and repair of an existing structure which do not result in a change of the footprint or a change of use.
- g) Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
- h) Exterior alterations to structures which are not located within designated design review districts and which do not result in any change to the footprint or height of the structure or a change in use.
- i) Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
- j) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 7.10.
- k) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.

- l) **Minor Structures** (*Amended April 10, 2012*)
  - 1) Any new, single-story, non-residential structure of 150 square feet or less;
  - 2) said structure must be accessory to an existing primary structure on the same lot as the proposed minor structure;
  - 3) 150 total square feet of such structures are allowed per acre of lot size up to a maximum of 500 square feet of total structure area. (Lots that are less than one acre in size are allowed a single 150 sq. ft. structure.);
  - 4) No single structure may be greater than 150 square feet;
  - 5) Applicant must notify the Zoning Administrator in writing of the intent to build such structure(s) by providing such information as is required by the Zoning Administrator;
- m) Garage sales, yard sales, auctions, or similar home-based activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.
- n) **Agricultural Structures:** Pursuant to 24 V.S.A. §4413(d) the following are exempt from local permitting requirements:
  - 1. farm structures (excluding dwellings);
  - 2. required agricultural practices; and,
  - 3. accepted silvicultural practices.

However, farmers intending to erect a farm structure, as part of a farming operation as defined by Section 6001(22) of Title 10, must:

- 1. notify the municipality of the intent to build a farm structure, and
- 2. abide by setbacks contained within the zoning bylaws, unless they provide an approval of lesser setbacks by the Commissioner of Agriculture, Food and Markets.

The notification must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way.

Additionally, all farm structures within the Flood Hazard Overlay District must comply with the National Flood Insurance Program.

Lastly, the municipality may report violations of Required Agricultural Practices or Accepted Silvicultural Practices to the appropriate state authorities.

- o) **Residential Care and Group Homes:** A group home, to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home. A residential care home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. §4501, shall be reviewed as a multi-family dwelling and shall be subject to conditional use and site plan review.
- p) Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, "flat roof" means a roof having a slope less than or equal to five degrees.
- q) Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (p) of this subsection, clotheslines, or other energy devices based on renewable resources.
- r) **Home-Based Occupations:** A home-based occupation shall be considered a permitted use in all districts where a residential structure is a permitted or conditional use. No zoning permit is required for a home-based occupation as long as the use does not

exceed following conditions:

1. Placed within an existing residence;
2. Employs only those who reside at the private residence;
3. Placed entirely within the existing private residence;
4. Generates a maximum of 20 average daily vehicle trips (defined as double the traffic generated by a private residence);
5. Does not have displays, storage, lights, heavy commercial vehicles, or any other exterior evidence of a home occupation that is viewable from the public right-of-way or by abutting landowners;
6. Does not generate noise, vibration, odor, glare, or other nuisances outside the residential or accessory outbuilding;
7. May display one non-illuminated, non-reflective building or free standing mounted sign, a maximum of three square feet in size; and,
8. Parking may include a 1-2 vehicle enlargement of an existing driveway. Separate on-site parking can be provided if fully screened from the public right-of-way or abutting properties.

## 6.9 Waivers

### 6.9.1 Purpose

The intent of this section is to provide flexibility in the setback requirements for existing structures within the Village Zoning District in order to enable the continued viability of these structures while also maintaining the character of the area.

### 6.9.2 Allowable Waivers

- a) In accordance with 24. V.S.A. 4414(8), waivers of dimensional setbacks are limited to no greater than a 10% reduction of any required front, side and/or rear setbacks for legally existing primary structures within the Village Zoning District in order to accommodate:
  1. ADA accessibility improvements;
  2. Life safety improvements;
  3. Unheated, open-sided additions (e.g. decks, stairways, entryways, etc.);
  4. Building systems (e.g. air conditioning, generators); or,
  5. Renewable energy structures that could not be reasonably developed without a waiver.
- b) Waivers shall not be granted for any of the other requirements in the Zoning Bylaws.