



TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

Zoning Board of Adjustment Agenda

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

Remote option – Zoom details below

Thursday, August 18, 2022 – 7:00 PM

-
1. Call to Order
 2. Agenda Review
 3. Comments from Citizens regarding items not on the agenda
 4. Approval of Meeting Minutes – June 9, 2022 & August 4, 2022
 5. **Public Hearing: Application 12.07.13.CU by Greg and Mandy Martel for the construction of a single family dwelling in a Highway Commercial (HC) district at 7228 VT Route 131, Perkinsville (Parcel: 07-02-03).**
 6. **Public Hearing: Chris Yurek - Mount Ascutney Regional Commission, representing the Town of Springfield at 00 Wellwood Orchard Road (Parcel# 12-00-42), to seek conditional use permit to demolish/remove an earthen embankment dam and associated infrastructure in Conservation (C-10) district. Conditional use due to excavation and grading within the special flood hazard area (FEMA Approximate A Zone).**
 7. Taft – Informal discussion
 8. Member training
 9. Meeting dates
 10. Communication with other boards and committees
 11. Zoning Bylaw update
 12. Zoning maps
 13. Discussion of Items for Future Agendas
 14. Adjourn

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

4

Zoning Board of Adjustment

June 9, 2022

Draft Meeting Minutes

1. Introductions

Board members present at the meeting were Todd Hindinger, Willis Wood, and David Gulbrandsen. Willis Wood and deForest Bearse, alternates, were participating Board members at tonight's meeting. Ryan Gumbart, land use administrator, was also in attendance.

The audience members were Dwight Phelps and Nancy Phelps.

2. Call to order

Todd Hindinger called the meeting to order at 7:04 PM.

3. Agenda Review

David Gulbrandsen made a motion to move the public hearing to first on the agenda. Willis Wood seconded it. All were unanimous.

4. Comments from Citizens regarding items not on the agenda

There were none.

5. Approval of Meeting Minutes – April 14, 2022 and May 12, 2022

Todd Hindinger made a motion to approve the 2nd draft minutes of April 14, 2022 with the understanding that one of the three Board members was not present tonight. deForest Bearse seconded it. deForest Bearse and Todd Hindinger voted in favor of the motion. Willis Wood and David Gulbrandsen abstained.

Willis Wood made a motion to approve the minutes of May 12, 2022 as written. Todd Hindinger seconded it. The motion passed.

6. Ethics Policy

Ryan Gumbart sent all the Board members a copy of the Town's Ethics Policy approved by the SelectBoard on August 15, 2016.

Willis Wood made a motion to adopt this Ethics Policy as theirs. deForest Bearse seconded it. All were in favor of the motion. The Board members at this meeting signed the Ethics Policy. Ryan Gumbart will have the other members sign it later.

7. Sign Rules of Procedure

Todd Hindinger took the Board's suggestions from the previous meeting and added them to this document. The Board members reviewed the revised Rules of Procedure. The Board members at this meeting signed the Rules of Procedure. Ryan Gumbart will have the other members sign it later.

8. Public Hearing Chris Yurek Parcel ID 12-00-42, C10, conditional use

Todd Hindinger opened the hearing at 7:09 PM. Ryan Gumbart stated that the applicant would like to continue this hearing two or three months. They would like to speak with Mr. & Mrs. Phelps and are waiting on a couple more permits.

Todd Hindinger stated that Jaime Wyman is staying on as a Board member because of this application. She thought she would be on for only an extra month or so. This is not fair to her due to her professional life. David Gulbrandsen stated that the applicant is not doing anything on purpose. He is fine with the hearing being delayed two to three months. Willis Wood is recused from this hearing due to being an abutter. He had no comments. deForest Bearse wanted to know how many times this hearing has been postponed. Todd Gulbrandsen stated that this would be the third continuation. The Board stated that if the applicant is not ready for the next hearing, he could withdraw without prejudice and reapply again. He would have to pay for the notices again.

deForest Bearse made a motion to continue the hearing till August 18, 2022 at 7:00 PM with the understanding that this is the last continuation. Todd Hindinger seconded it. The motion passes.

9. Welcome new members

Joseph Bublat will be joining the Board. He is not sworn in yet, but has been approved by the Select Board.

10. Future Agendas

The next Board meeting will be July 7, 2022 at 7:00 PM.

- a. Member Training - Each new Board member will receive a copy of the Policies and sign them.
- b. Meeting dates
- c. Zoning Bylaws updates
- d. Means of communication with other Boards
- e. Bylaws Maps

11. New business

There was none.

12. Adjournment

Willis Wood made a motion to adjourn at 8:22 PM. deForest Bearse seconded it. All were in favor.

Respectfully submitted,

Diana Stillson

Zoning Board of Adjustment

August 4 2022

Draft Meeting Minutes

1. Introductions

Board members present at the meeting were Todd Hindinger and James Cahill. Joseph Bublat and John Broker Campbell participated via zoom. Ryan Gumbart, land use administrator, was also in attendance.

The audience members were Jessica and Kalem Taft.

2. Call to order

Todd Hindinger called the meeting to order at 7:06 PM.

3. Agenda Review

There were no changes.

4. Comments from Citizens regarding items not on the agenda

There were none.

5. Approval of Meeting Minutes – June 9, 2022

Todd Hindinger reviewed the minutes and had no changes. Since he is the only Board member at this meeting, the approval of the minutes are postponed to the next meeting.

6. Taft - Informal discussion

Power/internet was lost briefly. John Broker Campbell and Joseph Bublat joined via phone. Kalem Taft stated that when they applied for the permit, they did not know about the setback issues and other things. They have spoken with an attorney. The attorney told them to explore other options and to speak to the abutter, Arthur Riscen. Arthur Riscen explained to them the issues surrounding their property. The Taft's presented a letter to the Board from Arthur Riscen in support of Condition #1 (one time only).

Jessica Taft stated that they applied for a variance, but have considered building up. Arthur Riscen's issue was with Jaime Wyman. They have spoken with Arthur Riscen and he is fine with the addition.

John Broker Campbell stated he would like the Town's attorney to review the original application based on the language with the original decision. It is a legal document which states that no additions will be permitted. Todd Hindinger stated that the legal document was agreed to by the Select Board and the Zoning Board. He mentions that the Taft's could go to the Environmental Board. James Cahill restates that the legal document states no additions. Since there is a court order, the Board can not do anything.

Kalem Taft mentioned that if there was no court order, they could just build up. Todd Hindinger stated that they would still need a conditional use. The current building does not fit the Bylaws. Kalem Taft stated that they could rebuild the deck because there would not be a change in the footprint. It would be the same size. They have a timeline and don't want this issue to go on for months. Todd Hindinger stated that if you had a surveyor, you could locate the missing pin which would show the 30 feet setback.

Kalem Taft stated that the map of the house is pretty good. They are only missing one post which he can't locate. It is close to the original map. Jessica Taft stated that it was built incorrectly by the previous owners. The Board stated that you, the Taft's, are the current owners now and have to follow the legal documents. Ryan Gumbardt will email the Town's attorney to see if anything can be changed now that Arthur Riscen is supporting it. He will let the Board and the Taft's know the lawyer's response. Then the Taft's can decide what to do next. They could have it surveyed, or go to the Environmental Board to get this document amended. It would still need to meet the Town's standards. Ryan Gumbardt stated that the Board could do a site visit. Todd Hindinger stated that it is a small parcel and the house fills up the area. Kalem Taft stated that if it is amended, they could have it surveyed. Then they could have another hearing to present the survey. The Board stated that if there is another hearing, the Board would have 45 days to render their decision. It does not usually take that long though. It might need a variance, or it might not. If the Town's attorney states that it can be amended, then it still needs to go to the Environmental Board.

7. Member training
8. Meeting dates
9. Communication with other boards and committee

Joseph Bublat wanted to know exactly what communication with other boards means. Todd Hinderger stated that in the past the communication has failed. This Board would like to be informed of any changes to the Bylaws so they are aware of them. There have been Bylaws adopted and this Board has not been aware of them. John Broker Campbell mentioned that it is important for Joseph Bublat to be a Planning Commission member when he is at their meeting and a Zoning Board member when he is at one of our meetings. This Board just wants an overview of what is happening with the Planning Commission.

Joseph Bublat stated that the Town's website is not up to date. Ryan Gumbardt stated that the Town manager is aware of that and they are working on it. He wanted to know if the Board members use their personal email or have a Town one. The Board members all use their personal emails.

10. Zoning Bylaws update

11. Zoning maps

12. Discuss of items for future agendas

The Board's next meeting is August 18, 2022. The Martell hearing will be at 7:15 PM and the Yurek hearing at 8:00 PM.

13. Adjournment

James Cahill made a motion to adjourn at 8:19 PM. John Broker Campbell seconded it. All were in favor.

Respectfully submitted,

Diana Stillson

AGENDA ITEM

5

PUBLIC HEARING

Martel – Conditional Use Review

August 18, 2022

Item 1: Public Hearing Notice

Item 2: Certification of Posting and Distribution

Item 3: Applications

Item 4: Survey Map

Item 5: Parcel & District Map

Item 6: Permit Navigator Results

Item 7: ANR Permit Navigator Map

Item 8: Conditional Use Worksheet

Item 9: Administrative Review Checklist

HEARING ITEM

1



TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

Zoning Board of Adjustment

NOTICE OF PUBLIC HEARING

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

Remote option – Zoom details below

Thursday, August 18, 2022 – 7:00 PM

A public hearing before the Weathersfield Planning Commission will be held at the Town Office in Ascutney on Thursday, August 18, 2022, at 6:45 PM to consider the following application:

Application 12.07.13.CU by Greg and Mandy Martel for the construction of a single family dwelling in a Highway Commercial (HC) district at 7228 VT Route 131, Perkinsville (Parcel: 07-02-03).

The above application is available for inspection at the Town Office in Ascutney. Persons wishing to appeal and be heard may do so in person or be represented by an agent or attorney. Participation in this proceeding is required in order to ensure your ability to appeal the Zoning Board's decision. Communications about the above application may be filed in writing with the Zoning Board of Adjustment or at the hearing.

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>

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HEARING ITEM


2

Certification of Posting and Distribution

Notice of Public Hearing

Hearing Date August 18, 2022 Site Visit NA

I hereby certify that I have posted the attached "Notice of Public Hearing" in the following public places and mailed, faxed or emailed as noted said "Notice of Public Hearing" to the following parties on July 28, 2022 as required by the Vermont Statutes Annotated, Chapter 117, §4464


 Ryan Gumbart, Land Use Administrator

Application # 22.07.13. CV
 Applicant's Name: Greg & Mandy Martel

Send copy of Rules of Procedure re public hearings with the hearing notice

- | | | |
|-------------------------------------|--|-------------------------------|
| <input checked="" type="checkbox"/> | Vault | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | Applicant's File | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | Applicant (paper copy/mailed) | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | Applicant (cardboard copy for posting) | <u>Posted by Ryan 7/27/22</u> |
| <input checked="" type="checkbox"/> | Landowner (mailed) | <u>7/27/22</u> |
| <input type="checkbox"/> | Agent (mailed) | <u>NA</u> |
| <input checked="" type="checkbox"/> | Newspaper (notice emailed to paper) | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | Publication in newspaper | <u>7/30/22</u> |
| <input checked="" type="checkbox"/> | Abutters* (mailed) | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | Board Members (mailed) | <u>7/28/22</u> |
| <input checked="" type="checkbox"/> | Board Secretary (mailed) | <u>7/28/22</u> |
| <input checked="" type="checkbox"/> | Town Website (posted) | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | 3 Public Places | |
| <input checked="" type="checkbox"/> | Town Hall | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | Ascutney Post Office | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | Perkinsville Post Office | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | WWFD (placed in mailbox) | <u>7/27/22</u> |
| <input checked="" type="checkbox"/> | AVFD (placed in mailbox) | <u>7/27/22</u> |
| <input type="checkbox"/> | Other | <u>NA</u> |
| <input type="checkbox"/> | VT Secretary of Transportation** | <u>NA</u> |

* Abutters - see attached list
 ** when application for variance of setback from state highway (§4464(a)(1)(C))

HEARING ITEM

3

CHARTERED BY
NEW HAMPSHIRE
AUGUST 20, 1761

Town of Weathersfield

POST OFFICE BOX 550
ASCUTNEY, VERMONT 05030-0550

CHARTERED BY
NEW YORK
APRIL 8, 1772

Telephone: [802] 674-2626
Facsimile: [802] 674-2117

E-mail: zoning@weathersfield.org
Website: <http://www.weathersfield.org>

Planning and Zoning

APPLICATION TO ZONING BOARD OF ADJUSTMENT CONDITIONAL USE PERMIT

TAX MAP PARCEL NUMBER 07-02-03

LOCATABLE ADDRESS: Number: 7228 Road: VT 131

DEED TO THE PROPERTY RECORDED IN WEATHERSFIELD LAND RECORDS AT:
BOOK 160 PAGE 448-450

APPLICANT: Greg and Mandy Martel
A. Mailing Address 4125 Route 106, Perkinsville, VT 05151
B. Telephone number: Home: 802-299-1969 Work: ~~8~~

LANDOWNER signature, if different from applicant: Hiedi Mitchell
A. Mailing Address: 7228 VT Route 131, Perkinsville, VT 05151
B. Telephone number: Home: 802-222-9649 Work: _____

PROJECT DESCRIPTION:

Single-family residence in HC zone

ATTACH THE FOLLOWING TO YOUR APPLICATION:

- Site Plan (see instructions)
- Community Facilities Project Review and Sign-Off sheet

Signature of Applicant Mandy Martel Date 7-13-2022

 Application No. 22.07.13.CV Date of Notice 7/27/2022
 Date received by AO July 13, 2022 Date of Hearing 8/18/2022
 Fee Paid \$ 250.00 Date of Decision _____
 Date Paid July 13, 2022 Decision approved _____ denied _____

Town of Weathersfield

Date: 07/13/2022 Time: 15:28:04

Clerk: osavage

Account: 070203

Name: MITCHELL MICHAEL & HEIDI

Comments:

Description	Amount
Land Records	10.00
Land Records	3.00
Land Records	2.00
Library Fundraising	250.00

TOTAL 265.00

Check 1037

Thank you

Town of Weathersfield Zoning Permit 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 07-02-03
 Lot Size (acres) 3.51 acres
 Road Frontage (ft) ROW
 Existing Principal Use (enter below, e.g. "single-family dwelling")
(if no existing Principal Use, leave blank)

Applicant Mandy & Greg Martel

Name(s) Mandy Martel
 Name(s) Greg Martel
 Mailing Address 4125 Rt. 106
 Town, State, Zip Perkinsville, VT 05151
 Telephone # 802-299-1969
 Mobile # _____
 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

Decision (Staff Use Only)

APPROVED DENIED

Permit Expiration Date _____

Permit/Notification Type (check all that apply)

- New Principal Building or Unit (e.g. "single-family dwelling")
- New Accessory Structure (e.g. "shed")
- Alteration to Existing Structure (e.g. "new room addition")
- Change of Use (e.g. "personal service" to "restaurant")
- Demolition / Removal (e.g. demolition & removal of pool)
- Sign (one-sided square footage): _____ sq. ft.
- Variance

Minor Structure

Project Information

Proposed Principal Use Definition (if new or changing, enter below)

Single-family residence

Approximate Value of Development \$ _____
 Total New Finished Floor Area 1000 sq. ft.
 Total New Unfinished Floor Area _____ sq. ft.
 Maximum Height 235 ft.
 Number of Stories _____

Filing Information (Staff Use Only)

Zoning Permit # 22-07-13.A.1
 Fee Collected \$165.00
 Zoning Area HC
 Permit Issue Date _____
 Appeal by Date _____

Type of Review Required (check all that apply)

- Administrative
- Zoning Board of Adjustment
- Conservation Commission
- Flood Hazard / Agricultural Soils

Description of Project (please provide a complete description along with dimensions)

Single family dwelling in Highway Commercial zone.

Is your project subject to the **Residential / Commercial Building Energy Standards**? Yes No

If yes, you must record a Vermont Residential/Commercial Energy Standards (RBES or CBES) Certificate in the Land Records prior to receiving your Certificate of Compliance/Occupancy. Contact Energy Code Assistance Center at (855) 887-0673 to determine if you need to follow these standards.

Does your project involve any **demolition and/or renovation**? Yes No

If yes, you must contact the Lead and Asbestos Regulatory Program at (800) 439-8550 prior to demo/renovation.

Does your project involve the installation or removal of a **new manufactured/mobile home**? Yes No

If yes, you must provide a copy of **HUD Form 309**. Installation must comply with the HUD Permanent Foundations Guide for Manufactured Housing. A bill of sale must be obtained from the Weathersfield Town Clerk.

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

If yes, you must obtain Highway Access permit approval from the Town of Weathersfield and/or Vermont Agency of Transportation at (802) 279-1152

Will your project involve connecting to **municipal water**? Yes No

If yes, you must contact the Town Manager at (802) 674-2626

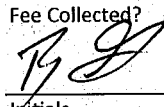
Does your project involve construction of / change of use to or from being a **public building**? Yes No

If yes, you must contact the Vermont Department of Public Safety, Division of Fire Safety. A public building is any building that the public has the occasion to enter EXCEPT for owner-occupied, single-family dwellings, registered home day cares, and working farms, but INCLUDING single family homes becoming rentals. The Town of Weathersfield currently recommends the installation of a Knox Box. For more information, visit <http://www.knoxbox.com/>

Does your project involve a **new home / business, change in # of bedrooms / change in use**? Yes No

If yes, contact the local Water/Wastewater Permit Specialist at (802) 279-4747, or the State Water/Wastewater Division, Springfield Office at (802) 289-0603

Permit Fee Calculator (Cash or Check only, payable to Town of Weathersfield)

Principal Use	\$100 + 0.05 x <u>1660</u> sq. ft.	=	\$ <u>150</u>	Staff Use Only Fee Collected?  Initials
Accessory Use	\$30 + 0.05 x _____ sq. ft.	=	\$ _____	
Conditional Use	\$200 + 0.05 x _____ sq. ft.	=	\$ _____	
Permit Renewal	Expired permit renewal: \$30	+	\$ _____	
Variance	\$200	+	\$ _____	
	SUBTOTAL		\$ _____	
Late Fee	Double all fees for after-the-fact permit	2x	\$ _____	
Recording Fee	Applies to all applications	+	\$ <u>15</u>	
	TOTAL		\$ <u>165.00</u>	

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, 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 Harold Mitchell
 Date 7/15/22

Applicant Signature Mandy A Martz
 Date 7/13/2022

Site Plan Drawing

Draw an aerial view of the property described in this application showing a north arrow, all 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, sides, rear and closest property boundary lines (setbacks) and distances between each structure. Identify the use of all buildings, and the location of septic/sewer and water utilities. Identify access from Town or State Highway and road frontage distance. Identify any deeded easements or rights-of-way. Include any proposed signs in the drawing. Include any streams, water bodies and wetlands. If the scale is too small to show details after drawing all property lines, please use supplemental pages to map required features at a larger scale.

See attached map.

Land Use Administrator Signature [Signature]

Applicant Signature Mandy Manti

NOTE: Signature required for valid permit

July 13, 2022

Town of Weathersfield
Planning Board Members

To Whom It May Concern,

As property owner of land at 7228 Rte 131, Perkinsville, VT, I give permission for both Greg and Mandy Martel to participate in meetings in my behalf regarding the subdivision request.

Should you have any questions for me personally, I can be reached at 802-222-9649.

Thank you

A handwritten signature in blue ink that reads "Heidi Mitchell". The signature is written in a cursive style with a large initial 'H' and a long, sweeping underline.

Heidi Mitchell

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

A handwritten signature in blue ink that reads "Heidi Mitchell". The signature is written in a cursive style.

Heidi Mitchell

Fwd: Deer Wintering issue Weathersfield

Mandy Martel <mandy.martel19@gmail.com>

Wed 7/13/2022 2:33 PM

To: Land Use <Landuse@weathersfield.org>

 1 attachments (3 KB)

image001.jpg;

----- Forwarded message -----

From: **Smith, Ryan** <Ryan.Smith@vermont.gov>

Date: Thu, Nov 4, 2021, 2:28 PM

Subject: RE: Deer Wintering issue Weathersfield

To: Mandy Martel <mandy.martel19@gmail.com>Cc: BERT WHIDDEN <bcw0203@gmail.com>, Bernier, Chris <Chris.Bernier@vermont.gov>

To Whom it may Concern, I made a site visit on November 3rd to 4125 Route 106 Perkinsville, VT to look at potential deer wintering area impacts in relation to the development of a single family home. Mandy Martel contacted me, as she is hoping to buy property and build a home further up the ridge, behind the address stated above. She was notified that the area where the house is planned is mapped deer wintering habitat and asked if I would make a site visit as they felt the planned location is not within the deer wintering area.

On November 3rd I made a site visit and determined in fact the area in which the house site is planned is not within the deer wintering area, it is approximately 100 feet further down the slope and is in the open hardwoods, not within the critical habitat. The planned driveway is also below the deer wintering area and will follow an existing road. I feel that the planned location, although within the 300 foot buffer of the deer wintering area will have very minimal to no impacts on over wintering deer and could precede as planned. I did mention to Mandy, that the only potential impact that might occur which would be detrimental to over wintering deer would be if they had a dog and would let it run loose and uncontrolled during periods of deep snow and cold temps, she insured me that wouldn't be a concern as their dog is always on a lease and would surely not be allowed to roam free. Thanks Ryan

 Description: Description: Description: Description: momVT

Ryan Smith | Fish & Wildlife Specialist

Vermont Agency of Natural Resources | Dept. of Fish & Wildlife

100 Mineral St, Ste 302 | Springfield, VT 05156-3168

802-245-4112

ryan.smith@vermont.gov

www.vtfishandwildlife.com

From: Mandy Martel <mandy.martel19@gmail.com>
Sent: Monday, November 1, 2021 3:44 PM
To: Smith, Ryan <Ryan.Smith@vermont.gov>
Cc: BERT WHIDDEN <bcw0203@gmail.com>; Bernier, Chris <Chris.Bernier@vermont.gov>
Subject: Re: Deer Wintering issue Weathersfield

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

I'm sorry I didn't hit "reply all" When I responded. Yes, Wednesday at 9am works for me too!

Thank you both so much!

Mandy

On Mon, Nov 1, 2021, 12:31 PM Smith, Ryan <Ryan.Smith@vermont.gov> wrote:

Let's plan 9 am?

Sent from my iPhone

On Oct 30, 2021, at 9:40 AM, BERT WHIDDEN <bcw0203@gmail.com> wrote:

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Good morning!

I am available any time Wednesday until 3 pm. Looking forward to working on this issue with you guys! Let me know what time is best for you, Ryan! And thank you for your prompt response and attention to this matter.

Town of Weathersfield

Date: 07/13/2022 Time: 15:27:15

Clerk: osavage

Account: 070203

Name: MITCHELL MICHAEL & HEIDI

Comments:

Description	Amount
Land Records	10.00
Land Records	3.00
Land Records	2.00
Library Fundraising	150.00

TOTAL 165.00

Check 1037

Thank you

HEARING ITEM

4

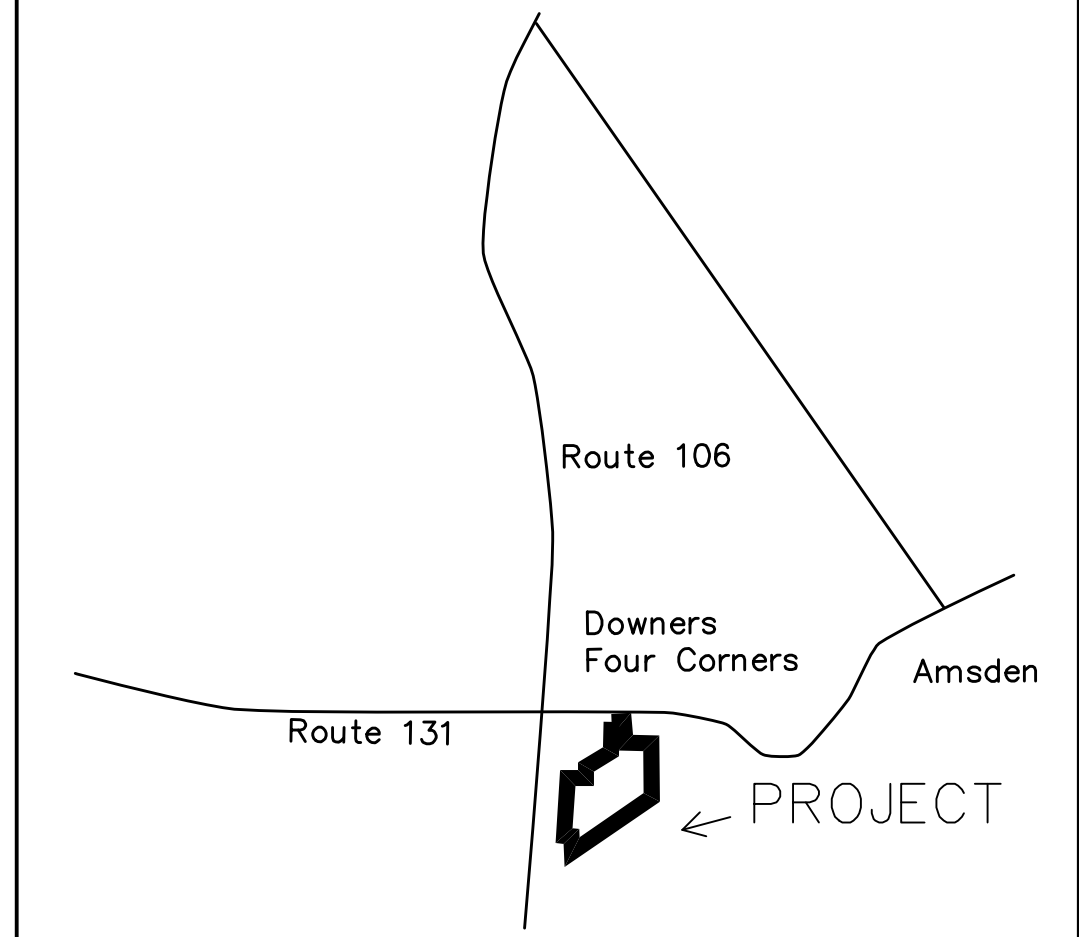
ZONED HIGHWAY COMMERCIAL (HC)

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

LOT 1
13.82 ACRES±

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

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

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

50 Foot Wide Right of Way
to be used in Common by
American Towers, lots 1 & 2

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.
Date _____
Signature _____

WEATHERSFIELD TOWN CLERK
RECEIVED FOR RECORD
_____, 20____
AT _____ o'clock _____ min _____ m
and recorder in file _____ map _____
attest _____ town clerk

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

CONSERVATION 10
HIGHWAY COMMERCIAL
LOT 2
640 3.51 ACRES±

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

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

- LEGEND**
- IRON PIPE/REBAR
 - BOUNDARY COMPUTATION POINT
 - CONCRETE MONUMENT
 - — — — — PROPERTY LINE
 - ○ ○ ○ ○ STONEWALL
 - x - - - - - BARB WIRE 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 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.

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. #531

Revised 7/12,2022 Lots 1 & 2

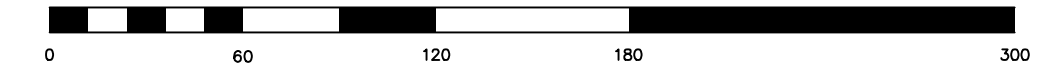
GARY RAPANOTTI L.S.

Subdivision Plan

Heidi Mitchell

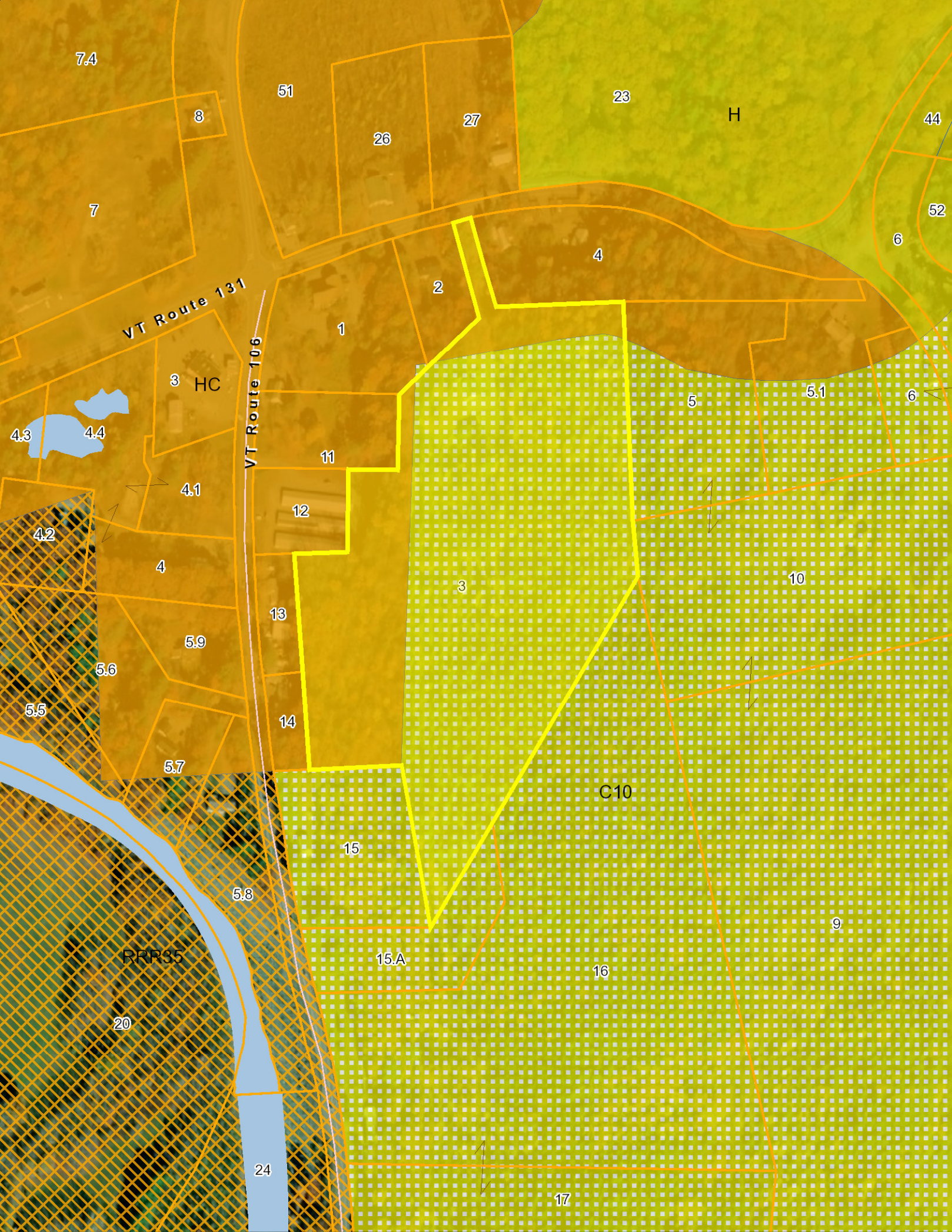
Weathersfield Vermont

DATE Jan. 7, 2022	SCALE 1"=60'	PROJECT NO. 21-1297
GARY RAPANOTTI L.S.		SPRINGFIELD VERMONT



HEARING ITEM

5



HEARING ITEM

6

Your Permit Navigator Results

PNR-0000002568

On the following page, you will find the following results based on the information that you provided. If the information you provided changes, for example if you change the location or size of your project, you should start over as the results below are no longer valid

Disclaimer: The Permit Navigator Results Summary is based on the information provided, and is not intended as an official or binding permitting determination by the ANR or the NRB. The Agency and the NRB reserve the right to require additional permits and/or approvals depending on the specific details of the project.

By checking this box I confirm that I have read and understood the disclaimer.

Check here if you would like a jurisdictional opinion on whether your project requires an Act 250 permit? If you check this box you will need to provide your contact information (first name, last name, email address, and phone). Otherwise, entering your contact information here is not required, but doing so will make it easier for ANR or Act 250 staff to better assist you in the future.

Disclaimer: Although requesting an Act 250 jurisdictional opinion is not required, it is highly recommended. Commencement of construction on a project (including clearing land or demolishing structures in preparation) that requires an Act 250 permit without securing a jurisdictional opinion could result in penalties and other enforcement actions.

PROJECT INFORMATION REVIEW

Project Address

7230 VT ROUTE 131. WEATHERSFIELD, 05151

Category

Business/Municipality/Government
Entity

Industry / Activity

Municipalities

New Construction or Renovation?

No

YOUR LOCATION SELECTION DATA

Latitude

43.3974

Longitude

-72.5138

SPAN

705-224-10772

Property Owner

AT&T MOBILITY LLC
7230 VT ROUTE 131.
WEATHERSFIELD, 05151

Location

[View map of your selection](#)

This link may contain valuable information about this parcel. We suggest clicking on this link and viewing it in the ANR Atlas to see the environmental considerations (such as wells, existing permits, and required setbacks) present.

PERMIT RESULTS

BASED ON YOUR RESPONSES, WE HAVE DETERMINED THE FOLLOWING PERMITS ARE LIKELY NEEDED FOR YOUR PROJECT:

Vermont Department of Environmental Conservation

Operational Stormwater Discharge Permit

PERMIT EXPLANATION

An operational stormwater permit is required for new development of 1 or more acres of impervious surface; for the expansion of impervious surface by 5,000 square feet when the total resulting surface (new + existing) will be 1 or more acres; for the redevelopment of 1 or more acres of impervious surface; and sites with impervious surfaces totaling 3 or more acres, including projects that share a previously issued stormwater permit for 3 or more acres (e.g. residential/commercial subdivisions, and other types of larger campus-type development), unless the entire site was permitted under the 2002 Vermont Stormwater Management Manual. Most projects obtain permit coverage under Stormwater General Permit 3-9050. Some projects may require an Individual Permit.

TIME TO ISSUE PERMIT

Approximately 40-60 days for general permit applications, 90 days for Individual Permit applications.


APPLICATION FEE AMOUNT

\$240 Administrative Processing Fee + \$860-1400 Application Review Fee + \$160-310 Annual Operating Fee depending on Class

[View fee table](#)

PROGRAM CONTACT

Ashley Preston

 802-490-6170

 ashley.preston@vermont.gov

PROGRAM WEBSITE

 <https://dec.vermont.gov/watershed/stormwater>

PROGRAM RESOURCES

[Stormwater Program, District Environmental Analysts:](#)

are responsible for the technical review of construction stormwater discharge permits, and may be contacted for consultation regarding permit applicability, including determinations.

Wastewater System & Potable Water Supply

PERMIT EXPLANATION

Regulates the construction or modification of potable water supplies and wastewater treatment and disposal systems in order to protect human health and the environment. Wastewater permit applications are filed by engineers and licensed designers.

TIME TO ISSUE PERMIT

Approximately 30-45 days. (Timeframe is dependent on the completeness and accuracy of the application.)


APPLICATION FEE AMOUNT

New single family residence up to four bedrooms: \$306.25. Five or more bedrooms \$870. Larger buildings range from \$3000 - \$13,500.

[View fee table](#)

PROGRAM CONTACT

Jeff Svec

 802-591-0231

 jeff.svec@vermont.gov

PROGRAM WEBSITE

 <https://dec.vermont.gov/water>

PROGRAM RESOURCES

[Wastewater Systems & Potable Water Supply Permit](#)

The Regional Office Program issues water/wastewater permits (WW Permits) for soil based wastewater systems with flows of less than 6,500 gallons per day, for potable water supplies (water supplies that are not public water supplies), and for municipal water and sewer connections. Permitting staff are located in five Regional Offices. Staff also administers the licensed designer program and reviews innovative and alternative systems for potential use in the state.

ENVIRONMENTAL CONSIDERATIONS BASED ON MAPPED RESULTS

ID MAP RESULT

CONTACT INFORMATION

First Name

Ryan

Last Name

Gumbart

Phone

(802) 674-4510

Email

landuse@weathersfield.org

Address 1

5259 US Route 5

Address 2

PO BOX 550

City

Ascutney

State

Vermont

Mailing Zip/Postal Code

05030

Fish, Wildlife, and Plants - Threatened and Endangered Species

Does your project involve cutting down trees larger than 8 inches in diameter in any of the following towns?

Answer:

 NO

- (Addison, Arlington, Benson, Brandon, Bridport, Bristol, Charlotte, Cornwall, Danby, Dorset, Fair Haven, Ferrisburgh, Hinesburg, Manchester, Middlebury, Monkton, New Haven, Orwell, Panton, Pawlet, Pittsford, Rupert, Salisbury, Sandgate, Shoreham, Starksboro, St. George, Sudbury, Sunderland, Vergennes, Waltham, West Haven, Weybridge, Whiting)

Underground Injection Control

Will you have one or more floor drains or catch basins?

Answer:

 NO

Lake Encroachment Permit

Is your project located at or beyond the shoreline as established by the mean water level of: 1) a public lake or pond, 2) a boatable tributary of Lake Champlain or Lake Memphremagog upstream to the first barrier to navigation, or 3) Connecticut River impoundments and boatable tributaries of such impoundments upstream to the first barrier to navigation?

Answer:

 NO

Shoreland Protection

Does your project involve the creation of new cleared area or impervious surface (e.g. dirt road, paved road, roof, driveway, etc.) near a lake or pond?

Answer:

 NO

Residuals Management

Does your project involve a facility that produces biosolids?

Answer:

 NO

Does your project involve land applying biosolids or stabilized, domestic septage?

Answer:

 NO

Does your project involve a municipal wastewater treatment facility but your project does not produce biosolids?

Answer:

 NO

Does your project involve the distribution of short paper fiber or wood ash in Vermont?

Answer:

 NO

Stream Alteration and Stream Crossing Structures

Does your project involve any of the following:

Answer:

- movement, excavation or fill of 10 or more cubic yards of material within a perennial stream?

 NO

- construction or maintenance of a berm or additional material for landscaping adjacent to a river, stream, or floodplain?

- any crossing of a stream with utility lines?

Flood Plain and River Corridor

Is your project proposing activities in or near a floodplain, river, and/or stream.

Answer:

 NO

Salvage Yards

Does your project involve storing four or more junk vehicles or scrap metal outside?

Answer:

 NO

Demolition Waste

Does your project have demolition waste that needs disposal?

Answer:

 NO

Disposal of Inert Waste, Untreated Wood & Stumps

Does your project have inert waste that needs disposal?

Answer:

 NO

Used Septic System Components/Stone

Does your project involve used septic system components or stone from a septic system that needs disposal?

Answer:

NO

Industrial (Multi-Sector) Stormwater Discharge Permit

Does your project involve an industrial activity associated with the Multi-Sector General Permit? (To view multi-sector general permit industrial activities, click this [link](#).)

Answer:

NO

Operational Stormwater Discharge Permit

Will your project undertake any of the following with respect to impervious surfaces:

Answer:

- None of the above

Underground Storage Tanks

Does your project have an existing underground storage tank on the property?

Answer:

NO

Does your project involve you installing an underground storage tank?

Answer:

NO

Wastewater System & Potable Water Supply

Are you subdividing land?

Answer:

YES

Is the lot improved?

Answer:

YES

Are you adding land to a lot? (The addition of land to a lot does not require a permit, but subdivision of the donor lot may require a permit.)

Answer:

NO

Answer:

NO

Is it the subdivision of a lot where the subdivision results from a transfer of property for a highway or other transportation project that is authorized under the State's enacted Transportation Program or is an emergency project within the meaning of 19 V.S.A. § 10g(h) regardless of whether the State or the municipality has commenced any condemnation proceedings in connection with the project?

Answer:

None of the above

Is the subdivision for a boundary line adjustment? if so it may be exempt if each lot being adjusted meets one or more of the following:

Wetlands

Does your project involve land that is in or near an area that has any of the following characteristics:

Answer:

NO

o Water is present – ponds, streams, springs, seeps, water filled depressions, soggy ground under foot, trees with shallow roots or water marks?

o Wetland plants, such as cattails, ferns, sphagnum moss, willows, red maple, trees with roots growing along the ground surface, swollen trunk bases, or flat root bases when tipped over?

o Wetland Soils – soil is dark over gray, gray/blue/green? Is there presence of rusty/red/dark streaks? Soil smells like rotten eggs, feels greasy, mushy or wet? Water fills holes within a few minutes of digging?

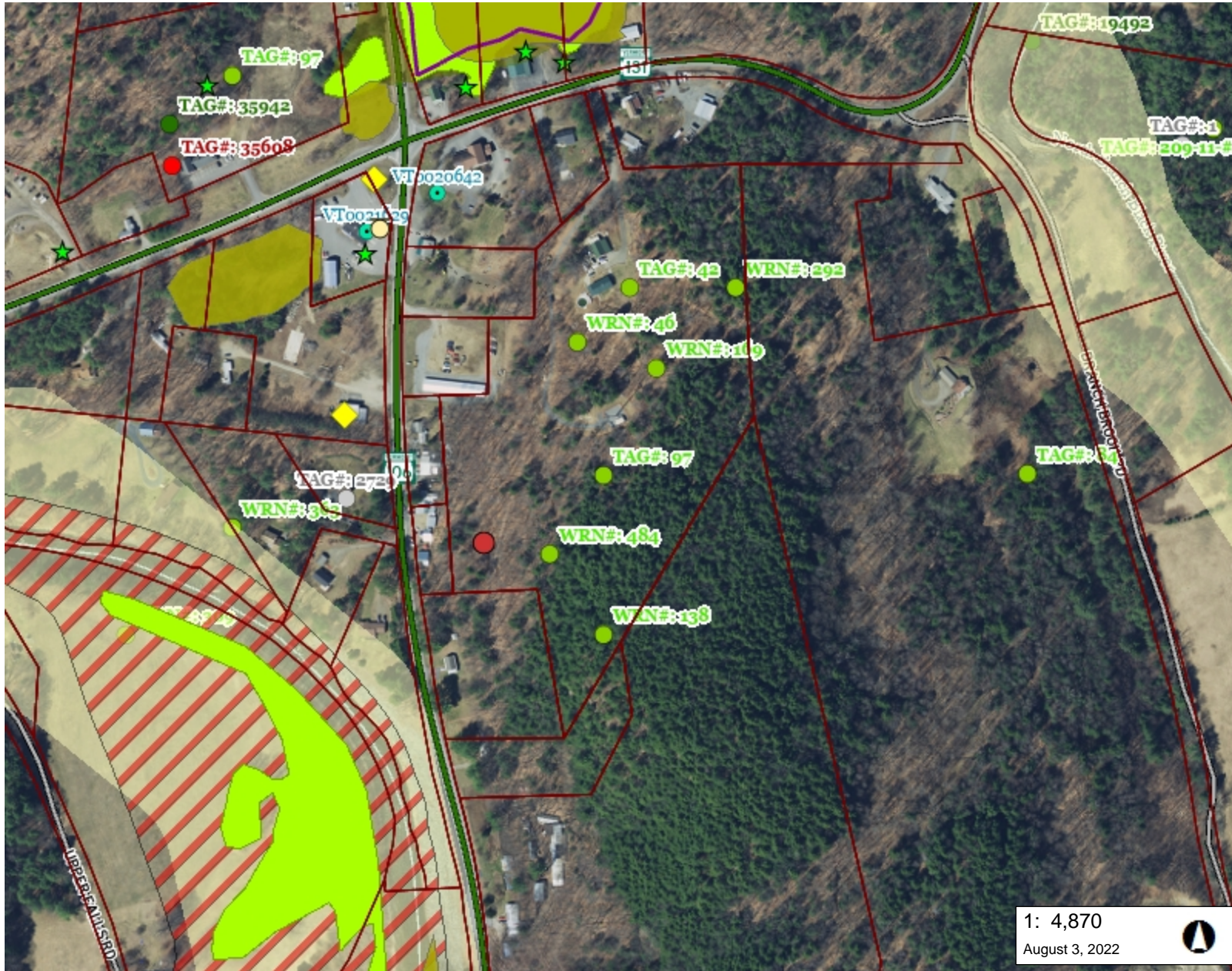
Other State and Local Permit Information

In addition to environmental permitting, there are other requirements that may apply. Below are some helpful resources:

- Office of the State Fire Marshal: <https://firesafety.vermont.gov/>
- Vermont Building Energy Standards: <https://publicservice.vermont.gov/content/building-energy-standards>
- Secretary of State business registration: <https://sos.vermont.gov/corporations/registration/>
- Secretary of State professional Boards: <https://sos.vermont.gov/opr/>
- Department of Taxes: <https://tax.vermont.gov/>
- For local permits - please see your Town Clerk, Zoning Administrator, Planning Commission or Public Works

HEARING ITEM

7



LEGEND

- Rare Threatened Endangered
 - Threatened or Endangered
 - Rare
- Significant Natural Community
- Vernal Pools Confirmed – AE/
- Vernal Pools Unconfirmed – AI
- Wetland Projects
- Lakes and Ponds Permits
 - Aquatic Nuisance
 - Encroachment
 - Shoreland
- Shoreland 100' Setback
- Shoreland 250' Setback
- Wetland - VSWI
 - Class 1 Wetland
 - Class 2 Wetland
 - Buffer
- Wetlands Advisory Layer
- Stormwater Permits (Issued)
 - Operational
 - Construction
 - Industrial - NOI
 - Industrial - NOX
 - Other
- Stormwater Permits (Pending)
 - Operational
 - Construction
 - Industrial - NOI

1: 4,870
August 3, 2022



247.0 0 124.00 247.0 Meters
 WGS_1984_Web_Mercator_Auxiliary_Sphere 1" = 406 Ft. 1cm = 49 Meters
 © Vermont Agency of Natural Resources THIS MAP IS NOT TO BE USED FOR NAVIGATION

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.

NOTES

Map created using ANR's Natural Resources Atlas

HEARING ITEM

8

Conditional Use Worksheet - Highway Commercial District

Application # 22.07.13.CU

Name Greg & Mandy Martel

The proposed use shall not result in an undue adverse effect on:

A. The capacity of existing or planned community facilities:

- police (evidence: _____) *1 additional residence*
- fire (evidence: _____)
- NA* water (Country Estates Water Co. customers only) _____
- schools - evidence: _____
- roads - evidence: _____
- re-cycling center - evidence: _____

B. The character of the area affected as defined by:

- the purpose or purposes of the zoning district within which the project is located;

District: *Highway Commercial*

Description and purpose of this district:

- Areas adjacent to highways or highway intersections;*
- with sufficient traffic to support the efficient provision of goods and services to the public.*
- Serves local residents and transients;*
- provides some local employment; and*
- helps to broaden the Town tax base.*
- Access drives and curb cuts must be carefully planned to avoid traffic nuisances and dangers.*

- and specifically stated policies and standards of the municipal plan.

- Energy
- Education
- Housing
- Natural, Scenic & Historic Resources
- Land Use
- Transportation
- Utilities & Facilities

Stated policies: *None*

Specific standards:

1. *NA*
- 2.
- 3.
- 4.
- 5.

C. Traffic on roads and highways in the vicinity:

Highways in this vicinity are: *Route 131 and rout 106*

Existing traffic counts for these roads/highways are:

What are the predicted trips per day for the proposed use:

How will the predicted tpd effect the existing traffic?

Will not substantially effect existing traffic

D. Bylaws and ordinances in now in effect:

Which bylaws apply to this use?

1. *2.5.6 Highway Commercial (HC) [Use table]*
2. *3.2.4 Habitat Areas*
3. *5.3 Conditional Use Review*
- 4.
- 5.

Is there a conflict or violation of these bylaws? *No*

Which ordinances apply to this use?

1. *None*
- 2.
- 3.
- 4.
- 5.

Is there a conflict or violation of these ordinances?

NA

E. Utilization of renewable energy resources:

(Renewable energy resources = energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.)

(Utilization = putting something to use)

Will the proposed use prevent collection of these resources?

No

Will the proposed use place a burden on the supply of these resources?

No

HEARING ITEM

9

Zoning Permit Application Review Checklist

Date received: July 13, 2022

1. Is the proposed project "development"? Y

Land Development or Development:

The division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or of any mining, excavation or landfill; and any change in the use of any building or other structure, land or extension of use of land.

Structural Development:

The addition of a new structure to a parcel of land.

Structure:

An assembly of materials for occupancy or use for more than six (6) months. Fences, gates, stone walls, landscape timbers, sculptures, memorial monuments, TV antennae, and satellite dishes are not structures.

Building:

A structure having a roof supported by columns and/or walls intended for the shelter or enclosure of persons, animals or chattel, excluding fences, and including a gas or liquid storage tank that is principally above ground.

2. Is the proposed project exempt from zoning? (6.2.2) N

This applies to all development proposed by all persons, including the Town government of Weathersfield, except when specifically exempted by state law. (sect. 1, pg. 1)

3. Is the project a Public Facility? (6.2.3) N

4. Locate the zoning district in which the property is located. HC/C10

5. Pull parcel file.

6. Check Use Tables:

- Does the project neatly fit into any of the uses listed in the district table? Y
 - If yes, is a zoning permit necessary? Y
 - If no, does the proposal need to go to the ZBA for a determination? N
 - If no, is the use prohibited? N
- What approvals are needed? Conditional Use Review
 - Flood plain N
 - Highway access N
- Lot size – Minimum 3, Existing 3.51
- Frontage – Required NA, Existing ROW
- Setbacks – Required: Front 40, Rear 25, Side 25
- Setbacks – Existing: Front 750, Rear 750, Side 750
- Height – Required < 35, Proposed < 35
- Check specific use standards
- Check Development Review (Article 5)

Other requirements to consider?

7. Is anything non-conforming? (Article 3.4) N

8. Is the project in conformance with the zoning bylaws? (sect. 1.2, pg.2) Y

Such permit may be issued only in conformance with these regulations and other Town ordinances, as provided in 24 V.S.A., §4449. Any use not permitted by these regulations shall be deemed prohibited. (sect.1.2, pg. 2)

... all uses must comply with any applicable General Provisions and Special Provisions as listed in Sections 6 and 7 of (the bylaws). (sect. 4.1, pg.2)

Application Completeness

- Copy of WW permit or letter, Access permit for new access
- 911 Location
- Parcel ID
- Lot size (tax bill if unknown)
 - Compliant
- Road frontage (3.1) (deed if unknown or measure on ground)
 - Compliant
- Existing principal use
- Applicant name/address/phone number/email
- Landowner name/address/phone number/email
- Correct permit type
- Project information section
- Description with dimensions, clear enough to determine use
- Check boxes
- Correct fees
 - Collected
- Signatures & date
- Site plan drawing
 - North arrow
 - Full property boundaries with dimensions
 - All existing and proposed structures with measurements
 - Uses identified
 - Location of septic and water utilities
 - Location of access and frontage distance (3.1.1)
 - Proposed sign location
 - Streams, water bodies and wetlands
 - Locations of easements or rights-of-way

General provisions

- Ag soils (3.2.1)
- Biological areas (3.2.2)
- Connecticut river (3.2.3)
- Habitat areas (3.2.4)
 - Deer wintering areas
 - Significant natural communities
 - Natural/fragile areas
 - Rare, threatened or endangered species
 - Vernal pools
- Ponds (3.2.5)
- RTE species (3.2.6)
- Steep slopes & elevation >25% (3.2.7)
- Streambank conservation (3.2.8)
- Wetlands (3.2.9)
- Parking (3.5)
- Outdoor lighting (3.6)
- Signs (3.8)

Specific Use Standards

- Flood plains (5.7)
- State/Nat'l Register of Historic Places
- Send to Darren Spaulding, Josh Dauphin & Chief Daniels *8/10/2022*
 - Approved
- Application is complete
 - If not, 30 day issuance period has not started
 - Date of completion: 7/13/2022
- Check issuance (6.2.3) and notice (6.2.5) procedure
 - Within 3 days
 1. Copy of app. and notice to Listers
 2. Copy of app. and notice to Clerk
 3. Digital copy of app. and notice to digital parcel file
 4. Update 2022 Permits spreadsheet
 5. Copy of notice posted at Town Hall
 6. Ledger size notice to applicant
- Call applicant to pick up permit notice

Notes

Landowner, Parcel ID, Deed subject to change following approval

AGENDA ITEM

6

PUBLIC HEARING

Yurek – Conditional Use Review

August 18, 2022

- Item 1: Public Hearing Notice – 2022.03.10
- Item 2: Zoning Permit Application – 2022.01.20
- Item 3: Conditional Use Application – 2022.02.25
- Item 4: Springfield Zoning Memorandum - 2022.01.19
- Item 5: Site Plan Packet – 2022.01.04
- Item 6: Vermont Dams Remediation - 2000.12.11
- Item 7: Permit Navigator Results
- Item 8: Inspection Report - 2005.09.25
- Item 9: Inspection Report – 2015.07.31
- Item 10: Email Correspondence - 2009.02.05
- Item 11: Photographs
- Item 12: ANR Comments and Flood Ready Map – 2022.03.02
- Item 13: Community Facilities Sign-off Sheet – 2022.03.10
- Item 14: Conservation Commission Site Visit Memorandum
2022.04.03
- Item 15: VT ANR DEC – Order Approving Application to Alter
Dam
- Item 16: Springfield Dam Follow Memorandum - 2022.06.24

HEARING ITEM

1



TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

Zoning Board of Adjustment

Notice of Public Hearing

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

Remote option – Zoom details below

Thursday, March 10, 2022 – 7:00 PM

The Weathersfield Zoning Board of Adjustment will hold a public hearing on Thursday, March 10 at 7:00 PM in the Town Office/Martin Memorial Hall for the purpose of considering the following application:

1. Chris Yurek - Mount Ascutney Regional Commission, representing the Town of Springfield at 00 Wellwood Orchard Road (Parcel# 12-00-42), to seek conditional use permit to demolish/remove an earthen embankment dam and associated infrastructure in Conservation (C-10) district. Conditional use due to excavation and grading within the special flood hazard area (FEMA Approximate A Zone).

Information concerning this matter is available at the Town of Weathersfield office from 7:30 AM to 5:30 PM Monday through Thursday or by calling 802.674.2626. Participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

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.

HEARING ITEM

2

Town of Weathersfield

Zoning Permit Application

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

Property Information	
Address	Wellwood Orchard Road
Parcel ID (if known)	-120042
Lot Size (acres)	87.50 acres
Road Frontage (feet)	220 feet
Existing Principal Use (enter below, e.g. "single-family dwelling")	Abandoned water supply
<small>(if no existing Principal Use, leave blank)</small>	

Permit Type (check all that apply)	
<input type="checkbox"/>	New Principal Building or Unit (e.g. "single-family dwelling")
<input type="checkbox"/>	New Accessory Structure (e.g. "shed")
<input type="checkbox"/>	Alteration to Existing Structure (e.g. "new room addition")
<input type="checkbox"/>	Change of Use (e.g. "personal service" to "restaurant")
<input checked="" type="checkbox"/>	Demolition / Removal (e.g. demolition & removal of pool)
<input type="checkbox"/>	Sign (one-sided square footage: _____ sq. ft.)
<input type="checkbox"/>	Amendment/Renewal of Prior Permit (enter permit # below)

Applicant	
Name(s)	Chris Yurek, Mount Ascutney
Name(s)	Regional Commission
Mailing Address	P.O. Box 320
City, State, Zip	Ascutney, VT, 05030
Telephone #	802-674-9201 x119
Mobile #	
E-mail Address	cyurek@marcvt.org

Project Information	
Proposed Principal Use Definition (if new or changing, enter below)	
Approximate Value of Development	\$ N/A
Total New Finished Floor Area	N/A sq. ft.
Total New Unfinished Floor Area	N/A sq. ft.
Maximum Height	N/A ft.
Number of Stories	N/A

Landowner (if different)	
Name(s)	Jeff Mobus, Town Manager,
Name(s)	Town of Springfield
Mailing Address	96 Main Street
City, State, Zip	Springfield, VT, 05156
Telephone #	802-885-2104
Mobile #	
E-mail Address	tosmanager@vermontel.net

Filing Information (Staff Use Only)	
Zoning Permit #	_____
Fee Collected	_____
Zoning Area	_____
Permit Issue Date	_____
Appeal by Date	_____
Type of Review Required (check all that apply)	
<input type="checkbox"/>	Administrative
<input type="checkbox"/>	Zoning Board of Adjustment
<input type="checkbox"/>	Conservation Commission
<input type="checkbox"/>	Flood Hazard / Agricultural Soils

Decision (Staff Use Only) (circle one ONLY when review complete)	
APPROVED	DENIED
Permit Expiration Date _____	

Description of Project (please provide a complete description along with dimensions)
 Removal of earthen embankment dam that is approximately 320 feet long and 50 feet tall using mechanical means. The earthen embankment and concrete core wall will be removed down to bedrock. Removal of concrete spillway, gatehouse, concrete well house, drain pipes, and remnants of stone culvert. Excavate accumulated sediment in the impoundment with depths ranging between about 3 and 6 feet, 120 feet wide immediately upstream of the dam and becoming narrower and shallower moving up the impoundment upstream of the confluence of Aldrich Brook and Peabody Brook. Revegetation of 3.9 acres of riparian and access area. Construction access is via an existing woods road.

Is your project subject to the Residential / Commercial Building Energy Standards? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<small>If yes, you must record a Vermont Residential/Commercial Energy Standards (RBES or CBES) Certificate in the Land Records prior to receiving your Certificate of Compliance/Occupancy. Contact Energy Code Assistance Center at (855) 887-0673 to determine if you need to follow these standards.</small>

Does your project involve any **demolition and/or renovation**? Yes No **No buildings**

If yes, you must contact the Lead and Asbestos Regulatory Program at (800) 439-8550 prior to demo/renovation.

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

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

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

If yes, you must obtain Highway Access permit approval from the Town of Weathersfield and/or Vermont Agency of Transportation at (802) 279-1152

Does your project involve **placement or removal of a mobile home**? Yes No

If yes, you must obtain a bill of sale and mobile homes must be placed on a concrete slab. You must contact the Weathersfield Town Clerk at (802) 674-2626

Does your project involve construction of or change of use to or from being a **public building**? Yes No

If yes, you must contact the Vermont Department of Public Safety, Division of Fire Safety. A public building is any building that the public has the occasion to enter EXCEPT for owner-occupied, single-family dwellings, registered home day cares, and working farms, but INCLUDING single family homes becoming rentals.

Does your project involve a **new home or business, change in # of bedrooms or change in use**? Yes No

If yes, contact the local Water/Wastewater Permit Specialist at (802) 279-4747, or the State Water/Wastewater Division, Springfield Office at (802) 289-0603

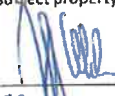
Permit Fee Calculator (Cash or Check only, payable to Town of Weathersfield)

Principal Use	\$100 + 0.05 x _____ sq. ft.	=	\$ _____	Staff Use Only Fee Collected?
Accessory Use	\$30 + 0.05 x _____ sq. ft.	=	\$ _____	
Conditional Use X	\$200 + 0.05 x <u>0</u> sq. ft.	=	\$ <u>200</u>	
Permit Renewal	Expired permit renewal: \$30	+	\$ _____	
Variance	\$200	+	\$ _____	Initials
Recording Fee	Applies to all applications	+	\$ 15	
TOTAL			\$215	

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 for the purpose of establishing compliance with this permit.

Landowner Signature 
Date 01 / 20 / 2022

Applicant Signature 
Date 01 / 20 / 2022

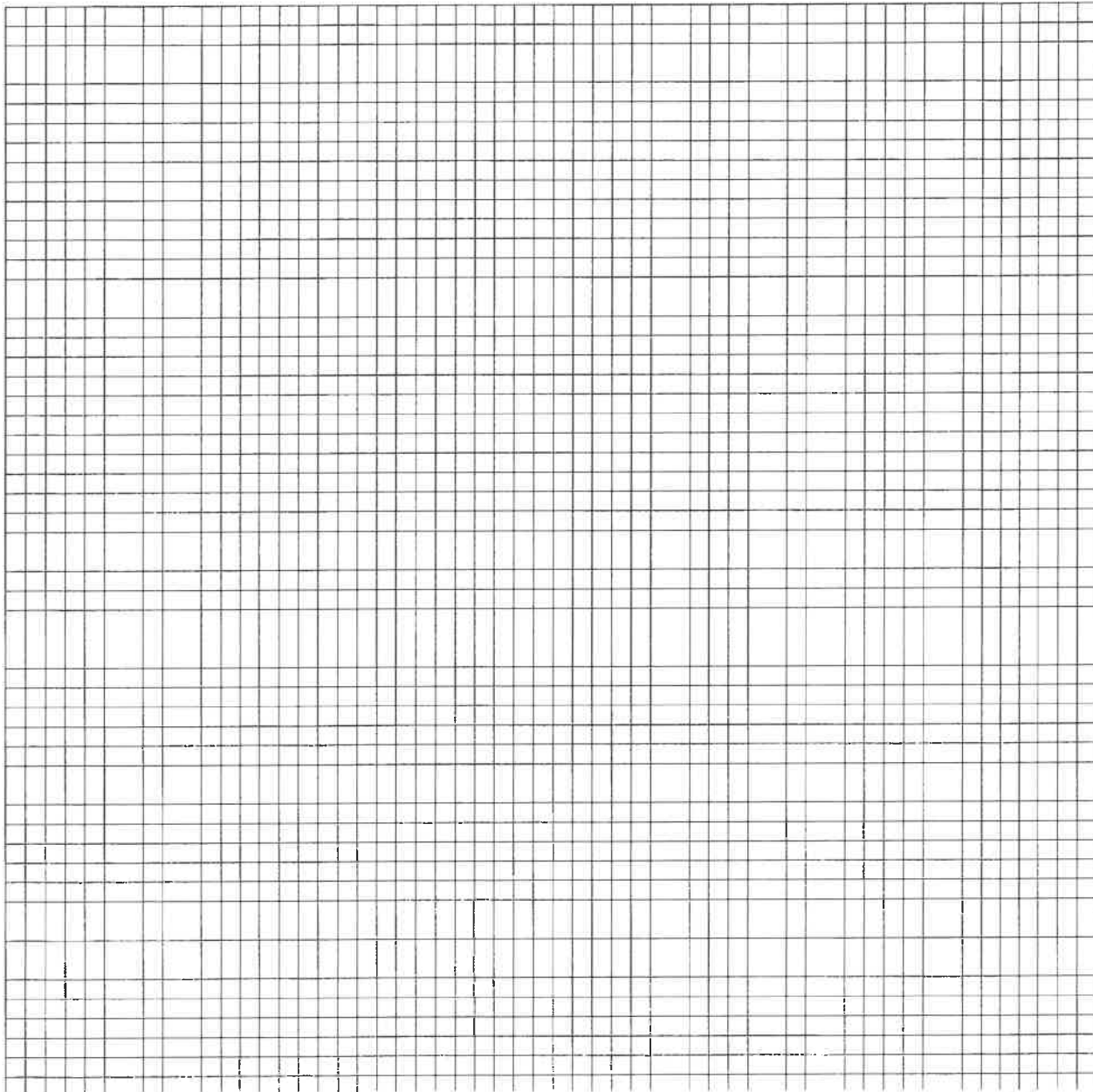
Site Plan Drawing

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, size 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 location of septic/sewer and water utilities. Include any proposed signs in the drawing.

Site 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 location of septic/sewer and water utilities. Include any proposed signs in the drawing.

See attached plan set.



Land Use Administrator Signature _____

Applicant Signature 

NOTE: Signature required for valid permit

HEARING ITEM

3

CHARTERED BY
NEW HAMPSHIRE
AUGUST 20, 1761

Town of Weathersfield

POST OFFICE BOX 550
ASCUTNEY, VERMONT 05030-0550

CHARTERED BY
NEW YORK
APRIL 8, 1772

Telephone: [802] 674-2626
Facsimile: [802] 674-2117

E-mail: zoning@weathersfield.org
Website: <http://www.weathersfield.org>

Planning and Zoning

APPLICATION TO ZONING BOARD OF ADJUSTMENT CONDITIONAL USE PERMIT

TAX MAP PARCEL NUMBER 12-00-42.00

LOCATABLE ADDRESS: Number: 0 Road: Wellwood Orchard Road

DEED TO THE PROPERTY RECORDED IN WEATHERSFIELD LAND RECORDS AT:
BOOK _____ PAGE _____

APPLICANT: Chris Yurek, Mount Ascutney Regional Commission

A. Mailing Address PO Box 320, Ascutney, VT 05030

B. Telephone number: Home: _____ Work: 802-674-9201 x 119

LANDOWNER signature, if different from applicant : Jeff Mobus, Town Manager, Town of Springfield

A. Mailing Address: 96 Main Street, Springfield, VT 05156

B. Telephone number: Home: _____ Work: 802-885-2104

PROJECT DESCRIPTION:

Removal of earthen embankment dam and associated dam components. Remove accumulated sediment in
the impoundment. Restore riparian areas and access area.

ATTACH THE FOLLOWING TO YOUR APPLICATION:

- Site Plan (see instructions)
- Community Facilities Project Review and Sign-Off sheet

Signature of Applicant Jason Rasmussen Digitally signed by Jason Rasmussen Date: 2022.02.25 12:04:34 -05'00' Date 02/25/2022

Application No. _____ Date of Notice _____

Date received by AO _____ Date of Hearing _____

Fee Paid \$ _____ Date of Decision _____

Date Paid _____ Decision approved _____ denied _____

HEARING ITEM

4



Memorandum

To: Town of Weathersfield, Land Use Administrator

From: Roy Schiff, PE, PhD, Claire Nauman, and Jessica Louisos, PE, SLR International Corporation

Date: January 19, 2022

Subject: Springfield Reservoir Dam Removal Zoning Conditional Use Permit Application

The Springfield Reservoir Dam is slated for removal. The project includes removal of the obsolete and poor-condition Springfield Reservoir Dam, upstream accumulated sediment, and remnants of an old stone culvert. The proposed dam removal will reduce flooding impacts, restore natural sediment transport, restore natural hydrology, and improve habitat. If the dam fails, it has potential to cause loss of human life and long-term environmental impacts to Boynton Brook and downstream receiving waters.

The Town of Weathersfield Zoning Bylaws section Flood Plains and Floodways (6.20.2 b) indicates that a Conditional Use permit is required because the project will include excavation and grading within the special flood hazard area (FEMA Approximate A Zone). Many of the submission requirements and review criteria do not apply to the project because there are no new or altered buildings, areas considered to be land development, or subdivisions as part of the project. The project will be removing obstructions and fill from the special flood hazard area (Figure 1).

The proposed project will not cause an increase in flood elevations. As part of the design process, a hydraulic model was created using LiDAR and survey data to represent existing and proposed conditions. To ensure accuracy, the model was validated against observations from Tropical Storm Irene and found to be accurate to within 1 to 2 feet. The model indicates that flood elevations will decrease substantially upstream of the dam due to the removal of the tall structure and remain the same downstream of the dam following the removal (Table 1).

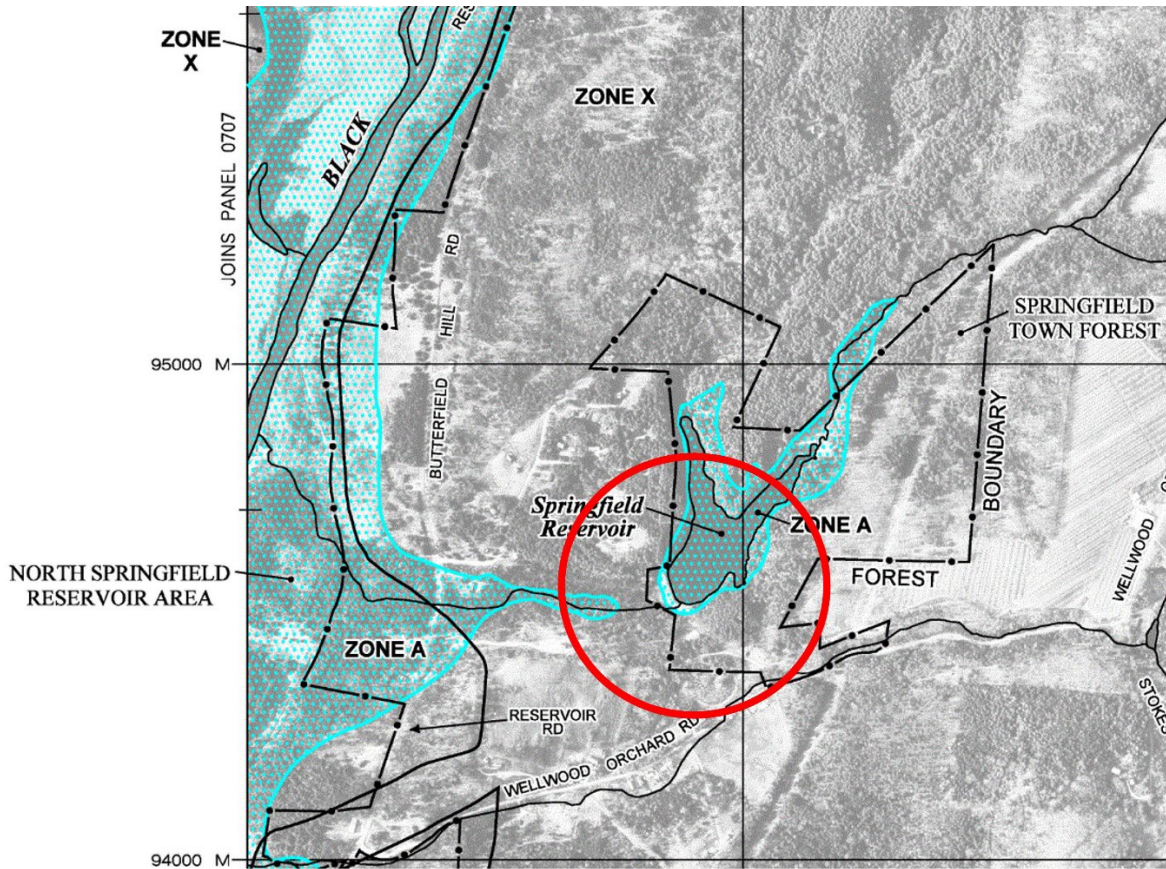


Figure 1: FEMA Flood Insurance Rate Map Showing Special Flood Hazard Area (Zone A) and Project Area Circled

Table 1: Summary of Water Surface Elevations from Hydraulic Modelling

Location Relative to Dam	River Station of Model Cross Section	Existing Conditions 100 Year Water Surface Elevation (feet)	Proposed Conditions 100 Year Water Surface Elevation (feet)	Change in Water Surface Elevation (feet)
Upstream	36+33	683.25	649.32	-33.9
	34+01	683.25	641.60	-41.7
Dam	33+00	683.25	641.80	-41.5
Downstream	32+11	640.68	640.68	0
	31+49	632.41	632.41	0

HEARING ITEM

5

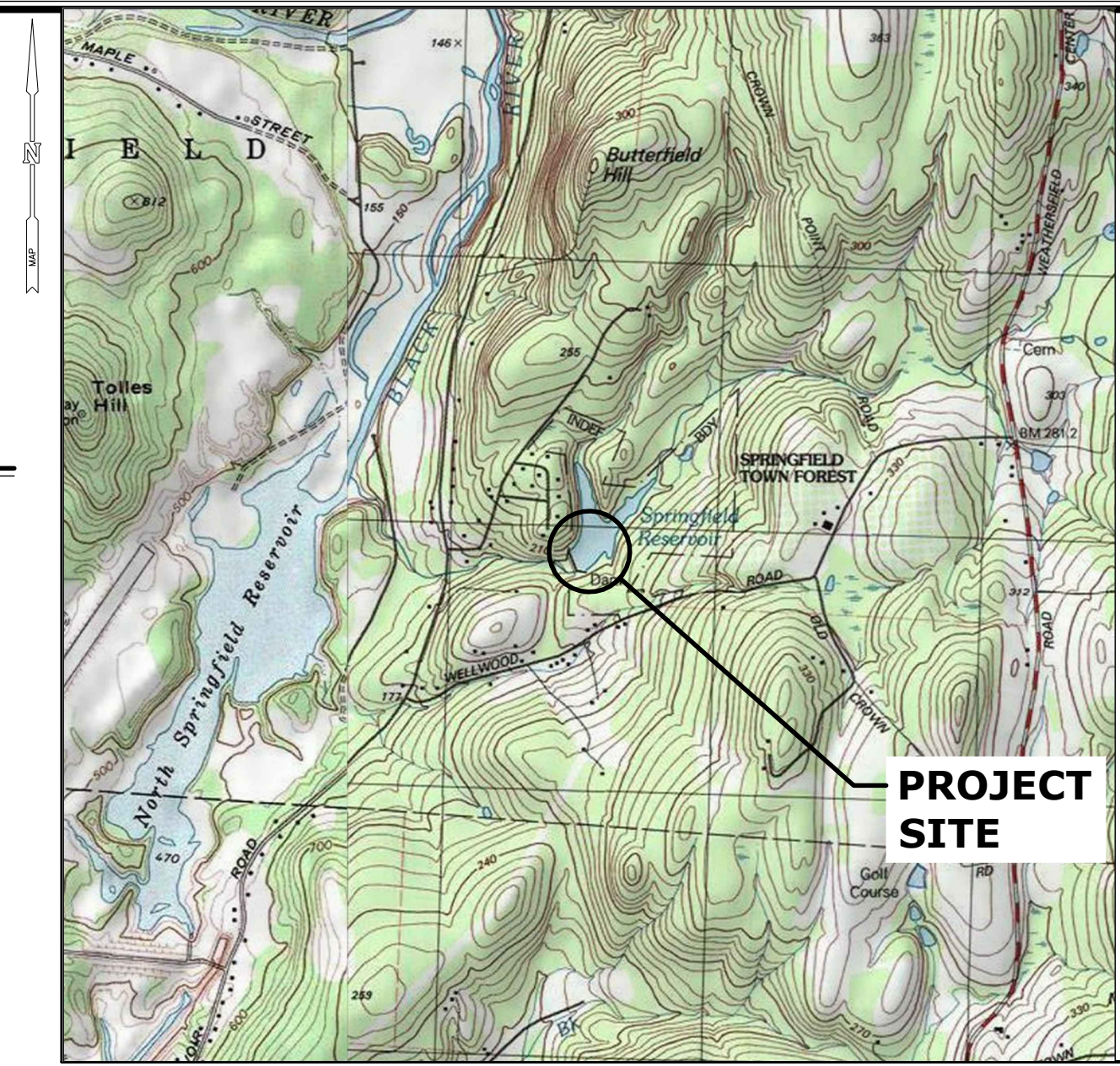
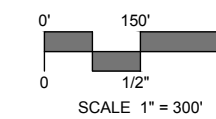
SPRINGFIELD RESERVOIR DAM REMOVAL (VT # 229.02)

WELLWOOD ORCHARD RD
WEATHERSFIELD, VERMONT

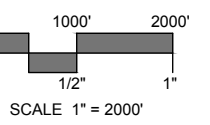
PRELIMINARY DESIGN (90%)
JANUARY 4, 2022



PROJECT SITE VICINITY MAP:



LOCATION MAP:



PREPARED FOR:

MOUNT ASCUTNEY REGIONAL COMMISSION
PO BOX 320
ASCUTNEY, VERMONT 05030



LIST OF DRAWINGS

NO.	NAME	TITLE
01	--	TITLE
02	SP1	SITE PLAN - EXISTING CONDITIONS
03	SP2	SITE PLAN - PROPOSED CONDITIONS
04	SP3	SITE PLAN - CONSTRUCTION ACCESS, SEQUENCE & WATER CONTROL
05	PRO	CHANNEL PROFILE
06	STR	STRUCTURE REMOVALS
07	XS	TYPICAL CROSS-SECTIONS
08	DET	DETAILS

PREPARED BY:



IN PARTNERSHIP WITH:



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Call before you dig.
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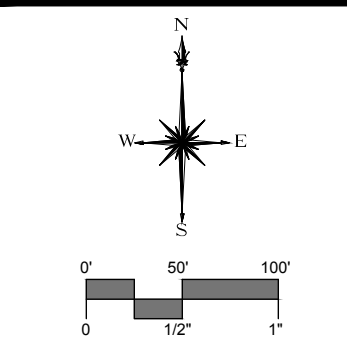
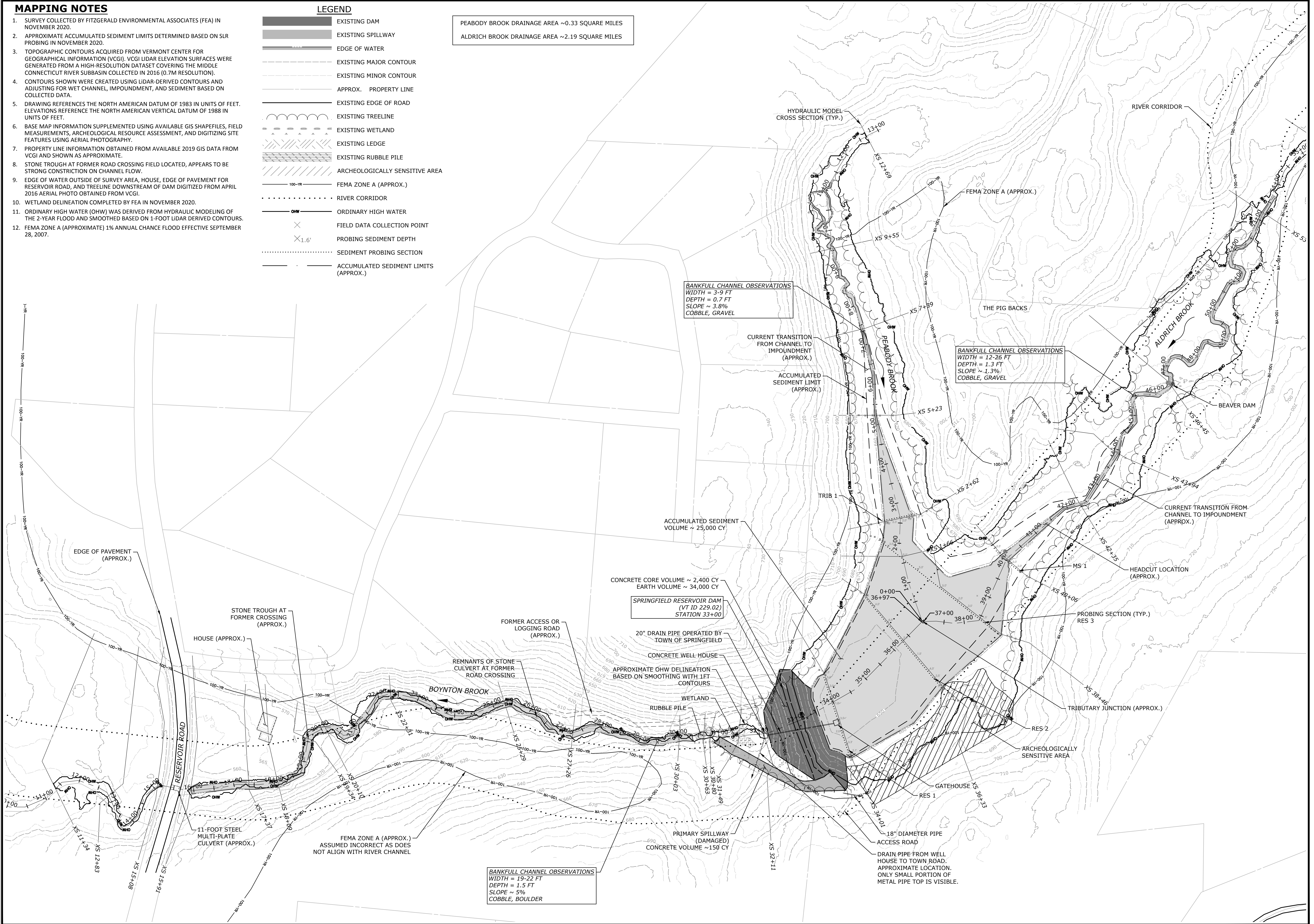
MAPPING NOTES

1. SURVEY COLLECTED BY FITZGERALD ENVIRONMENTAL ASSOCIATES (FEA) IN NOVEMBER 2020.
2. APPROXIMATE ACCUMULATED SEDIMENT LIMITS DETERMINED BASED ON SLR PROBING IN NOVEMBER 2020.
3. TOPOGRAPHIC CONTOURS ACQUIRED FROM VERMONT CENTER FOR GEOGRAPHICAL INFORMATION (VCGI). VCGI LIDAR ELEVATION SURFACES WERE GENERATED FROM A HIGH-RESOLUTION DATASET COVERING THE MIDDLE CONNECTICUT RIVER SUBBASIN COLLECTED IN 2016 (0.7M RESOLUTION).
4. CONTOURS SHOWN WERE CREATED USING LIDAR-DERIVED CONTOURS AND ADJUSTING FOR WET CHANNEL, IMPOUNDMENT, AND SEDIMENT BASED ON COLLECTED DATA.
5. DRAWING REFERENCES THE NORTH AMERICAN DATUM OF 1983 IN UNITS OF FEET. ELEVATIONS REFERENCE THE NORTH AMERICAN VERTICAL DATUM OF 1988 IN UNITS OF FEET.
6. BASE MAP INFORMATION SUPPLEMENTED USING AVAILABLE GIS SHAPEFILES, FIELD MEASUREMENTS, ARCHEOLOGICAL RESOURCE ASSESSMENT, AND DIGITIZING SITE FEATURES USING AERIAL PHOTOGRAPHY.
7. PROPERTY LINE INFORMATION OBTAINED FROM AVAILABLE 2019 GIS DATA FROM VCGI AND SHOWN AS APPROXIMATE.
8. STONE TROUGH AT FORMER ROAD CROSSING FIELD LOCATED, APPEARS TO BE STRONG CONSTRICTION ON CHANNEL FLOW.
9. EDGE OF WATER OUTSIDE OF SURVEY AREA, HOUSE, EDGE OF PAVEMENT FOR RESERVOIR ROAD, AND TREELINE DOWNSTREAM OF DAM DIGITIZED FROM APRIL 2016 AERIAL PHOTO OBTAINED FROM VCGI.
10. WETLAND DELINEATION COMPLETED BY FEA IN NOVEMBER 2020.
11. ORDINARY HIGH WATER (OHW) WAS DERIVED FROM HYDRAULIC MODELING OF THE 2-YEAR FLOOD AND SMOOTHED BASED ON 1-FOOT LIDAR DERIVED CONTOURS.
12. FEMA ZONE A (APPROXIMATE) 1% ANNUAL CHANCE FLOOD EFFECTIVE SEPTEMBER 28, 2007.

LEGEND

- EXISTING DAM
- EXISTING SPILLWAY
- EDGE OF WATER
- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- APPROX. PROPERTY LINE
- EXISTING EDGE OF ROAD
- EXISTING TREELINE
- EXISTING WETLAND
- EXISTING LEDGE
- EXISTING RUBBLE PILE
- ARCHEOLOGICALLY SENSITIVE AREA
- FEMA ZONE A (APPROX.)
- RIVER CORRIDOR
- ORDINARY HIGH WATER
- FIELD DATA COLLECTION POINT
- PROBING SEDIMENT DEPTH
- SEDIMENT PROBING SECTION
- ACCUMULATED SEDIMENT LIMITS (APPROX.)

PEABODY BROOK DRAINAGE AREA ~0.33 SQUARE MILES
ALDRICH BROOK DRAINAGE AREA ~2.19 SQUARE MILES



DESCRIPTION	DATE	BY

SITE PLAN - EXISTING CONDITIONS
SPRINGFIELD RESERVOIR DAM REMOVAL (VT # 229.02)
WELLWOOD ORCHARD RD
WEATHERSFIELD, VERMONT

CMN	CMN	RKS
DESIGNED	DRAWN	CHECKED
SCALE: 1" = 100'		
DATE: JANUARY 4, 2022		
PROJECT NO: 5726-02		
SHEET NO: 2 OF 8		
SP1		

GENERAL NOTES

- THE PURPOSE OF THIS PROJECT IS TO REMOVE SPRINGFIELD RESERVOIR DAM ON WELLWOOD ORCHARD ROAD IN WEATHERSFIELD, VERMONT.
- THE LOCATION OF ALL EXISTING UTILITIES SHOULD BE CONFIRMED PRIOR TO BEGINNING CONSTRUCTION. CALL "DIG SAFE" AT 1-888-DIG-SAFE (344-7233). THE CONTRACTOR SHALL TAKE PRECAUTIONS NOT TO DISTURB EXISTING UTILITIES.
- THE CONTRACTOR SHALL DESIGNATE A SUPERINTENDENT AT THE START OF CONSTRUCTION AND THE CONTRACTOR'S SUPERINTENDENT SHALL BE ON-SITE AT ALL TIMES DURING CONSTRUCTION. THE CONTRACTOR AND HIS/HER JOB SUPERINTENDENT SHALL BE RESPONSIBLE FOR COMPLYING WITH THE JOB SPECIFICATIONS AND PERMIT REQUIREMENTS.
- ALL STORAGE AND ACCESS ROUTES, PEDESTRIAN FENCES/BARRIERS, AND LIMITS OF CLEARING SHALL BE FLAGGED BY CONTRACTOR PRIOR TO CONSTRUCTION AND APPROVED BY PROJECT ENGINEER.
- WORKING HOURS SHALL BE APPROVED BY PROJECT ENGINEER AND LANDOWNERS.
- NO CONSTRUCTION VEHICLES SHALL BE STORED, SERVICED, WASHED OR FLUSHED IN A LOCATION WHERE LEAKS, SPILLAGE, WASTE MATERIALS, CLEANERS, OR WATERS WILL BE INTRODUCED OR FLOW INTO WETLANDS OR WATERCOURSES. AN EMERGENCY MANAGEMENT PLAN AND SPILL KIT WILL BE MAINTAINED ON SITE AT ALL TIMES. IN THE EVENT OF AN ACCIDENTAL RELEASE, IMMEDIATELY STOP CONSTRUCTION WORK, CONTAIN THE SPILL, AND NOTIFY THE TOWN, APPROPRIATE AUTHORITIES AND PROJECT ENGINEER. THE SPILL KIT MUST CONTAIN AT A MINIMUM A CONTAINMENT BOOM, STRAW OR OTHER ABSORBENT MATERIALS, AND BUCKETS.
- STORAGE AND/OR USE OF CHEMICALS, FUELS, OILS, GREASES, BITUMINOUS MATERIALS, SOLIDS, WASTE WASHINGS, AND CEMENT SHALL BE HANDLED APPROPRIATELY AS TO PREVENT LEACHING OR SURFACE RUNOFF INTO WETLANDS, WATERCOURSES, OR DRAINS. ALL APPROVED STORAGE FOR THESE MATERIALS MUST BE CONTAINED.
- EQUIPMENT SHALL BE REMOVED FROM THE RIVER PRIOR TO REFUELING. NO REFUELING OF EQUIPMENT ALLOWED IN THE WATER.
- ALL EQUIPMENT AND VEHICLES SHALL BE CLEANED PRIOR TO AND FOLLOWING CONSTRUCTION TO REDUCE THE POTENTIAL FOR SPREAD OF INVASIVE SPECIES AND SEDIMENT.
- THE PROJECT SITE IS SUBJECT TO FLOODING. THE CONTRACTOR SHALL MONITOR WEATHER FORECASTS AND STABILIZE THE CONSTRUCTION SITE AND REMOVE EQUIPMENT FROM FLOOD PRONE AREAS. ALL EQUIPMENT TO BE STORED ON HIGH GROUND.
- WORK SHOULD BE PERFORMED DURING LOW WATER.
- THERE SHALL BE NO CLAIMS FOR EXTRA COMPENSATION DUE TO DELAYS IN WATER CONTROL ASSOCIATED WITH HIGH WATER LEVELS FROM NATURAL EVENTS SUCH AS FLOODS.
- THE CONTRACTOR SHALL MAINTAIN ALL ROADWAYS, SIDEWALKS, AND WALKWAYS IN THE AREA FREE OF SOIL, MUD, AND CONSTRUCTION DEBRIS. CONSTRUCTION ENTRANCES MUST BE MAINTAINED AT EACH SITE ACCESS POINT. SEE PLANS AND DETAILS.

- CONTRACTOR MUST COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL PERMITS THROUGHOUT DURATION OF PROJECT.
- ALL CONCRETE AND REINFORCING STEEL IS TO BE REMOVED FROM RIVER AND DISPOSED OF OR RECYCLED OFF SITE.
- PROPOSED LAYOUT, PROFILE, AND CROSS SECTIONS ARE TO BE STAKED BY THE CONTRACTOR AND REVIEWED BY THE PROJECT ENGINEER. FINAL DIMENSIONS WILL BE FINE-TUNED IN THE FIELD BY THE PROJECT ENGINEER.
- BEDROCK REMOVAL IS NOT PROPOSED. DO NOT REMOVE BEDROCK WITHOUT DIRECTION OF PROJECT ENGINEER.
- ANY MATERIAL EXPORTED OFF-SITE SHALL BE LEGALLY DISPOSED OF IN AN UPLAND LOCATION AT NO ADDITIONAL COST. THE CONTRACTOR IS RESPONSIBLE FOR FINDING A SUITABLE RECIPIENT OF THE MATERIAL, GAINING REGULATORY APPROVAL FOR EXPORTED MATERIAL PLACEMENT IF NEEDED, AND HAULING.
- ALL AREAS SURROUNDING THE PROJECT SITE DISTURBED DURING CONSTRUCTION SHALL BE RESTORED UPON COMPLETION OF CONSTRUCTION. THE RESTORATION OF THE SITE IS SUBJECT TO APPROVAL BY THE PROJECT ENGINEER AND LANDOWNER.
- FOLLOWING COMPLETION OF CONSTRUCTION, THE CONTRACTOR SHALL PARTICIPATE IN A FINAL SITE INSPECTION WITH PROJECT ENGINEER FOR THE PURPOSE OF VERIFYING THAT THE PROJECT HAS BEEN COMPLETED ACCORDING TO THE CONSTRUCTION PLANS AND THE TERMS AND CONDITIONS OF THE CONTRACT.

SEDIMENT MANAGEMENT NOTES

- EXISTING SEDIMENT VOLUME ACCUMULATED BEHIND DAM = 25,000 CY. EXPECTED MECHANICAL REMOVAL VOLUME = +/- 9,000 CY OVER A CHANNEL LENGTH OF 1,000 FEET. REMAINING SEDIMENT EXPECTED TO NATURALLY ERODE DOWNSTREAM OR STABILIZE IN PLACE.
- PILOT CHANNEL DIMENSIONS WILL FOLLOW THE TYPICAL CROSS SECTION WITH CREATION OF A LOW FLOW CHANNEL AND LEAVING SEDIMENT TO FORM BARS WITHIN THE EXISTING CHANNEL.
- STOCKPILE NATURAL STREAM GRAVEL, COBBLES, AND BOULDERS TO REBUILD CHANNEL.
- STOCKPILE BOULDERS >12" AND <48" AND LOGS OR STUMPS FOR REUSE AS CHANNEL ROUGHNESS ELEMENTS WHEN RESTORING CHANNEL BED.
- TREES CLEARED OR LOGS ENCOUNTERED IN SEDIMENT TO BE REINSTALLED IN CHANNEL OR FLOODPLAIN.

OPERATION AND MAINTENANCE NOTES

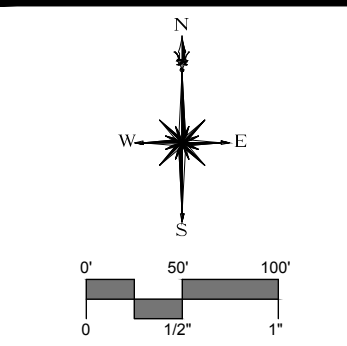
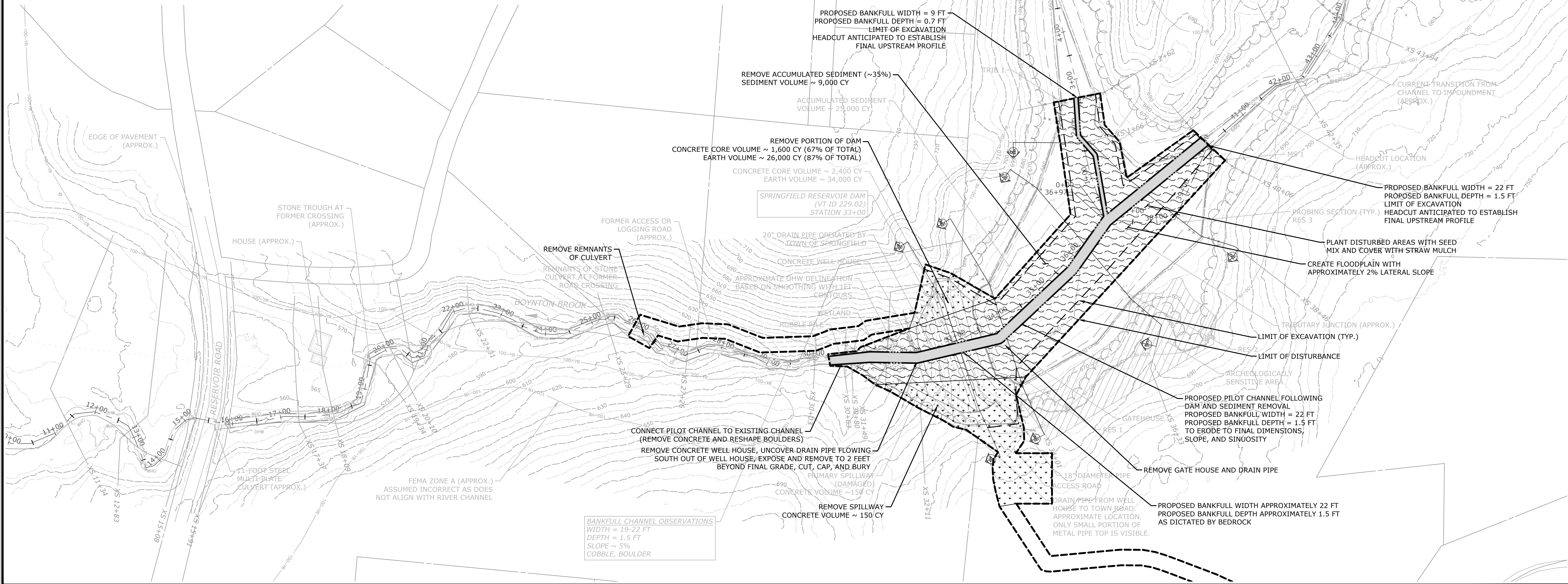
- DAM REMOVALS ARE INTENDED TO RESTORE STREAM DYNAMIC EQUILIBRIUM TO ALLOW THE STREAM TO MEANDER OVER TIME. THE CHANNEL WILL MOVE IN THE FUTURE.
- PLANTED VEGETATION IS TO BE MONITORED DURING THE GROWING SEASON FOR TWO YEARS TO EVALUATE A SUCCESSFUL VEGETATION ESTABLISHMENT OF 80% AERIAL COVERAGE.
- ANY AREAS OF POOR VEGETATIVE COVER SHALL BE REPLANTED ACCORDINGLY.

LEGEND

- PROPOSED EDGE OF WATER
- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- APPROX. PROPERTY LINE
- EXISTING EDGE OF ROAD
- EXISTING TREELINE
- EXISTING WETLAND
- EXISTING LEDGE
- EXISTING RUBBLE PILE
- FEMA ZONE A (APPROX.)
- RIVER CORRIDOR
- ORDINARY HIGH WATER
- FIELD DATA COLLECTION POINT
- PROBING SEDIMENT DEPTH
- SEDIMENT PROBING SECTION
- ACCUMULATED SEDIMENT LIMITS (APPROX.)

SEED MIX LIST:

	Species	Application Rate	Area	Estimated Quantity
Vermont Wet Meadow Mix	Switchgrass (<i>Panicum virgatum</i>), Virginia wild rye (<i>Elymus virginicus</i>), Red fescue (<i>Festuca rubra</i>), Fox sedge (<i>Carex vulpinoidea</i>), Woolgrass (<i>Scirpus cyperinus</i>), Green bulrush (<i>Scirpus atrovirens</i>), Nodding bur-marigold (<i>Bidens cernua</i>), Boneset (<i>Eupatorium perfoliatum</i>), Joe-pye weed (<i>Eupatoriadelphus maculatus</i>), soft rush (<i>Juncus effusus</i>), Sensitive fern (<i>Onoclea sensibilis</i>), Blue vervain (<i>Verbena hastata</i>), New England aster (<i>Symphotrichum nova-angliaea</i>)	35 Lbs. / Acre	2.8 Acres	96.5 Lbs.
New England Roadside Matrix Upland Seed Mix	Virginia Wild Rye (<i>Elymus virginicus</i>), Little Bluestem (<i>Schizachyrium scoparium</i>), Red Fescue (<i>Festuca rubra</i>), Big Bluestem (<i>Andropogon gerardii</i>), Indian Grass (<i>Sorghastrum nutans</i>), Switch Grass (<i>Panicum virgatum</i>), Partridge Pea (<i>Chamaecrista fasciculata</i>), Butterfly Milkweed (<i>Asclepias tuberosa</i>), Panicleleaf Tick Trefoil (<i>Desmodium paniculatum</i>), Beard Tongue (<i>Penstemon digitalis</i>), Black Eyed Susan (<i>Rudbeckia hirta</i>), Hollow-Stem Joe Pye Weed (<i>Eupatorium fistulosum/Eutrochium fistulosum</i>), Grey Dogwood (<i>Cornus racemosa</i>), Silky Dogwood (<i>Cornus amomum</i>), Staghorn Sumac (<i>Rhus typhina</i>)	35 Lbs. / Acre	1.1 Acres	39.2 Lbs.



DESCRIPTION	DATE	BY

SITE PLAN - PROPOSED CONDITIONS
SPRINGFIELD RESERVOIR DAM REMOVAL (VT # 229.02)
 WELLWOOD ORCHARD RD
 WEATHERSFIELD, VERMONT

CMN	CMN	RKS
DESIGNED	DRAWN	CHECKED
SCALE: 1" = 100'		
DATE: JANUARY 4, 2022		
PROJECT NO: 5726-02		
SHEET NO: 3 OF 8		
SHEET NAME: SP2		

EROSION CONTROL NOTES

1. THE SEDIMENT AND EROSION CONTROL PRACTICES IMPLEMENTED AS PART OF THE PROJECT SHALL BE IMPLEMENTED AND MAINTAINED ACCORDING TO "THE LOW RISK SITE HANDBOOK FOR EROSION PROTECTION AND SEDIMENT CONTROL" GUIDANCE DOCUMENT FROM THE VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION, WHERE APPLICABLE IN CONSULTATION WITH PROJECT ENGINEER.
2. A COPY OF THE APPROVED EROSION AND SEDIMENT CONTROL PLAN SHALL BE MAINTAINED ON THE SITE AT ALL TIMES.
3. CLEARING OF NATIVE VEGETATION FOR CONSTRUCTION ACCESS SHOULD BE MINIMIZED.
4. ALL SOIL EROSION AND SEDIMENT CONTROL PRACTICES SHALL BE INSTALLED PRIOR TO ANY MAJOR SOIL DISTURBANCE, OR IN THEIR PROPER SEQUENCE, AND MAINTAINED UNTIL PERMANENT PROTECTION IS ESTABLISHED.
5. THE CONTRACTOR IS RESPONSIBLE FOR THE MAINTENANCE OF ALL SOIL EROSION AND SEDIMENT CONTROL MEASURES. THE CONTRACTOR WILL VERIFY THE MAINTENANCE WEEKLY AND AFTER RAIN EVENTS AND REPORT TO PROJECT ENGINEER.
6. THE PROJECT ENGINEER IS TO BE NOTIFIED IMMEDIATELY IF EXCESSIVE SEDIMENT EROSION TAKES PLACE, IF SIGNIFICANT FINE GRAIN SEDIMENTS ARE ENCOUNTERED OR IF POTENTIALLY CONTAMINATED SEDIMENTS ARE ENCOUNTERED (OILY, DARK COLOR, CHEMICAL ODOR).
7. PLAN AND PERFORM WORK FOR LOW FLOW PERIODS.
8. STOCKPILE AND STAGING LOCATIONS AS INDICATED ON THE PLANS AND AS APPROVED BY THE PROJECT ENGINEER, SHALL BE PLACED WITHIN THE LIMIT OF DISTURBANCE. WETLANDS SHALL BE PROTECTED AND REMAIN UNDISTURBED THROUGHOUT THE DURATION OF THE PROJECT.
9. NO DISTURBED EARTH WILL REMAIN EXPOSED FOR MORE THAN SEVEN (7) CONSECUTIVE DAYS WITHOUT APPLYING TEMPORARY OR PERMANENT STABILIZATION MEASURES.
10. EXPOSED AREAS SHALL BE SEEDED AND MULCHED OR PROTECTED WITH EROSION CONTROL MATTING WITHIN 48 HOURS OF ACHIEVING FINAL GRADE.
11. ANY DISTURBED SLOPES 2:1 OR STEEPER SHALL BE STABILIZED WITH EROSION CONTROL BLANKET PER DIRECTION OF PROJECT ENGINEER, SEE DETAIL.

TRAFFIC MANAGEMENT NOTES

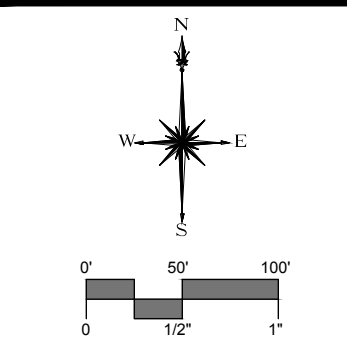
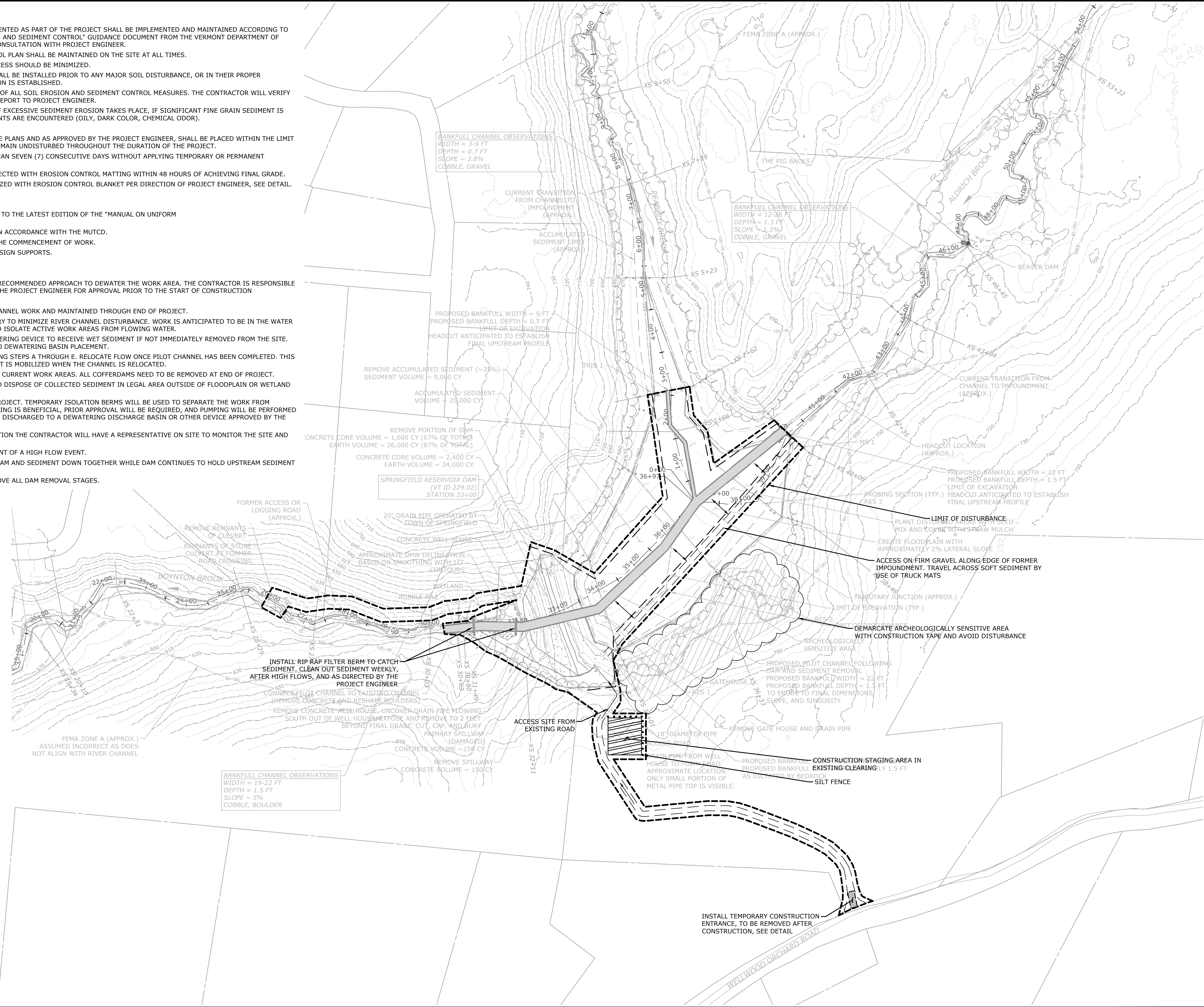
1. ALL TEMPORARY TRAFFIC CONTROL WORK SHALL CONFORM TO THE LATEST EDITION OF THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (MUTCD) AND ALL REVISIONS.
2. ALL SIGN LEGENDS, BORDERS, AND MOUNTING SHALL BE IN ACCORDANCE WITH THE MUTCD.
3. ALL CONSTRUCTION SIGNS SHALL BE IN PLACE PRIOR TO THE COMMENCEMENT OF WORK.
4. ALL SIGNS SHALL BE MOUNTED ON THEIR OWN STANDARD SIGN SUPPORTS.

WATER CONTROL PLAN

1. THE PROPOSED WATER CONTROL PLAN IS PROVIDED AS A RECOMMENDED APPROACH TO DEWATER THE WORK AREA. THE CONTRACTOR IS RESPONSIBLE FOR SUBMITTING A PROPOSED WATER CONTROL PLAN TO THE PROJECT ENGINEER FOR APPROVAL PRIOR TO THE START OF CONSTRUCTION
2. BEGIN WORK DURING LOW WATER.
3. STONE FILTER BERM SHALL BE INSTALLED PRIOR TO IN-CHANNEL WORK AND MAINTAINED THROUGH END OF PROJECT.
4. AS MUCH WORK AS POSSIBLE IS TO BE COMPLETED IN THE DRY TO MINIMIZE RIVER CHANNEL DISTURBANCE. WORK IS ANTICIPATED TO BE IN THE WATER AT TIMES. ISOLATION BERMS OR OTHER BARRIERS SHOULD ISOLATE ACTIVE WORK AREAS FROM FLOWING WATER.
5. INSTALL DEWATERING BASIN OR OTHER APPROVED DEWATERING DEVICE TO RECEIVE WET SEDIMENT IF NOT IMMEDIATELY REMOVED FROM THE SITE. NO PERMANENT DISTURBANCE SHOULD TAKE PLACE DUE TO DEWATERING BASIN PLACEMENT.
6. FLOW TO BE MAINTAINED IN THE EXISTING CHANNEL DURING STEPS A THROUGH E. RELOCATE FLOW ONCE PILOT CHANNEL HAS BEEN COMPLETED. THIS APPROACH MINIMIZES THE FIRST FLUSH OF SEDIMENT THAT IS MOBILIZED WHEN THE CHANNEL IS RELOCATED.
7. COFFERDAMS MAY BE USED TO DIRECT WATER AWAY FROM CURRENT WORK AREAS. ALL COFFERDAMS NEED TO BE REMOVED AT END OF PROJECT.
8. REMOVE DEWATERING BASIN AND STONE FILTER BERM AND DISPOSE OF COLLECTED SEDIMENT IN LEGAL AREA OUTSIDE OF FLOODPLAIN OR WETLAND AREAS.
9. PUMPING IS NOT EXPECTED TO BE NECESSARY FOR THIS PROJECT. TEMPORARY ISOLATION BERMS WILL BE USED TO SEPARATE THE WORK FROM NORMAL LOW FLOW. SHOULD THE CONTRACTOR FEEL PUMPING IS BENEFICIAL, PRIOR APPROVAL WILL BE REQUIRED, AND PUMPING WILL BE PERFORMED AT THE CONTRACTORS EXPENSE. DIRTY WATER SHOULD BE DISCHARGED TO A DEWATERING DISCHARGE BASIN OR OTHER DEVICE APPROVED BY THE PROJECT ENGINEER.
10. IN THE EVENT OF A HIGH FLOW EVENT DURING CONSTRUCTION THE CONTRACTOR WILL HAVE A REPRESENTATIVE ON SITE TO MONITOR THE SITE AND REPORT TO PROJECT ENGINEER ON SITE CONDITIONS.
11. TEMPORARY STABILIZATION MAY BE REQUIRED IN THE EVENT OF A HIGH FLOW EVENT.
12. REMOVALS TO BE COMPLETED INCREMENTALLY TO BRING DAM AND SEDIMENT DOWN TOGETHER WHILE DAM CONTINUES TO HOLD UPSTREAM SEDIMENT IN PLACE.
13. THE PROJECT ENGINEER SHALL BE ON SITE FOR AND APPROVE ALL DAM REMOVAL STAGES.

LEGEND

- PROPOSED EDGE OF WATER
- - - EXISTING MAJOR CONTOUR
- - - EXISTING MINOR CONTOUR
- - - APPROX. PROPERTY LINE
- - - EXISTING EDGE OF ROAD
- - - EXISTING TREELINE
- - - EXISTING WETLAND
- - - EXISTING LEDGE
- - - EXISTING RUBBLE PILE
- - - FEMA ZONE A (APPROX.)
- - - RIVER CORRIDOR
- - - OHW
- - - ORDINARY HIGH WATER
- ⊗ FIELD DATA COLLECTION POINT
- ⊗ 1.6' PROBING SEDIMENT DEPTH
- - - SEDIMENT PROBING SECTION
- - - ACCUMULATED SEDIMENT LIMITS (APPROX.)



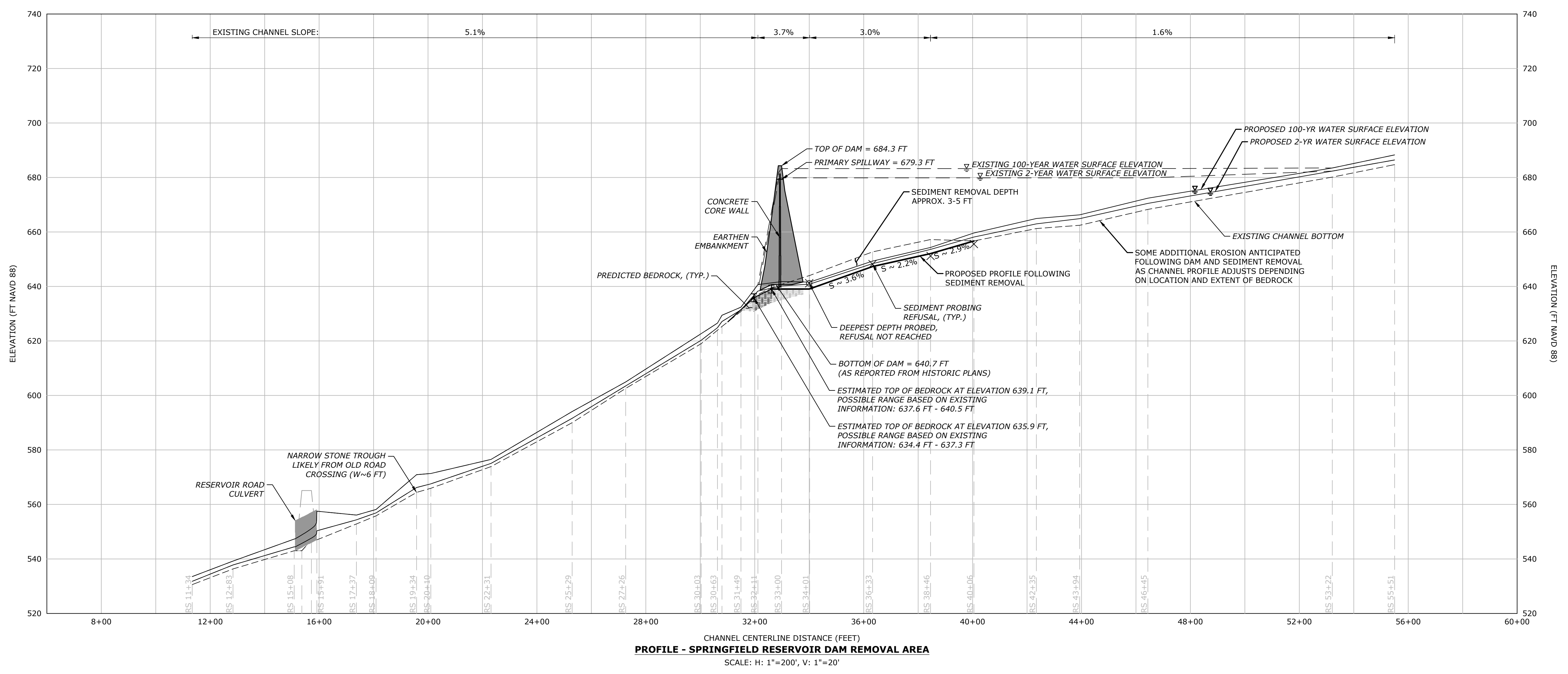
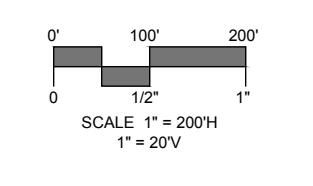
MILONE & MACBROOM
 NOW PART OF **SLR**
 88 BEAVER DRIVE
 CHESTER, VT 05640
 203.271.1773
 WWW.MILONE.COM | SLRCONSULTING.COM

DESCRIPTION	DATE	BY

SITE PLAN - CONSTRUCTION ACCESS, SEQUENCE & WATER CONTROL
SPRINGFIELD RESERVOIR DAM REMOVAL (VT # 229.02)
 WELLWOOD ORCHARD RD
 WEATHERSFIELD, VERMONT

CMN DESIGNED	CMN DRAWN	RKS CHECKED
SCALE 1" = 100'		
DATE JANUARY 4, 2022		
PROJECT NO. 5726-02		
SHEET NO. 4 OF 8		
SP3		

MILENE & MACBROOM ENGINEERS, P.C. 1500 MAIN STREET WATERBURY, VT 05676
 802.882.8335 WWW.MMINC.COM



PROFILE - SPRINGFIELD RESERVOIR DAM REMOVAL AREA
 SCALE: H: 1"=200', V: 1"=20'

MILONE & MACBROOM
 NOW PART OF **SLR**
 1500 MAIN STREET
 WATERBURY, VT 05676
 802.882.8335
 WWW.MMINC.COM

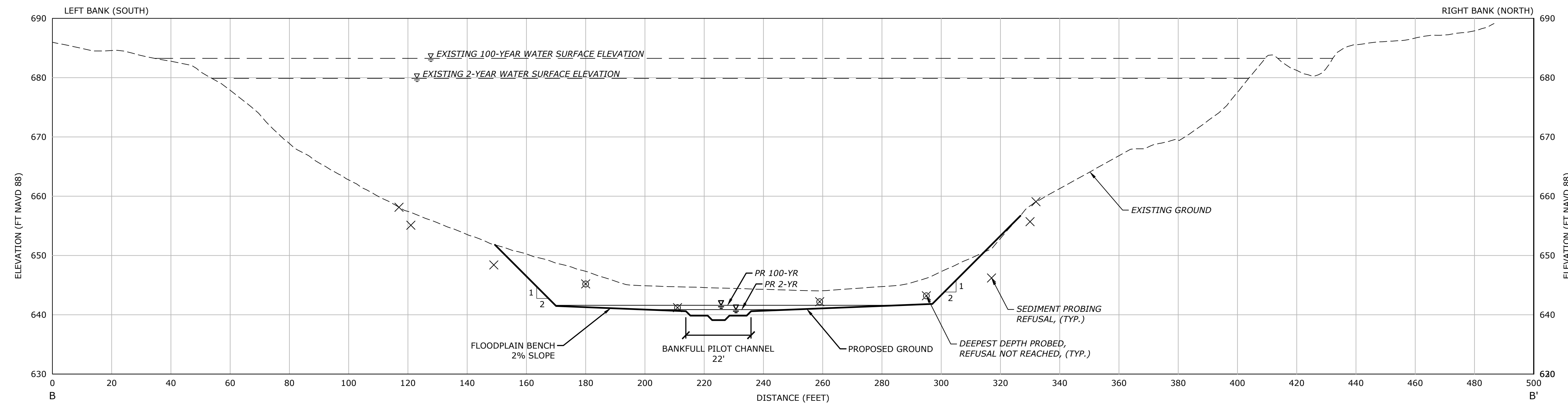
DESCRIPTION	DATE	BY

CHANNEL PROFILE
SPRINGFIELD RESERVOIR DAM REMOVAL (VT # 229.02)
 WELLWOOD ORCHARD RD
 WEATHERSFIELD, VERMONT

PRELIMINARY DESIGN (90%)

DESIGNED	CMN	RKS
DRAWN	CMN	CHECKED
SCALE 1"=200' H 1"=20' V		
DATE JANUARY 4, 2022		
PROJECT NO. 5726-02		
SHEET NO. 5 OF 8		
PRO		

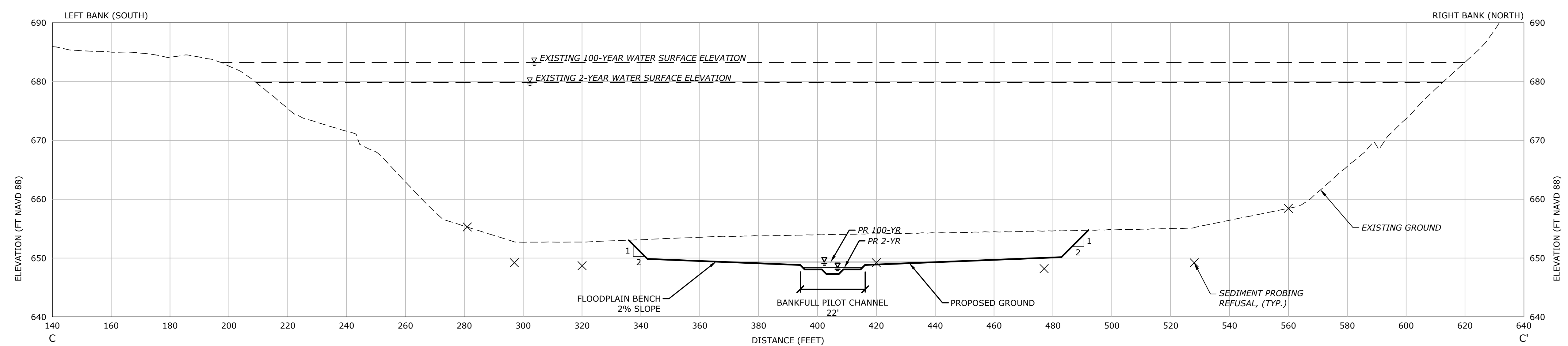
MILENE & MACBROOM ENGINEERS, INC. 1560 MAIN STREET WATERBURY, VT 05676 802.882.8335 WWW.MMI-INC.COM



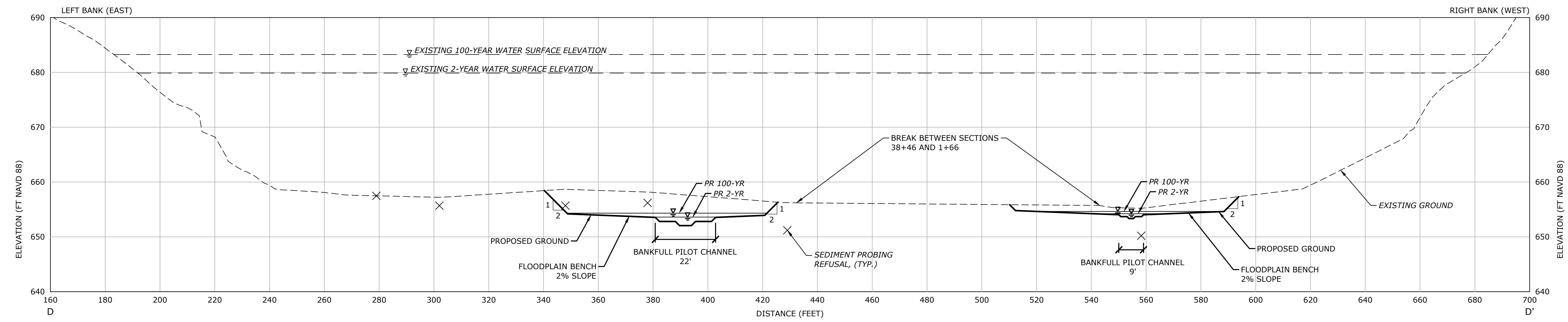
RS 34+01 - SECTION B-B'
SCALE: H: 1"=20', V: 1"=10'

CROSS SECTION NOTES

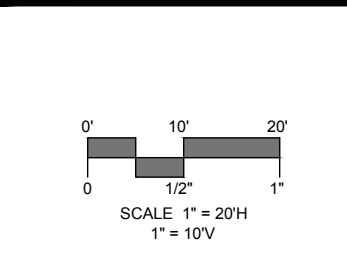
1. CROSS SECTIONS VIEWED LOOKING DOWNSTREAM.
2. CONSTRUCTED CHANNEL TO BE CONSTRUCTED USING NATIVE CHANNEL BED MATERIAL, OR BE COMPOSED OF EXISTING BEDROCK, WITH ROUGHNESS (SEE DETAILS).
3. CHANNEL TYPE (BEDROCK OR SEDIMENT) TO BE REFINED IN FIELD WITH PROJECT ENGINEER AFTER DEWATERING AND SEDIMENT REMOVAL.
4. **BEDROCK CHANNEL SECTIONS**
 - 4A. DO NOT ATTEMPT TO MATCH PROPOSED GRADING IN AREAS WHERE BEDROCK IS ENCOUNTERED
 - 4B. BEDROCK NOT TO BE REMOVED
 - 4C. LOW-FLOW CHANNEL SET BY BEDROCK
5. **RIVER SEDIMENT CHANNEL SECTIONS**
 - 5A. REFER TO RESTORED CHANNEL BED AND TYPICAL CHANNEL SECTION DETAILS
 - 5B. ALIGNMENT OF THE LOW-FLOW CHANNEL TO BE LOCATED IN THE FIELD DURING CONSTRUCTION BY THE PROJECT ENGINEER.



RS 36+33 - SECTION C-C'
SCALE: H: 1"=20', V: 1"=10'



RS 38+46 & 1+66 - SECTION D-D'
SCALE: H: 1"=20', V: 1"=10'



MILONE & MACBROOM
 NOW PART OF **SLR**
 1560 MAIN STREET
 WATERBURY, VT 05676
 802.882.8335
 WWW.MMI-INC.COM

DESCRIPTION	DATE	BY

PRELIMINARY DESIGN (90%)

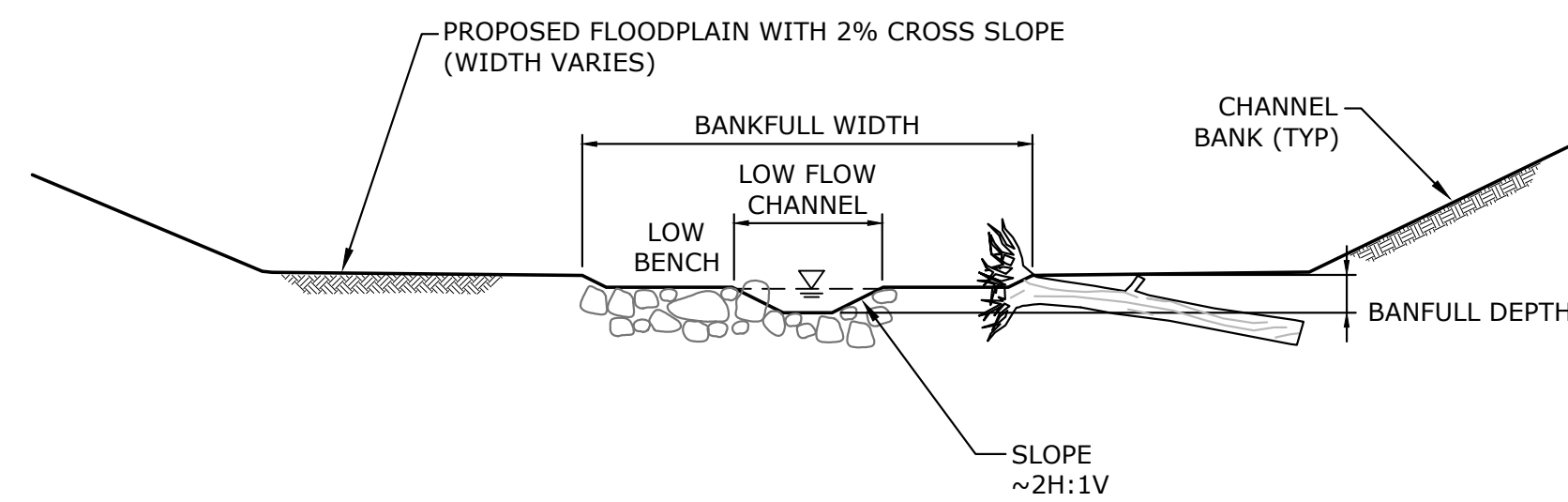
TYPICAL CROSS-SECTIONS
SPRINGFIELD RESERVOIR DAM REMOVAL (VT # 229.02)
 WELLWOOD ORCHARD RD
 WEATHERSFIELD, VERMONT

CMN DESIGNED	CMN DRAWN	RKS CHECKED
SCALE 1"=20' H 1"=10' V		
DATE JANUARY 4, 2022		
PROJECT NO. 5726-02		
SHEET NO. 7 OF 8		

XS

RIVER	CHANNEL TYPE	WIDTH (FEET)	DEPTH (FEET)
MAIN STEM	BANKFULL	22	1.5
MAIN STEM	LOW FLOW	7	0.75
TRIBUTARY	BANKFULL	9	0.7
TRIBUTARY	LOW FLOW	3	0.35

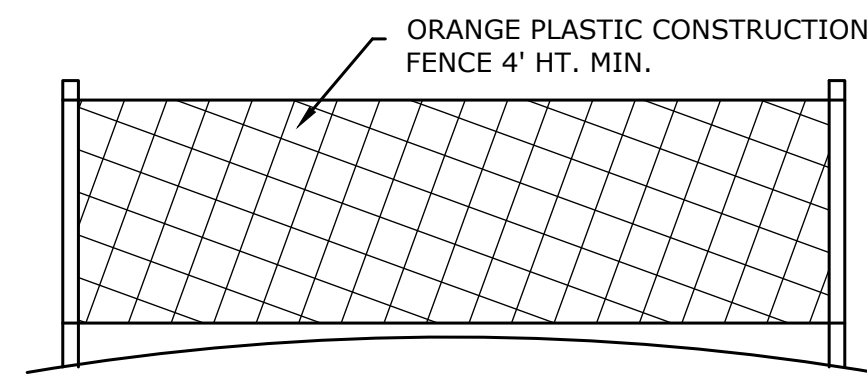
TYPICAL CHANNEL DIMENSIONS
NOT TO SCALE



NOTES:

1. SET LOW FLOW CHANNEL WIDTH TO APPROXIMATELY $\frac{1}{3}$ THE BANKFULL CHANNEL WIDTH.
2. SEE TYPICAL CHANNEL DIMENSIONS.
3. ALIGNMENT OF THE LOW FLOW CHANNEL TO BE LOCATED IN THE FIELD DURING CONSTRUCTION BY THE PROJECT ENGINEER.
4. PILOT CHANNEL TO BE CONSTRUCTED USING NATIVE CHANNEL BED MATERIAL. MAINTAIN ROUGH AND IRREGULAR CROSS SECTION AS POSSIBLE.
5. STOCKPILE AND INSTALL NATIVE GRAVEL, COBBLE, BOULDERS, AND LARGE WOOD.

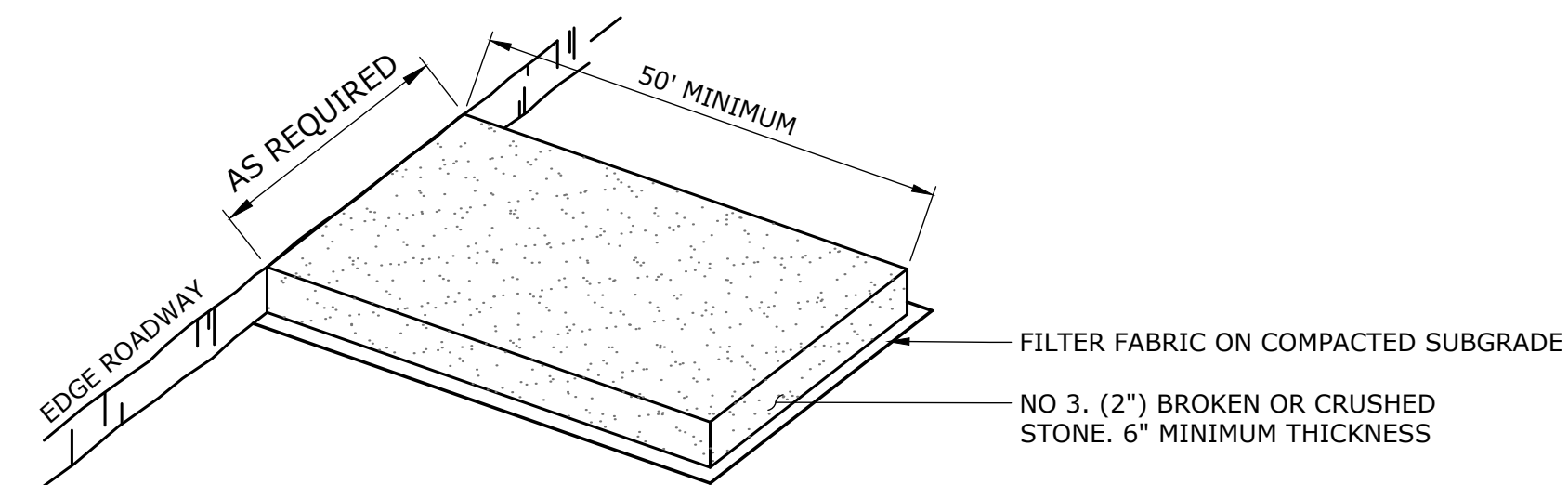
TYPICAL CHANNEL SECTION
NOT TO SCALE



NOTE:

1. CONTRACTOR SHALL COORDINATE TEMPORARY FENCE INSTALLATION WITH OWNERS REPRESENTATIVES.
2. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS TO ENGINEER FOR APPROVALS PRIOR TO CONSTRUCTION.

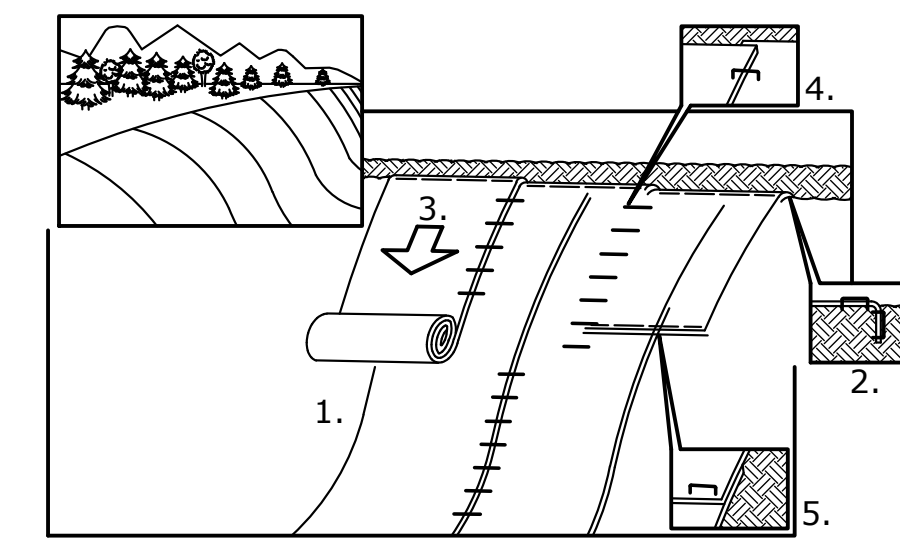
ORANGE CONSTRUCTION SAFETY FENCING
NOT TO SCALE



NOTES:

1. CONSTRUCTION ENTRANCE PAD SHALL BE INSTALLED AND MAINTAINED DURING OPERATIONS WHICH GENERATE VEHICULAR TRACKING OF MUD.

CONSTRUCTION ENTRANCE PAD
NOT TO SCALE

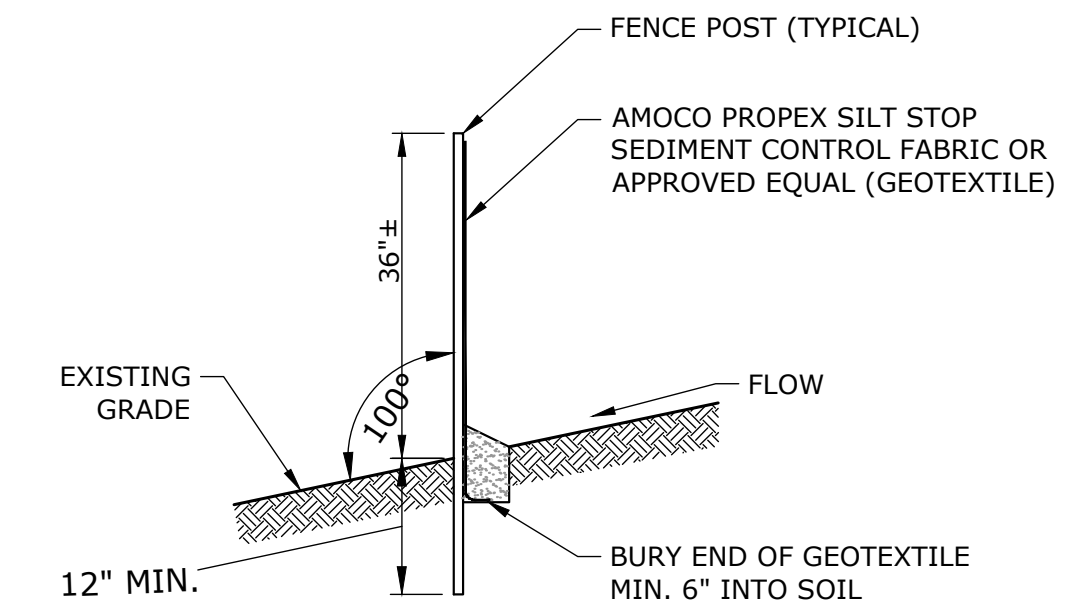


NOTES:

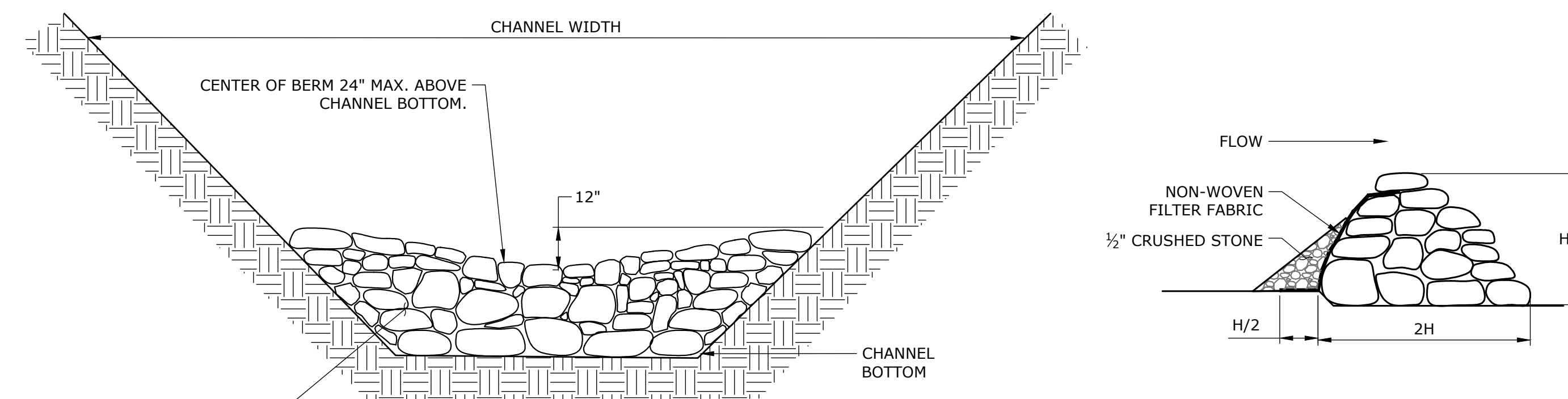
1. USE BIONET SHORT TERM BIODEGRADABLE EROSION CONTROL BLANKETS ITEM NUMBER S150BN, AS MANUFACTURED BY NORTH AMERICAN GREEN, 5401 ST. WENDEL-CYNTHIANA ROAD, POSEYVILLE, IN 47633, OR APPROVED EQUAL.
2. PREPARE SOIL BEFORE INSTALLING BLANKETS, INCLUDING APPLICATION OF LIME, FERTILIZER, AND SEED. NOTE: WHEN USING SCC225, DO NOT SEED PREPARED AREA. SCC225 MUST BE INSTALLED WITH PAPER SIDE DOWN.
3. BEGIN AT THE TOP OF THE SLOPE BY ANCHORING THE BLANKET IN A 6" DEEP BY 6" WIDE TRENCH. BACKFILL AND COMPACT THE TRENCH AFTER STAPLING.
4. ROLL THE BLANKETS DOWN THE SLOPE IN THE DIRECTION OF THE WATER FLOW.
5. THE EDGES OF PARALLEL BLANKETS MUST BE STAPLED WITH APPROXIMATELY 2" OVERLAP.
6. WHEN BLANKETS MUST BE SPLICED DOWN THE SLOPE, PLACE BLANKETS END OVER END (SHINGLE STYLE) WITH APPROXIMATELY 6" OVERLAP. STAPLE THROUGH OVERLAP AREA, APPROXIMATELY 12" APART.

REFER TO GENERAL STAPLE PATTERN GUIDE IN NORTH AMERICAN GREEN CATALOG FOR CORRECT STAPLE PATTERN RECOMMENDATIONS FOR SLOPE INSTALLATIONS.

APPLICATION OF EROSION CONTROL BLANKET ON SLOPES
NOT TO SCALE



SEDIMENT FILTER FENCE
NOT TO SCALE



NOTES:

1. CHOKER STONES TO FILL VOIDS BETWEEN STONES
2. REMOVE PRIOR TO DEMOBILIZATION.

RIPRAP FILTER BERM
NOT TO SCALE



DESCRIPTION	DATE	BY
EROSION CONTROL BLANKET SPEC.	3/11/2021	DJO

PRELIMINARY DESIGN (90%)

DETAILS
SPRINGFIELD RESERVOIR DAM REMOVAL (VT # 229.02)
WELLWOOD ORCHARD RD
WEATHERSFIELD, VERMONT

RKS	CMN	RKS
DESIGNED	DRAWN	CHECKED
SCALE		
NOT TO SCALE		
DATE		
JANUARY 4, 2022		
PROJECT NO.		
5726-02		
SHEET NO.		
8 OF 8		

SHEET NAME
DET

HEARING ITEM

6

114 STAT. 2674 PUBLIC LAW 106-541—DEC. 11, 2000
as amended by House Report 110-280 (WRDA 2007)

SEC. 543. VERMONT DAMS REMEDIATION.

(a) **IN GENERAL.**—The Secretary—

(1) shall conduct a study to evaluate the structural integrity and need for modification or removal of each dam located in the State of Vermont and described in subsection (b);

(2) shall provide to the non-Federal interest design analysis, plans and specifications, and cost estimates for repair, restoration, modification, and removal of each dam described in subsection (b);

(3) may carry out measures to prevent or mitigate against such risk if the Secretary determines that a dam described in subsection (b) presents an imminent and substantial risk to public safety and;

(4) may carry out measures to restore, protect, and preserve an ecosystem affected by a dam described in subsection (b).

(b) **DAMS TO BE EVALUATED.**—The dams referred to in subsection (a) are the following:

(1) East Barre Dam, Barre Town.

(2) Wrightsville Dam, Middlesex-Montpelier.

(3) Lake Sadawga Dam, Whitingham.

(4) Dufresne Pond Dam, Manchester.

(5) Knapp Brook Site 1 Dam, Cavendish.

(6) Lake Bomoseen Dam, Castleton.

(7) Little Hosmer Dam, Craftsbury.

(8) Colby Pond Dam, Plymouth.

(9) Silver Lake Dam, Barnard.

(10) Gale Meadows Dam, Londonderry.

(11) Camp Wapanacki, Hardwick.

(12) Star Lake Dam, Mt. Holly.

(13) Curtis Pond, Calais.

(14) Weathersfield Reservoir, Springfield.

(15) Burr Pond, Sudbury.

(16) Maidstone Lake, Guildhall.

(17) Upper and Lower Hurricane Dam.

(18) Lake Fairlee.

(19) West Charleston Dam.

(20) White River, Sharon.

(c) **COST SHARING.**—The non-Federal share of the cost of activities under subsection (a) shall be 35 percent.

(d) **COORDINATION.**—In carrying out this section, the Secretary shall coordinate with the appropriate State dam safety officials and the Director of the Federal Emergency Management Agency.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$5,000,000.

HEARING ITEM

7

Your Permit Navigator Results

PNR-0000000647

On the following page, you will find the following results based on the information that you provided. If the information you provided changes, for example if you change the location or size of your project, you should start over as the results below are no longer valid

Disclaimer: The Permit Navigator Results Summary is based on the information provided, and is not intended as an official or binding permitting determination by the ANR. The Agency reserves the right to require additional permits and/or approvals depending on the specific details of the project.

By checking this box I confirm that I have read and understood the disclaimer.

Check here if you would like a jurisdictional opinion on whether your project requires an Act 250 permit? If you check this box you will need to provide your contact information (first name, last name, email address, and phone). Otherwise, entering your contact information here is not required, but doing so will make it easier for ANR or Act 250 staff to better assist you in the future.

Disclaimer: Although requesting an Act 250 jurisdictional opinion is not required, it is highly recommended. Commencement of construction on a project (including clearing land or demolishing structures in preparation) that requires an Act 250 permit without securing a jurisdictional opinion could result in penalties and other enforcement actions.

YOUR LOCATION SELECTION DATA

Latitude

43.3510

Longitude

-72.4893

SPAN

705-224-11426

Property Owner

SPRINGFIELD TOWN OF
1061 WELLWOOD ORCHARD RD.
WEATHERSFIELD, 05156


Location

[View map of your selection](#)

This link may contain valuable information about this parcel. We suggest clicking on this link and viewing it in the ANR Atlas to see the environmental considerations (such as wells, existing permits, and required setbacks) present.

PERMIT RESULTS

BASED ON YOUR RESPONSES, WE HAVE DETERMINED THE FOLLOWING PERMITS ARE LIKELY NEEDED FOR YOUR PROJECT:

 Your response indicates that you do not need this permit, but our information based on location or historical activities on the property indicates that you might. Please contact the program contact for this permit to receive a definitive answer.

Vermont Department of Environmental Conservation

Fish, Wildlife, and Plants - Threatened and Endangered Species

PERMIT EXPLANATION


State law protects endangered and threatened species. No person may take or possess such species without a Threatened & Endangered Species Takings permit. Endangered species are those whose continued existence as components of the State's wild flora or fauna is determined to be in jeopardy. Threatened species are those likely within the foreseeable future to become endangered. The Vermont Fish & Wildlife Department administers the permit program for the Secretary of the Agency of Natural Resources. The Department's mission is to protect and conserve fish, wildlife, plants and their habitats for the people of Vermont. Threatened & Endangered Species Takings Permits may be granted only for the following purposes: incidental take, scientific purposes, enhancement of the propagation of a species, zoological exhibition, educational purposes, and special purposes consistent with the purposes of the Federal Endangered Species Act (ESA).

APPLICATION FEE AMOUNT

Scientific purposes, Educational purposes, Enhance the propagation or survival of the species, or Special purposes consistent with the federal Endangered Species Act: \$50.00
Zoological/Botanical Exhibition or Incidental Take: \$250.00 for each listed species taken (\$25,000 max)

PROGRAM CONTACT

Everett Marshall

 802-371-7333

 everett.marshall@vermont.gov

PROGRAM WEBSITE

 <https://vtfishandwildlife.com/conservation/conservation-planning/endangered-and-threatened-species/threatened-endangered-species-takings-permit>

PROGRAM RESOURCES

[Everett Marshall \(everett.marshall@vermont.gov 802-371-7333\)](mailto:everett.marshall@vermont.gov)

The Vermont Fish and Wildlife Department is responsible for the conservation and management of all fish, wildlife, plants, and their habitats throughout Vermont for the people of the State.

Stream Alteration and Stream Crossing Structures

PERMIT EXPLANATION

This permit regulates the alteration of streams. Regulated activities may be covered under either an individual or general permit. Permit review protects against creation of flood hazards and damage to fish life; protects rights of neighboring landowners; and, with respect to the stream alteration activity, assures compliance with Vermont Water Quality Standards.

TIME TO ISSUE PERMIT


Permits are typically issued within 45-60 days of receiving a complete application, depending on project complexity. This includes 14 & 30 day public comment periods that are required for General Permit authorizations & Individual Permits, respectively.

APPLICATION FEE AMOUNT

General Permit: \$200, Individual Permit: \$350

PROGRAM CONTACT

Scott Jensen

 802-490-6962

 scott.jensen@vermont.gov

PROGRAM WEBSITE

 <https://dec.vermont.gov/watershed/rivers>

PROGRAM RESOURCES

[Vermont Rivers Program \(802-828-1115\)](#)

River resource protection is achieved through a combination of permitting, regulatory/non-regulatory technical assistance, assessment, planning, education, and outreach.

Contact your Municipal Administrative Officer for a local permit application.



Your response indicates that you do not need this permit, but our information based on location or historical activities on the property indicates that you might. Please contact the permit contact for this permit to receive a definitive answer.

Vermont Department of Environmental Conservation

Flood Plain and River Corridor

PERMIT EXPLANATION

Any development within the FEMA designated 100-year floodplain (Special Flood Hazard Area) in a community participating in the National Flood Insurance Program (NFIP) requires a local development permit. In addition, some communities regulate activities in ANR-mapped River Corridors. Applications for hazard area development permits must come to ANR for State review and comment to ensure compliance with NFIP and local minimum standards. Please be aware that Act 250 jurisdictional projects are reviewed under a state procedure that may result in requirements that differ from the local municipal requirements. Under Act 250, the State reviews projects located within the FEMA designated Special Flood Hazard Area and/or within the ANR mapped River Corridor.

TIME TO ISSUE PERMIT


ANR provides written comments on permit applications typically within 30 days of receiving a complete application from the municipality. Local permit issuance timeframes vary by municipality.

APPLICATION FEE AMOUNT

There is no state fee for review of applications for development in Special Flood Hazard Areas; local zoning permit fees apply.

PROGRAM CONTACT

John Broker-Campbell

 802-490-6196

 john.broker-campbell@vermont.gov

PROGRAM WEBSITE

 <https://dec.vermont.gov/watershed/rivers>

PROGRAM RESOURCES

[Vermont Rivers Program \(802-828-1115\)](#)

River resource protection is achieved through a combination of permitting, regulatory/non-regulatory technical assistance, assessment, planning, education, and outreach.

Contact your Municipal Administrative Officer for a local permit application.



Your response indicates that you do not need this permit, but our information based on location or historical activities on the property indicates that you might. Please contact the permit contact for this permit to receive a definitive answer.

Vermont Department of Environmental Conservation

Wetlands

PERMIT EXPLANATION

Permits are required for most activities within a wetland or its buffer zone (50-feet for Class II wetlands, 100+feet for Class I wetlands). Activities in wetlands and buffers likely needing a permit include filling, draining, cutting or removing vegetation, removing soil, or grading. The easiest way to research whether a property has jurisdictional wetlands associated with it is to use the Wetland Screening Tool. The results for a given property are listed for you to see, with explanations of each layer and recommended next steps. The link for the tool may be found in the Guidance Link below.

TIME TO ISSUE PERMIT

On average approximately 6 weeks for a General Permit; 5 months for an Individual Permit. (Timeframe is dependent on the completeness and accuracy of the application.)


APPLICATION FEE AMOUNT

Wetland fees are variable and we recommend you contact the district wetland ecologist. Here are some guidelines to the fees. Administrative Processing fee: \$240 + \$0.75/sf wetland impact & \$.25/sf buffer impact

[View fee table](#)

PROGRAM CONTACT

Rebecca Chalmers

 802-490-6192

 rebecca.chalmers@vermont.gov

PROGRAM WEBSITE

 <https://dec.vermont.gov/watershed/wetlands>

PROGRAM RESOURCES

[Wetlands Ecologists](#)

[Wetlands Contact and Inquiry Portal](#)

ENVIRONMENTAL CONSIDERATIONS BASED ON MAPPED RESULTS

ID	MAP RESULT
----	------------

PROJECT INFORMATION REVIEW

Project Address

1061 WELLWOOD ORCHARD RD. WEATHERSFIELD, 05156

Your Industry

Municipalities

Construction, development, or expansion?

No

CONTACT INFORMATION

First Name

Jessica

Last Name

Louisos

Phone

(802) 882-8335

Email

jlouisos@slrconsulting.com

Address 1

1 South Main Street

Address 2

2nd Floor

City

Waterbury

State

Vermont

Mailing Zip/Postal Code

05676



Your response indicates that you do not need this permit, but our information based on location or historical activities on the property indicates that you might. Please contact the program contact for this permit to receive a definitive answer.

Fish, Wildlife, and Plants - Threatened and Endangered Species

Does your project involve cutting down trees larger than 8 inches in diameter in any of the following towns?

Answer:

X NO

- (Addison, Arlington, Benson, Brandon, Bridport, Bristol, Charlotte, Cornwall, Danby, Dorset, Fair Haven, Ferrisburgh, Hinesburg, Manchester, Middlebury,

Monkton, New Haven, Orwell, Panton, Pawlet, Pittsford, Rupert, Salisbury, Sandgate, Shoreham, Starksboro, St. George, Sudbury, Sunderland, Vergennes, Waltham, West Haven, Weybridge, Whiting)

Underground Injection Control

Will you have one or more floor drains or catch basins?

Answer:

 NO

Lake Encroachment Permit

Is your project located at or beyond the shoreline as established by the mean water level of: 1) a public lake or pond, 2) a boatable tributary of Lake Champlain or Lake Memphremagog upstream to the first barrier to navigation, or 3) Connecticut River impoundments and boatable tributaries of such impoundments upstream to the first barrier to navigation?

Answer:

 NO

Shoreland Protection

Does your project involve the creation of new cleared area or impervious surface (e.g. dirt road, paved road, roof, driveway, etc.) near a lake or pond?

Answer:

 NO

Residuals Management

Does your project involve a facility that produces biosolids?

Answer:

 NO

Does your project involve land applying biosolids or stabilized, domestic septage?

Answer:

NO

Does your project involve a municipal wastewater treatment facility but your project does not produce biosolids?

Answer:

NO

Does your project involve the distribution of short paper fiber or wood ash in Vermont?

Answer:

NO

Stream Alteration and Stream Crossing Structures

Does your project involve any of the following:


Answer:

- movement, excavation or fill of 10 or more cubic yards of material within a perennial stream?

YES

- construction or maintenance of a berm or additional material for landscaping adjacent to a river, stream, or floodplain?

- any crossing of a stream with utility lines?

 Your response indicates that you do not need this permit, but our information based on location or historical activities on the property indicates that you might. Please contact the permit contact for this permit to receive a definitive answer.

Flood Plain and River Corridor

Is your project proposing activities in or near a floodplain, river, and/or stream.

Answer:

YES

Salvage Yards

Does your project involve storing four or more junk vehicles or scrap metal outside?

Answer:

NO

Demolition Waste

Does your project have demolition waste that needs disposal?

Answer:

YES

Does your project involve you or a licensed hauler bringing the demolition waste to a certified facility?

Answer:

YES

Disposal of Inert Waste, Untreated Wood & Stumps

Does your project have inert waste that needs disposal?

Answer:

NO

Used Septic System Components/Stone

Does your project involve used septic system components or stone from a septic system that needs disposal?

Answer:

NO

Industrial (Multi-Sector) Stormwater Discharge Permit

Does your project involve an industrial activity associated with the Multi-Sector General Permit? (To view multi-sector general permit industrial activities, click this [link](#).)

Answer:

NO

Operational Stormwater Discharge Permit

Will your project undertake any of the following with respect to impervious surfaces:

Answer:

• None of the above

Underground Storage Tanks

Does your project have an existing underground storage tank on the property?

Answer:

NO

Does your project involve you installing an underground storage tank?

Answer:

NO

Wastewater System & Potable Water Supply

Are you subdividing land?

Answer:

NO

Are you constructing a new building or structure that will have plumbing?

Answer:

NO

Are you adding a bedroom or bedrooms?

Answer:

NO

Will your project increase any of the following (this is a list of common examples, if your project is not on the list, but you think it is similar to an example please select "I don't know"):

Answer:

- none of the above

Are you replacing an existing wastewater system?

Answer:

NO

Are you constructing a new wastewater system?

Answer:

NO

Will you convert an existing public water system to a potable water supply?

Answer:

NO

Answer:


Are you converting an indirect discharge system to a wastewater system?

 NO

Will you extend a municipal sewer line or municipal water service? Will it be a state-funded municipal water system or sewer extension or upgrade? If so, Contact: Lynnette Claudon: lynnette.claudon@vermont.gov, 802-490-6226.

Answer:

 NO

 Your response indicates that you do not need this permit, but our information based on location or historical activities on the property indicates that you might. Please contact the permit contact for this permit to receive a definitive answer.

Wetlands

Does your project involve land that is in or near an area that has any of the following characteristics:

Answer:

 YES

o Water is present – ponds, streams, springs, seeps, water filled depressions, soggy ground under foot, trees with shallow roots or water marks?

o Wetland plants, such as cattails, ferns, sphagnum moss, willows, red maple, trees with roots growing along the ground surface, swollen trunk bases, or flat root bases when tipped over?

o Wetland Soils – soil is dark over gray, gray/blue/green? Is there presence of rusty/red/dark streaks? Soil smells like rotten eggs, feels greasy, mushy or wet? Water fills holes within a few minutes of digging?

Contact your [District Wetland Ecologist](#) for information.

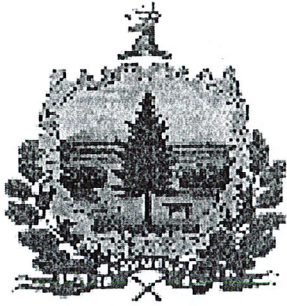
Other State and Local Permit Information

In addition to environmental permitting, there are other requirements that may apply. Below are some helpful resources:

- Office of the State Fire Marshal: <https://firesafety.vermont.gov/>
- Vermont Building Energy Standards: <https://publicservice.vermont.gov/content/building-energy-standards>
- Secretary of State business registration: <https://sos.vermont.gov/corporations/registration/>
- Secretary of State professional Boards: <https://sos.vermont.gov/opr/>
- Department of Taxes: <https://tax.vermont.gov/>
- For local permits - please see your Town Clerk, Zoning Administrator, Planning Commission or Public Works

HEARING ITEM

8



MEMORANDUM

TO: For the Record
FROM: Brian A. Terhune, P.E., Assistant Dam Safety Engineer
DATE: September 29, 2005
SUBJECT: Inspection of Springfield Reservoir, Weathersfield, VT

On September 15, 2005, Brian Terhune made a routine inspection of the Springfield Reservoir Dam in Weathersfield, Vermont, State Identification Number 229.02. The town of Springfield owns the dam. A number of photographs and field notes were taken. The dam was last inspected on March 13, 1984. This inspection was carried out under provisions of Title 10 of the Vermont Statutes Annotated, Section 1105.

OVERALL CONDITION:

The overall condition of the dam is poor. The dam was previously found to be unsafe by the Corp of Engineers and the Department of Environmental Conservation on November 20, 1979. The major areas of concern were and are the instability of the downstream slope due to the steepness, seepage and a slope failure, and the inadequacy and poor condition of the emergency spillway. Lowering the water level was and is still considered an interim measure to safeguard the dam and downstream lives.

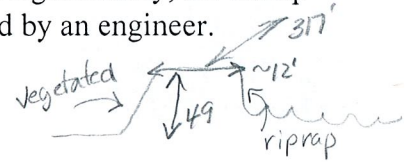
RECOMMENDATIONS FOR THE OWNER:

1. A further inspection of the embankment, outlet conduit(s), spillway and other structures by a professional engineer qualified in dam design to ensure the stability of the slope, spillway capacity and soundness of the pipes is recommended.
2. Retain a qualified consulting engineer perform a Hydraulic and Hydrology Study of the dam. The dam is presently classified as a Class 2 (significant hazard). This study would used to determine whether this classification is still valid or if it should be given a higher classification. The engineer should also develop an emergency action plan to describe what conditions should initiate emergency actions, and what persons and authorities will be notified. The plan should include a program to monitor the seepage and erosion at the toe of the dam weekly and observe any changes including increased seepage, muddy seepage, sinkholes, slope failures, etc. that could lead to the failure of the dam.

- breach analysis -

3. Mowing and maintenance brushing should continue on the dam and should encompass all downstream and upstream embankments, crest area, toe area, 10 feet out from the abutments, and the emergency spillway area as to not interfere with the spillway's capacity. The stumps of all trees that are cut down should be monitored for decay. Once the stump has decayed significantly, the stump should be removed and backfilled with appropriate material recommended by an engineer.

BACKGROUND AND DESCRIPTION:



Construction of the dam was completed in 1903 from a design by L.F. Douglas, Eng., on an un-named tributary to the Black River. The dam was constructed to provide drinking water to the Town of Springfield, and is no longer used these purposes. No known design records exist. The dam is an earthfill embankment approximately 317 feet long, including the spillway with a maximum height of 49 feet. The dam crest width varies, and averages 12 feet in width. The downstream slope varies from 1.3:1 to 1.5:1. The upstream slope is approximately 2:1, but is as steep as 1.3:1 near the crest of the dam. The upstream, face of the dam is covered with rip-rap, and the downstream face is vegetated for slope protection.

The dam has a plain concrete core wall that is reported to be 2 feet thick at the top and steps to 15 feet at the base. The dam also has a cut-off that is comprised of a concrete filled trench that is 4 to 8 feet deep into the foundation. According to historical records, the dam is founded on bedrock, except for the right-hand 80 feet of the embankment. This section is founded on soil, possibly glacial till, of an unknown thickness.

The chute spillway is un-gated open channel with a thin concrete paved bottom along the left abutment of the dam. The crest of the spillway is five (5) feet below the crest of the embankment. The spillway starts with a tapered approach section and narrows to an overflow control section approximately 30 feet wide, and narrows again to a uniform 20-foot wide discharge channel approximately 400 feet long. The spillway discharges to a stream below the toe of the dam. The spillway approach and control section have vertical training wall of varying height. The left training wall is constructed of reinforced concrete, and the right wall is constructed of concrete and stone masonry. The discharge channel walls are 2-foot high stone masonry.

The principle spillway of the dam is a concrete intake structure and control tower topped with a wood framed enclosure. The intake structure contains 3-20 inch diameter cast iron mains that branch to several smaller diameter pipes that lead to the valve chamber at the downstream toe of the dam. The valve chamber is a flat topped rectangular reinforced concrete structure.

In July 1969, an intense rainstorm produced a flood that overtopped the entire crest of the dam. Two (2) gullies were eroded in the downstream slope on the right half of the dam, the concrete core wall was exposed, and the lower portion of the spillway discharge channel was badly washed out. The damage was inspected by the Corps of Engineers. Dufresne-Henry (DH) investigated the core wall and prepared plans and specifications for emergency repairs to the dam.

Apparently, the repair work was not done in accordance with the DH plans and specifications. The gullies were backfilled and the crest of the dam was raised back to its original height by Town Public Works Personnel temporarily. These temporary repairs were later considered permanent and have not been changed. Later in 1970, the spillway was widened. The present washed out condition of the discharge channel suggests that it was never repaired as intended.

No other construction, modification, or major repair is known to have occurred. Although in 1985, Dufresne-Henry investigated the dam and suggested a project to install filters and toe drains, to flatten the downstream slope to 2:1, and to add rip-rap for slope protection. These measures apparently have not been constructed.

INSPECTION:

The inspection of this dam was conducted on September 15, 2005. It took place at 11:00 AM. The weather was overcast, humid, and warm. The following was observed:

1. Earth Embankment:

- a) Upstream: The upstream slope was vegetated with grass and small woody brush on the upper half of the face. The entire face of the upstream slope also had stone for slope protection. The slope was good for line and grade. Some erosion and slumping was noted at the historical high water line across the entire slope. The left abutment is the emergency spillway and is in the same condition as the rest of the slope. The right abutment keys into natural grade. Some trees are beginning to grow back into the abutment.
- b) Crest: The crest of the dam was vegetated with grass and small woody brush. The crest appeared good for grade, but the crest appears to have an arc in the downstream direction. The crest is being used as foot and horse trail, this use causing some erosion at the left abutment and along the crest.
- c) Downstream: The downstream slope was vegetated with grass and woody brush. At the left end near the emergency spillway, an area of erosion was noted near the top of the slope. The toe area of the slope was covered with heavy brush and was hard to inspect for any seepage, this condition had been noted in earlier inspections. The bulge noted in the 1980 Corps of Engineers Phase I Inspection Report is still present, but does not appear to have progressed any further.
- d) Abutments: The left abutment keys into the emergency spillway and is quite brushy. Some erosion was noted near the downstream crest. The right abutment keys into natural grade. The right abutment is in good condition, but could be brushed back an additional 10 feet.

2. Principal Spillway: The principal spillway for the dam is a concrete intake tower. The structure was inaccessible and the interior was not inspected. The concrete of the tower is in fair condition with areas of spalling and scour. The wood framed enclosure on top of the tower appears to be in poor condition. The interior of the valve chamber located at the downstream toe was not inspected. The concrete of the valve chamber appeared to be in good condition.

3. Emergency Spillway: This is an uncontrolled concrete chute spillway. The approach channel had some grass and woody brush upstream of the concrete floor. The left training wall of the control section appears to be in fair condition with heavy tree and brush growth behind it. The right control section training wall is in poor condition. The concrete and stone masonry is in deteriorated condition along with tree brush growth behind it. The concrete floor of the control section is also in fair condition with some cracking and vegetative growth in the joint.

The discharge channel stone masonry training walls are in poor condition and have heavy tree and brush growth behind them. The floor of the discharge channel is in poor condition. The concrete slabs have heaved heavily, collapsed or moved downstream. The lower portion of the discharge channel is nonexistent. The water in the plunge pool at the end of the spillway was cloudy. No discharge was noted entering the pool.

HYDROLOGY AND HYDRAULICS:

The pond area at the normal pool is about 11 acres with normal volume storage of about 174 acre-ft. The maximum storage is 240 acre-ft. The drainage area is 1,638 acres (2.6 square miles).

DOWNSTREAM HAZARD CLASSIFICATION:

The dam is a Class 2, “significant hazard” structure.

JURISDICTION:

Since the dam impounds more than 500,000 cubic feet, any alteration, reconstruction or breaching would require prior approval from the Department under provisions of Title 10 of the Vermont Statutes Annotated, Chapter 43.

HEARING ITEM

9

MEMORANDUM

TO: For the File
FROM: Stephen Bushman, P.E., Dam Safety Engineer
DATE: July 31, 2015
SUBJECT: Inspection of Springfield Reservoir, Weathersfield, VT

On July 21, 2015, Stephen Bushman, P.E., Steven Hanna, and Jaclyn Kaehler of the Vermont Dam Safety Program made a routine inspection of the Springfield Reservoir Dam in Weathersfield, Vermont, State Identification Number 229.02. Jeff Strong, a representative from The Water Department was met us on site but did not attend the inspection. A number of photographs and field notes were taken. The dam was last inspected on October 29, 2010. This inspection was carried out under provisions of Title 10 of the Vermont Statutes Annotated, Section 1105 with the approval of the Town Manager, Bob Forguites.

OVERALL CONDITION:

The overall condition of the dam is POOR. The dam was previously found to be unsafe by the Corp of Engineers on November 20, 1979 as a result of the Phase I inspection performed at that time. The major areas of concern were and are the instability of the downstream slope due to the steepness, seepage and a slope failure, hydraulic inadequacy and poor condition of the emergency spillway, and the condition of the control piping located in the dam embankment. There are no records of repairs being made to the dam since at least 1970, and those made at that time were considered emergency repairs to repair damage from an overtopping event. Lowering the water level was and is still considered an interim measure to safeguard the dam and downstream lives.

DOWNSTREAM HAZARD CLASSIFICATION:

The dam is a Class 2, "significant hazard" structure.

JURISDICTION:

Since the dam impounds more than 500,000 cubic feet, any alteration, reconstruction or breaching would require prior approval from the Department under provisions of Title 10 of the Vermont Statutes Annotated, Chapter 43.

RECOMMENDATIONS FOR THE OWNER:

- 1. Remove or fully breach the dam. The dam continues to deteriorate, is poorly maintained, and is not being used for its original purpose (water supply). The dam is classified as Significant hazard,**

and a failure of the dam will result in probable loss of life and structural damage.

2. If removal is not pursued, retain a professional engineer qualified in dam safety to re-evaluate the dam and update previous reports. This evaluation should be expedited due to the following observations made during this inspection or on file:

- The general unstable condition of the downstream slope due to steepness.
- Inadequate spillway capacity for the design storm.
- The emergency spillway is mostly failed and partially clogged with debris. It was noted during the inspection that due to the failure of the right spillway training wall, flow from the spillway escapes onto the embankment of the dam causing erosion. In its current condition, operation of the emergency spillway during storm events will cause further erosion to the underlying soils and to the downstream embankment.
- It was noted during the inspection that the spillway is normally activated during spring runoff events, placing more stress on the deteriorated spillway and downstream embankment. A safe level for the reservoir cannot be determined until the dam is fully re-evaluated.
- Inability to keep the reservoir drawn down during spring runoff and possibly during extreme storm events. This is due to the existing piping being designed for water supply purposes and not to act as a principal spillway.
- The 1985 assessment report noted seepage exiting from the downstream slope at least 20 feet above the downstream toe when the reservoir level is at the spillway crest elevation.
- The control structure is in poor condition.
- The condition of the outlet piping and valves in the control structure, through the dam, and in the valve box on the downstream toe is unknown.
- Control valves for the outlet pipes are located downstream of the dam. When the valves are closed the pipes through the dam are under full pressure. Should the pipe(s) fail while under pressure, internal erosion of the dam can occur with possible failure resulting.
- Encroaching heavy brush and trees on the dam (although informed annual brushing occurs) will continue to destabilize the dam if not routinely removed.

The recommendations made in the professional engineer evaluation for monitoring, operating, repairing or replacement to the dam should be immediately followed.

3. Develop, implement and keep current an Emergency Action Plan (EAP) to be used in the event of an impending failure or other emergency at the dam. The EAP should be reviewed and tested at least annually. A copy of the EAP should be submitted to the Dam Safety Program.
4. Continue the mowing and maintenance brushing on the dam, and encompass all downstream and upstream embankments, crest area, toe area, 10 feet out from the abutments, and the emergency spillway area as to not interfere with the spillway's capacity.
5. Continue the frequent monitoring of the dam.

INSPECTION:

The inspection of this dam was conducted on July 21, 2015 at 0915 hours. The weather was partly cloudy with temperatures in the 70's. The water level was being controlled approximately 10 feet below the normal pool level. The following was observed:

1. Earth Embankment:

- a) Upstream: The upstream slope was vegetated with moderate brush. The entire face of the upstream slope also had stone for slope protection which was more obvious on the lower one-third just above the current water line. The slope was good for line and grade. Erosion and slumping was noted across the entire slope at and above what would have been the normal operating water level (spillway crest). The cause of this was not obvious, but could have been from years of wave action, ice, or a frequent rising and lowering of the reservoir during normal operations.
- b) Crest: The crest of the dam was vegetated with grass and small woody brush. Although recently brushed, the right abutment still contained numerous small trees.
- c) Downstream: The downstream slope has annual brushing, but the thick brush present made a thorough inspection difficult. The downstream slope is steep, and there are numerous areas of instability noted by minor slumps, loose soils and a lack of vegetation due to erosion. The bulge noted in the 1980 Corps of Engineers Phase I Inspection Report was not observed during this inspection due to the heavy brush. At the left end near the emergency spillway, a bench was noted on the middle third of the embankment. This bench does not show on any plans; it was speculated that the bench could have been constructed to facilitate repairs after the 1969 overtopping event. The toe area of the slope was damp to wet, especially around the gate housing structure and near the discharge end of the emergency spillway. Seepage had been previously noted in this area, but it is not known if seepage or surface water is the cause of this wet area. There was also a small slump above the valve control housing. Along the left side of the embankment, near the right training wall of the spillway, it was noted that water could escape the spillway during high flows.
- d) Abutments: The left abutment keys into the emergency spillway. Some erosion was noted near the downstream crest in this area. The right abutment keys into natural grade. There are trees growing in the right abutment.

2. Principal Spillway: The principal outlet for the dam consists of a concrete intake tower. The structure was inaccessible and the interior was not inspected. The exposed portion of the concrete of the tower appeared to be in fair condition with areas of spalling and scour. The wood framed enclosure, including the roof on top of the tower was in very poor condition and is rapidly deteriorating. The interior of the valve chamber located at the downstream toe was not inspected although past inspection reports describe seepage in and around the structure. The exterior concrete of the valve chamber appeared to be in good condition. It was reported previously that the valves that control the discharge from the dam are located further downstream, leaving the pipes under pressure through the embankment when the valves are closed.

3. Emergency Spillway: This is an uncontrolled concrete chute spillway. The approach and control sections of the spillway (upper section) had been replaced or repaired in the 70s and were in fair condition. Below the newer section the training walls were collapsing and heavily deteriorated. There was a section of the right training wall missing where water flows from the spillway onto the downstream slope of the embankment during periods when the spillway is activated. The concrete floor of the discharge section is in very poor condition. There are large voids and collapsed areas in the concrete and each slab is separated from another. Water runs directly underneath the concrete slabs when the spillway is activated. Although recently brushed, there was a lot of woody vegetation growing in and around the channel, along the training walls and through the concrete. Some logs and woody debris were noted in the channel also.

HYDROLOGY AND HYDRAULICS:

The pond area at the normal pool is about 11 acres with normal volume storage of about 174 acre-ft. The maximum storage is 240 acre-ft. The drainage area is 1,638 acres (2.6 square miles).

HEARING ITEM

10



State of Vermont
 Department of Environmental Conservation
 Water Quality Division
 Springfield Regional Office
 100 Mineral Street, Suite 303
 Springfield, VT 05156-3168
www.vtwaterquality.org

[phone
 [fax]
 M:
 W:

Springfield res. dam
 mtg
 require a breach
 analysis
 Stoughton Pond Rd
 is a "causeway"
 need a dam inventory
 old mill dams?

deForest Bearse, Land Use Administrator
 Town of Weathersfield
 P.O. Box 550
 Ascutney, VT 05030

February 5, 2009

Dear Ms. Bearse,

As you are well aware the dam holding back the Springfield Reservoir is in a condition of concern to the State. The most recent inspection report states that the dam is in "Poor" condition and is rated as a Class 2, "significant hazard" structure.

As part of the state's water quality planning for the Black River watershed I would like to initiate a discussion on the future of the dam and the reservoir with the towns of Springfield and Weathersfield and the Southern Windsor County Regional Planning Commission. I, along with staff from the Facilities Engineering Division, invite your participation in a meeting to discuss the town's goals for the reservoir, the condition of the dam, the options for addressing the problems, and the funding opportunities that currently exist.

I am proposing a meeting on March 20 at 10:00 at the State Office Building in Springfield. If you are able to attend on this date please let me know and if not please suggest an alternative date. We can meet in any convenient location.

I look forward to hearing from you and beginning this important conversation.

Sincerely,

Marie Levesque Caduto
 Watershed Coordinator
 ANR / Dept. of Environmental Conservation
 100 Mineral Street, Suite 303
 Springfield, VT 05156-3168

Ph: 802-885-8958
 Fax: 802-885-8890
Marie.Caduto@state.vt.us



Enclosures:
2005 Springfield Reservoir Inspection Report

CC:

Robert Forguites, Town Manager
Town of Springfield
96 Main Street
Springfield VT 05156

Harry Henderson, Public Works Director
Town of Springfield
Public Works Department
Fairground Road, Springfield, VT 05156

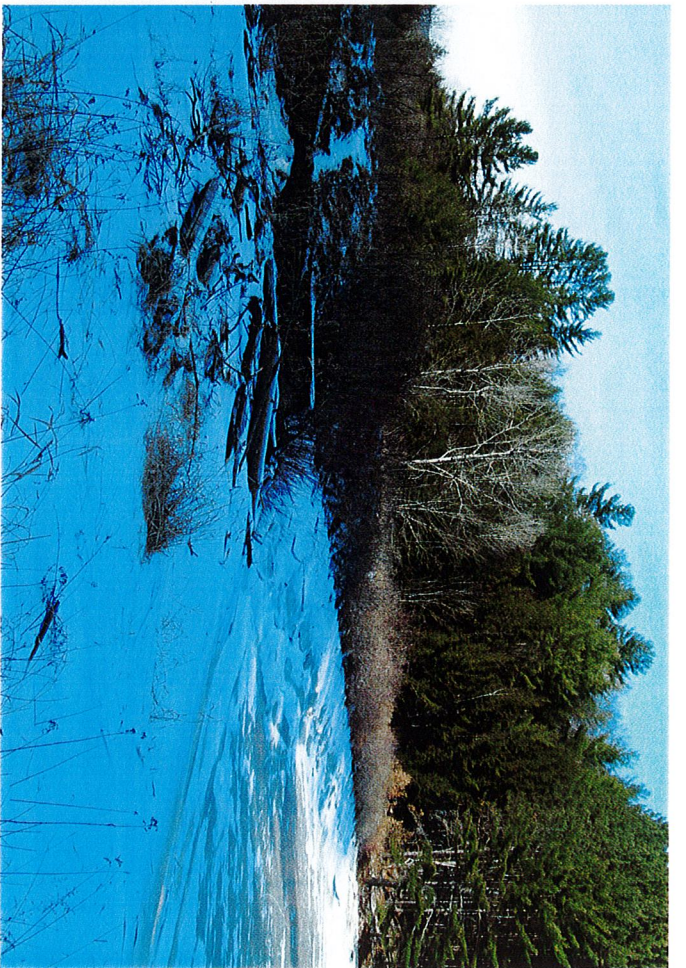
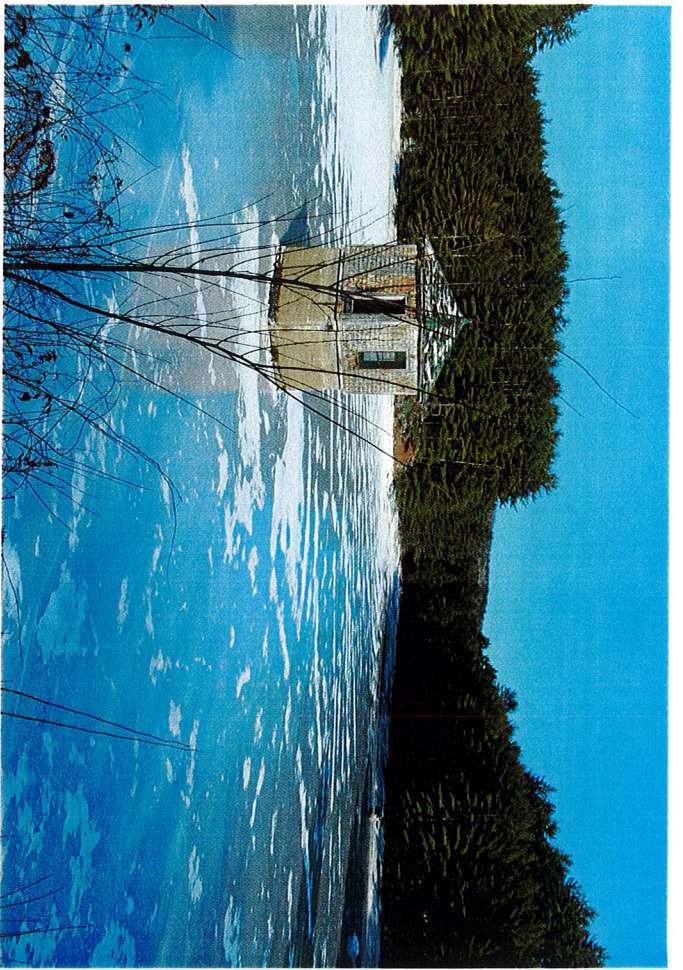
Laurence J. Melen, Town Manager
Town of Weathersfield
P.O. Box 550
Ascutney, VT 05030

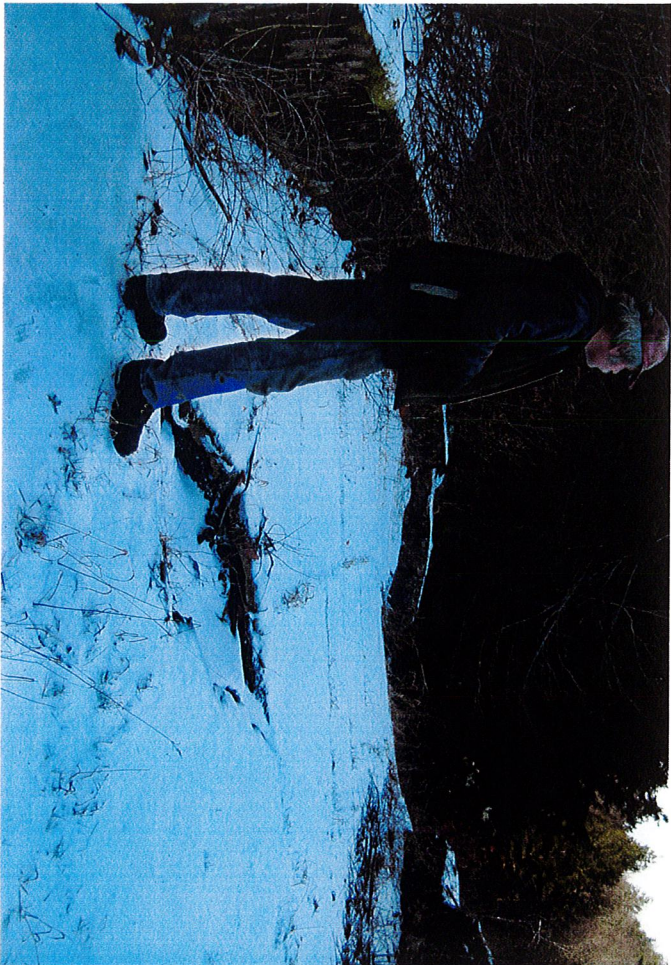
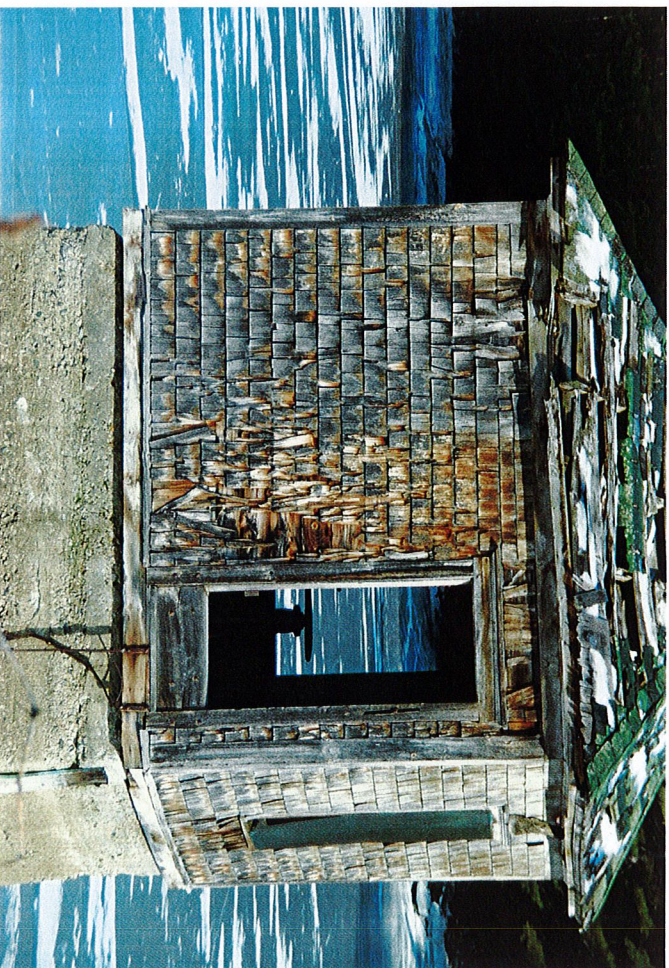
John Broker-Campbell
SWCRPC
P.O. Box 320
Ascutney Professional Building, Route 5
Ascutney, VT 05030

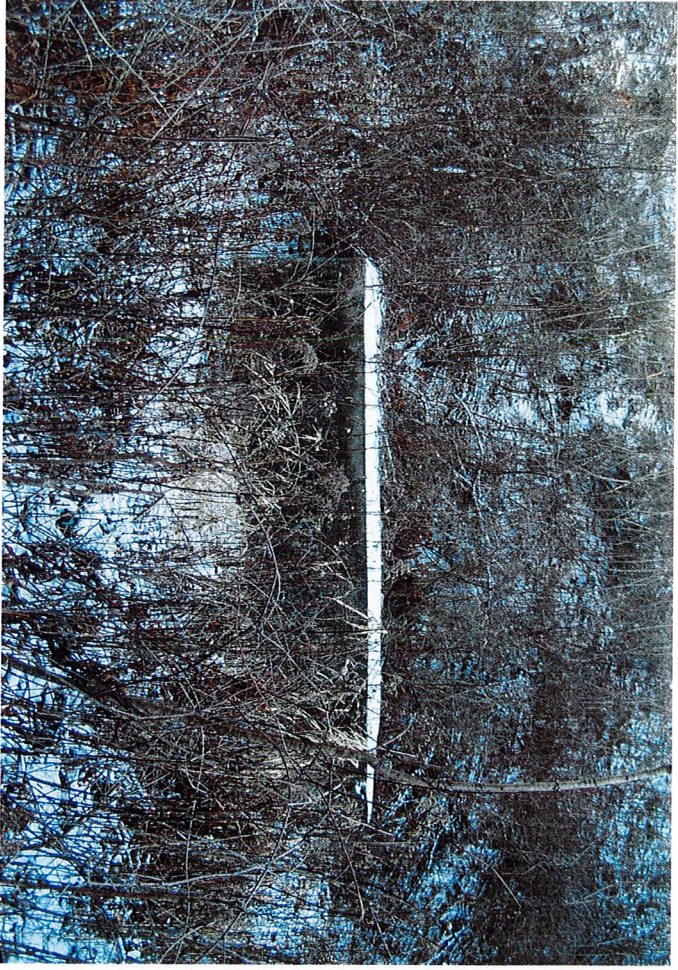
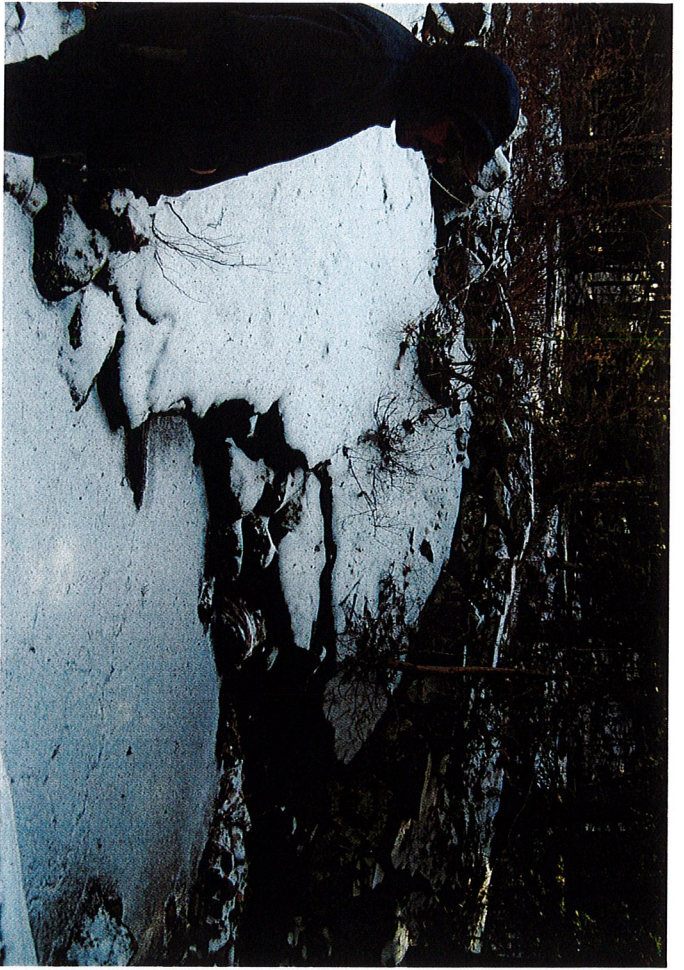
Brian T. Fitzgerald
Facilities Engineering Division
Vermont Department of Environmental Conservation
Agency of Natural Resources
103 South Main Street, Laundry Building
Waterbury, Vermont 05671-0511

HEARING ITEM

11







HEARING ITEM

12

Vermont Department of Environmental Conservation

Watershed Management Division
1 National Life Drive, Davis 3
Montpelier, VT 05620-3522

Agency of Natural Resources

phone 802-828-1535
fax 802-828-1544

Ryan Gumbart
Land Use Administrator
Town of Weathersfield, VT
Electronic communication

2 March 2022

Dear Ryan Gumbart,

Today, John Broker-Campbell passed along the copy of the application to the Town for the proposed dam removal work at the Springfield Reservoir. Since John serves on both the Town of Weathersfield DRB, and as the VT DEC Regional Floodplain Manager, he asked me, as VT DEC Central Vermont Regional Floodplain Manager, to prepare comments for the Town.

The proposed work at 1061 Wellwood Orchard Road centers on a dam removal and restoration project. The location includes work within the mapped Zone A Special Flood Hazard Area of Aldrich and Peabody Brooks. I am attaching a map of the location from the Flood Ready Atlas (tinyurl.com/floodreadyatlas) as [Atlas Springfield Reservoir Dam in Weathersfield.pdf](#).

The project is described in the application (1/20/22), a cover memo (1/19/22), and the Springfield Reservoir Dam Removal 90% design plan set (1/4/22) and includes the removal of the dam, gatehouse, concrete well house, drainpipes, stone culvert, accumulated sediment in the impoundment area, and the revegetation of 3.9 acres of riparian and access area. The Town of Weathersfield Zoning Bylaws (10/21/2013) refers such proposed development to the DRB for review.

The project design includes a restoration design that will remove accumulated sediments, restore floodplain functions, and reduce flood elevations in areas currently above the dam. Below the dam the flood elevations will remain unchanged.

The Town bylaw does not directly regulate the removal of structures or fill from the Special Flood Hazard Area. Since this is an area without a detailed flood study, there is no change to any published Base Flood Elevations and there are no habitable/insurable structures effected by the mapped flood hazard area in that reach.

The project is in keeping with the restoration of the natural and beneficial functions of floodplain functions, aquatic organism passage, and public safety.

In the Weathersfield bylaw the proposed work is compatible with the overarching Purpose (6.20)

- **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 services that result from flooding and other flood related hazards; and**
- **Ensure that the design and construction of development in flood 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....**

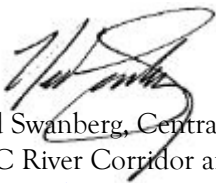
FEMA is currently in the process of updating the flood maps for the watershed. This will include new more accurate and precise Zone A maps on tributaries such as these. The DRB can require a copy of as-built topographic data to be provided after construction. Such data can be submitted to FEMA to update the flood hazard mapping in that valley.

Condition 18 in the plan set requires the contractor to legally dispose of any material in an upland location. The Town may require confirmation of the proposed location for the disposition of these materials.

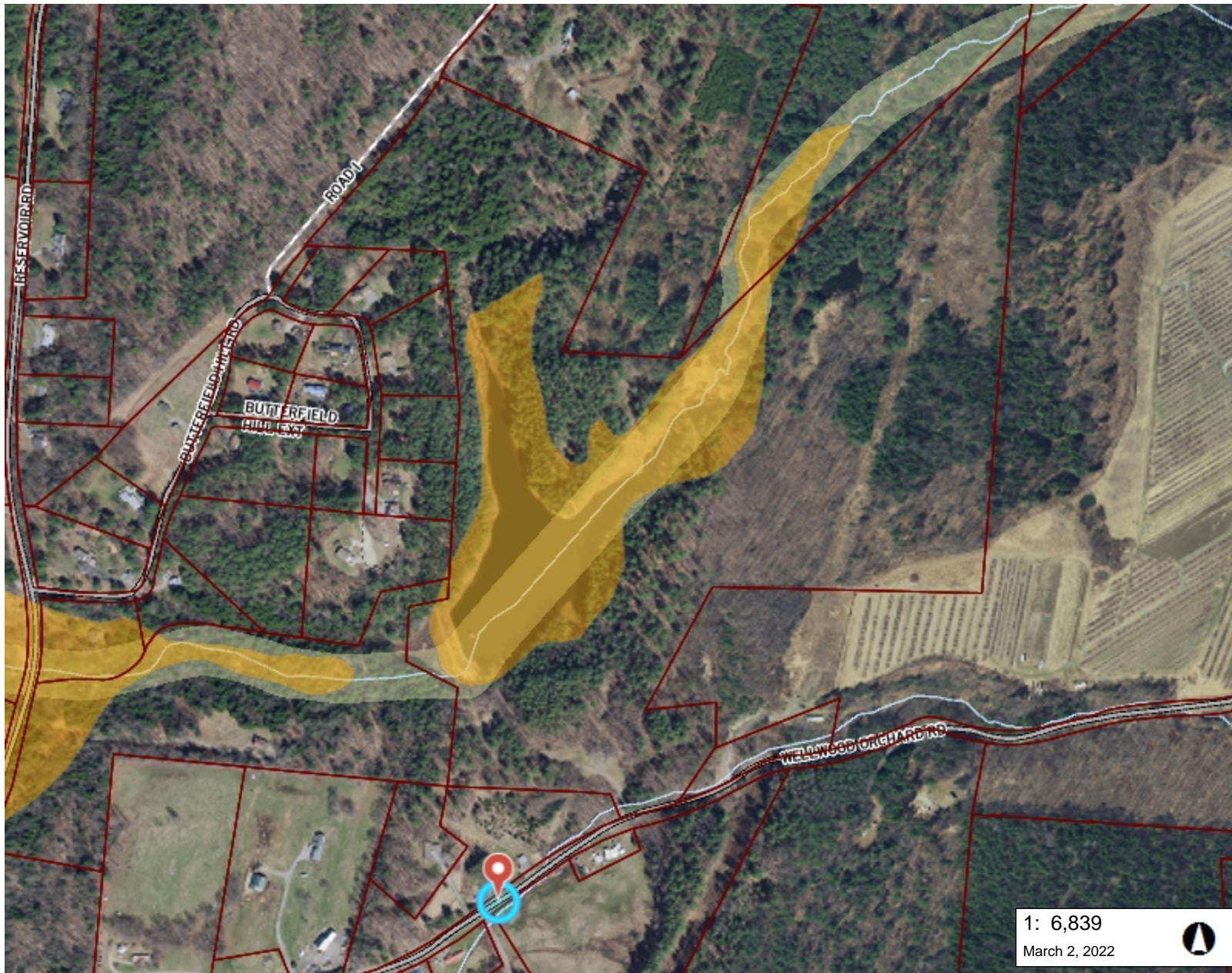
Please note that my colleague John Broker-Campbell asked me to track the development of these plans months ago. This has allowed me to be familiar with the project and comfortable with the outcome. I just received the application today 3/2/2022. This is over a month since the application was dated and apparently a week before the scheduled hearing. In the bylaw under 6.20.1 (and in statute: 24 VSA §4424) a copy of the full application must be sent to ANR (Regional Floodplain Manager) for comment. A period of 30 days is allowed for comment back to the Town in support of the Town's review and permit. If comments, such as these, could not be made in that timeframe the DRB could continue the hearing. In some circumstances this may be critical to the community's continued participation in the National Flood Insurance Program.

As always, other State, Federal or local permits may be required for this project. The [ANR Permit Navigator](#) is available to help applicants identify any State environmental permits that may be necessary. These comments are offered in support of the Town of Weathersfield under 6.20.1 and 24 VSA §4424. Where the Town has additional or more stringent standards those standards will control.

Please let me know if you have any questions.



Ned Swanberg, Central Vermont Floodplain Manager, CFM
DEC River Corridor and Floodplain Protection Program
ned.swanberg@vermont.gov 802.490.6160



LEGEND

- DFIRM Floodways
- Flood Hazard Areas (Only FEMA)**
 - AE (1-percent annual chance flood)
 - A (1-percent annual chance floodpl.)
 - AO (1-percent annual chance zone feet)
 - 0.2-percent annual chance flood ha
- Stream**
 - Stream
 - Intermittent Stream
- Town Boundary
- River Corridors (Aug 27, 2019)

1: 6,839
March 2, 2022

NOTES

Map created using ANR's Flood Ready Map



WGS_1984_Web_Mercator_Auxiliary_Sphere 1" = 570 Ft. 1cm = 68 Meters
© Vermont Agency of Natural Resources THIS MAP IS NOT TO BE USED FOR NAVIGATION

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.

HEARING ITEM

13

Application # _____

Chris Yurek, Mount Ascutney

Applicant Name Regional Commission

Community Facility Project Review and Sign-Off Sheet

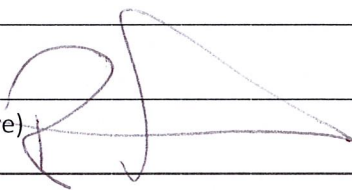
Please present this sheet to each of the department heads listed below. Explain your project fully to each department and request their signature on the appropriate line(s). Return it to the Zoning Administrator as part of your application. Contact information is on the last page.

Highway Department

- I certify that the proposed project will not have an undue adverse impact on the:
 - o town's roads or
 - o the transfer station.
- The proposed project will have an undue adverse impact on the:
 - o town's roads
 - o the transfer station.

The impact will be _____

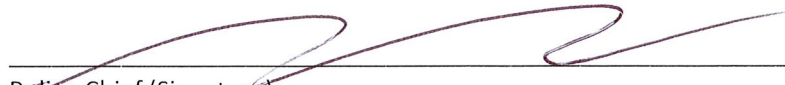
I recommend the following condition(s) to mitigate the impact: _____

Highway Superintendent (Signature)  Date 3/7/2022

Police Department

- I certify that the proposed project will not have an undue adverse impact on the Weathersfield Police Department.
- I find that the proposed project will have an undue adverse impact on the Weathersfield Police Department. The impact will be _____

I recommend the following condition(s) to mitigate the impact: _____

Police Chief (Signature)  Date 3/7/2022

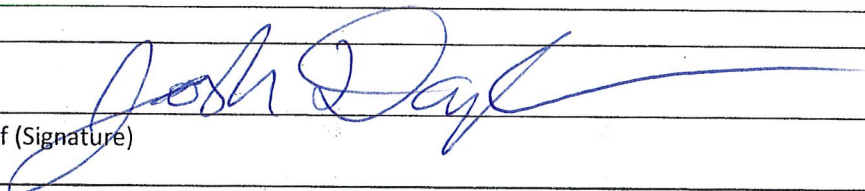
Ascutney/West Weathersfield Volunteer Fire Department

- I certify that the proposed project will not have an undue adverse impact on the Ascutney/West Weathersfield Volunteer Fire Department.

I find that the proposed project will have and undue adverse impact. The impact will be _____

I recommend the following condition(s) to mitigate the impact(s): _____

Chief (Signature)



Date

3/10/22

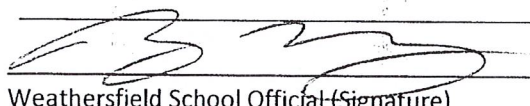
School Services

I certify that the proposed project will not have an undue adverse impact on the Weathersfield School.

I find that the proposed project will have and undue adverse impact on the Weathersfield School. The impact(s) will be _____

I recommend the following condition(s) to mitigate the impact(s): n/a

Weathersfield School Official (Signature)



Date

2/28/2022

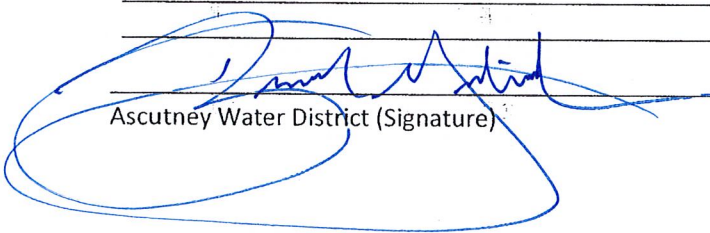
Ascutney Water District (Community Water System)

I certify that the proposed project will not have an undue adverse impact on the Ascutney Water District.

I find that the proposed project will have and undue adverse impact on the Ascutney Water District. The impact(s) will be _____

I recommend the following condition(s) to mitigate the impact(s): _____

Ascutney Water District (Signature)



Date

3/10/2022

Contact names and numbers for Department Heads

Department	Contact Person	Contact Information
Highway Department	Ray Stapleton	263-5272 (Highway Garage) highway@weathersfield.org
Police Department	William Daniels (Chief)	674-2185 (State Police Dispatch) William.daniels@state.vt.us
Ascutney Volunteer Fire Association	Darrin Spaulding (Chief)	802-296-1888 (cell) M_d_electric@yahoo.com
West Weathersfield Volunteer Fire Department	Josh Dauphin (Chief)	802-356-0623 (cell) jashdauphin@comcast.net
Weathersfield School		674-5400 (School)
Ascutney Water District	Brandon Gulnick (Manager)	674-2626 (Town office) 802-230-6262 (cell) townmanager@weathersfield.org

vermont.gov

T:\Departments\Land Use and Zoning\CHECKLISTS\Conditional Use Worksheets\Community Facility Sign_Off.docx

HEARING ITEM

14



TOWN OF WEATHERSFIELD

CONSERVATION COMMISSION

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

To: Weathersfield Zoning Board of Adjustment

From: Weathersfield Conservation Commission

Date: April 13, 2022

Re: Site Visit - Springfield Reservoir Dam

Introduction

At a warned public hearing held by the Weathersfield Zoning Board of Adjustment on March 10, 2022, the Board requested comments from the Conservation Commission regarding the environmental impacts of the proposed dam removal project. Specifically requested was further information on the impacts to the present condition of wetlands, the State designated deer wintering area, and the State designated threatened or endangered species.

The Weathersfield Conservation Commission conducted a site visit at the Springfield Reservoir Dam property on April 3, 2022, to evaluate the conditions of the existing wetlands and the deer wintering area. Information on the threatened or endangered species was not conveyed at the time of the site visit so no comments will be provided regarding the protection of the listed threatened or endangered species. Six of the eight members of the Conservation Commission met at the entrance to the property on Wellwood Orchard Road, the proposed access point for the project. We walked to the dam at the southwestern corner of the property then followed a trail northwesterly along the southern edge of the reservoir to the point where the reservoir becomes a brook. Do to highwater conditions we did not cross the brook to see the northern side of the property, but conditions are somewhat discernible from views across the reservoir and orthographic imagery.

Observations

The wetland below the dam that has established due to a leak in the dam will likely see the greatest changes as the stream gets channeled and the dam is removed. The value of this small wetland is far lower than the value provided by this dam removal/ecological restoration project. Several other wetlands and small tributary streams were observed flowing into the reservoir. It appears that these waterbodies will be unaffected by the project that is occurring downhill from them.

The majority of the property has been mapped and designated by the Vermont Agency of Natural Resources as a deer wintering area. A deer wintering area is a specific habitat type used by deer for shelter during the winter months. The primary component of a wintering area is characterized by dense softwoods (usually hemlock, spruce or fir)



TOWN OF WEATHERSFIELD

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with high crown closure which reduces snow depths and wind, as well as increases the average daily temperature. The secondary component consists of a source of hardwood browse, a food source adjacent to the dense softwood core. The portion of land that was observed on the site walk does not meet the criteria for adequate deer wintering area habitat. The overstory consists of mixed hardwood and white pine that has been subject to partial cutting over years of active forest management. The amount of browse available is limited to scattered striped maple as most hardwood regeneration falls outside of the mapped deer wintering area and has grown above browse height. To further confirm the absence of adequate deer wintering area conditions, no sign of deer browse, droppings, rubs, bedding sites, tracks or trails were observed. The project site is located at the southern end of a large block of mapped deer wintering area, and it appears that the northern side of the reservoir has a greater concentration of softwoods with higher crown closure, therefore may provide better conditions for deer wintering.

Conclusion

The reservoir itself is currently excluded from the mapped deer wintering area and of course does not currently support wetland vegetation. The Conservation Commission would like to see more about the site restoration. Specifically, we advise the Zoning Board of Adjustment to request plans for habitat restoration including a list of species to be planted and a methodology for where the various species will be planted in relation to the waterbodies. It is advised that plantings occur on a gradient from riparian to upland and include various species of herbs, shrubs and trees. There should be a focus on species diversity in the context of the deer winter area that the site falls within. It is recommended that tree species should be predominantly native conifers of a variety of species to avoid widespread mortality in the instance of an invasive insect infestation such as the hemlock wooly adelgid. Shrubs and hardwood trees should include species with high wildlife value such as fruiting or nut producing species, or of cultural significance. A map showing the location of wetlands and tributaries, the proposed stream channels, and planting zones would be a useful tool for the site restoration project.

It is understood that the site will eventually succeed to a mature forest, similar to what is found up and down stream of the site. There should be a plan in place to address the various disturbances that may occur on any piece of land at any given time, such as drought, flooding, invasive vegetation infestation, invasive insect infestation, etc. How will the site be maintained going forward to ensure that it is not left to degrade over the next hundred years as it naturalizes and is incorporated into the surrounding ecosystem?

Sincerely,

Ryan Gumbart, Chair
Weathersfield Conservation Commission

HEARING ITEM

15

STATE OF VERMONT

AGENCY OF NATURAL RESOURCES

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

ORDER APPROVING APPLICATION TO ALTER A DAM

10 V.S.A Chapter 43

Applicant: Town of Springfield
Application Number: DS2022-1
Dam Name: Springfield Reservoir Dam
Dam ID Number: 229.02
Hazard Classification: SIGNIFICANT Hazard
Waterbody: Springfield Reservoir, Boynton Brook, Black River Basin
Town: Weathersfield
Project: Remove Springfield Reservoir Dam

Note: Please be aware that other VT Agency of Natural Resources (ANR) permits may be needed for your project, and it is your responsibility to secure any other required permits. To help assist in determining other VT ANR permits that might be needed, use VT ANR's Permit Navigator Tool by going to the VT Department of Environmental Conservation website (dec.vermont.gov). Please be aware that your project may require other local, state, or federal permits outside of VT ANR's jurisdiction which are not covered by the VT ANR Permit Navigator Tool. Failure to secure all necessary permits in advance of construction can result in significant impacts to your project's final scope and can take additional processing time

FACTS

On January 27, 2022, an application under 10 V.S.A. Chapter 43 was filed with the Department of Environmental Conservation, Dam Safety Section (Department) by the Town of Springfield for alteration (removal) of a dam known as Springfield Reservoir Dam, located in Weathersfield, Vermont. The application was considered complete on January 27, 2022. The water level of the reservoir has been maintained lower than designed normal pool levels as the Town of Springfield no longer uses it as a water supply and as a risk reduction measure against an incident or dam failure.

On March 25, 2022 a public notice of the application and project was made available to State and local officials along with other interested parties, providing an opportunity to file written comments or to request a public information meeting. The end of the comment period was on April 27, 2022.

The Department reviewed the documents filed by the applicant and others and finds it has sufficient information to determine that this project will serve the public good and should be approved as provided in 10 V.S.A. §1086. A separate determination will be made by the Department of Environmental Conservation's Rivers Program regarding stream restoration work.

FINDINGS AND CONCLUSIONS

1. **Jurisdiction:** Springfield Reservoir Dam is on Boynton Brook, capturing the flows of Aldrich Brook and Peabody Brook in Weathersfield, Vermont and is owned by the Town of Springfield (applicant). The proposed project involves the alteration (removal) of a dam that is capable of impounding more than 500,000 cubic feet of water/sediment. The dam or project does not relate to and is not incident to the generation of electric energy for public use or as a part of a public utility system. The Department has jurisdiction over this project pursuant to 10 V.S.A. §1081(a); and the Department's authorization to perform this alteration is necessary under 10 V.S.A. §1082.
2. **Project Description:** The project is the removal of the Springfield Reservoir Dam, an approximately 49-foot high by 317-foot-long concrete core wall and earthen embankment structure that is classified as a SIGNIFICANT hazard potential. The project will be conducted in a phased/iterative manner, including dam removal, lowering the water level, construction of a pilot channel, and sediment removal to proposed elevations. The project will remove approximately 67% of the concrete core and 87% of the earthen fill with a finished open channel bottom width of approximately 110 feet. The remaining portion of the dam up on the valley wall will not impound water during the 1,000-year storm event (or during lessor storms), which is the design storm for a SIGNIFICANT hazard protentional dam. Stone check dams or rock filter berms will be installed to catch sediment during the project. The accumulated sediment will be cleaned out before and after storm events, weekly, and as directed by the applicant's engineer. A natural channel will reestablish through the area after the dam is removed. The completed project will result in removal of the dam and restoration of a free-flowing brook in this location.

3. **Plans and Specifications:** The project is to be constructed in accordance with plans and specifications entitled, Springfield Reservoir Dam Removal, dated January 4, 2022. The Engineer of Record for the project is Roy Schiff, PE, of SLR, 1 South Main Street, Floor 2, Waterbury, Vermont, 05676.
4. **Project Purpose:** The purpose of the project is to remove Springfield Reservoir Dam, a SIGNIFICANT hazard potential dam and restore sections of Boynton, Aldrich, and Peabody Brook to a free-flowing and more natural condition.
5. **Public Good Determination 10 V.S.A. §1086(a)**
 - 1) **The quantity, kind and extent of cultivated agricultural land that may be rendered unfit for use by the project, including both the immediate and long-range agricultural land use impacts;** No cultivated agricultural lands will be rendered unfit for use by the project, including both the immediate and long-range agricultural use impacts.
 - 2) **Impact to scenic and recreational values;** The change to scenic and recreational values will be positive as removing the dam and restoring the flowing channel will allow the area to return to a more natural state and diverse area.
 - 3) **Impact to fish and wildlife;** In accordance with 10 VSA §1084, the Department of Fish & Wildlife investigated the potential effects on fish and wildlife habitats for the proposal to remove Springfield Reservoir Dam and restore the channel in this section of Boynton, Aldrich, and Peabody Brooks. Dams and instream impoundments degrade riverine habitats, alter sediment transport, increase water temperatures, and isolate aquatic populations. The permanent removal of this dam and elimination of an artificial impoundment will result in an overall improvement of aquatic habitat.
 - Erosion prevention and sediment control measures should be employed to prevent discharge of sediment to State waters.
 - To protect the health and population of Vermont's fisheries, the capture and transport of live fish is not allowed.
 - Do not interrupt downstream flows.
 - Monitor the riparian area of the project yearly during the growing season to ensure success of plantings.
 - 4) **Impact to forests and forest programs;** There will be no adverse impact or change in forests or forest programs from removing the existing dam.
 - 5) **[Repealed, Minimum Flows, see 10, below];**
 - 6) **The existing uses of the waters by the public for boating, fishing, swimming and other recreational uses;** The project will enhance existing public uses by restoring the natural flow regime.

- 7) **The creation of any hazard to navigation, fishing, swimming or other public uses;** The project eliminates a hazard to navigation, fishing, and swimming.
- 8) **The need for cutting clean and removal of all lumber or tree growth from all or part of the flowage area;** The project does not involve the cutting clean and removal of all lumber or all trees in the existing flowage area.
- 9) **The creation of any public benefits;** Removing the dam will create public benefits by the restoration of the original riverine flow pattern and resulting improvements to aquatic habitat and recreational uses. Other public benefits include the elimination of the potential damage threat of a SIGNIFICANT hazard potential dam.
- 10) **Attainment of the Vermont Water Quality Standards;** The project will be done in a manner that maintains and protects water quality. The completed project will result in a natural free-flowing riverine system.
- 11) **Impact to any applicable state, regional or municipal plans;** Removing the dam and restoring the area to a more natural state will not have a negative impact on any state or regional plans or municipal plans.
- 12) **Impact to municipal grand lists and revenues;** The project will not impact the value of the property on the municipal list and revenues related thereto.
- 13) **Impact to public safety;** The project will result in the removal of a SIGNIFICANT hazard potential dam which results in a reduction of risk to public safety due to an incident or dam failure. The plans entitled, Springfield Reservoir Dam Removal, dated January 4, 2022 are adequate to provide for public safety.
- 14) **Hydroelectric potential;** Springfield Reservoir Dam was not related or incident to the generation of electric energy for public use or as part of a public power utility system. There is not significant hydroelectric potential at this site.

The Department concludes that this project satisfies and will serve the public good requirements of 10 V.S.A. §1086.

SPECIAL CONDITIONS

1. The applicant shall notify the Department's Dam Safety Section (Steven Hanna, 802-490-6123) and the Town of Weathersfield a minimum of **72 hours prior** to commencement of construction and provide the name and telephone number of the contact person for the construction project.
2. **A preconstruction meeting between the applicant or representative, the applicant's engineer or supervising representative, the selected contractor, and the Dam Safety Program shall be held prior to starting construction to review control of water plans, project schedule, and Order Conditions. The Dam Safety Section shall be provided**

meeting minutes. In addition, if not already submitted to the Department, proof the Order has been filed in the land records of the Town of Weathersfield shall be provided to the Department.

3. **The Dam Safety Section shall be invited to a final completion meeting. The Dam Safety Section shall be provided meeting minutes.**
4. The project is to be constructed in accordance with plans and specifications entitled, Springfield Reservoir Dam Removal, dated January 4, 2022. The Design Engineer of Record for the project is Roy Schiff, PE, SLR, 1 South Main Street, Floor 2, Waterbury, Vermont, 05676.
5. Full time construction monitoring by the applicant's engineer shall be provided during the removal of the gatehouse and piping, removal of the dam core wall and embankment structure, during construction of the pilot channel, and at such times as the engineer may consider appropriate.
6. The applicant's engineer monitoring construction shall submit via email on a weekly basis to the Dam Safety Program, a brief summary with observations and representative photographs that document the work including any materials testing results and instrumentation readings.
7. Any construction problems or unanticipated circumstances encountered during construction shall be immediately brought to the attention of the Dam Safety Program (Steven Hanna, 802-490-6123).
8. During removal of the dam, inflow shall be passed, and flow shall not be interrupted or otherwise stopped completely. The flow regime shall be run-of-river and allow for free movement of aquatic organisms to upstream reaches once the project is complete.
9. **The removal shall be completed by October 1, 2025**, unless other dates are approved in writing by the Department. The applicant shall notify the Department at least 14 days prior to a deadline if an extension appears necessary.
10. The work is subject to the following time of year restrictions:
 - Work is limited to the period between April 15 and October 15 of any year.
 - Work in the water, defined as, "work requiring water control, flow manipulation, manipulation of water levels, work directly in the water, or work below the normal water level in the reservoir," shall only occur during the period from June 1 to October 1 of any year.
 - Request to work outside of these dates must be provided to the Dam Safety Program at least 14 days prior and include the following in a written narrative and plans (if applicable).
 - i. Documentation there is no reasonable alternative and/or the task is an emergency

- ii. Updated construction schedule with a list of tasks to be completed outside of the period with their anticipated duration, completion date, and winter shutdown date, if applicable.
 - iii. A discussion of necessary water control measures and how this work will be sequenced to minimize the release of turbid waters.
 - iv. A plan of improved erosion and sediment controls and site stabilization measures to minimize the release of turbid waters, including a plan for the timely containment of sediment discharges should the improved measures fail in any way.
 - v. A monitoring plan to observe, document, and report ambient and receiving water turbidity.
 - vi. Work in the water before June 1 or after October 1 shall not be performed unless approved in writing by the Department after consultation with the Department of Fish & Wildlife.
- If requested by the Department, a site visit to observe site conditions and review work requirements shall be held. Work performed during this period may be subject to additional inspection by State personnel and may be subject to immediate work stoppage if Order or extension requirements are not being met.
11. The applicant shall ensure that every reasonable precaution is taken to prevent the discharge of petrochemicals and debris into waters of the State. Machinery shall be fueled away from waters of the State and shall be maintained in good mechanical condition in terms of integrity of hoses, seals, and gaskets.
 12. Erosion prevention and sediment control (EPSC) measures shall be employed as necessary to prevent discharge of sediment to State waters. Disturbed soils shall be effectively stabilized by October 1st. Stone check dams or rock filter berms shall be installed to catch sediment and shall be cleaned out weekly, before and after storm events, and as directed by the applicant's engineer. If elevated turbidity is observed, work shall stop immediately until corrective measures are employed. Post construction remediation measures shall be required if deemed necessary by the Agency.
 13. Any water quality problems shall be immediately brought to the attention of the Dam Safety Section (Steven Hanna, 802-490-6123).
 14. Live fish shall not be captured and transported to protect the health and population of Vermont's fisheries.
 15. Debris and excess material associated with the project and operation shall be transported and disposed of properly in accordance with State law.
 16. Monitor the riparian area of the project during the growing season to ensure success of plantings.

GENERAL CONDITIONS

1. This Order may be appealed to the Environmental Court by an aggrieved person within thirty (30) days from its date (10 V.S.A. §1099).
2. **The applicant shall file this Order with the land records of the Town of Weathersfield within 10 days of the issuance of this Order. Proof of such filing shall be submitted to the Department within 10 days of the filing or at the preconstruction meeting, and prior to the start of construction**
3. Any proposed modifications to the approved plans and specifications shall be submitted in writing to the Department. Such proposed modifications shall not be made unless approved in writing by the Department.
4. Applicant shall engage a professional engineer registered under Title 26 V.S.A. who has experience in the design, investigation, and removal of dams to monitor the construction, alteration or other action authorized by this Order. (10 V.S.A. § 1090). The engineer shall:
 - a. Submit construction status reports with photographs or other reports required by the Special Conditions **weekly** to the Department;
 - b. Submit, **within one week** of completion of the project, record drawings of the completed work to the Department; and
 - c. Certify in writing to the Department that the project has been completed in accordance with the approved plans and specifications and that in the Engineer's opinion that the dam has been completely and satisfactorily removed and site stabilized.
5. The project shall not be considered complete and in compliance with this Order until:
 - a. the record drawings, certification, and items required by Conditions 4(a) through (c) have been received and accepted by the Department;
 - b. the Department has inspected and approved the completed project; and
 - c. the Department has given its written acknowledgment that the project has been satisfactorily completed in accordance with this Order. **The written acknowledgement shall be filed with the land records of the Town of Weathersfield. Proof of the filing shall be provided to the Department.**
6. This Order does not grant exclusive rights or privileges, which would impair any rights possessed by other riparian or littoral owners or the State of Vermont. It does not grant any right, title or easement to or over any land not owned in fee simple by the applicants. Nor does it authorize any violation of Federal, State, or local laws or regulations.

7. Nothing in this Order shall relieve the owner or operator of the authorized dam and impoundment from their legal duties, obligations and liabilities resulting from such ownership or operation.
8. The applicant shall allow the Commissioner of the Department, or a duly authorized representative, at reasonable times and upon presentation of credentials to enter upon and inspect the property and the project to determine compliance with this Order.
9. The terms and conditions of this Order shall run with the land.
10. This Order may be suspended or revoked at any time after reasonable notice and opportunity to be heard upon failure of Applicant to comply with any condition of this Order, applicable rule, or law. Continuing jurisdiction is reserved for these purposes.

ORDER APPROVING APPLICATION

Based on due consideration of the factors that must be considered under the law and with the conditions contained herein, the Department hereby approves the project as applied for and authorization is hereby granted to carry out the proposed project in strict accordance with the approved plans and specifications entitled Springfield Reservoir Dam Removal, dated January 4, 2022, and the Special and General Conditions that are contained in this Order

Signed this 5th day of May , 2022

John Beling, Commissioner
Department of Environmental Conservation

By: 
Eric Blatt, Director of Engineering
Water Investment Division

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HEARING ITEM

16



Memorandum

To: Town of Weathersfield, Zoning Board of Adjustment

From: Roy Schiff and Jessica Louisos, SLR

Date: June 24, 2022

Subject: Springfield Reservoir Dam Removal
Conditional Use Application, Supplemental Information

The Conditional Use application hearing for Parcel ID 12-00-42 was opened on March 10, 2022 and continued to April 15, with a further continuation to August 18, 2022 at 7:00 pm. The discussion at the March 10, 2022 was attended by Roy Schiff, who noted the following items for further discussion.

1. *Meet with Dwight and Nancy Phelps to access property where the failed stone culvert is located. We may need a temporary construction easement to work on their land. Of note is that Dwight believes that the fill for the dam may have come from a large hole on his land.*

SLR is scheduled to meet with the Phelps onsite in mid-July.

2. *Weathersfield Highway Department to reconsider project as there could be 2,500 truck trips from the site. They signed off, but may not have realized this. I told them the contractor will need to repair any damage to roads.*

Ryan Gumbart, Land Use Administrator, reported receiving comments from the highway director that any rutting in the road needs to be smoothed. We plan to add this condition to the bid information and for it to be a condition of the construction contract.

3. *VT Dam Safety Permit*

A final Dam Order has been received. A copy has been attached for your records and filed in the Town land records.

4. *US Army Corps Permit (in progress)*

The permit is pending following the results of a historic review. This is likely to be commissioned by the Mount Ascutney Regional Commission.

5. *Construction Stormwater Permit (9020)*

The Construction General Permit 3-9020 has been received. A copy has been attached for your records.

6. *Wetland clearance from Rebecca Chalmers, District Wetlands Ecologist*

We have received informal email correspondence from Rebecca that the project would be an allowed use. She is waiting to complete the paperwork until our planset has been finalized, incorporating any edits requested from the other permits. We also plan to add a note about logs to plan when doing plan edits, specifically – “add coarse woody debris (nestle stumps or logs) to the shoreline where wetlands may occur”.

7. *Endangered species resolution (yes, no, etc)*

Northern Long-eared bat was identified by Vermont Fish and Wildlife as possibly present at the project area. This species could be influenced during tree clearing. The project will either get clearance that bat habitat is not present or limit tree clearing for the periods of the year that the bat is not present. Some other species were mapped downstream, but these do not influence the project site.

8. *No rise memo with PE stamp*

A memo describing hydraulic conditions and No Adverse impact has been attached.

9. *Ask state if ok to remove failed stone culvert. Is there SHPO concern?*

We had an initial discussion with SHPO and the discussion with the landowners is scheduled for July. This would be part of the historic review.

STATE OF VERMONT

AGENCY OF NATURAL RESOURCES

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

ORDER APPROVING APPLICATION TO ALTER A DAM

10 V.S.A Chapter 43

Applicant: Town of Springfield
Application Number: DS2022-1
Dam Name: Springfield Reservoir Dam
Dam ID Number: 229.02
Hazard Classification: SIGNIFICANT Hazard
Waterbody: Springfield Reservoir, Boynton Brook, Black River Basin
Town: Weathersfield
Project: Remove Springfield Reservoir Dam

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2. **Project Description:** The project is the removal of the Springfield Reservoir Dam, an approximately 49-foot high by 317-foot-long concrete core wall and earthen embankment structure that is classified as a SIGNIFICANT hazard potential. The project will be conducted in a phased/iterative manner, including dam removal, lowering the water level, construction of a pilot channel, and sediment removal to proposed elevations. The project will remove approximately 67% of the concrete core and 87% of the earthen fill with a finished open channel bottom width of approximately 110 feet. The remaining portion of the dam up on the valley wall will not impound water during the 1,000-year storm event (or during lesser storms), which is the design storm for a SIGNIFICANT hazard protentional dam. Stone check dams or rock filter berms will be installed to catch sediment during the project. The accumulated sediment will be cleaned out before and after storm events, weekly, and as directed by the applicant's engineer. A natural channel will reestablish through the area after the dam is removed. The completed project will result in removal of the dam and restoration of a free-flowing brook in this location.

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 - 1) **The quantity, kind and extent of cultivated agricultural land that may be rendered unfit for use by the project, including both the immediate and long-range agricultural land use impacts;** No cultivated agricultural lands will be rendered unfit for use by the project, including both the immediate and long-range agricultural use impacts.
 - 2) **Impact to scenic and recreational values;** The change to scenic and recreational values will be positive as removing the dam and restoring the flowing channel will allow the area to return to a more natural state and diverse area.
 - 3) **Impact to fish and wildlife;** In accordance with 10 VSA §1084, the Department of Fish & Wildlife investigated the potential effects on fish and wildlife habitats for the proposal to remove Springfield Reservoir Dam and restore the channel in this section of Boynton, Aldrich, and Peabody Brooks. Dams and instream impoundments degrade riverine habitats, alter sediment transport, increase water temperatures, and isolate aquatic populations. The permanent removal of this dam and elimination of an artificial impoundment will result in an overall improvement of aquatic habitat.
 - Erosion prevention and sediment control measures should be employed to prevent discharge of sediment to State waters.
 - To protect the health and population of Vermont's fisheries, the capture and transport of live fish is not allowed.
 - Do not interrupt downstream flows.
 - Monitor the riparian area of the project yearly during the growing season to ensure success of plantings.
 - 4) **Impact to forests and forest programs;** There will be no adverse impact or change in forests or forest programs from removing the existing dam.
 - 5) **[Repealed, Minimum Flows, see 10, below];**
 - 6) **The existing uses of the waters by the public for boating, fishing, swimming and other recreational uses;** The project will enhance existing public uses by restoring the natural flow regime.

- 7) **The creation of any hazard to navigation, fishing, swimming or other public uses;** The project eliminates a hazard to navigation, fishing, and swimming.
- 8) **The need for cutting clean and removal of all lumber or tree growth from all or part of the flowage area;** The project does not involve the cutting clean and removal of all lumber or all trees in the existing flowage area.
- 9) **The creation of any public benefits;** Removing the dam will create public benefits by the restoration of the original riverine flow pattern and resulting improvements to aquatic habitat and recreational uses. Other public benefits include the elimination of the potential damage threat of a SIGNIFICANT hazard potential dam.
- 10) **Attainment of the Vermont Water Quality Standards;** The project will be done in a manner that maintains and protects water quality. The completed project will result in a natural free-flowing riverine system.
- 11) **Impact to any applicable state, regional or municipal plans;** Removing the dam and restoring the area to a more natural state will not have a negative impact on any state or regional plans or municipal plans.
- 12) **Impact to municipal grand lists and revenues;** The project will not impact the value of the property on the municipal list and revenues related thereto.
- 13) **Impact to public safety;** The project will result in the removal of a SIGNIFICANT hazard potential dam which results in a reduction of risk to public safety due to an incident or dam failure. The plans entitled, Springfield Reservoir Dam Removal, dated January 4, 2022 are adequate to provide for public safety.
- 14) **Hydroelectric potential;** Springfield Reservoir Dam was not related or incident to the generation of electric energy for public use or as part of a public power utility system. There is not significant hydroelectric potential at this site.

The Department concludes that this project satisfies and will serve the public good requirements of 10 V.S.A. §1086.

SPECIAL CONDITIONS

1. The applicant shall notify the Department's Dam Safety Section (Steven Hanna, 802-490-6123) and the Town of Weathersfield a minimum of **72 hours prior** to commencement of construction and provide the name and telephone number of the contact person for the construction project.
2. **A preconstruction meeting between the applicant or representative, the applicant's engineer or supervising representative, the selected contractor, and the Dam Safety Program shall be held prior to starting construction to review control of water plans, project schedule, and Order Conditions. The Dam Safety Section shall be provided**

meeting minutes. In addition, if not already submitted to the Department, proof the Order has been filed in the land records of the Town of Weathersfield shall be provided to the Department.

3. **The Dam Safety Section shall be invited to a final completion meeting. The Dam Safety Section shall be provided meeting minutes.**
4. The project is to be constructed in accordance with plans and specifications entitled, Springfield Reservoir Dam Removal, dated January 4, 2022. The Design Engineer of Record for the project is Roy Schiff, PE, SLR, 1 South Main Street, Floor 2, Waterbury, Vermont, 05676.
5. Full time construction monitoring by the applicant's engineer shall be provided during the removal of the gatehouse and piping, removal of the dam core wall and embankment structure, during construction of the pilot channel, and at such times as the engineer may consider appropriate.
6. The applicant's engineer monitoring construction shall submit via email on a weekly basis to the Dam Safety Program, a brief summary with observations and representative photographs that document the work including any materials testing results and instrumentation readings.
7. Any construction problems or unanticipated circumstances encountered during construction shall be immediately brought to the attention of the Dam Safety Program (Steven Hanna, 802-490-6123).
8. During removal of the dam, inflow shall be passed, and flow shall not be interrupted or otherwise stopped completely. The flow regime shall be run-of-river and allow for free movement of aquatic organisms to upstream reaches once the project is complete.
9. **The removal shall be completed by October 1, 2025**, unless other dates are approved in writing by the Department. The applicant shall notify the Department at least 14 days prior to a deadline if an extension appears necessary.
10. The work is subject to the following time of year restrictions:
 - Work is limited to the period between April 15 and October 15 of any year.
 - Work in the water, defined as, "work requiring water control, flow manipulation, manipulation of water levels, work directly in the water, or work below the normal water level in the reservoir," shall only occur during the period from June 1 to October 1 of any year.
 - Request to work outside of these dates must be provided to the Dam Safety Program at least 14 days prior and include the following in a written narrative and plans (if applicable).
 - i. Documentation there is no reasonable alternative and/or the task is an emergency

- ii. Updated construction schedule with a list of tasks to be completed outside of the period with their anticipated duration, completion date, and winter shutdown date, if applicable.
 - iii. A discussion of necessary water control measures and how this work will be sequenced to minimize the release of turbid waters.
 - iv. A plan of improved erosion and sediment controls and site stabilization measures to minimize the release of turbid waters, including a plan for the timely containment of sediment discharges should the improved measures fail in any way.
 - v. A monitoring plan to observe, document, and report ambient and receiving water turbidity.
 - vi. Work in the water before June 1 or after October 1 shall not be performed unless approved in writing by the Department after consultation with the Department of Fish & Wildlife.
- If requested by the Department, a site visit to observe site conditions and review work requirements shall be held. Work performed during this period may be subject to additional inspection by State personnel and may be subject to immediate work stoppage if Order or extension requirements are not being met.
11. The applicant shall ensure that every reasonable precaution is taken to prevent the discharge of petrochemicals and debris into waters of the State. Machinery shall be fueled away from waters of the State and shall be maintained in good mechanical condition in terms of integrity of hoses, seals, and gaskets.
 12. Erosion prevention and sediment control (EPSC) measures shall be employed as necessary to prevent discharge of sediment to State waters. Disturbed soils shall be effectively stabilized by October 1st. Stone check dams or rock filter berms shall be installed to catch sediment and shall be cleaned out weekly, before and after storm events, and as directed by the applicant's engineer. If elevated turbidity is observed, work shall stop immediately until corrective measures are employed. Post construction remediation measures shall be required if deemed necessary by the Agency.
 13. Any water quality problems shall be immediately brought to the attention of the Dam Safety Section (Steven Hanna, 802-490-6123).
 14. Live fish shall not be captured and transported to protect the health and population of Vermont's fisheries.
 15. Debris and excess material associated with the project and operation shall be transported and disposed of properly in accordance with State law.
 16. Monitor the riparian area of the project during the growing season to ensure success of plantings.

GENERAL CONDITIONS

1. This Order may be appealed to the Environmental Court by an aggrieved person within thirty (30) days from its date (10 V.S.A. §1099).
2. **The applicant shall file this Order with the land records of the Town of Weathersfield within 10 days of the issuance of this Order. Proof of such filing shall be submitted to the Department within 10 days of the filing or at the preconstruction meeting, and prior to the start of construction**
3. Any proposed modifications to the approved plans and specifications shall be submitted in writing to the Department. Such proposed modifications shall not be made unless approved in writing by the Department.
4. Applicant shall engage a professional engineer registered under Title 26 V.S.A. who has experience in the design, investigation, and removal of dams to monitor the construction, alteration or other action authorized by this Order. (10 V.S.A. § 1090). The engineer shall:
 - a. Submit construction status reports with photographs or other reports required by the Special Conditions **weekly** to the Department;
 - b. Submit, **within one week** of completion of the project, record drawings of the completed work to the Department; and
 - c. Certify in writing to the Department that the project has been completed in accordance with the approved plans and specifications and that in the Engineer's opinion that the dam has been completely and satisfactorily removed and site stabilized.
5. The project shall not be considered complete and in compliance with this Order until:
 - a. the record drawings, certification, and items required by Conditions 4(a) through (c) have been received and accepted by the Department;
 - b. the Department has inspected and approved the completed project; and
 - c. the Department has given its written acknowledgment that the project has been satisfactorily completed in accordance with this Order. **The written acknowledgement shall be filed with the land records of the Town of Weathersfield. Proof of the filing shall be provided to the Department.**
6. This Order does not grant exclusive rights or privileges, which would impair any rights possessed by other riparian or littoral owners or the State of Vermont. It does not grant any right, title or easement to or over any land not owned in fee simple by the applicants. Nor does it authorize any violation of Federal, State, or local laws or regulations.

7. Nothing in this Order shall relieve the owner or operator of the authorized dam and impoundment from their legal duties, obligations and liabilities resulting from such ownership or operation.
8. The applicant shall allow the Commissioner of the Department, or a duly authorized representative, at reasonable times and upon presentation of credentials to enter upon and inspect the property and the project to determine compliance with this Order.
9. The terms and conditions of this Order shall run with the land.
10. This Order may be suspended or revoked at any time after reasonable notice and opportunity to be heard upon failure of Applicant to comply with any condition of this Order, applicable rule, or law. Continuing jurisdiction is reserved for these purposes.

ORDER APPROVING APPLICATION

Based on due consideration of the factors that must be considered under the law and with the conditions contained herein, the Department hereby approves the project as applied for and authorization is hereby granted to carry out the proposed project in strict accordance with the approved plans and specifications entitled Springfield Reservoir Dam Removal, dated January 4, 2022, and the Special and General Conditions that are contained in this Order

Signed this 5th day of May , 2022

John Beling, Commissioner
Department of Environmental Conservation

By: 
Eric Blatt, Director of Engineering
Water Investment Division

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3/3/2022

Dear Permittee(s),

The Notice of Intent for the discharge of stormwater runoff from Low Risk Construction Activity under Construction General Permit (CGP) 3-9020 (March 19, 2020) has been authorized. You will need the following documents to maintain compliance with this authorization. Enclosed with this cover letter is your **Authorization to Discharge under General Permit 3-9020** and a copy of the **Notice of Authorization** that you must post at your construction site. In addition, any additional Owners and Operators that were not identified on the Notice of Intent at the time of application must file a **Notice of Addition of Co-Permittee**. See below for more details on these and other permit requirements.

1. **Authorization to Discharge under General Permit 3-9020**

The authorization for Low Risk Construction Activity is valid for five years from the date of the authorization. If the project will proceed past the expiration date, you must reapply for coverage under this or another construction stormwater permit before that time. If the project is completed or is sold before that time, you may terminate the authorization by submitting a Notice of Termination, subject to Subpart 7.4 of CGP 3-9020. Any proposed project changes must be first evaluated in accordance with the terms, conditions, and eligibility provisions set forth in Part 5 of CGP 3-9020.

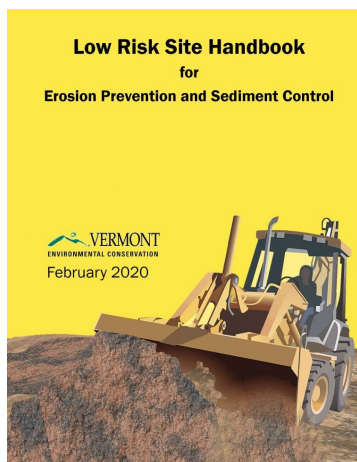
2. **Notice of Authorization for Posting**

The Notice of Authorization, which details the authorization and conditions you selected in completing Appendix A to the CGP, must be posted in a location visible to the public in accordance with Subpart 4.5.C of the CGP.

3. **Notice of Addition of Co-Permittee**

This form must be submitted for every additional Owner and/or Operator who joins the project, in accordance with Subpart 7.3 of the CGP. Use ANR Online to file all Notice of Additions. ANR Online can be accessed using the following link: <https://anronline.vermont.gov>. Instructions on creating an account are available on the main page.

Low Risk Site Handbook for Erosion Prevention and Sediment Control



Please provide the Owner(s) and Operator(s) access to the Low Risk Site Handbook for Erosion Prevention and Sediment Control. This handbook details the practices that must be implemented throughout the construction project to prevent erosion and the discharge of sediment from the construction site. Some practices must be in place before construction begins, so please review the entire handbook before starting the project. The handbook can be found at the website below. Please email anr.wsmdstormwatergeneral@vermont.gov to request a printing of the handbook if you are unable to do so.

The CGP, copies of pertinent forms, and an electronic version of the Low Risk Site Handbook for Erosion Prevention and Sediment Control are available on the [Stormwater Program](#) website. If you have any questions related to your authorization, please contact the Environmental Analyst in the [Stormwater District](#) where your project is located.

Sincerely,
Stormwater Management Program

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VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AUTHORIZATION TO DISCHARGE UNDER
GENERAL PERMIT 3-9020

A determination has been made that the applicant(s) (here in after "permittee"):

Town of Springfield
96 Main Street
Springfield, VT 05156

meets the criteria necessary for inclusion under General Permit 3-9020 for low risk construction activities. Subject to the conditions and eligibility provisions of General Permit 3-9020, the permittee is authorized to discharge stormwater to Boynton Brook (Tributary to Black River) from the following construction activities: Removal of earthen embankment dam that is approximately 320 feet long and 50 feet tall using mechanical means. The earthen embankment and concrete core wall will be removed down to bedrock. Removal of concrete spillway, gatehouse, concrete well house, drain pipes, and remnants of stone culvert. Excavate accumulated sediment in the impoundment with depths ranging between about 3 and 6 feet, 120 feet wide immediately upstream of the dam and becoming narrower and shallower moving up the impoundment upstream of the confluence of Adrich Brook and Peabody Brook. Revegetation of 3.9 acres of riparian and access area. Construction access is via an existing woods road. The project is located at Wellwood Orchard Road in Weathersfield, Vermont.

1. **Effective Date and Expiration Date of this Authorization:** This authorization to discharge shall become effective on March 03, 2022 and shall continue until March 02, 2027. The permittee shall reapply for coverage at least 60 days prior to expiration if the project has not achieved final stabilization or if construction activities are expected after the date of expiration.

2. **Compliance with General Permit 3-9020 and this Authorization:** The permittee shall comply with this authorization and all the terms, conditions, and eligibility provisions of General Permit 3-9020. The completed Notice of Intent (NOI) and Appendix A completed for this project are incorporated by reference into this authorization and are included in the terms of this authorization. These terms include:
 - Implementation and maintenance of erosion prevention and sediment control practices required by the Low Risk Site Handbook for Erosion Prevention and Sediment Control.
 - All areas of disturbance must have temporary or final stabilization within 14 days of the initial disturbance. After this time, disturbed areas must be temporarily or permanently stabilized in advance of any runoff producing event. A runoff producing event is an event that produces runoff from the construction site. The following exception to the above stabilization requirements apply:
 - Temporary stabilization is not required if work is occurring in a self-contained excavation (i.e. no outlet) with a depth of 2 feet or greater (e.g. house foundation excavation, utility trenches). Areas of a construction site that drain to sediment basins are not considered eligible for this exemption and the exemption applies only to the excavated area itself.
 - The total authorized disturbance is 4.88 acre(s).
 - No more than 2 acres of land may be disturbed at any one time.
 - Inspections shall be conducted at least once every (7) calendar days and daily during the winter construction period (October 15 through April 15), for all areas that have been disturbed and are not yet finally stabilized. In addition:
 - If visibly discolored stormwater runs off the construction site or discharges to waters of the State, the permittee shall take immediate corrective action to inspect and maintain existing best management practices (BMPs), and to install supplemental BMPs necessary to minimize and prevent the discharge.

- If, after completing corrective action, there continues to be a discharge of discolored stormwater from the construction site to waters of the State, the permittee shall notify DEC by submitting a Discharge Report within 24 hours of discovering the discharge.
3. Transferability and Addition of Co-Permittee: This authorization to discharge is not transferable to any person, nor may any person be added as a permittee, except in compliance with General Permit 3-9020 including submission of a complete Notice of Transfer or Notice of Addition of Co-Permittee.
 4. Following receipt of authorization under General Permit 3-9020, additional Owner(s) and Operator(s) not identified on the Notice of Intent at the time of application shall be added as a co-permittee by filing a Notice of Addition of Co-Permittee with the Secretary. The co-permittee shall be subject to all terms and conditions of the permittee's authorization and Construction General Permit 3-9020.

5. Right to Appeal:

(A) Pursuant to 10 V.S.A. Chapter 220, any appeal of this permit, except for appeal of a renewable energy plant as described in (B), must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. The notice of appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Division; and must be signed by the appellant or the appellant's attorney. In addition, the appeal must give the address or location and description of the property, project, or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the notice of appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings.

(B) If this permit relates to a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248, any appeal of this decision must be filed with the Vermont Public Utility Commission pursuant to 10 V.S.A. § 8506. This section does not apply to a facility that is subject to 10 V.S.A. § 1004 (dams before the Federal Energy Regulatory Commission), 10 V.S.A. § 1006 (certification of hydroelectric projects), or 10 V.S.A. Chapter 43 (dams). Any appeal under this section must be filed with the clerk of the Public Utility Commission within 30 days of the date of this decision; the appellant must file with the clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. § 8504(c)(2) and shall also serve a copy of the notice of appeal on the Vermont Public Service Department. For further information, see the Rules and General Orders of the Public Utility Commission.

Dated March 03, 2022

Peter Walke, Commissioner
Department of Environmental Conservation

By: 

Christy Witters, Environmental Analyst
Stormwater Management Program

Notice of Authorization
Under Vermont Construction General Permit 3-9020
For Low Risk Construction Activity

**Permittee Directions for Posting:**

This notice shall be placed near the construction entrance at a location visible to the public. If displaying near the main entrance is infeasible, the notice shall be posted in a local public building such as the municipal office or public library. For linear projects, the notice shall be posted at a publicly accessible location near the active part of the construction project (e.g., where a pipeline project crosses a public road) or, in the event posting in a publicly accessible location near the active part of the project is infeasible, the permittee shall post in a local public building such as the municipal office or public library.

Project Name:	Springfield Reservoir Dam Removal
Permittee Name(s):	Town of Springfield
NOI Number:	9358-9020
Date of Authorization:	March 03, 2022
Date of Expiration:	March 02, 2027

The project listed above has received authorization under General Permit 3-9020 to discharge stormwater from the following construction activities:

Removal of earthen embankment dam that is approximately 320 feet long and 50 feet tall using mechanical means. The earthen embankment and concrete core wall will be removed down to bedrock. Removal of concrete spillway, gatehouse, concrete well house, drain pipes, and remnants of stone culvert. Excavate accumulated sediment in the impoundment with depths ranging between about 3 and 6 feet, 120 feet wide immediately upstream of the dam and becoming narrower and shallower moving up the impoundment upstream of the confluence of Adrich Brook and Peabody Brook. Revegetation of 3.9 acres of riparian and access area. Construction access is via an existing woods road.

This authorization includes the following requirements:

- Implementation and maintenance of erosion prevention and sediment control practices required by the Low Risk Site Handbook for Erosion Prevention and Sediment Control.
- All areas of disturbance must have temporary or final stabilization within 14 days of the initial disturbance. After this time, disturbed areas must be temporarily or permanently stabilized in advance of any runoff producing event. A runoff producing event is an event that produces runoff from the construction site. The following exception to the above stabilization requirements apply:
 - Temporary stabilization is not required if the work is occurring in a self-contained excavation (i.e. no outlet) with a depth of two feet or greater (e.g. house foundation excavation, utility trenches). Areas of a construction site that drain to sediment basins are not considered eligible for this exemption and the exemption applies only to the excavated area itself.
- The total authorized disturbance is 4.88 acre(s).
- No more than 2 acres of land may be disturbed at any one time.
- Inspections shall be conducted at least once every (7) calendar days and daily during the winter construction period (October 15 through April 15), for all areas that have been disturbed and are not yet finally stabilized. In addition:
 - If visibly discolored stormwater runs off the construction site or discharges to waters of the State, the permittee shall take immediate corrective action to inspect and maintain existing best management practices (BMPs), and to install supplemental BMPs necessary to minimize and prevent the discharge.
- If, after completing corrective action, there continues to be a discharge of sediment from the construction site to waters of the State, the permittee shall notify DEC by submitting a Discharge Report within 24 hours of discovering the discharge.
- The permittee shall comply with all inspection, maintenance, corrective action, record keeping, and reporting requirements, and all other terms, conditions, and eligibility provisions, including those conditions related to project changes, as set forth in General Permit 3-9020 and this authorization.
- Following receipt of authorization under General Permit 3-9020, additional Owner(s) and Operator(s) not identified on the Notice of Intent at the time of application shall be added as a co-permittee by filing a Notice of Addition of Co-Permittee with the Secretary. The co-permittee shall be subject to all terms and conditions of the permittee's authorization and General Permit 3-9020.

To request information on this authorization, or to report compliance concerns, please contact:

Vermont Department of Environmental Conservation

Watershed Management Division

1 National Life Drive, Davis 3

Montpelier, VT 05620



Memorandum

To: Town of Weathersfield, Zoning Board of Adjustment

From: Jessica Louisos PE and Roy Schiff PE Phd

Date: 6/23/2022

Subject: Hydraulic Model Results and No Adverse Impact
Conditional Use Application for the Springfield Reservoir Dam Removal



PROJECT OVERVIEW

The Mount Ascutney Regional Commission (MARC) is leading the design of the full removal of the Springfield Reservoir Dam. The project is a collaboration among the Town of Springfield, MARC, and Vermont Department of Environmental Conservation (VTDEC). Springfield Reservoir Dam (VT# 229.02) is located on a tributary of the Black River (drainage area ~ 2.6 square miles) in Weathersfield, Vermont. This project is to remove the dam to restore a natural river channel and floodplain.

The dam is classified as a Significant Hazard, yet under the recently updated Vermont Dam Safety Rules the dam would likely be classified as a High Hazard given the potential for loss of life in the event of a dam failure. Should the dam fail, the sudden release of accumulated sediment would impact water quality, habitat, and channel stability for years. Removal of the dam will remove the risk associated with dam failure. Dam inspection has found the structure to be in Poor condition.

The project is located in a FEMA approximate floodplain Zone A. FEMA has not completed a detailed hydraulic study of the project area and no Base Flood Elevations have been determined (Figure 1). A FEMA floodway does not exist at the project site.

Our hydraulic modeling shows No Adverse Impact for this project. This project will not only reduce downstream flood risk, but will also remove a major encroachment in the river corridor, and will improve aquatic and wildlife passage and connectivity.

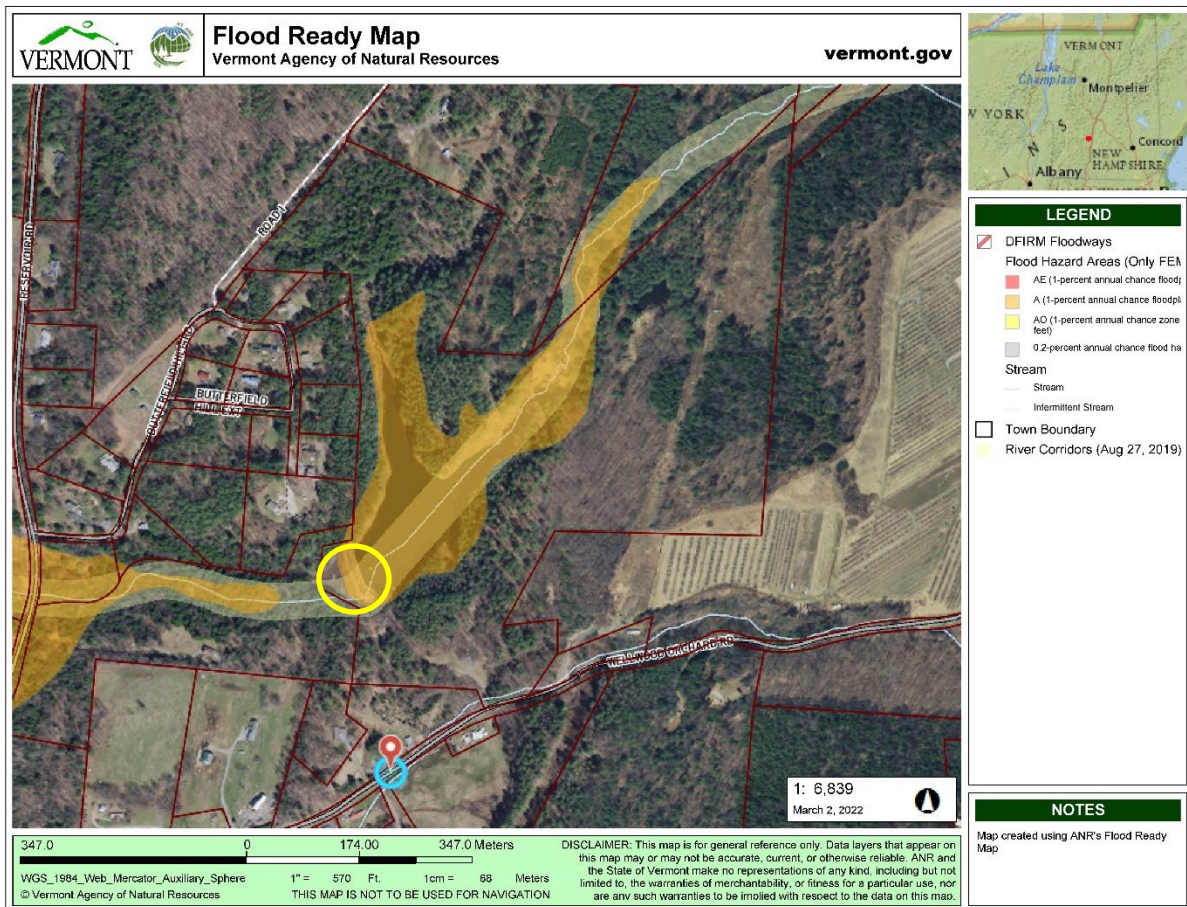


Figure 1 Flood Map with FEMA Special Flood Hazard Areas (Yellow Circle = Dam Location)

MODELING

Hydraulic modeling was completed at the project site to explore the hydraulic changes associated with the proposed project. A HEC-RAS (USACE, 2018) model was built using survey cross section data collected in 2020 as part of this project. It was validated with observations by the Town from Tropical Storm Irene in 2011 and found to be suitable for evaluating dam removal alternatives.

Steep stream (Jacobs, 2010) regression flows were used as the design flows in the hydraulic model (Table 1) given that they fell in the middle of the range of estimates and they matched unit normalized patterns in other small streams in Vermont and the region. The flood frequency curve was extrapolated to 0.001% annual exceedance probability (AEP) to estimate the 1,000-year flood. The drainage area to the reservoir is approximately 2.5 square miles – 2.5 (87%) for the East Tributary and 0.3 (13%) for the North Tributary.

Estimated flows at the dam were weighted by area to estimate flows in each channel for the HEC-RAS hydraulic model.

Flood attenuation at the dam was estimated from the watershed scale TR-20 rainfall-runoff model (SCS, 1992) constructed using HydroCAD software by Dubois and King (D&K, 2012). This accounts for flood attenuation due to storage in the impoundment of the dam.

Table 1 Flow Estimates Used in the Hydraulic Model

	Q2	Q5	Q10	Q25	Q50	Q100	Q500	Q1,000
East Tributary	170	277	372	499	595	696	1,015	1,073
North Tributary	26	42	56	75	90	105	153	162
Upstream of Dam	196	319	428	574	685	801	1,168	1,235
Downstream of Dam	96	166	244	367	554	731	1,066	1,126

RESULTS

The modeled existing conditions 0.1 % annual chance floodplain (i.e., the 100-year floodplain) was mapped and covers a smaller area than the approximate FEMA Special Flood Hazard Area.

The results of the hydraulic analysis show that the 100-year flood level will decrease within the impoundment area and have small water surface increases downstream of the dam (Table 1). The increase in flood depth in the downstream reach is 0.1 to 0.2 feet, which is near the accuracy limit of the modeling software (See Figure 2 and Table 2). The maximum increase occurs just upstream of the Reservoir Road culvert where the 100-year flood elevation increases from 557.5 feet NAVD88 to 558.1 feet NAVD88 (Figure 3).

Springfield Reservoir Dam Removal
 Memo to: Town of Weathersfield, Zoning Board of Adjustment
 Page 4

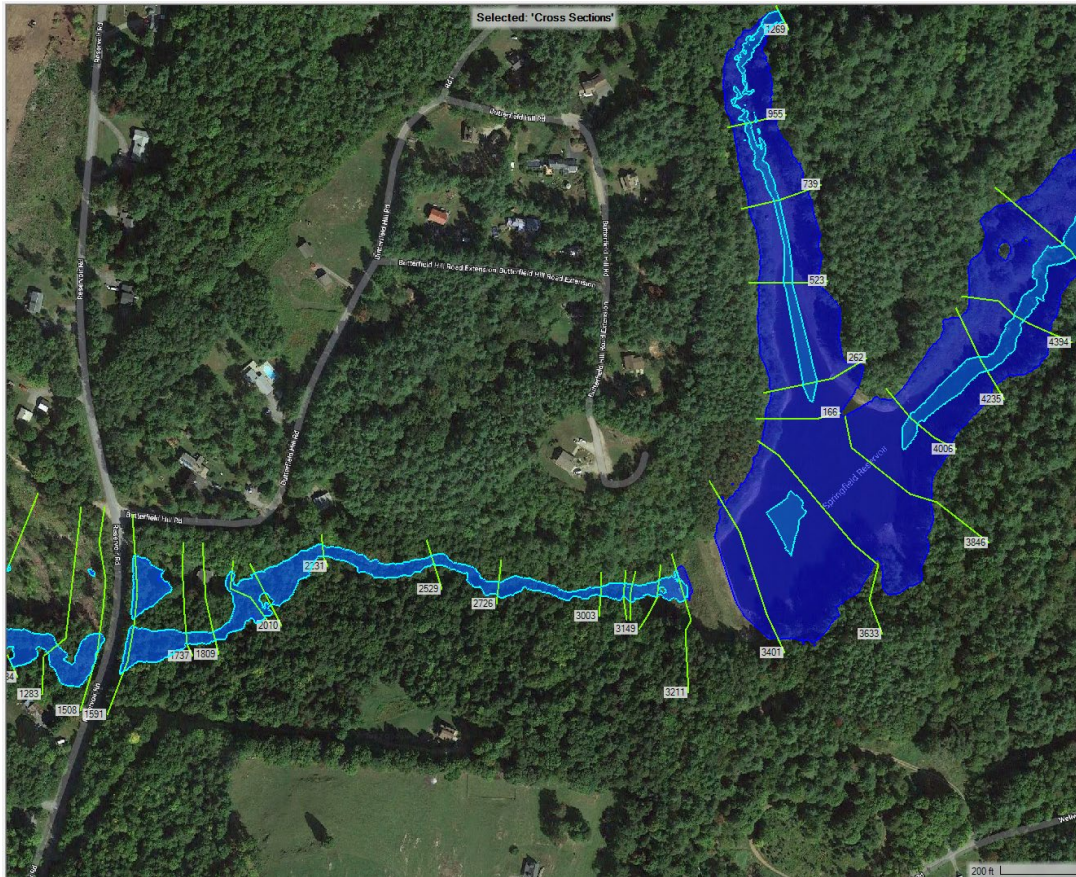


Figure 2 Hydraulic Model Results for 100-year Event (Dark Blue = Existing, Cyan = Proposed)

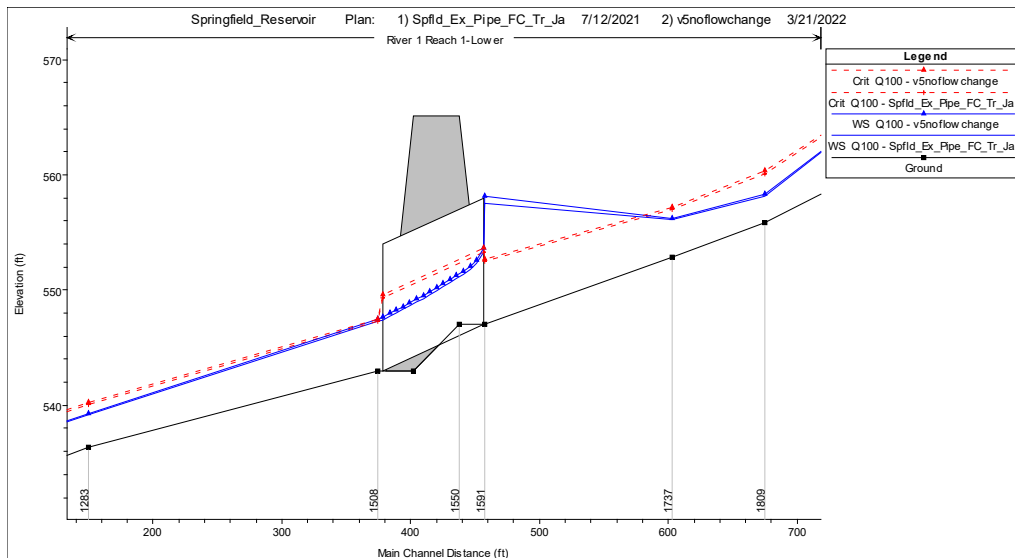


Figure 3 Hydraulic Model Results for 100-year Event at Reservoir Road Structure

Table 2 Hydraulic Modeling Results

Cross Section ID	Location	Existing WSE (ft)	Proposed WSE (ft)	Proposed WSE Rise (ft)
5551.0		688.3	688.3	0.0
5322.0		683.5	683.5	0.0
4645.0		683.3	672.4	-10.9
4394.0		683.3	666.3	-17.0
4235.0		683.3	665.0	-18.3
4006.0		683.3	659.6	-23.6
3846.0	Confluence	683.3	654.3	-28.9
3633.0		683.3	649.3	-33.9
3401.0		683.3	641.7	-41.6
3300.0	Dam			
3211.0		640.7	640.8	0.1
3149.0		632.4	632.5	0.1
3080.0		629.4	629.6	0.1
3063.0		626.5	626.7	0.1
3003.0		622.7	622.9	0.2
2726.0		605.0	605.1	0.1
2529.0		594.1	594.3	0.2
2231.0		576.5	576.6	0.1
2010.0		571.4	571.4	0.1
1934.0		570.9	571.0	0.1
1809.0		558.2	558.4	0.2
1737.0		556.1	556.2	0.1
1591.0		557.5	558.1	0.6
1550.0	Reservoir Road			0.0
1508.0		547.3	547.5	0.2
1283.0		539.2	539.3	0.1
1134.0		533.5	533.6	0.1

DISCUSSION

Although flood levels increase 0.1 to 0.2 feet, the project does not increase the level of flood or erosion risk to any private property or infrastructure. The few residential homes and outbuildings in the area are located above the river and floodplain elevation. Existing and proposed inundation mapping shows that all buildings are outside the flood extents with and without the dam in place and will not be impacted by the 100-year flood.

A house at 1923 Reservoir Road sits above the floodplain 1,370 feet downstream of the dam (Figure 2). Near the home the existing 100-year water surface elevation is 558.2 feet and the proposed 100-year water surface elevation following dam removal is 558.4 feet, for a difference of +0.2 feet. The finished floor elevation of the house at 1923 Reservoir Road is an estimated 6 feet above the modeled 1,000-year flood without the dam. The home is many feet above the modeled floodplain and flood risk is not expected to increase.

Reservoir Road is located 1,750 feet downstream of the dam. The channel flows under the road in an 11-foot diameter round corrugated multi-plate culvert. The culvert has 7.0 feet of freeboard to the road surface during the modeled 100-year flood. The 0.6-foot water surface increase at the culvert entrance is minimal compared to the available freeboard and not expected to increase flood risk.

In summary, the removal of the Springfield Reservoir dam will not increase flood risk.

REFERENCES

- D&K, 2012. Engineering Evaluation for the Weathersfield Reservoir Dam. Prepared by Dubois & King for the Town of Springfield, Springfield, VT.
- Jacobs, J., 2010. Estimating the Magnitude of Peak Flows for Steep Gradient Streams in New England. New England Transportation Consortium Report NETC81, Project No. NETC 04-3. New England Transportation Consortium in cooperation with the Federal Highway Administration, Burlington, VT.
- SCS, 1992. Technical Release 20: Computer Program for Project Formulation Hydrology (Tr-20) (V. 2.04). The Soil Conservation Service (forerunner of NRCS) Hydrology Branch in cooperation with the Agricultural Research Service, Hydrology Laboratory, U.S. Department of Agriculture.
- USACE, 2018. Hydrologic Engineering Center River Analysis System (HEC-Ras) (V. 5.0.6). U.S. Army Corps of Engineers, Hydrologic Engineering Center, Davis, CA.

AGENDA ITEM

7



TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

To: Weathersfield Zoning Board of Adjustment
From: Ryan Gumbart, Land Use Administrator
Date: August 10, 2022
Re: Taft – Summary of Correspondence with Town Counsel

On August 4, 2022, at a regularly scheduled Zoning Board of Adjustment meeting, Kelem and Jessica Taft were present to discuss options for building an addition onto their existing home. The primary questions that were raised include:

1. **Does adding living space in the form of a second story or conversion of existing deck constitute an addition if there is no change to the footprint of the building?**
2. **Can conditions issued in an Environmental Court decision be amended?**

The ZBA instructed the Land Use Administrator to ask Town Counsel for input. The Land Use Administrator emailed Peter Raymond, Town Counsel, on Friday, August 6, 2022. Town Counsel responded on Tuesday, August 9, 2022, with an explanation and advised that the email not be shared publicly as to maintain attorney client privilege. The Land Use Administrator and Town Counsel spoke over the phone on Wednesday, August 10, 2022. Town Counsel's recommendation for relaying information while maintaining attorney client privilege was that the Land Use Administrator summarize the discussion for distribution to the Zoning Board of Adjustment and the Taft's.

The following is a summary of the responses to the above questions.

1. There is no official definition for "Addition" per state statutes. Generally, any additional living space would be considered an addition, regardless of whether the addition changes the building footprint or not. It would be important for the Board to consider the intention of the condition to see if adding living space as a second story or the conversion of the existing deck interferes with the intention of the conditions. The Weathersfield Zoning Bylaws define *development* as "The division of a parcel into two or more parcels; the construction, reconstruction, conversion, **structural alteration**, relocation, or **enlargement** of any building or other structure or of any mining, excavation or landfill; and any change in the use of any building or other structure, land or extension of use of land."



TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

2. Conditions set in an Environmental Court Decision can be amended by applying for such amendment to the Zoning Board of Adjustment. In order for an amendment to take place it must comply with the Stowe Club Highlands Doctrine. This court case established circumstances for when amending a permit condition could be permissible. Amending permit conditions is permissible when there has been:
 - a. changes in factual or regulatory circumstances beyond the control of a permittee;
 - b. changes in the construction or operation of the permittee's project, not reasonably foreseeable at the time the permit was issued; or
 - c. changes in technology.

If any of these criteria are deemed to be satisfied by the ZBA, an amendment to the Environmental Court conditions can be made.

Another issue that could be considered by the board is that Condition #3 "These conditions shall be incorporated into all future deeds to the property", was not satisfied.

Another option that could be explored by the applicant is to fully utilize the permitted 1,344 square feet. It has been unclear to the Board whether the current structure occupies this entire space.

Any path forward must consider the precedence that it sets for future projects in town. There may be other houses in the area that are limited by setbacks or permit conditions.

Respectfully submitted,

Ryan Gumbart
Land Use Administrator

AGENDA ITEM

8



Development Review Templates

for Savings Clause Compliance

24 V.S.A Chapter 117

§§ 4461, 4462 and 4464

May, 2005

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A. Hearing Notice Requirements for Development Review

Conditional use review, variances, administrative officer appeals, and final plat review for subdivisions require a warned public hearing. Not less than 15 days prior to the hearing, notice must be given by newspaper publication, public posting (including posting within view from the public right of way most nearly adjacent to the property for which the application is made), and written notice to the applicant and adjoining property owners. 24 V.S.A. §4464(a)(1). Other types of development review (e.g., site plan review, access review, waiver requests) require at least seven days notice and require at a minimum, posting in three public places, and written notification to the applicant and adjacent property owners. 24 V.S.A. §4464(a)(2).

1. Appeal of Zoning Administrator Decision

a. Model Hearing Notice

TOWN OF _____
NOTICE OF HEARING FOR APPEAL OF ADMINISTRATIVE OFFICER
DECISION

 Name of Applicant of Applicant's Address has submitted a notice of appeal regarding a decision of the administrative officer dated _____, 200_, for a property located at Property Address in the Town of _____. The proposed project is described as follows _____.

The Town of _____ Development Review Board/Zoning Board of Adjustment/ Planning Commission will hold a hearing on this application on (Date) at (Time) at the (Hearing Location) . A copy of the administrative officer decision and additional information may be obtained at: _____.

Pursuant to 24 V.S.A. §§ 4464(a)(1)(C) and 4471(a), participation in this local proceeding is a prerequisite to the right to take any subsequent appeal.

Dated at _____, Vermont this ____ day of _____, 200_.

[Secretary of zoning board of
adjustment/development
review board/municipal
clerk/other]
Town of _____, Vermont

**b. Model Cover Letter for Hearing Notice – Property Owner
and Adjoining Property Owners**
(Appeal of Zoning Administrator Decision)

Dear _____:

In response to the notice of appeal dated _____, 200_, for _____, a public hearing has been scheduled by the Town of _____ (Development Review Board/Zoning Board of Adjustment/Planning Commission) for, _____, 200_ at ___ pm.

Enclosed please find a copy of the hearing notice. Your participation in this proceeding is a prerequisite to the right to take any subsequent appeal. If you need any further assistance, I can be contacted at the address above.

Sincerely,

[Secretary, zoning board of adjustment/development review board/municipal clerk/other]
Town of _____

enc.

cc: Zoning Administrator

2. Conditional Use Permit/Variance/Subdivision Permit

a. Model Hearing Notice

TOWN OF _____
NOTICE OF HEARING FOR CONDITIONAL USE
PERMIT/VARIANCE/SUBDIVISION PERMIT

_____(Name of Applicant) of _____(Applicant's Address) has submitted an application for a _____(Conditional Use Permit/Variance/Subdivision Permit) for property located at _____(Property Address) in the Town of _____. The proposed project is described as follows _____.

The Town of _____(Development Review Board/Zoning Board of Adjustment/Planning Commission) will hold a hearing on this application on _____(Date) at _____(Time) at the _____(Hearing Location). A copy of the application and additional information may be obtained at: _____.

Pursuant to 24 V.S.A. §§ 4464(a)(1)(C) and 4471(a), participation in this local proceeding is a prerequisite to the right to take any subsequent appeal.

Dated at _____, Vermont this ____ day of _____, 200_.

Zoning Administrator
Town of _____,
Vermont

**b. Model Cover Letter for Hearing Notice – Property Owner and
Adjoining Property Owners**
(Conditional Use Permit/Variance/Subdivision Permit)

Dear _____:

In response to an application for a (Conditional Use Permit/Variance/Subdivision Permit) dated _____, 200_, a public hearing has been scheduled by the Town of _____ (Development Review Board/Zoning Board of Adjustment/Planning Commission) for, _____, 200_ at ___ pm.

Enclosed please find a copy of the hearing notice. Your participation in this proceeding is a prerequisite to the right to take any subsequent appeal. If you need any further assistance, I can be contacted at the address above.

Sincerely,

Zoning Administrator
Town of _____

enc.

B. Findings of Fact and Decision Templates

1. Appeal of Administrative Officer Decision

TOWN OF _____

[Development Review Board/Zoning Board of
Adjustment/Planning Commission]

Appeal of Administrative Officer Decision
Findings and Decision

In re: _____

Permit Application No. _____

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves a notice of appeal submitted by _____ for an appeal of an administrative officer decision under the Town of _____ Zoning Bylaw.
2. The notice of appeal was received by the [secretary of the board of adjustment/development review board/municipal clerk] on _____, 20___. A copy of the notice of appeal was filed with the administrative officer on _____, 20___.

A copy of the notice of appeal is available at _____.

3. On _____, 20___, notice of a public hearing was published in the _____.
4. On _____, 20___, notice of a public hearing was posted at the following places:
 - a. The municipal clerk's office.
 - b. _____, which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.

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- c.
- d.

5. On _____, 20__, a copy of the notice of a public hearing was mailed to the appellant. On _____, 20__, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the appeal [or, ATTACH CERTIFICATE OF SERVICE]:

- _____
- _____
- _____
- _____
- _____

6. The appeal was considered by the [development review board/zoning board of adjustment/planning commission] at a public hearing on _____, 20__, which was held within 60 days of the filing of the notice of appeal. [The hearing was adjourned and continued on _____, 20__. The final public hearing was held on _____, 20__]. The [development review board/zoning board of adjustment/planning commission] reviewed the appeal under the Town of _____ Zoning Bylaw, as amended _____, 2005 (the Zoning Bylaw).

7. Present at the hearing were the following members of the [development review board/zoning board of adjustment/planning commission]:

- _____
- _____
- _____
- _____
- _____

8. At the outset of the hearing, the [development review board/zoning board of adjustment/planning commission] afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. **Rules I**

or

8. At the outset of the hearing, the [development review board/zoning board of adjustment/planning commission] afforded an opportunity for persons wishing to achieve status as an interested person under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that subsection are met. After a deliberative session, the [development review board/zoning board of adjustment/planning commission] granted interested person status to the following persons:

- _____
- _____
- _____
- _____
- _____

A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. **Rules II.**

9. During the course of the hearing the following exhibits were submitted to the [development review board/zoning board of adjustment/planning commission]:

- _____
- _____
- _____
- _____
- _____

These exhibits are available at: _____.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the [development review board/zoning board of adjustment] makes the following findings:

1. The applicant appeals a decision of the zoning administrator dated _____, 20__. In that decision the zoning administrator [describe the act or decision subject to the appeal].
2. Notice of appeal was filed on _____, 20__, which is within the 15 day period required under 24 V.S.A. § 4465(a).
3. In accordance with 24 V.S.A. § 4466, the notice of appeal was in writing and included the name and address of the appellant, a brief description of the property with respect to which the appeal was taken, a reference to the regulatory provisions applicable to the appeal, the relief requested by the applicant, and the alleged grounds why the relief requested was believed proper under the circumstances.
4. The appellant is an interested person as defined at 24 V.S.A. § 4465(b).
5. The subject property is a ____ acre parcel located at _____ in the Town of _____ (tax map parcel no. _____). [The property is more fully described in a _____ Deed from _____ to _____]

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_____, dated _____, 20___, and recorded at Book _____, Page _____, of the Town of _____ Land Records.]

6. The property is located in the _____ District as described on the Town of _____ Zoning Map on record at the Town of _____ municipal office and section ___ of the Zoning Bylaw.
7. The appeal requires review under the following sections of the Zoning Bylaw:
[Reference the particular section(s) of the bylaw under which the application is being reviewed. E.g., “Article IV, Section 2 of the Town of _____ Zoning Bylaw provides for a minimum setback of ...”]
8. [Other facts pertinent to the decision]

DECISION

Based upon these findings, the [development review board/zoning board of adjustment] concludes that [no error has been committed by the zoning administrator/the zoning administrator committed the following error:]

[The matter is remanded to the zoning administrator for issuance of a permit in accordance with this decision]

Dated at _____, Vermont, this ___ day of _____, 20___.

_____, Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the [planning commission/zoning board of adjustment/development review board]. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

2. Application for Conditional Use Review

TOWN OF _____

[Development Review Board/Zoning Board of
Adjustment/Planning Commission]

Application for Conditional Use Review Findings and Decision

In re: _____

Permit Application No. _____

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for conditional use submitted by _____ under the Town of _____ Zoning Bylaw.
2. The application was received by _____ on _____, 20___. A copy of the application is available at _____.
3. On _____, 20___, notice of a public hearing was published in the _____.
4. On _____, 20___, notice of a public hearing was posted at the following places:
 - a. The municipal clerk's office.
 - b. _____, which is within view of _____, the public-right-of-way most nearly adjacent to the property for which the application was made.
 - c.
 - d.
5. On _____, 20___, a copy of the notice of a public hearing was mailed to the applicant. On _____, 20___, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application [or, ATTACH CERTIFICATE OF SERVICE]:

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- _____
- _____
- _____
- _____
- _____

6. The application was considered by the [development review board/zoning board of adjustment/planning commission] at a public hearing on _____, 20__.
[The hearing was adjourned and continued on _____, 20__. The final public hearing was held on _____, 20__]. The [development review board/zoning board of adjustment/planning commission] reviewed the application under the Town of _____ Zoning Bylaw, as amended _____, 2005 (the Zoning Bylaw).

7. Present at the hearing were the following members of the [development review board/zoning board of adjustment/planning commission]:

- _____
- _____
- _____
- _____
- _____

8. At the outset of the hearing, the [development review board/zoning board of adjustment/planning commission] afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. **Rules I**

or

8. At the outset of the hearing, the [development review board/zoning board of adjustment/planning commission] afforded an opportunity for persons wishing to achieve status as an interested person under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that subsection are met. After a deliberative session, the [development review board/zoning board of adjustment/planning commission] granted interested person status to the following persons:

- _____
- _____
- _____
- _____
- _____

A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. **Rules II.**

9. During the course of the hearing the following exhibits were submitted to the [development review board/zoning board of adjustment/planning commission]:

- _____
- _____
- _____
- _____
- _____

These exhibits are available at: _____.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the [development review board/zoning board of adjustment/planning commission] makes the following findings:

1. The applicant seeks a conditional use permit to construct a _____.
The subject property is a ____ acre parcel located at _____
in the Town of _____ (tax map parcel no. _____). [The property is more
fully described in a _____ Deed from _____ to _____,
dated _____, and recorded at Book _____, Page ____, of the Town of
_____ Land Records].
2. The property is located in the _____ District as described on the Town of
_____ Zoning Map on record at the Town of _____ municipal office
and section ____ of the Zoning Bylaw.
3. Conditional use approval is requested for the project as a _____ as that
term is defined in section ____ of the Zoning Bylaw. The application requires review
under the following sections of the Town of _____ Zoning Bylaw:
 - _____
 - _____
 - _____
 - _____
 - _____
4. [Reference to the particular section(s) of the bylaw under which the application is
being reviewed. E.g., “Article IV, Section 2 of the Town of _____ Zoning
Bylaw provides for a minimum setback of ...”]

5. The application will require the following existing or planned community facilities:
_____. [Add a finding for each required public improvement.]
6. The application will have the following impact on its surrounding area:
_____. [Add findings as necessary.]
7. The application will cause the following [truck trips, vehicle trips, etc.].
8. The application will utilize the following renewable energy resources:
_____. [Add findings as necessary.]
9. [Recitation of other facts pertinent to the decision]

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the [development review board/zoning board of adjustment/planning commission] [grants/denies] the application for _____.

As conditioned, the proposed development meets the requirements of Sections ____ of the Zoning Bylaw. [The decision should reference each section of the zoning bylaw identified in findings and state **why or why not** it meets the requirements set forth in each of these sections.]

1. [The application [will/will not] have an undue adverse impact the capacity of existing or planned community facilities]
2. [The application [will/will not] have an undue adverse effect on the character of the area affected, as defined by Section _____ of the Town of _____ Zoning Bylaw].
3. [The application [will/will not] have an undue adverse effect on traffic and roads and highways in the vicinity].
4. [The application [will/will not] have an undue adverse effect on the following bylaws currently in effect:_____].
5. [The application [will/will not] have an undue adverse effect on utilization of renewable energy resources].
6. [The application [will/will not] satisfy the requirements of the bylaw with respect to: [minimum lot size/distance from adjacent or nearby uses/performance standards/site plan review criteria/any other criteria required by the bylaw.]

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The [development review board/zoning board of adjustment/planning commission] approves the application subject to the following conditions:

Dated at _____, Vermont, this __ day of _____, 20__.

_____, Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the [planning commission/zoning board of adjustment/development review board]. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

3. Application for Variance

TOWN OF _____

**[Development Review Board/Zoning Board of
Adjustment/Planning Commission]**

**Application for Variance
Findings and Decision**

In re: _____

Permit Application No. _____

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves [review of an application for variance/review of an appeal of an administrative officer decision and request for variance] submitted by _____ under the Town of _____ Zoning Bylaw.
2. The [application/notice of appeal] was received by _____ on _____, 20__. A copy of the [application/notice of appeal] is available at _____.
3. On _____, 20__, notice of a public hearing was published in the _____.
4. On _____, 20__, notice of a public hearing was posted at the following places:
 - a. The municipal clerk's office.
 - b. _____, which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.
 - c.
 - d.
5. On _____, 20__, a copy of the notice of a public hearing was mailed to the [applicant/appellant]. On _____, 20__, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the

property subject to the [application/appeal] [or, ATTACH CERTIFICATE OF SERVICE]:

- _____
- _____
- _____
- _____
- _____

6. The [application/appeal] was considered by the [development review board/zoning board of adjustment/planning commission] at a public hearing on _____, 20___. (In appeals of administrative officer decisions, this hearing must be held within 60 days of the date of the filing of the notice of appeal). [The hearing was adjourned and continued on _____, 20___. The final public hearing was held on _____, 20__]. The [development review board/zoning board of adjustment/planning commission] reviewed the [application/appeal] under the Town of _____ Zoning Bylaw, as amended _____, 2005 (the Zoning Bylaw).

7. Present at the hearing were the following members of the [development review board/zoning board of adjustment/planning commission]:

- _____
- _____
- _____
- _____
- _____

8. At the outset of the hearing, the [development review board/zoning board of adjustment/planning commission] afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. **Rules I**

or

8. At the outset of the hearing, the [development review board/zoning board of adjustment/planning commission] afforded an opportunity for persons wishing to achieve status as an interested person under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that subsection are met. After a deliberative session, the [development review board/zoning board of adjustment/planning commission] granted interested person status to the following persons:

- _____
- _____

- _____
- _____
- _____

A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. **Rules II.**

9. During the course of the hearing the following exhibits were submitted to the [development review board/zoning board of adjustment/planning commission]:

- _____
- _____
- _____
- _____
- _____

These exhibits are available at: _____.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the [development review board/zoning board of adjustment/planning commission] makes the following findings:

1. The applicant seeks a variance to construct a _____. The subject property is a ____ acre parcel located at _____ in the Town of _____ (tax map parcel no. _____). [The property is more fully described in a _____ Deed from _____ to _____, dated _____, and recorded at Book _____, Page _____, of the Town of _____ Land Records.]
2. The property is located in the _____ District as described on the Town of _____ Zoning Map on record at the Town of _____ municipal office and section ____ of the Zoning Bylaw.
3. The following variance is sought by the applicant: _____. The variance request requires review under the following sections of the Zoning Bylaw: [Reference to the particular section(s) of the bylaw under which the application is being reviewed. E.g., “Article IV, Section 2 of the Town of _____ Zoning Bylaw provides for a minimum setback of ...”]
4. The following unique physical circumstances or conditions peculiar to the subject property are found: [Describe the irregularity, narrowness, or shallowness of lot size or shape, exceptional topographic or other physical conditions that were found.]

5. Because of these unique circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Bylaw and authorization of a variance is necessary to enable the reasonable development of the property.
6. Unnecessary hardship has not been created by the applicant.
7. [Describe the character of the neighborhood, the adjacent property, etc.] For the following reasons, the variance will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare:
8. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

DECISION AND CONDITIONS

Based upon these findings, [and subject to the conditions set forth below], the [development review board/zoning board of adjustment/planning commission] approves the following the variance:

[This approval is subject to the following conditions:]

Dated at _____ Vermont, this __ day of _____, 20__.

_____, Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the [planning commission/zoning board of adjustment/development review board]. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

4. Application for Subdivision Review

TOWN OF _____

[Development Review Board/Zoning Board of
Adjustment/Planning Commission]

Subdivision Review Findings and Decision

In re: _____

Permit Application No. _____

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for subdivision of land submitted by _____ for subdivision approval under the Town of _____ [Subdivision Regulations/Unified Development Bylaw].
2. The application and plat were received by _____ on _____, 20___. A copy of the application and plat are available at _____.
3. On _____, 20___, notice of a public hearing for final plate review was published in the _____.
4. On _____, 20___, notice of a public hearing for final plat review was posted at the following places:
 - a. The municipal clerk's office.
 - b. _____, which is within view of _____, the public-right-of-way most nearly adjacent to the property for which the application was made.
 - c.
 - d.
5. On _____, 20___, a copy of the notice of a public hearing was mailed to the applicant. On _____, 20___, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application [or, ATTACH CERTIFICATE OF SERVICE]:

- _____

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- _____
- _____
- _____

6. The application and plat were considered by the [development review board/zoning board of adjustment/planning commission] at a public hearing on _____, 20___. [The hearing was adjourned and continued on _____, 20___. The final public hearing was held on _____, 20__]. The [development review board/zoning board of adjustment/planning commission] reviewed the application and plat under the Town of _____ [Subdivision Regulations/Unified Development Bylaw], as amended _____, 2005.

7. Present at the hearing were the following members of the [development review board/zoning board of adjustment/planning commission]:

- _____
- _____
- _____
- _____
- _____

8. At the outset of the hearing, the [development review board/zoning board of adjustment/planning commission] afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. **Rules I**

or

9. At the outset of the hearing, the [development review board/zoning board of adjustment/planning commission] afforded an opportunity for persons wishing to achieve status as an interested person under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that subsection are met. After a deliberative session, the [development review board/zoning board of adjustment/planning commission] granted interested person status to the following persons:

- _____
- _____
- _____
- _____
- _____

A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. **Rules II.**

10. During the course of the hearing the following exhibits were submitted to the [development review board/zoning board of adjustment/planning commission]:

- _____
- _____
- _____
- _____
- _____

These exhibits are available at: _____.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the [development review board/zoning board of adjustment/planning commission] makes the following findings:

1. The applicant seeks a permit to subdivide land. The subject property is a ____ acre parcel located at _____ in the Town of _____ (tax map parcel no. _____). [The property is more fully described in a _____ Deed from _____ to _____, dated _____, and recorded at Book _____, Page _____, of the Town of _____ Land Records].
2. The property is located in the _____ District as described on the Town of _____ Zoning Map on record at the Town of _____ municipal office and section ____ of the [Zoning Bylaw].
3. Subdivision approval is requested for the project pursuant to review under the following sections of the Town of _____ [Subdivision Regulations/Unified Development Bylaw]:
 - _____
 - _____
 - _____
 - _____
 - _____
4. [Reference to the particular section(s) of the [Subdivision Regulations/Unified Development Bylaw] under which the application is being reviewed. E.g., “Article

IV, Section 2 of the Town of _____ [Subdivision Regulations/Unified Development Bylaw] provides for a minimum setback of ...”]

5. [Recitation of facts pertinent to the decision]

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the [development review board/zoning board of adjustment/planning commission] [grants/denies] the [application and plat] for

_____.

As conditioned, the proposed subdivision meets the requirements of Sections ____ of the [Subdivision Regulations/Unified Development Bylaw]. [The decision should reference each sections of the [Subdivision Regulations/Unified Development Bylaw] identified in findings and state **why or why not** it meets the requirements set forth in each of these sections.]

The [development review board/zoning board of adjustment/planning commission] approves the application and plat subject to the following conditions:

1. [All roads shall be constructed to A-76 standards, pursuant to Section ____ of the [Subdivision Regulations/Unified Development Bylaw] (example).
2. [The fire chief has certified that the fire department may safely access all new parcels created by this approval] (example).
3. _____.

The approved plat is hereby attached to this decision. Every street or highway shown on this plat is deemed to be a private street or highway until it has been formally accepted by the municipality as a public street or highway by ordinance or resolution of the [legislative body] of the municipality.

The approval of the [development review board/zoning board of adjustment/planning commission] shall expire 180 days from the date of this decision, unless the approved plat is duly filed or recorded in the office of the municipal clerk. [If permitted by Section ____ of the Subdivision Regulations, the administrative officer may extend the date for filing the plat by an additional 90 days, if final local or state permits or approvals are still pending].

Dated at _____ Vermont, this ___ day of _____, 20__.

_____, Chair

Development Review Templates – Findings of Fact and Decisions
May 2005 –Land Use Education and Training Collaborative

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the [planning commission/zoning board of adjustment/development review board]. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.



Interpreting and Applying Development Standards

Overview

The Due Process Clause of the 5th and 14th Amendments of the United States Constitution requires fairness in the drafting, application, and implementation of local land use laws. The Due Process Clause is the primary influence on how legal proceedings, like development review, are conducted. This Due Process Clause has been interpreted by courts to require land use bylaws provide measurable standards for what property owners can and cannot do with their land. Additionally, measurable standards allow reviewing authorities to make consistent and fair decisions. Courts may not otherwise uphold a bylaw as constitutional. Another key requirement of the Due Process Clause is to clearly notify the regulated person or entity of what the measurable standards are. However, measurable standards are more easily talked about than accomplished.

Many municipalities prefer bylaw language broad enough to be flexible when dealing with unique land parcels and changing circumstances. This tension between specific language and flexibility in a town's bylaws may result in ambiguous bylaws that do not provide the requisite notice and guidance. Ambiguous bylaws may even result in violating the constitutionally guaranteed due process rights of applicants and other parties.

Development review officials generally have no authority to draft or approve municipal bylaws. However, they may have the difficult task of applying ambiguous development standards.

This paper strives to make that difficult task easier by clarifying what is and is not ambiguous and by discussing how to apply a potentially ambiguous standard in a manner that will survive a court's scrutiny.

Definition:

An *Appropriate Municipal Panel* (AMP) is a Planning Commission exercising development review, Zoning Board of Adjustment, or Development Review Board.

Application

What is Ambiguous? What is Specific?

In general, bylaw language is ambiguous if it is not specific enough for the AMP to make consistent and fair decisions. The level of ambiguity can be ascertained by asking whether the applicable bylaws contain language stating that the AMP "shall", "should" or "may", consider certain factors. Ambiguity is a problem if the bylaw contains language stating that something is required "where appropriate", "where feasible", or "where reasonable." Ambiguity is a problem when the bylaw states that the AMP "may" require certain actions, without stronger guidance on the level of protection expected, provided elsewhere in the regulations or municipal plan.

The consistency and fairness of bylaw language can be ascertained by asking the following questions. Do applicable standards describe *if* and *how* development will be restricted? Do they provide the applicant with *notice* of

what will be required throughout the permitting and development process? Are the terms used and referenced *clearly defined*? Does the bylaw contain language such as "shall" or "must" rather than "encourage" or "promote"? Does the language contain a measurable objective?

Examples of measurable standards include:

- No development allowed on slopes of over 20 percent;
- A Planned Residential Development ("PRD") must have a minimum of 60 percent open space;
- Side-yard setbacks must be six feet.

Clearing up all the grey areas is not always simple. For example, the unambiguous side yard setback described above can be ambiguous when applied to three-sided lots, if the bylaw does not outline how to address this or other irregularly shaped lots. Further, the method for measuring setbacks should be specified; such as whether it is from building foundation or roof line.

Bylaws accompanied by explanatory illustrations aid the AMP in making consistent and fair decisions because they make the bylaws clearer and easier to implement.

Reading Bylaws in Context

The AMP must remember that isolated language must be viewed in the context of the entire bylaw and municipal plan. A mix of general and specific standards in a bylaw is constitutional as long as the reviewing authority has sufficient overall standards to grant or deny the permits in a consistent and fair manner. Vague and ambiguous bylaw language may be made unambiguous when read in conjunction with the municipal plan. For example, a bylaw may state that development in scenic areas is restricted to a certain height and must meet certain design standards. This language appears ambiguous if the bylaw doesn't define what areas of the community qualify as scenic areas. The term "scenic" is subjective and could mean different things to different reviewing authorities. However, potential ambiguity may be resolved with a town plan that maps scenic areas. The same is true of bylaws that refer to protecting significant water bodies and wetlands. Importantly, a document should be *incorporated by reference* and clearly defined as being applicable with the regulations when municipalities use municipal plan policies and maps to interpret bylaws.

Definition:

"Incorporation by reference" is when you make an outside document part of the document you are currently writing. You do this by writing that the outside document "should be treated as if it were contained within this document." *Black's Law Dictionary 7th Edition.*

Vermont courts have cited the following three principles in determining whether bylaw standards are unconstitutional due to ambiguity:

1. Delegation of legislative power to administrative officials without adequate standards violates the separation of powers between the different branches of government. AMP members are appointed administrative officials, making them members of the executive branch. Members of the executive branch are not allowed to make laws—members of an elected legislative body must do that. When AMP members are acting without adequate guidance and standards, they are considered to be impermissibly legislating.

2. The absence of standards denies applicants equal protection of law. Without measurable standards, a land use bylaw can become a tool for favoritism and discrimination. In the small town environment of Vermont, the people involved and affected by the development review process have frequent interactions with each other and those interactions can appear to be the basis of development review decisions when there are no clear objectives.

3. The absence of standards denies permit applicants due process because it does not give them notice of how they can develop property in accordance with the law. Essentially, applicants are entitled to know what uses are allowed and what facts they must present to the reviewing authority in order to obtain approval.

See, In re Handy, 764 A.2d 1226 (Vt. 2000); In re Pierce Subdivision Application, 965 A.2d 468 (Vt. 2008).

Considerations

Presumption of Validity for Local Bylaws

Municipal bylaws have a presumption of validity. A property owner challenging a municipal bylaw has the burden of proving to the reviewing court that the bylaw language is not valid. Consequently, it is not the role of municipal officials to invalidate bylaws during the local hearing process. Instead, a court must rule an ambiguity in a zoning or subdivision bylaw as unconstitutional. AMPs must deal with ambiguity without the power to invalidate. As discussed below, it may be helpful to bring ambiguities to the attention of bylaw drafters by emphasizing the risk of costly litigation and other factors.

How to Interpret and Apply Potentially Ambiguous Standards

It is the AMP's responsibility to apply potentially ambiguous standards in a reasonable and consistent manner. Thus, if an AMP finds it difficult to interpret, apply, and make findings on a particular development application because of ambiguous language, it should consult with the municipal staff, regional planning commission staff, the Vermont League of Cities and Towns ("VLCT") and/or the town attorney. The AMP may gain guidance based on how the language has previously been interpreted in that municipality or elsewhere in Vermont.

There have been a number of decisions decided by the Vermont Supreme Court providing guidance on what bylaw language is sufficiently specific. Here is one example:

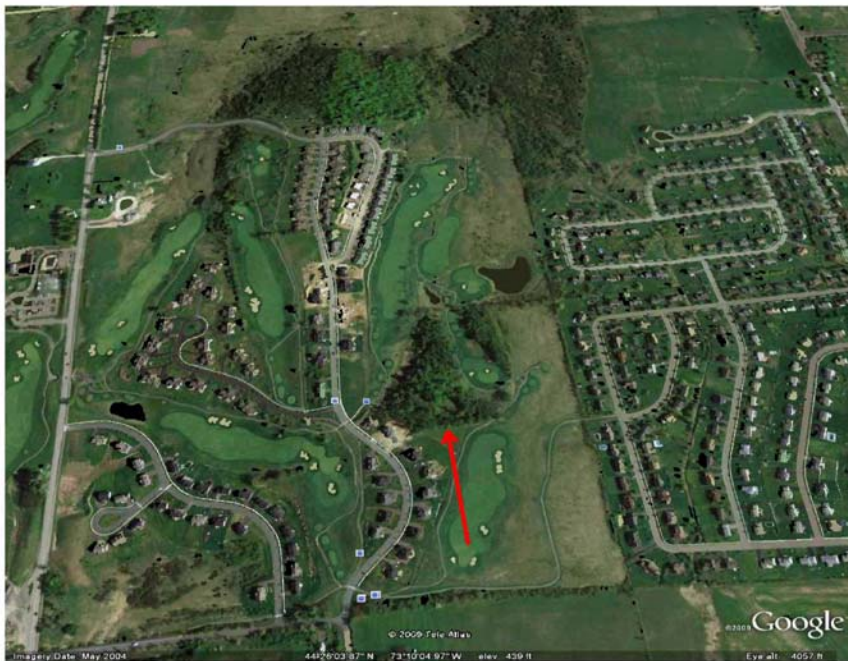
Natural Resource Protection: In the 2008 case, *In re Appeal of J.A.M. Golf LLC*, the Vermont Supreme Court ruled that two sections of a South Burlington zoning bylaw were unconstitutionally vague and therefore invalid. Specifically, the South Burlington bylaws that were not upheld required PRDs to “protect important natural resources including...scenic views” and “wildlife habitats,” and required all developments to “protect...wildlife habitat.” This case highlights the need to define all terms used.

Helpful Vermont Supreme Court decisions:

Steep Slopes: In the 1990 Act 250 case, *In re Green Peak Estates*, the Vermont Supreme Court found that Bennington County Town Plan language that did not permit residential development on slopes of greater than 20 percent was specific and thus could be applied to an Act 250 permit application. In contrast, in the 2000 case, *In re Kiesel*, (another Act 250 case) the Supreme Court found that Waitsfield’s steep slopes regulations were too abstract. The Waitsfield bylaw prevented the creation of parcels which would result in development on “steep slopes.” The difference between the two standards is that “steep slopes” were defined as greater than 20 percent in one case and not defined in the other.

In addition, AMP members should make note of potentially ambiguous language and suggest to their planning commissions that further specificity may be needed during a future bylaw update. Communication between those involved in development review and the drafters of the regulations is valuable and should be on-going. A bylaw that may seem clear when drafted may be found vague or confusing in its application. Planners do not necessarily have the benefit of applying bylaws, or foreseeing all possible ramifications, and thus may need guidance from those who do.

Finally, the AMP should maintain a written record of all previous decisions. The AMP should provide clear findings of facts with foundations in both the town plan and bylaws. Development conditions should be based solely on clear findings of fact. This will allow the AMP to have access to how its local bylaws have been interpreted historically and allow for consistent application of all bylaws, whether ambiguous or not. Further, quality record keeping and recorded explanation of the AMP’s reasoning will increase the chances that the decision will be upheld if appealed to the Environmental or Supreme Court.



Aerial photograph indicating location of J.A. McDonald Corp’s proposed development of a formerly “reserved” portion of a subdivision in South Burlington. Courtesy Steven F. Stitzel of Stitzel, Page & Fletcher, P.C.

Density Restrictions: In a 1994 Act 250 case, *In re Molgano*, the Vermont Supreme Court found that the town of Manchester’s density requirement that “zoning dimensional requirements should encourage a relatively low density of development while promoting open space preservation along the highways” was unenforceable due to being too vague. In contrast, in the 2009 municipal zoning case, *In re Pierce Subdivision Application*, the Supreme Court found a Ferrisburg bylaw that required “the minimum acreage for a planned rural development [to] be 25 acres and a minimum of 60 percent of the total parcel [to] remain undeveloped” met the specificity requirement.

What if the Potentially Ambiguous Bylaw is Challenged by an Applicant?

If an applicant challenges the AMP's interpretation of the bylaw in question, AMP members can consult with their municipal attorney to receive guidance on the application. As mentioned above, local bylaws have a presumption of constitutionality. It's the AMP's responsibility to interpret and make findings on the bylaws as written as best they can, not to determine whether bylaws are valid. While some permit applicants may assert that a particular bylaw is so vague it must be considered void and thus not apply to their projects, it is the job of the courts, not AMP's and applicants, to determine the validity of local bylaws. Widespread invalidation of local bylaws has not occurred over the years and is not anticipated in the wake of recent State Supreme Court decisions on the matter.

Conditional Use Permits: In the 2008 case, *In re Times & Seasons LLC*, the Vermont Supreme Court found that a Royalton town plan requirement that commercial development be located close to town villages "where feasible" was too vague. The Court stated that it was unclear whether the town plan language intended the language to mean economic feasibility, physical feasibility, a combination of the two, or some other measure altogether. Thus, it did not give sufficient guidance on where commercial development should occur.

“Development conditions should be based solely on clear findings of fact.”

Planned Residential Developments:

In *Pierce*, the issue was whether a PRD bylaw that contained some general standards and some specific standards was invalid due to vagueness. The Vermont Supreme Court decided the standards were not too vague; pointing out that the legislature authorized PRDs to encourage flexibility of design in land development so that it could be used in the most appropriate manner. In order to achieve these goals, modification of zoning regulations may be permitted simultaneously with approval of a subdivision. Thus, the court said, the proper inquiry in whether a bylaw is valid or not is “whether the bylaw provides the Commission with sufficient overall standards to grant a PRD permit, and whether the waivers granted comply with these standards.”

Resources

Vermont League of Cities and Towns, 2009, *“What JAM Golf Decision Might Mean to Municipal Land Use Programs,”* <http://resources.vlct.org/results/?s=JAM+&go=search+%C2%BB>.

Vermont League of Cities and Towns, 2008, *“VT Supreme Court: Zoning Bylaw Must Include Specific Standards to Ensure Property Owners’ Due Process,”* <http://resources.vlct.org/results/?s=JAM+&go=search+%C2%BB>.

Katherine Garvey; 2009, Vermont Journal of Environmental Law, *“Local Protection of Natural Resources After JAM Golf: Standards and Standard of Review,”* www.vjel.org/journal/pdf/VJEL10110.pdf.

List of useful cases to review:

1. *In re Appeal of J.A.M. Golf LLC*, 969 A.2d 47 (Vt. 2008).
2. *In re Handy*, 764 A.2d 1226 (Vt. 2000).
3. *In re Green Peak Estates*, 577 A.2d 676 (Vt. 1990).
4. *In re Pierce Subdivision Application*, 965 A.2d 468 (Vt. 2008).
5. *In re Molgano*, 653 A.2d 772 (Vt. 1994).
6. *In re Times & Seasons LLC*, 950 A.2d 1189 (Vt. 2008).

Credits

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Produced by Vermont Law School Land Use Institute:

Author: Veronica Warnock
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This module is a general discussion of legal issues but is not legal advice, which can only be provided by a licensed attorney.



Alternative Dispute Resolution: Why, When and How

Overview: What is ADR?

Alternative Dispute Resolution (ADR) is a voluntary, non-adversarial problem-solving process. Appropriate municipal panels (AMPs), courts, applicants, and those potentially affected by a development project may use ADR to facilitate the development process and develop plans that benefit the community while minimizing time and expenses.

An Appropriate Municipal Panel is a Planning Commission exercising development review, a Zoning Board of Adjustment, or a Development Review Board.

Stakeholders in the project development process have a variety of interests and positions. Experienced applicants identify these interests and potential conflicts early on by involving the community in project design even before submitting an application. Vermont law does not require applicants to participate in ADR, but ADR is available as a tool to resolve conflicts before and during the development review process.

Interests (as defined in the ADR context): A party's needs, desires, hopes and fears that lead them to take a particular position. An interest is the reason, underlying need or concern that motivates people to ask for certain outcomes. The parties' interests serve as the motive for their positions.

Positions: A party's ideal, unilateral solutions to a dispute, describing possible outcomes or solutions.

ADR promotes solutions unavailable in the traditional project development process. ADR exists in various forms, with each offering a unique formula for identifying a solution that both satisfies as many interests as possible and represents a position satisfactory to everyone involved.

Types of ADR Processes:

Negotiation: A voluntary process of resolving disputes without a third-party's involvement or binding resolutions.

Mediation: A negotiation that utilizes a third-party process manager to assist disputants in collaborating to produce an outcome based on consensus. Mediation is non-binding.

Arbitration: Less formal than adjudication, this method empowers a neutral decision-maker to decide how to resolve a dispute. The results can be binding or non-binding.

For the multi-party disputes commonly arising in the project development process, the most effective form of ADR is mediation because it is voluntary, non-binding, and confidential. Unlike arbitration the non-binding nature of mediation allows parties to reach a mutually satisfactory agreement without the pressure of the decision being permanent. Mediation may provide a more formal structure than negotiation, and can be confidential.

Collaborate: Interested persons assume collective responsibility for achieving jointly agreed upon objectives.

Consensus: A mutually acceptable agreement that takes into consideration the interests of all parties.

Process Manager: An individual who has no conflict of interest or bias toward any party to the dispute, and oversees a process to facilitate collaborations between parties to reach a consensus. Though any neutral trusted third-party may perform this role, a list of mediators can be found at the bottom of:
<http://www.vermontjudiciary.org/GTC/Environmental/mediation.aspx>.

Why use ADR?

Many applicants never consider using ADR, but those who do often credit ADR with saving them time and money, as well as improving their community relationships. Those involved in an ADR process learn to collaborate with one another to develop a plan that satisfies all interests instead of solidifying stakeholders' already polarized positions. By encouraging a collaborative instead of adversarial method of resolving disputes, ADR facilitates communications that often improves relationships as well as the process's effectiveness and fairness.

AMPs can assist in promoting ADR's ultimate goal of achieving a win-win for the applicants, relevant stakeholders, and the municipality. The applicant wins because the development may be approved faster and at a lower cost. The community wins because its concerns may be taken into account earlier or may be given more weight in the ultimate design of the development. The municipality wins because the development process works more efficiently when interests are clearly identified and the concerns of potential opponents are resolved early in the process. While the AMP will not conduct ADR, design the project for the applicant or weigh in on the community's concerns, the AMP may encourage an applicant to use ADR to promote consensus. Conversely, the regulatory review process and court appeals create an adversarial climate where positions often become inflexible and the results perpetuate existing disputes.

Illustration: Imagine two cooks having a disagreement of who deserves the last orange. A judge would listen to both cooks reasoning and award the orange to one of the cooks. Alternatively a judge might split the orange in half. In contrast, a process manager would allow each cook to explain their interests in receiving the orange. At this point, the process manager could discover one cook needs zest from the peel to make marmalade, while the other requires the flesh to create juice. A process manager might then produce a result that satisfies both cooks by giving the rind to the first cook and the flesh to the second cook.



When to use ADR?

Before the Hearing: Though applicants, AMPs, and relevant stakeholders can initiate ADR at various points throughout a project's life, an applicant anticipating the need for ADR could identify potential stakeholders and begin ADR prior to submitting an application.

In general, applicants and other participants in the development review process are more likely to be flexible in their positions before having spent significant time and resources on planning a project. An applicant is more likely to have solidified its position if it submits an application prior to identifying and meeting with community stakeholders. At this point, reaching a consensus proves difficult and unlikely.

Though it may often be difficult for an AMP to contact the parties and encourage ADR prior to the hearing, staff may be in the position to do so. Thus, ADR is most effective in producing consensus-based development projects when used as early as possible in the site development process. By waiting for conflicts such as neighborhood opposition to emerge, an applicant is gambling that the project will not be delayed or appealed, either of which would cost time and money.

An applicant proposing a project that will dramatically alter a community's landscape might organize an optional, applicant-driven "community planning" phase, or charrette process.

If the applicant fails to do this pre-submission, the municipality may have an opportunity to require ADR post submission. If the municipality has provided a foundation for utilizing ADR in its plan, adopted bylaws, an ordinance or a resolution of the legislative body, the municipality may create an advisory commission to promote ADR post submission. An advisory commission can perform facilitative functions such as identifying stakeholders within the community along with their positions and interests.

A municipality's legislative body may "create one or more advisory commissions to assist the legislative body or the planning commission in preparing, adopting, and implementing the municipal plan." 24 V.S.A. §4433. An advisory commission must perform the functions outlined in statute. For example, the commission must comply with the open meeting law, but these meetings are not public hearings before a quasijudicial body. 24 V.S.A. §4464(d). The advisory commission may review the application and prepare recommendations for consideration by the AMP at the public hearing, according to the procedures adopted in the bylaws. By providing the community with an opportunity to resolve disputes, all relevant stakeholders' interests can be worked out with the applicant before the applicant spends time and money completing an application.

During the Hearing: Though much less likely to be effective once the public hearings have convened, AMPs may allow for ADR in the context of a statutory hearing process. The AMP may suspend the hearing to provide participants the opportunity to submit a written agreement stating that they will participate in ADR. At this time, the parties will agree to return to the AMP within a certain period of time. The applicant can then resubmit the application or submit an amended application based on the agreed upon terms. AMPs or their staff should consider requiring or promoting ADR prior to a public hearing in all complex, multi-party development plans that potentially affect community interests.

ADR is a voluntary process; therefore if the applicant and other stakeholders agree, it can be used effectively under subdivision, site plan and conditional use review.

After the hearing. After the hearing the AMP makes a decision. The parties are invested in the determination of whether the findings, conclusions, and conditions represent their interests.

Parties with a still unresolved dispute, who discover they “lost,” may now have an incentive to negotiate. Unfortunately, at this point positions may be too polarized, entrenched and adversarial. Unless there exist particular grounds for an AMP to reconsider, it is too late in the process to voice one’s objections at the local level. At this point in the process parties with existing disputes may file an appeal with the Environmental Division of Vermont Superior Court. The court can then require ADR under the Environmental Division’s rules of procedure.

An agreement reached through consensus may not satisfy each participant’s interests equally or receive similar levels of support from all participants. However, employing ADR early can prevent polarization from occurring during the development review process because ADR addresses all participants and their interests.

Application: How to use ADR?

The most effective method of encouraging ADR is for an applicant or municipality to convene formal meetings to identify community interests and positions prior to submitting an application. This effectively adds a “pre-submission” phase to the development review process, the results of which the applicant can draft into its application and plans before submitting them to the AMP.

Having experienced such meetings’ influence on producing consensus-based projects, Burlington’s Department of Planning and Zoning may soon require applicants to discuss projects with neighborhood planning associations or potential stakeholders prior to submitting applications.

The most effective method of encouraging ADR is for an applicant or municipality to convene formal meetings to identify community interests and positions prior to submitting an application.

However, because Vermont’s enabling statute neither requires nor encourages this step before submitting an application, applicants often do not realize potential conflicts until after spending significant time and money. One way to prevent this is through the scoping process. Convening a scoping process allows for an applicant to better understand and prevent potential community disputes. Often, though, the applicant wishes to avoid this process because of the up-front expenses. An applicant hopes to move an application through a local development review process without interested persons contesting the plan. If that seems likely, the applicant would skip the scoping process. However, as mentioned before, this is a gamble. The scoping process and ADR may improve the likelihood that development projects will be approved more quickly and at a lower cost to the applicant by addressing potential opposition at an early stage.

Scoping Process: At the applicant’s request, all interested persons may collaborate prior to formal hearings for a “scoping” process that may lead to consensus on certain issues. At the beginning of this process is a public meeting wherein “the applicant or a representative of the applicant shall present a description of the proposed project and be available for questions from the public concerning the proposed project. The purpose of the meeting shall be to provide public information and increase notice about the project, allow discussion of the proposed project, and identify potential issues at the beginning of the project review process.” 3 V.S.A §2828(f).

Another option to encourage ADR is for the AMPs to call a recess to encourage and allow time for dispute resolution to occur. 24 V.S.A §4464(b)(1). By providing for this pause in time, an AMP may allow for ADR in the hearing process. To require ADR, it must be incorporated into the municipal bylaws. If an agreement is reached during a recess, the application may be resubmitted or amended to reflect agreed upon changes. Additionally, though ADR often eliminates the need for appeals, its non-binding nature does not preclude appeals.

If its members find that the development project resulting from the agreement complies with local regulations, the AMP will grant the permit. At this point, relevant stakeholders may appeal. The appeals court encourages mediation in all cases because mediation addresses issues frequently not addressed in municipal regulations. Since the Environmental Division of Vermont Superior Court may require ADR on appeal anyway, an applicant could use ADR earlier. All parties to complex development decisions can benefit from encouraging the ADR option at the start.

For examples of successful applications of ADR, see the case studies in Smart Growth Vermont’s Community Toolbox at: <http://www.smartgrowthvermont.org/toolbox/casestudies/>

Considerations:

AMPs may encourage ADR.

Vermont’s legal framework empowers AMPs with significant responsibility in determining the future of Vermont’s built landscape based on fairness, stability, efficiency, and cohesiveness within their communities. Inexperienced applicants may particularly benefit from AMPs encouraging ADR because of its capacity to offer superior solutions in

some situations. Ultimately, applicants gain wisdom from witnessing and learning from the benefits that ADR provides.

Encourage the use of a competent, neutral process manager whom all parties trust. This is integral to ensuring procedural fairness. Dispute resolution processes are more effective when they ensure procedural fairness, promote stability and efficiency, and evolve through experiential learning. An effective process manager can identify potential stakeholders and convene informal meetings prior to filing an application, to make certain all concerns are heard.

Recommend the use of ADR early on. By encouraging collaboration early in the process, AMPs can assist in promoting responsible development and less adversarial and divisive development review. Identifying shareholders early is an effective means of preventing conflicts from arising after the applicant has spent time and money drafting and submitting an application.

Encouraging ADR throughout the development review process, and especially as a precursor to an application, can be a positive force for the community and make the development review process more efficient.

Resources:

Consensus Building Institute
<http://cbuilding.org/>

“Integrating Consensus-Building – A Chart & Narrative”
www.seannolon.com

The Lincoln Institute
<http://www.lincolnst.edu/>

Smart Growth Vermont toolbox on ADR
<http://www.smartgrowthvermont.org/toolbox/tools/alternativedisputeresolution/>

Vermont Judiciary Mediation Resources
<http://www.vermontjudiciary.org/GTC/Environmental/mediation.aspx>

Credits

Additional material, collaborative assistance, and external review for the Taking Evidence module provided by Sharon Murray, Front Porch Community Planning; Stephanie Smith, Abigail Friedman and Garrett Baxter, Vermont League of Cities & Towns; Faith Ingulsrud, Vermont Department of Economic, Housing & Community Development; David Rugh Esq, Stitzel, Page & Fletcher; Mike Miller, City of Barre; and Paul Gillies, Esq., Tarrant, Gillies, Merriman & Richardson.

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Produced by Vermont Law School Land Use Clinic:

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This module is a general discussion of legal issues but is not legal advice, which can only be provided by a licensed attorney.



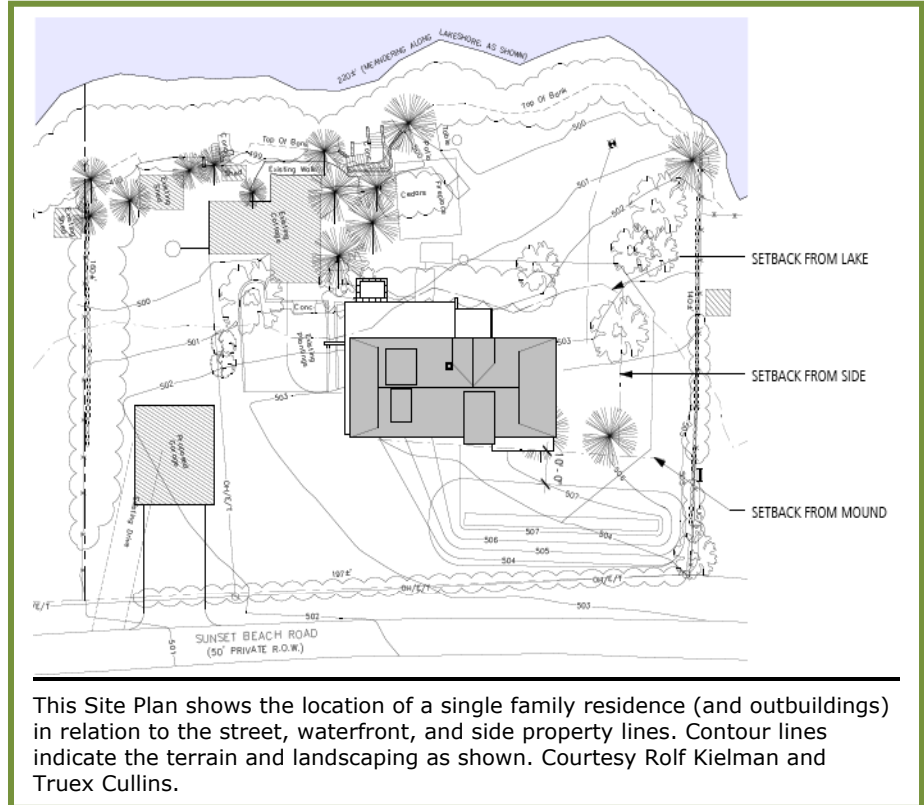
Reading Subdivision Plats and Site Plans

Definitions:

An *Appropriate Municipal Panel (AMP)* is a Planning Commission exercising development review, Zoning Board of Adjustment, or Development Review Board.

A *sketch plan* or *concept plan* may be used during the preliminary phase of the subdivision permitting process. This plan gives a rough overview of the proposed development, so that the viability of the project may be assessed prior to hiring a surveyor and incurring the substantial cost of more formal drawings.

A *plat* is defined by statute as a “map or plan drawn to scale of one or more parcels, tracts or subdivisions of land, showing, but **not limited to**, boundaries, corners, markers, monuments, easements and other rights”. The AMP must ensure that it meets the requirements detailed in the municipal subdivision regulations. The “final” and approved plat is the plan of the subdivision that will be recorded in the municipal land records. A complete package of subdivision plans will contain other information in addition to the plat. A site plan package can include: information relative to roads, lighting, landscaping, natural features, access, soil erosion control, and stormwater management. Subdivision plats must be completed by a licensed surveyor and meet the survey plat recording requirements of 27 V.S.A. § 1401.



This Site Plan shows the location of a single family residence (and outbuildings) in relation to the street, waterfront, and side property lines. Contour lines indicate the terrain and landscaping as shown. Courtesy Rolf Kielman and Truex Cullins.

A *site plan* is a drawing that is a bird's eye view of the project. It shows the major features of the land and the footprint of existing structures and structures to be built. The complexity of a site plan varies with the size of the project, local regulatory requirements, the consulting engineer, and budget. It should contain standard features, such as a location map, title block, scale, and dimensional and zoning information. A basic site plan may be accompanied by other plans that detail landscaping, utility corridors, building design, easements, lighting, soil erosion control, stormwater management, and more.

Overview

Understanding site development plans (often called “site plans” for short) and subdivision plats is essential to effectively review projects and apply local regulations. This module explains key features to look for when reading a subdivision plat or a site plan for a proposed project.

Site plans reveal how a project design addresses siting challenges such as topography, water supply and wastewater treatment, water resource protection, storm water runoff, erosion, human and vehicular circulation, and aesthetic concerns. Those who know how to read and interpret plats and plans are also better able to

communicate with the developer and other parties about the project.

Some Vermont municipalities have trained professional staff to assist review, while others have none. Regardless, all AMP members should have baseline knowledge adequate to:

- Determine if an application is complete.
- Evaluate an application for compliance with adopted municipal standards and regulations.
- Answer questions about the project posed by adjainers, town officials and community members.*
- Make findings of fact.
- Develop conditions of approval.

Mapped information should give reviewers a clear picture of how the development will impact the environment and community as well as how the development will conform to bylaws and fit in with the surrounding area. Plans visually represent an array of features, as specified for identification in the bylaws and associated application materials. Examples of such features include: whether the development is viable and whether it meets municipal siting standards, resource protection or buffer requirements, and infrastructure needs. Interpreting mapped information calls on a different set of skills than reading a written description, but with practice gives a clearer picture of the scope of development.

*Note that discussion of the merits outside the context of a hearing is considered impermissible ex parte communication. Also, it is the applicant's job to answer questions during the hearing—AMP members should not answer questions at the hearing that are appropriate for the applicant to answer. See module "Taking Evidence".

“Bylaws and associated maps should identify and define all features considered and regulated by the municipality.”

What is required to be on a Plat?

27 V.S.A. §1403 requires that all filed plats:

- Be an *appropriate size* and *have correct margins* determined by the municipality.
- Conform to municipality's *specifications*.
- Be clearly *legible*.
- Have a *scale* that allows pertinent data to be shown.
- Have a *title block* that states the location of the land; scale in engineering units; date of compilation; name of record owner as of that date; the land surveyor's certification with the surveyor's seal, name and number, and a certification that the plat conforms with the requirements of section 1403. (There is an exception for this requirement when Site Plan Review is done. See 24 V.S.A. § 4416 & 27 V.S.A. § 1404(b).)
- Correctly describe the *directional bearings* used.

Application Review

Development is regulated on both the state and municipal level. The extent of regulation on the municipal level varies greatly, so it is important to familiarize yourself with your municipality's bylaws. The state enables municipalities to adopt land use regulations to specifically implement adopted municipal plans.

A site plan is used in development review to describe proposed land development. Therefore, the term “site plan” is used in two different ways—one is a mapped representation of a project and the other is a review process called Site Plan Review. State law allows a host of factors to be written into bylaws for consideration during Site Plan Review. Since each municipality has its own bylaws, the required content of site plans will vary. Municipalities must adopt specific guidelines regarding maps, data, and

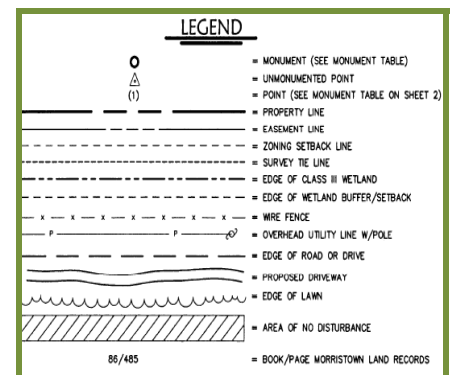
other information for Site Plan Review and the other various review processes. Other review processes include Subdivision Review, Planned Unit Development Review, and Design Review. Understanding mapped representations is important for every review process.

Application requirements—like those imposed by site plans and subdivision plats—must relate to standards written into bylaws. Likewise, the bylaws should mimic the goals and objectives of the municipal plan. Bylaws and associated maps should identify and define all features considered and regulated by the municipality.

Features Common to Both Plats and Plans:

Plats and plans should have a *location map*, usually an inset, which allows reviewers to locate the subject parcel in the municipality.

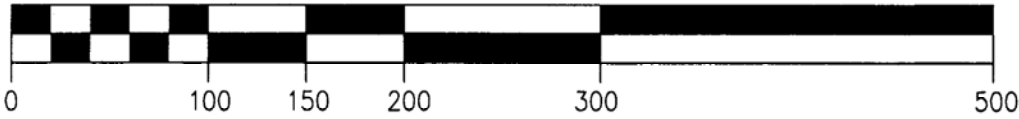
Plats and plans should have a *legend* or key, indicating what the line types and symbols signify on the plan.



A legend is essential to make sense of features shown on a subdivision plat or site development plan.

The *title block* contains basic information, including project title, landowner, site address, professional consultant or name of the firm that prepared the plan, date the drawing was done, revision dates, and more. The *north arrow* in combination with the *location map* allows the reader to orient the map to the project's location. It also allows a reviewer to orient themselves when a submission includes multiple plans.

SCALE: 1"=100'



Scale is the relationship between the distance shown on a plan and the corresponding distance in the field. All plats and site plans should have both a written and a graphic scale. This is an example of both a written linear scale and corresponding graphic scale, where one inch equals 100 feet. It is important to include both a graphic scale and a written scale. The graphic scale allows for size reduction or size expansion in photocopies. While the written scale becomes obsolete in this process, the graphic scale remains true.

A scale is also the tool used to measure the distances between features in a plan. An *engineer's scale* is the most commonly used scale in drawing plans. An engineer's scale is divided into increments of 10, 20, 30, 40, 50, and 60 divisions per inch. In combination with the written scale, the reviewer uses this tool to measure the size of or the distances between features.



Zoning and Dimensional Information

Development plans should provide the title and section of the zoning or subdivision regulations being followed, along with details on the project's conformance. The engineer may prepare a chart, including the name of the zoning district in which the project is located and the zoning bylaws' dimensional requirements for lot size, building coverage, parking spaces, total lot coverage, setbacks, and frontage. However, AMP members should refer to bylaws to ensure that information contained on the plan is accurate.

A plan's main purpose is to show these zoning requirements visually. Use the map's legend to identify property boundaries and setback lines on a development plan. Boundaries on development plans should be shown clearly for the entire tract: any proposed lots, roads, easements, right-of-way, or land reserved to mitigate natural resource impacts should be obvious.

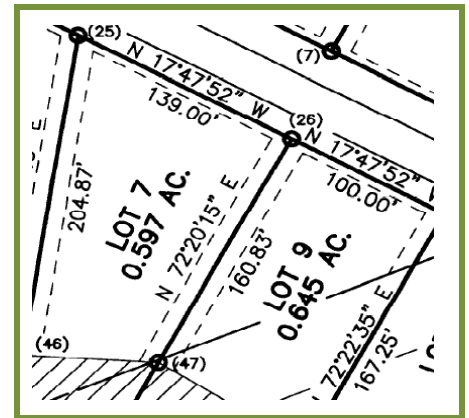
The exact location of property boundaries may be presented on plats and plans using *metes and bounds*. The metes and bounds method is a very old, low tech method to describe property.

The letters and numbers direct the reader on the proper course to take using a compass. In the graphics to the

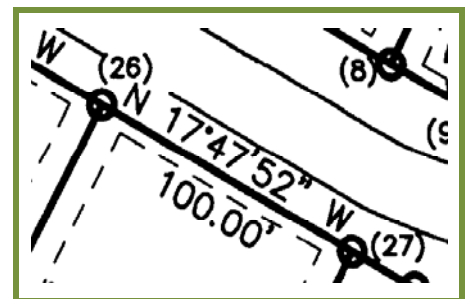
right, $N 17^{\circ}47'52'' W$ means to begin at the monument labeled (26) and go 100.00 feet 17 degrees, 47 minutes and 52 seconds west of north. There are 60 minutes in one degree and 60 seconds in one minute. Someone interested in following the lot's boundary in-person can begin at north and turn counter clockwise to the west $17^{\circ}14'12''$, then walk in a straight line for 100 feet to reach point 27.

Plats and plans may show where existing and proposed utilities are located, such as water or sewer lines. Additionally, plats will often state the zoning regulations' dimensional standards for the proposed area. This makes it easier to evaluate the setbacks and lot size. As always, standards listed on maps should be cross-referenced directly with the bylaws.

Using Metes and Bounds:



Morrisville's property boundaries and required set backs displayed using metes and bounds. Map courtesy Charles Grenier.



Morrisville's property boundaries and required set backs displayed using metes and bounds. Map courtesy Charles Grenier.

Contour Lines

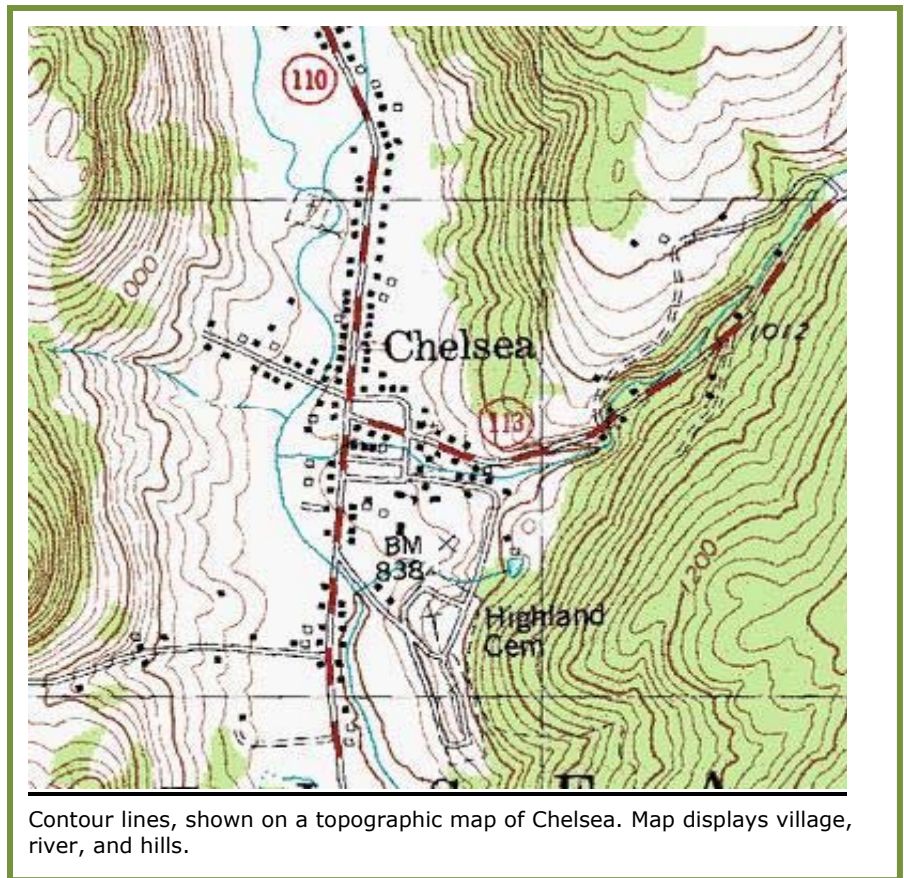
Contour lines connect points of equal elevation. The spacing between the lines denotes the topography. Contour lines that are far apart indicate there is a small change in vertical elevation given the horizontal distance. When contour lines are close together, the terrain is steeper. Lines spaced further apart indicate flatter and gentler terrain. Every fifth line is usually drawn in bold for ease in reading the map, and labeled with the elevation.

Plans should show the existing and proposed topography, usually in two or five-foot contour intervals. Contour interval is the vertical distance between the contour lines. Contour interval is not standard on any plan because the engineer selects the interval for various reasons. However, it is very important to note the interval in order to calculate slope. Slope ratios derived from the contour lines are important to engineering, particularly grading for erosion control, stormwater management, and road design. It also assists review of aesthetic and solar orientation for energy conservation. The plans should indicate existing topography (usually shown as a dashed line), as well as changes in grade that will result from construction (usually shown as a solid line).

The map given here shows contour intervals at every twenty feet: you can tell because the dark lines are labeled at every 100 feet and there are five lines between each dark line. (100 divided by five is twenty.) In contrast, the site plan given on the front page of this module has a contour interval of one foot.

Considerations

Clarity for both the applicant and reviewers is the most important consideration. Application forms and instructions should clearly specify for prospective applicants what information is required and should be related to specific requirements in regulations derived from the adopted municipal plan. Plats and plans submitted by the applicant should provide all information



Contour lines, shown on a topographic map of Chelsea. Map displays village, river, and hills.

required to assist an AMP to understand the proposal and to make findings under the regulations.

Resources

Vermont Land Use Education & Training Collaborative, Subdivision Regulations, available at <http://www.vpic.info/pubs/implementation/pdfs/26-Subdivision.pdf>.

Natalie Mecris, 2000, Planning In Plain English, APA Planning Press.

Dana Farley and Robert Sanford, 2004, Site Plan and Development Review: A Guide for Northern New England; Putney Press.

Credits

Additional material, collaborative assistance, and external review for the Subdivision Plats and Site Plans module provided by Dana Farley, Town of Essex; Faith Ingulsrud, Vermont

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This module is a general discussion of legal issues but is not legal advice, which can only be provided by a licensed attorney.



Taking Evidence

What is Evidence?

Evidence is broadly defined as “testimony, documents, and tangible objects that prove or disprove the existence of an alleged fact.” *Black’s Law Dictionary 8th Edition*. Evidence appears in many forms. Evidence includes testimony given by an applicant, an interested party, a witness, members of staff or advisory committees, and often members of the general public. Testimony can be an oral statement by an individual present at a hearing or a written statement, such as a letter. Evidence also includes documents and tangible objects, such as site plans or written staff or advisory committee reports. Evidence must be received either prior to or during a public hearing.

Evidence Plays an Important Role in:

- 1. Conducting Hearings:** Hearings are held to allow authorized parties to present facts. Testimony is heard and documents are received. This information is evidence.
- 2. Issuing a Decision:** Findings of fact are determined by reviewing, analyzing, and deliberating over the evidence and choosing what is credible and relevant. These findings are then applied to criteria contained in statutes or bylaws to determine an applicant’s legal rights
- 3. Providing Due Process and an Opportunity to be Heard.**

Well organized evidentiary procedures are essential. Effectively gathered evidence is the key to making decisions consistent with a municipality’s bylaws. Evidence takes varying forms, comes from multiple sources, and potentially

amounts to an overwhelming body of diverse information—making organization paramount.

Why is Evidence Important?

Determining Legal Standards and Applying Facts to the Law

An Appropriate Municipal Panel (AMP) is a Planning Commission exercising development review, Zoning Board of Adjustment, or Development Review Board. The AMP analyzes, reviews, and determines which evidence is reliable, relevant and credible. It consequently makes the findings of fact to use in the decision-making process. The AMP then applies these findings to the municipality’s bylaws or state statute to determine an applicant’s legal rights. An AMP can only approve applications or permit conditions that comply with the municipality’s bylaws and state statutes. If a project meets applicable standards within a municipality’s bylaws, then an AMP must approve the application.

Gathering evidence involves collecting information but not all information admitted as evidence will be applied as a finding of fact in an AMP decision. An AMP must sort through the evidence and determine which information will constitute findings of fact that support its final decisions. This module primarily focuses on the proper procedures for gathering evidence. It will also briefly discuss how an AMP should use evidence to make the factual findings necessary to apply bylaw standards and state statutes.

Acting in a Quasi-Judicial Capacity

An AMP acts in a quasi-judicial capacity when conducting a hearing. In this forum, members of an AMP act as judges. They determine people’s rights by interpreting and applying the municipality’s bylaws to specific applications. A quasi-judicial hearing is defined by statute as: “a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority.” *V.S.A. § 310(5)(B)*. Therefore, at a quasi-judicial hearing, members of an AMP serve as both judge and jury by presiding over hearings, taking evidence, reviewing evidence, determining findings of fact, and, finally, applying findings of fact to the law to issue a decision.

Written and spoken testimony also serves as an essential tool for protecting citizens’ rights to due process—testimony is an opportunity to be heard.

“Effectively gathered evidence is the key to making decisions consistent with a municipality’s bylaws.”

Adopting Evidence Procedures

An AMP should establish evidentiary procedures that are appropriate for hearings within its municipality. For example, an AMP from a municipality with volunteer boards or limited staff may aim to establish best practices to receive and identify testimony and exhibits. These procedures may be minimal and relatively informal but will promote and further a well-informed, organized decision making process. In contrast, an AMP for a municipality that chooses to adopt on-the-record review or local Act 250 review must follow specific evidence procedures required by the Municipal Administrative Procedure Act (MAPA). *24 V.S.A. §§ 1205(c) and 4471(b)*.

Required Rules of Procedure

Although an AMP is not required to adopt specific or formal “rules of evidence,” an AMP must adopt rules of procedure and rules of ethics.

“An appropriate municipal panel shall . . . adopt rules of procedure, subject to this section and other applicable state statutes, and shall adopt rules of ethics with respect to conflicts of interest.” *24 V.S.A. § 4461(a)*.

This provision authorizes an AMP to govern hearings and many other acts essential to evidentiary procedures:

- Administering oaths.
- Compelling attendance of witnesses.
- Compelling production of material germane to any issue under review.
- Taking testimony and requiring participants to produce material proof of that information or proof “bearing upon matters concerned in a hearing.” *24 V.S.A. § 4461*.
- Requesting a staff or advisory committee report, including conservation or housing commission reports, under the bylaws. *24 V.S.A. §§ 4461(b) and 4464(d)*.

Presenting Evidence

An AMP must allow the parties to present evidence. An AMP must also allow other persons wishing to achieve status as an interested person the opportunity to speak. *24 V.S.A. § 4461(b)*. Further, an AMP may allow anyone to participate in a hearing and may allow any person to present evidence—including members of the general public. The AMP can limit the presentation of evidence to applicants, parties, and interested persons in two ways. First, the AMP may opt to identify interested persons and limit hearing participation accordingly. Second, the AMP can choose to conduct on-the-record hearings and follow the MAPA’s procedures for the presentation of evidence. *24 V.S.A. §§ 1206(a) and 1201(4)*.

Procedures for Taking Evidence

Minutes and Recording Evidence

An AMP must keep minutes of its hearings. *24 V.S.A. § 4461(b)*. Minutes are kept as a public record in the clerk’s office. Minutes must include:

1. A list of members of the public and all other active participants.
2. All motions, proposals, and resolutions made, offered and considered. All decisions made on motions, proposals, and resolutions.
3. Voting results, with a record of votes from each member if roll call is taken. *1 V.S.A. § 312(b)*.

The minutes must be filed “immediately as a public record” and may be used as the written decision. *1 V.S.A. § 312(2) and 24 V.S.A. § 4464(b)(1)*.

Minutes are an essential tool for tracking and recording evidence presented at hearings. Evidence used in rendering a decision must be noted in an AMP’s final decision.

The municipality or AMP should appoint a secretary, clerk or staff recorder—preferably someone who is not a member of the AMP. In the

absence of staff support, an AMP may choose to limit evidentiary procedures to an abbreviated form of best practices. One member may be designated to record speakers and write a brief description of the subject addressed. The member should mark each physical exhibit and give a short, descriptive list of all exhibits.

Taking Minutes

The AMP should establish procedures for recording hearing minutes and should begin recording as soon as the hearing begins.

1. The applicant presents evidence regarding an application or proposal. An applicant will present the proposed development by offering evidence in the form of oral testimony, written testimony, documents and/or objects. For example, an applicant may present a site plan, letters from state agencies, covenants for a subdivision, photographs, maps, surveys, traffic studies, and other documents supporting the proposed development.
2. AMP members ask questions regarding the applicant’s proposal.
3. Interested persons and the public should present evidence. Interested persons and the public will most often offer evidence in the form of oral testimony. However, an AMP must accept written testimony or documented evidence from these participants as well.
4. AMP members should question the other participants.
5. The AMP should provide the applicant an opportunity to respond to new evidence and submit additional evidence.
6. The AMP, interested persons, and public may respond to additional evidence provided by the applicant.
7. The applicant should always receive a final opportunity for comments and questions.

Administering Oaths

Before participants present evidence, an AMP Chair should direct all participants providing testimony or offering evidence to take an oath. Administering an oath to those who participate conveys the importance of the hearing and encourages individuals to offer credible evidence. It is recommended that the AMP Chair direct all participants providing testimony or offering evidence to take an oath:

"I hereby swear that the evidence I give in the cause under consideration shall be the whole truth and nothing but the truth under the pains and penalties of perjury."

Who are "Interested Persons"?

An individual wishing to gain interested person status must be allowed the opportunity to do so. *24 V.S.A. § 4461(b)*.

General AMP Review

An interested party is defined in *24 V.S.A. § 4465(b)* and in MAPA as:

1. A property owner affected by a bylaw.
2. A municipality or any adjoining municipality that has a plan or a bylaw at issue.
3. A person on whom the project will have a "demonstrated impact." Defined as: "A person owning or occupying in the immediate neighborhood of a property subject of any decision . . . who can demonstrate a physical environmental impact on the person's interest under the criteria reviewed."
4. Any ten persons who sign a petition to an AMP alleging that granting the applicant's project will not be in accord with the municipality's bylaws. The ten persons may be any combination of voters or property owners. However, one person must be designated to serve as a representative of petitioners.

In order to appeal, an interested person must participate at the hearing by **"offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding."** *24 V.S.A. § 4471(a)*.

Only interested persons may initiate an appeal from an AMP decision. *24 V.S.A. § 4471(a)*. *24 V.S.A. § 4465(a)*.

Interested Persons and Local Act 250 Review

A person whose interests may be affected by a proposed development under a relevant provision of the ten Act 250 criteria, as described in *10 V.S.A. § 6086(a)(1)*.

Requirements for Listing Interested Persons

- An AMP must keep a written list containing the name, address, and subject matter addressed by each interested person who participates. *24 V.S.A. § 4461(b)*.
- An AMP may request those attending a hearing provide their name and contact information upon entering the hearing or may circulate a form during the hearing.
- The Chair should review the definition of "interested person" before receiving evidence and should explain that those who wish to appeal must participate at the hearing.
- The Chair should also request that those who believe they meet the definition identify themselves and provide contact information.

The Vermont Land Use Education and Training Collaborative provides a model interested persons list in its Rules of Procedure and Ethics Manual, available at www.vpic.info.

Best Practices for Gathering Evidence

Relevant and Credible Evidence

An AMP should aim to accept only evidence that is relevant—evidence tending to support the existence of facts key to the application. Relevant evidence helps an AMP determine whether or not an applicant demonstrates that a project meets the requirements of local bylaws and state statutes.

The standard for evidence to be "relevant" is generous. It errs on the side of admitting evidence. The Vermont Rules of Evidence state: **"Irrelevant, immaterial or unduly repetitious evidence shall be excluded... [evidence] may be admitted if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs."** *24 V.S.A. § 1206(b)*.

Hearsay

A speaker's statement is hearsay when the speaker offers someone else's statement, made outside the hearing, as evidence to prove a fact about the proposal currently up for review. This statement is therefore dependent on the credibility of someone other than the speaker. Using hearsay undermines the requirement that decisions should be made on credible and reliable evidence and facts.

Black's Law Dictionary defines hearsay as "testimony that is given by a [speaker] who relates not what he or she knows personally, but what others have said."

For example, it is hearsay when a community member offers a statement made by his brother that a proposed waste facility has been dispatching six trucks every morning as evidence that the proposed waste facility will increase local traffic.

An AMP should exclude comments regarding other projects that have no bearing on the project at hand. These comments would be irrelevant and immaterial.

An AMP should also attempt to exclude hearsay when gathering evidence. Hearsay statements are less reliable because the speaker is not present at the hearing and therefore cannot be questioned—the statement’s credibility cannot be tested by the AMP, the applicant, and other participants. However, the Vermont Rules of Evidence do not prohibit accepting this type of evidence. Although this form of evidence is less credible, an AMP may admit this evidence if “it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs.” 24 V.S.A. § 1206(b). An AMP may also choose to admit written evidence that would normally be presented as oral testimony “when a hearing will be expedited and the interests of the parties will not be prejudiced substantially.” 24 V.S.A. § 1206(c). However, the person submitting the written statement must be present at the hearing, in case the AMP wishes to question the person. 24 V.S.A. § 1206(c).

Credible evidence is a term that describes evidence that can be trusted as reliable and truthful. Credible evidence is based on personal experience or observation. The following forms of evidence are listed from most credible to least credible evidence:

1. Witness providing testimony at a hearing.
2. Written testimony where the writer is present for questioning.
3. Written testimony under affidavit.
4. Hearsay—most forms of evidence are more credible than hearsay.

Forms of Evidence

Oral Testimony: An AMP’s recorder or clerk should note who speaks, whether the participant was administered an oath, and the subject matter addressed. A clear record is important.

Written Testimony: An individual may participate in a hearing through written testimony, such as a letter. 24 V.S.A. § 4461(a). For statements originally made outside of the current hearing, best practice requires an AMP Chair or designated official to read statement to all present at the hearing. This provides an opportunity for interested persons to question the evidence. 1 V.S.A. § 310(5)(b).

Documents and Tangible Objects: Tangible evidence must be marked, labeled and identified. An AMP clerk should mark and create a list of all exhibits received from anywhere.

The recorder should review all exhibits before the AMP and designate different labels for each party. For example, a site plan from an applicant may be identified and marked as “A1,” while a photo from an interested party may be labeled as “I1.” The recorder may indicate whether exhibits were submitted prior to the hearing or during the hearing. The recorder should create a list, noting evidence corresponding to labeled physical exhibits.

Staff and advisory committee reports and observations made at site visits are evidence and should be recorded and gathered according to best practices.

Staff and Advisory Committee Reports: In municipalities that have not adopted MAPA, an AMP may delegate “any of the power granted . . . to a specifically authorized agent or representative.” 24 V.S.A. § 4461(b). A staff member or advisory committee “may review an application and make recommendations on review standards.” 24 V.S.A. § 4464(d)(2). These recommendations may be presented in writing either before or at a hearing. Recommendations may also be presented as oral testimony at the hearing. 24 V.S.A. § 4464(d)(4). If presented in writing, reports should be marked and filed as a document. If

presented as oral testimony, the recorder or clerk should follow best practices for oral testimony and should administer an oath, as well as recording the speaker’s name and what was said.

Site Visits: An AMP may conduct a site visit. 24 V.S.A. §§ 4461(b) and 4464(d)(2). Site visits place a project in context. Site visits may take place before or during a hearing. It is important to enter all observations and evidence gathered at the site visit in the record by providing oral testimony at the hearing regarding what was observed. Oral testimony should describe when the visit was conducted, who was present, and what the individual/board saw. The person/board conducting the visit should then offer other parties who were present at either the site visit or present at the hearing an opportunity to make additional comments.

Group site visits trigger the open meeting law and require public notice. This is a more common practice than solo site visits, which are not considered a public meeting and do not require public notice. A group visit is helpful because one person may notice details that another does not. However, unless the site visit is actually conducted as a public meeting, which can be difficult and awkward, the only evidence that should be gathered at a site visit is visual evidence. Further, the AMP or member(s) conducting a site visit should strive to avoid ex parte communication. Although interested parties and members of the public must be able to attend site visits along with applicants, site visits should not be used as a forum for receiving testimony. The person conducting a site visit should clarify that individuals attending are expected to remain quiet and that the appropriate time to testify will be at the scheduled hearing.

Additional Considerations Required by MAPA for On-the-Record Review

An AMP serving a municipality that has adopted MAPA must adhere to the evidentiary limits set forth in 24 V.S.A. § 1206. It is not essential to memorize the Vermont Rules of Evidence to adhere to MAPA. MAPA § 1206 permits: “evidence not admissible under the rules of evidence may be admitted if it is of a type commonly relied upon by prudent people.” For example, an AMP may admit a statement made outside the current hearing, such as a letter from an interested party, as long as a reasonably prudent person would rely on the statement. The Vermont Rules of Evidence do not prohibit this statement just because it is hearsay.

MAPA Requires:

1. An AMP to only admit relevant evidence.
2. An AMP to only receive evidence presented under oath by a party and party witnesses. 24 V.S.A. § 1206(a).
3. Parties and interested persons must deliver testimony under oath.
4. AMPs to create audio recordings of their proceedings.
5. Most importantly, an on-the-record evidentiary record must be complete, clear and understandable. The Environmental Court vacates (ie: dismisses and returns to the local board) decisions when an AMP’s record of a hearing is incomplete. A vacated decision requires additional local hearings, delays, and, ultimately, reduces confidence in local development review.

MAPA defines a *party* as an “interested person.” 24 V.S.A. § 1201(4).

MAPA defines an *interested person* as an individual with the authority to initiate an appeal from an AMP decision to the Environmental Court.

Considerations

Applying Evidence to “Findings of Fact”

An AMP must sift through the evidence presented at a hearing and select only the evidence that is credible and relevant to make findings of fact. Not all evidence presented at a hearing needs to be included as a finding of fact. An AMP should first consider the presented facts, then consider a municipality’s bylaws, and finally apply findings of fact to determine whether a specific project meets the established bylaws pursuant to state statute.

Importantly, an AMP should be careful to provide findings of fact adequate to explain its decision. An AMP’s decision must be explained and supported by facts. For example, reciting testimony without analysis is inadequate. Inadequate findings of fact lead to greater likelihood for appeal.

Through statute, an AMP has all of the tools necessary to gather evidence for well-supported findings of fact. An AMP may request or issue an order compelling an applicant or other parties to provide additional evidence, including witness testimony, to decide the matter under review. 24 V.S.A. § 4461(b).

Appeals

The Environmental Court usually reviews an AMP’s land use decisions *de novo*. De novo means an applicant’s case is heard “anew,” so the Environmental Court does not consider findings of fact by the AMP or evidence gathered in the original AMP hearing. Parties are entitled to present new evidence. The Environmental Court finds its own facts, applies those facts to the municipality’s bylaws, and issues a decision.

In contrast, where municipalities have adopted MAPA and elect for on-the-record review, the Environmental Court may not receive new evidence and looks to the evidentiary record developed by the AMP. The Environmental Court may only review whether the facts found by an AMP, as applied to the municipality’s bylaws and state law,

support the AMP’s decision. That is, whether or not the AMP misinterpreted the bylaw or state law or made a procedural error. 24 V.S.A. §§ 1201(1)(A) & (B) and 1202(A). The Environmental Court will not consider new evidence that is not submitted during the local hearing before the municipality.

“An AMP should be careful to provide findings of fact adequate to explain its decision”.

On-the-Record Review Benefits

On-the-record review empowers communities by deferring to facts and information gathered by the local authorities most familiar with the people, place, and project at issue in each specific case. On-the-record review can lead to fewer appeals—it therefore saves in attorneys’ fees, prevents permitting delays, and can make the municipality appear professional and competent in the eyes of the public. An appeal of an on-the-record decision does not afford the parties an opportunity to build a new case with new facts. Appellate review is limited to whether an AMP misapplied the law or made procedural error.

Drawbacks

On-the-record review requires a municipality to follow specific procedures under MAPA and requires a more precise, organized, and thorough system of gathering and recording evidence. MAPA requires municipalities to follow specific ethics procedures, admit testimony only under oath, provide an audio recording and transcript of all hearings, generally adhere to the Vermont Rules of Evidence, and write clear decisions. The Environmental Court consistently vacates decisions when an AMP’s record of a hearing is incomplete and inaudible.

Ethics, Ex Parte Communications, and Misrepresentation

Evidence should be received without bias and without considering the character or personal history of an applicant. For example, an AMP should avoid considering evidence based on an applicant's financial situation. Similarly, details about a person that are not related to the bylaws at issue should be rejected. An AMP should strive to review projects, not personalities.

Possible ethical conflicts arise when AMP members engage in *ex parte communications*: direct or indirect communication with an applicant, fellow board members, or interested persons concerning the merits of an application outside a formal hearing. The prudent AMP member will only discuss the merits of development review at a hearing. When community members ask about or comment on a pending project, the appropriate response is to offer nothing more than the time and date of the hearing. Ethics and best practices require that evidence should be tested by providing all concerned parties the opportunity to be present when that information is heard at a public hearing. This lets the parties question the content and veracity of the evidence received by an AMP.

“The prudent AMP member will only discuss the merits of development review at a hearing. When community members ask about or comment on a pending project, the appropriate response is to offer nothing more than the time and date of the hearing.”

An AMP “may reject an application . . . that misrepresents any material fact.” 24 V.S.A. § 4470a. An AMP may strive to gather credible evidence by administering oaths and a municipality may require information provided in an application to be accurate and truthful. Ultimately, an AMP must decide which evidence is “competent”—reliable, relevant, and credible.

Conditioning Projects

An AMP may use evidence from a hearing to add conditions to a project permit. The conditions should be tailored to following the objectives of the municipal plan, bylaws and state statutes. It is important to connect what was said and presented in evidence at a hearing with any conditions placed on a permit. An AMP should first examine evidence to determine which facts reflect a need for placing conditions on a permit. An AMP should next examine the municipality's bylaws and the state statutory criteria to determine what conditions may be allowed by law.

Conclusion

Effective evidentiary procedures should further an AMP's goal to provide a consistent, fair, and efficient decision making process. An applicant, an interested party, or the public should be able to review an AMP's decision and follow the facts found, rationale for conditions and conclusions made according to the adopted community standards in the plan and bylaws. Ambiguity and error in the development review process increases the likelihood of appeals and may result in unfortunate costs and delays. In serving their community, AMPs should strive to implement best practices when gathering evidence in order to most effectively implement the rules and standards set forth in local and state laws.

Resources

Vermont Rules of Evidence, Michie's Legal Resources, available at <http://www.michie.com/vermont/lpext.dll?f=templates&fn=main-h.htm&2.0>.

Vermont Land Use Education and Training Collaborative, 2006, [Essentials of Local Land Use Planning and Regulation](#).

Municipal and Regional Planning and Development, Vt. Stat. Ann. tit. 24, ch. 117, available at <http://www.leg.state.vt.us/statutes/sections.cfm?Title=24&Chapter=117>.

Credits

Additional material, collaborative assistance, and external review for the Taking Evidence module provided by Sharon Murray, Front Porch Community Planning; Stephanie Smith, Abigail Friedman and Garrett Baxter, Vermont League of Cities & Towns; Faith Ingulsrud, Vermont Department of Economic, Housing & Community Development; David Rugh Esq, Burak, Anderson & Meloni; Mike Miller, City of Barre; Brian Monaghan, Esq and Paul Gillies, Esq.

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This module is a general discussion of legal issues but is not legal advice, which can only be provided by a licensed attorney.

AGENDA ITEM

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July 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 6:30 SB (1 st Monday)	5	6 6:00 P&R (1 st Wednesday)	7 7:00 ZBA (1 st Thursday)	8	9
10	11 6:30 PC School Board (2 nd Monday)	12	13	14	15	16
17	18 6:30 SB (3 rd Monday)	19	20	21 7:00 ZBA (3 rd Thursday) 7:00 BoLT?	22	23
24	25 6:30 PC (4 th Monday)	26	27 6:30 BAC (4 th Wednesday)	28 7:00 CC (4 th Thursday)	29	30
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