

# EXHIBIT A1

Date:	12-29-2020	Application #:	107-20 443-20
Fees Paid:	65.00		
Parcel ID #:	402-0000V		
Tax Map #:	13-293.180		

## TOWN OF WATERBURY NOTICE OF APPEAL

All information requested below must be completed in full. Failure to provide the requested information on this notice will result in rejection of your application and delay in the review of the appeal before the Development Review Board.

### APPELLANT CONTACT INFORMATION & PROPERTY DESCRIPTION

Name: Eve Peck, by and through undersigned Counsel

Mailing Address: 84 Carrie Lane, Waterbury, VT 05676

Home Phone: \_\_\_\_\_ Work/Cell Phone: (585) 820-5175 Email: epeck802@gmail.com

Physical Address of property at issue in this appeal: Lot 18 Waterbury Commons Carrie Lane

Brief description of property at issue in this appeal: Lot 18 of Waterbury Commons

### NATURE OF APPEAL

What action of the administrative officer are you appealing? Please see accompanying letter from Attorney Raymond

What provisions of the land development regulations are applicable to this appeal, if any? Please see accompanying letter from Attorney Raymond

What relief do you want the Development Review Board to grant? Please see accompanying letter from Attorney Raymond

Why do you believe that the relief requested (as in your response above) is proper under the circumstances? Please see accompanying letter from Attorney Raymond

I understand:

- the presentation procedures required by State Law (§4468 of the Planning & Development Act);
- that the Development Review Board holds regular meetings twice a month;
- that a legal advertisement must appear a minimum of fifteen (15) days prior to the hearing on my appeal;
- I agree to pay the required fee to offset the cost of the hearing on my appeal.

### SIGNATURE

I hereby certify that all the information requested as part of this notice of appeal has been submitted and is accurate to the best of my knowledge.

\_\_\_\_\_  
Signature of Appellant(s)

12/29/2020  
Date

**Note: Notification of Adjoining Property Owners-** Notification of adjoining property owners, in accordance with 24 V.S.A. § 4464(a) and Section 307 of the Waterbury Zoning Regulations, is the responsibility of the appellant. After deeming a request complete the Administrative Officer will provide the appellant with a draft meeting agenda or public hearing notice and sample certificate of service. The sworn certificate of service shall be returned to the Town prior to the start of any public hearing.

**OFFICE USE ONLY**

Zoning District/Overlay: Village Residential (VR)

Review type:  Administrative  DRB Public Warning Required:  Yes  No

DRB Referral Issued (effective 15-days later): Jan-11-2021

DRB Mtg Date: 2/3/21 Decision Date: \_\_\_\_\_

Date Permit issued (effective 16-days later): \_\_\_\_\_

Final Plat due (for Subdivision only): -

Remarks & Conditions: \_\_\_\_\_

Authorized signature: \_\_\_\_\_ Date: \_\_\_\_\_

**REVIEW/APPLICATIONS:**

Conditional Use  Waiver

Site Plan

Variance

Subdivision:

Subdv.  BLA  PUD

Overlay: (existing)

DDR  SFHA  RHS  CMP

Sign

Other: Appeal

n/a

**VIA EMAIL and HAND DELIVERY**

December 29, 2020

*#143-20 PECK  
12/29/20*

Carla Lawrence, Waterbury Town Clerk  
28 North Main Street, Suite 1  
Waterbury, VT 05676  
[clawrence@waterburyvt.com](mailto:clawrence@waterburyvt.com)

Re: Notice of Appeal of Zoning Permit 137-20 for Lot 18 of the Waterbury  
Commons PUD

Dear Ms. Lawrence,

Enclosed please find Eve Peck's Notice of Appeal of Zoning Permit 137-20, my referenced letter with Exhibits explaining the basis for the appeal and requested relief, and a check in the amount of \$65.00 (\$50.00 for Appeal and \$15.00 for recording).

Please do not hesitate to reach out with any questions or concerns. Thank you.

Sincerely,

SHEEHEY FURLONG & BEHM P.C.



Peter G. Raymond

PGR/eem  
Enclosures

Cc: Dina Bookmyer-Baker, Zoning Administrator (via email only)

VIA EMAIL and HAND DELIVERY

December 29, 2020

Carla Lawrence, Waterbury Town Clerk  
28 North Main Street, Suite 1  
Waterbury, VT 05676  
[clawrence@waterburyvt.com](mailto:clawrence@waterburyvt.com)

#143-20 PECK  
12/29/20

Re: Notice of Appeal of Zoning Permit 137-20 for Lot 18 of the Waterbury  
Commons PUD

Dear Ms. Lawrence,

On behalf of Eve Peck, adjoining landowner to the proposed development, (“Appellant”), I submit this letter and the accompanying Notice of Appeal form (together, “Notice of Appeal”) of Zoning Permit 137-20 issued to Arnot Development Group, Inc. (“Applicant”) for Lot 18 of the Waterbury Commons Development. Issuance of the zoning permit for Lot 18 was improper for the following reasons:

**1) The application is incomplete and lacks necessary materials to determine whether it complies with the Regulations and the DRB’s prior approvals.**

Lot 18 is part of a PUD that was approved by the Town in February of 2013. In those proceedings, the Applicant represented that homes would be 3-bedroom and would not exceed 2,500 sq. ft. *See* Feb. 21, 2013 Approved Minutes, Findings, and Decision at Testimony 3 and 4, Findings pg. 4. Those representations were relied on by the Development Review Board (“DRB”) in assessing the impacts of this development and were incorporated into as conditions of their approval. *Id* at Decisions and Conditions #1. While Applicant later sought additional wastewater capacity from the Town so some of the houses in the PUD could have four bedrooms, based on Applicant’s representations, Lot 18 is not one of those.

Per the zoning application, required per Article III, § 300(b) of the Zoning Regulations, the Applicant is required to supply a sketch plan showing the dimensions of the proposed structure. Applicant has provided no plans showing the dimensions of the house proposed, including its habitable interior space, the floor plan and number of bedrooms, or its height. Based on renderings provided to Appellant for the house Applicant is proposing for Lot 18, see attached **Exhibit A**, there are serious concerns that the structure proposed for Lot 18 exceeds the dimensional and bedroom requirements for this lot. Accordingly, Applicant has failed to supply the Zoning Administrator with sufficient information to determine whether the application meets the conditions of the Waterbury Zoning Regulations (“Regulations”) and the DRB’s prior approval, including the limits on its size, height, and number of bedrooms.



Accordingly, the DRB should vacate the permit and require Applicant provide full and accurate plans showing the height and dimensions of the structure proposed and should reserve ruling on the permit until such materials have been provided and the DRB has an opportunity to review.

**2) The application proposes changes to the previously approved site plan that requires DRB approval.**

The current application for Lot 18 shows changes to the previously approved site plans that require DRB review and approval. Per section 704(g) of the Zoning Regulations, “Any changes that the applicant wants to make to the approved project that involve aspects included in the Development Review Board review and approval or as a result of subsequent state permit reviews and requirements shall require a subsequent review by the Development Review Board under this bylaw.” As part of the DRB’s Feb. 7, 2013 Approved Minutes, Findings, and Decision (“the Decision”) the DRB reviewed and incorporated the site plans submitted in support of the project. Exhibit I is the S-2 Site Plan With Finished Grades, last revised Jan. 31, 2013. This site plan shows the house on Lot 18, its associated driveway, and the nearby stormwater pond in a different location than what is currently proposed.

While these changes may, at first instance, appear to be minor, their impacts, especially when combined with other changes to the site design and layout that appear to have occurred throughout the PUD, could be significant especially relating to impacts on stormwater drainage, common lands, wetland buffers, private property boundaries, and overall impervious surfaces of the PUD. The impacts of these and similar changes are already observable. Contrary to existing plans and approvals, stormwater currently pools on and erodes Appellant’s property, as well as other areas in the development.

Per the Regulations, the DRB is required to review these changes before a permit may be issued and ensure that the development has been constructed in compliance with its existing approvals. Furthermore, due to the paucity of detail in Applicant’s current application, the impacts of such changes cannot be assessed without additional information. Accordingly, the DRB should require Applicant supply detailed plans showing existing conditions and the changes proposed from prior approvals before issuing any determination on the Lot 18 permit.

**3) Applicant is currently making changes to the PUD that were not disclosed in Permit Application 137-20 and that have not received prior DRB approval as required by Section 704 of the Regulations.**

As the enclosed photographs taken on or about December 20, 2020 attached as **Exhibit B** demonstrate, Applicant has engaged in construction activities prior to the Lot 18 Zoning Permit becoming effective and is making site changes to the PUD lands around Lot 18 that were not disclosed in the permit application for Lot 18, or any other land development application. Specifically, Applicant appears to be altering the existing stormwater pond and moving fill onto the common lands, possibly within the 50-foot wetland buffer, amongst other changes. Not only

has Applicant commenced this work prior to receiving a permit in violation of the Zoning Regulations and prior DRB approvals, (*see* Regulations, § 300), this work was not included in Permit Application 137-20 and therefore has not been approved. As discussed in Paragraph 2, because the changes Applicant is currently undertaking in violation of applicable land use laws are changes to the previously approved plans and approvals, DRB review is required. Additionally, such changes may require approval by various state agencies, including Act 250 and the Agency of Natural Resources (*see* Regulations, § 300(d)), which Applicant has not received.<sup>1</sup>

Accordingly, for the above reasons, issuance of Permit 137-20 was in error and the DRB should vacate the permit, require Applicant to resubmit a complete application to the DRB that accurately discloses the changes to the previously approved plans and the full scope of development proposed and already underway, and order Applicant to cease and desist all work until such materials have been received and reviewed and a new permit decision issued.

Appellant's review of existing land use approvals and Applicant's ongoing activities continues and Appellant reserves the right to supplement this Notice of Appeal should Appellant learn of additional information relating to this matter.

Sincerely,

SHEEHEY FURLONG & BEHM P.C.



Peter G. Raymond

PGR/eem  
Enclosures

Cc: Dina Bookmyer-Baker, Zoning Administrator (via email only)

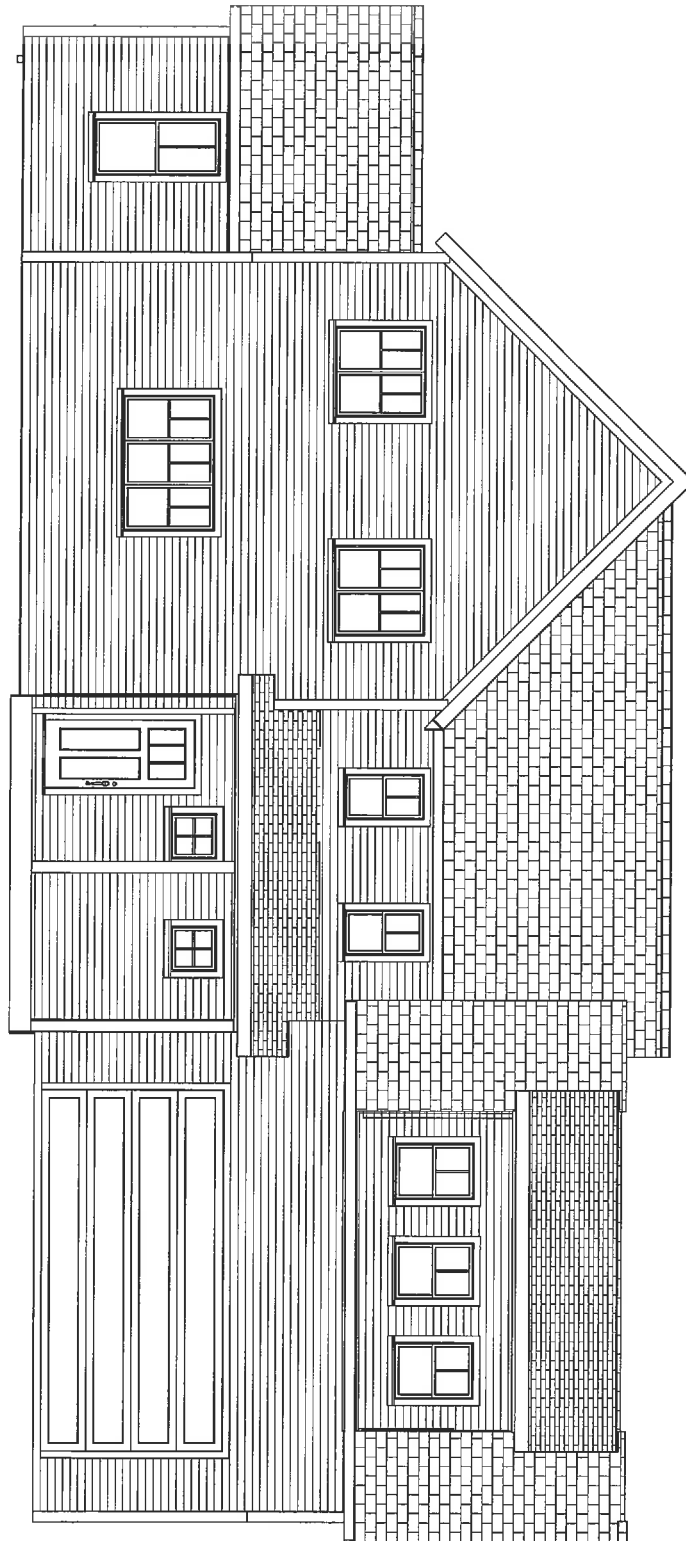
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<sup>1</sup> Applicant submitted an application to Act 250 for an administrative amendment relating to Lot 18 but it did not disclose the site plan changes currently underway and thus does not authorize the ongoing work. The DRB should require Applicant to resubmit to the required State agencies and provide copies of these applications and any subsequent decisions prior to issuing any permit in this proceeding.

EXHIBIT **A7**

#143-20 PECK

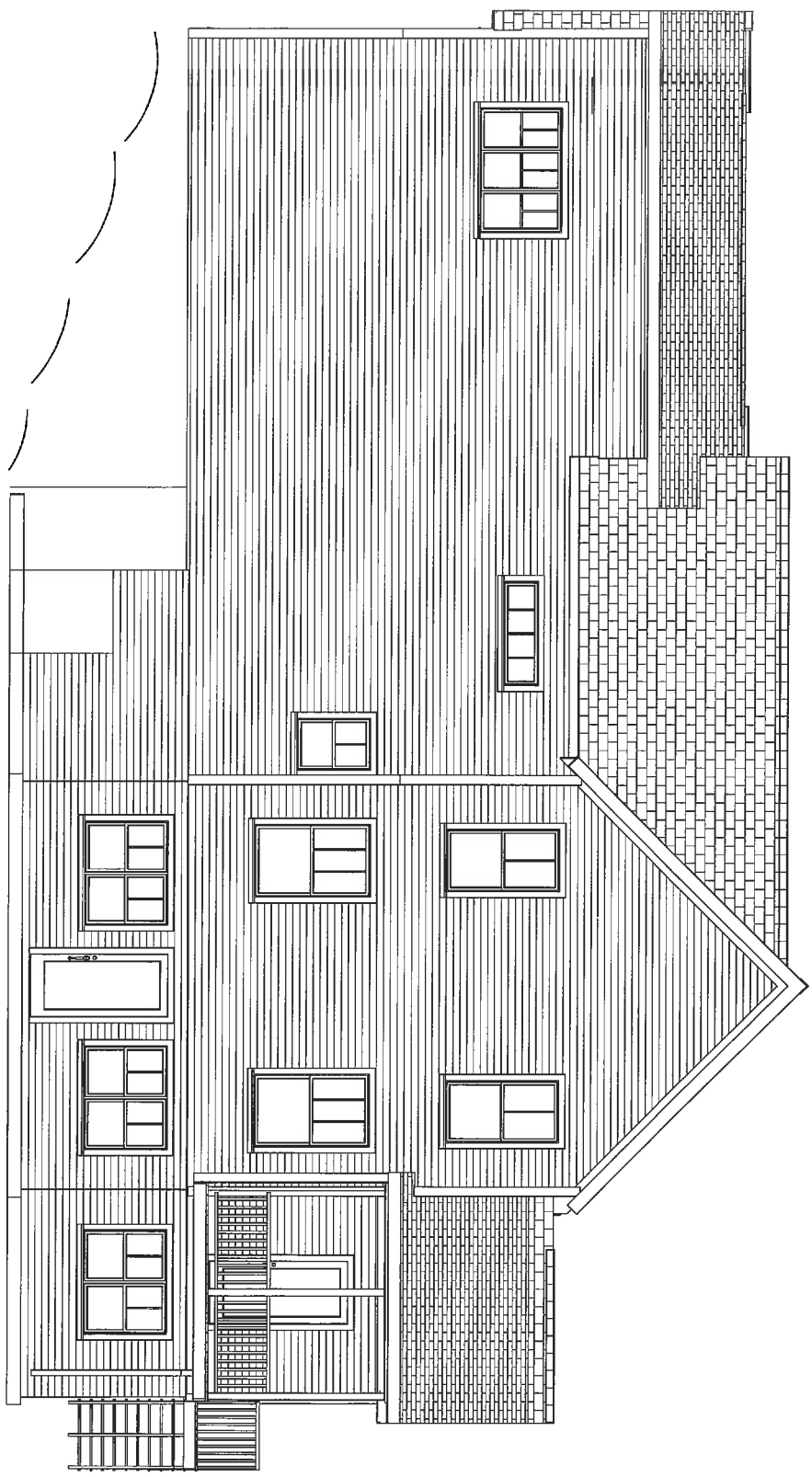
12/29/20



A-5	SHEET:	1/4" = 1'	SCALE:	DATE: 11/21/20	DRAWINGS PROVIDED BY: ADG Design/Build	PROJECT DESCRIPTION: WATERBURY COMMONS Kramer 2	SHEET TITLE: Front Elevation	NO.	DESCRIPTION	BY	DATE

EXHIBIT **A8**

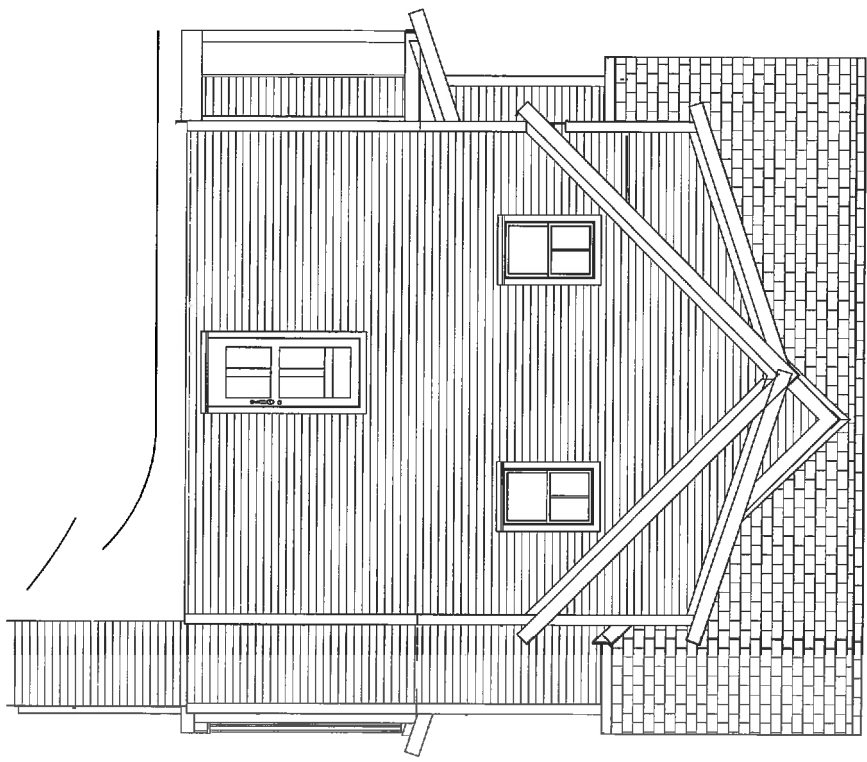
#143-20 PECK



A-6	SHEET:	1/4" = 1'	SCALE:	DATE: 11/21/20	DRAWINGS PROVIDED BY: ADG Design/Build	PROJECT DESCRIPTION: WATERBURY COMMONS Kramer 2	SHEET TITLE: Rear Elevation	NO.	DESCRIPTION	BY	DATE

**EXHIBIT A9**

#143-20 PECK

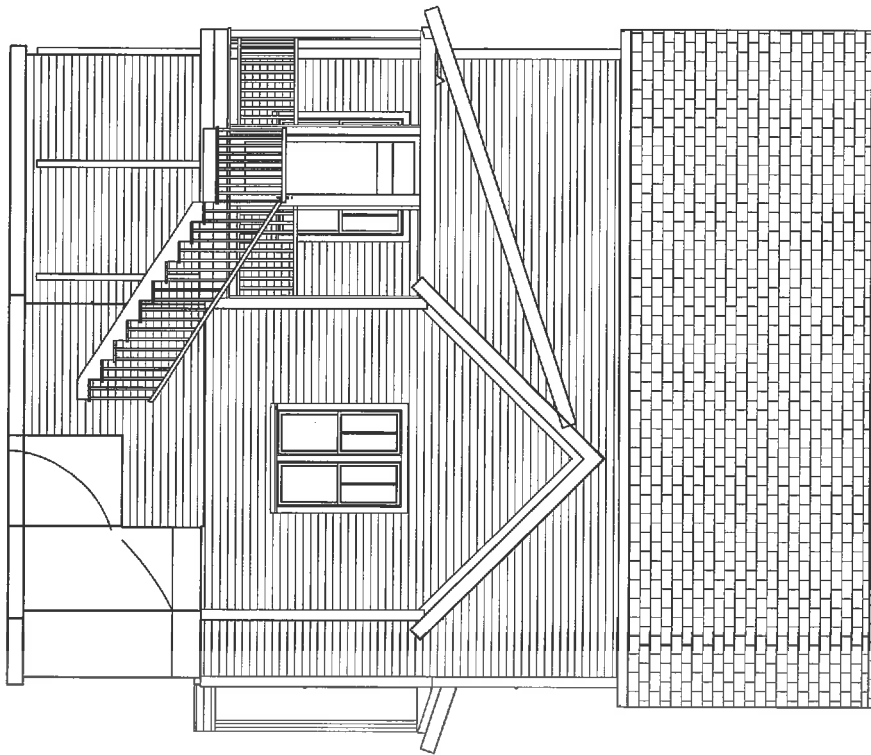


A-7	SHEET:	1/4" = 1'	SCALE:	1/21/20	DATE:	DRAWINGS PROVIDED BY: ADG Design/Build	PROJECT DESCRIPTION: WATERBURY COMMONS Kramer 2	SHEET TITLE: North Elevation	NO.	DESCRIPTION	BY	DATE



# EXHIBIT A10

#143-20 PECK



A-8	SHEET:	1/4" = 1'	SCALE:	11/21/20	DATE:	DRAWINGS PROVIDED BY: ADG Design/Build	PROJECT DESCRIPTION: WATERBURY COMMONS Kramer 2	SHEET TITLE: South Elevation	NO.	DESCRIPTION	BY	DATE

EXHIBIT **A11**

#143-20 PECK  
12/29/20



*Appellant's Exhibit B*





*Appellant's Exhibit B*



EXHIBIT B1

WATERBURY MUNICIPAL OFFICE
802.244.7033 OR 802.244.5858
FAX: 802.244.1014
28 NORTH MAIN ST., SUITE 1
WATERBURY, VT 05676
WATERBURYVT.COM

Permit Application # 137-20
Tax Map # 13-293.180
Permit Issuance Date: December 15, 2020
Permit Effective Date: December 31, 2020

ZONING PERMIT

Applicant: Arnot Development Group, Inc. Landowner: Waterbury Commons LLC
(mail address) 358 South Pinnacle Ridge (same)
Waterbury, VT 05676
Project: New single-family dwelling on undeveloped lot. Project Location: Lot 18 Carrie Lane Waterbury, VT

Your application for a zoning permit has been reviewed by the Zoning Administrator. The proposal, as represented in the attached application, conforms to the requirements of the Zoning Regulations for the Town of Waterbury1 and is hereby approved, subject to the representations made in your application. Any change from the information provided on your application must be approved by the Zoning Administrator.

Title 24 V.S.A. §4465(a) requires a 15-day appeal period for this permit. Provided no appeal has been made within 15 days of the Permit Issuance Date above, this permit is effective on the sixteenth day. The enclosed Permit Notice Poster must be posted on your property for the 15-day appeal period within view of the nearest adjacent public right-of-way.

Any action or construction started prior to the effective date is in violation of the Zoning Regulations and a penalty may be imposed. All requests made on this permit must be completed within two years of the issuance date of this permit. Please note: State permits may be required. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367, and the appropriate state agencies to determine what permits must be obtained.

This permit is valuable. It is a part of the property records and must be retained.

ZONING PERMIT ISSUED BY:

Dina Bookmyer-Baker

Dina Bookmyer-Baker, Zoning Administrator

Enclosures: Permit Notice Poster - must be posted on the subject property within view of the nearest adjacent public right-of-way. Post upon receipt; remove on/after the Permit Effective Date.

cc: Town Clerk, Listers, & File

1 Waterbury Zoning Regulations, as amended through May 16, 2016.

# EXHIBIT B2

\* sent a check for \$270.-  
+ refund will be processed.

Date:	12/07/2020	Application #:	137-20
* Fees Paid:	200.	+ \$15 recording fee =	215.-
Parcel ID #:	401-0000V ← 402		
Tax Map #:	13-293000 ← 180		

## TOWN OF WATERBURY ZONING PERMIT APPLICATION

Please provide all of the information requested in this application.

Read the Zoning Regulations and familiarize yourself with the requirements. Failure to provide all the required information will delay the process of this application. Based upon the nature of the project you may need to submit additional information. For instructions on how to fill out this form please refer to the *Zoning Permit Application Instructions & Fee Schedule* available on the municipal website or at the municipal offices. Submit one copy of the completed application and a check payable to the *Town of Waterbury* according to the zoning fee schedule. For questions about the permit process, please contact the Zoning Administrator at 802-244-1018.

### CONTACT INFORMATION

#### APPLICANT

Name: Arnot Development Group, Inc  
 Mailing Address: 358 South Pinnacle Ridge  
Waterbury, VT 05676  
 Home Phone : Work: 802-244-5836  
 Work/Cell Phone: Cell: 802-578-0910  
 Email: arnotdevelopmentgroup@gmail.com

#### PROPERTY OWNER (if different from Applicant)

Name: Waterbury Commons, LLC  
 Mailing Address: 358 South Pinnacle Ridge  
Waterbury, Vermont 05676  
 Home Phone : \_\_\_\_\_  
 Work/Cell Phone: 802-244-5836/802-578-0910  
 Email: \_\_\_\_\_

### PROJECT DESCRIPTION

Physical location of project (E911 address): Lot 18 Waterbury Commons  
Carrie Lane  
 Lot size: .12 +- Acre Zoning District: Village Residential  
 Existing Use: Vacant Lot Proposed Use: Single Family Home  
 Brief description of project: Construction of Single Family Home  
 \_\_\_\_\_  
 \_\_\_\_\_

Cost of project: \$ 225,000.00 Estimated start date: Winter 2020  
 Water system: Municipal Waste water system: Municipal

#### EXISTING

Square footage: \_\_\_\_\_ Height: \_\_\_\_\_  
 Number of bedrooms/baths: \_\_\_\_\_  
 # of parking spaces: \_\_\_\_\_  
 Setbacks: front: \_\_\_\_\_  
 sides: \_\_\_\_\_ / \_\_\_\_\_ rear: \_\_\_\_\_

#### PROPOSED

Square footage: 2,200 Height: 30  
 Number of bedrooms/bath: 3/ 2 1/2  
 # of parking spaces: 2  
 Setbacks: front: n/a  
 sides: n/a / \_\_\_\_\_ rear: n/a

### CHECK ALL THAT APPLY:

#### NEW CONSTRUCTION

- Single-Family Dwelling
- Two-Family Dwelling
- Multi-Family Dwelling
- Commercial / Industrial Building
- Residential Building Addition
- Comm./ Industrial Building Addition
- Accessory Structure (garage, shed)
- Accessory Apartment
- Porch / Deck / Fence / Pool / Ramp
- Development in SFHA (including repairs and renovation)
- Other \_\_\_\_\_

#### USE

- Establish new use
- Change existing use
- Expand existing use
- Establish home occupation

#### OTHER

- Subdivision (# of Lots: \_\_\_\_\_)
- Boundary Line Adjustment (BLA)
- Planned Unit Development (PUD)
- Parking Lot
- Soil/sand/gravel/mineral extraction
- Other \_\_\_\_\_

### ADDITIONAL MUNICIPAL PERMITS REQUIRED:

- Curb Cut / Access permit
- E911 Address Request
- Water & Sewer Allocation
- none of the above

[Additional State Permits may also be required]



**SKETCH PLAN**

#137-20

ARNOT

Please include a sketch of your project, drawn to scale, with all required measurements - see *Zoning Permit Application Instructions*. You may use the space below or attach separate sheets. For plans larger than 11"x17" please provide a digital copy (pdf. file format) in addition to a paper copy.

**EXHIBIT B3**

Please refer to attached sketch

**SIGNATURES**

The undersigned hereby applies for a Zoning Permit for the use described in this application to be issued on the basis of the representations made herein all of which the applicant swears to be complete and true.

Paul Arnot  
Applicant Signature

12/4/2020

date

Paul Arnot  
Property Owner Signature

12/4/2020

date

**CONTACT**

Zoning Administrator Phone: (802) 244-1018

Mailing Address: Waterbury Municipal Offices, 28 North Main Street, Suite 1, Waterbury, VT 05676

Municipal Website: www.waterburyvt.com

**OFFICE USE ONLY**

Zoning District/Overlay: Village Residential (VR)

Review type:  Administrative  DRB Public Warning Required:  Yes  No

DRB Referral Issued (effective 15-days later): -

DRB Mtg Date: - Decision Date: -

Date Permit issued (effective 16-days later): 12/15/2020

Final Plat due (for Subdivision only): -

Remarks & Conditions: Project must comply with the Residential Building Energy Standards (RBES), info. enclosed.

Authorized signature: Dina Brookmyer Baker Date: 12/15/2020

**REVIEW/APPLICATIONS:**

Conditional Use  Waiver

Site Plan

Variance

Subdivision:

Subdv.  BLA

Overlay:

DDR  SFHA  RHS  CMP

Sign

Other

n/a

PUD (existing)

EXHIBIT **B4**

#137-20  
ARNOT  
12/7/20

A-38 W

A-37 W

450

PHASE II  
LOTS 12-25

RM WATERPOND 6

460

LOT 18  
0.12± Acres

LOT 19  
0.19± Acres

n/a WCHOA

n/a WCHOA

n/a WG, LLC

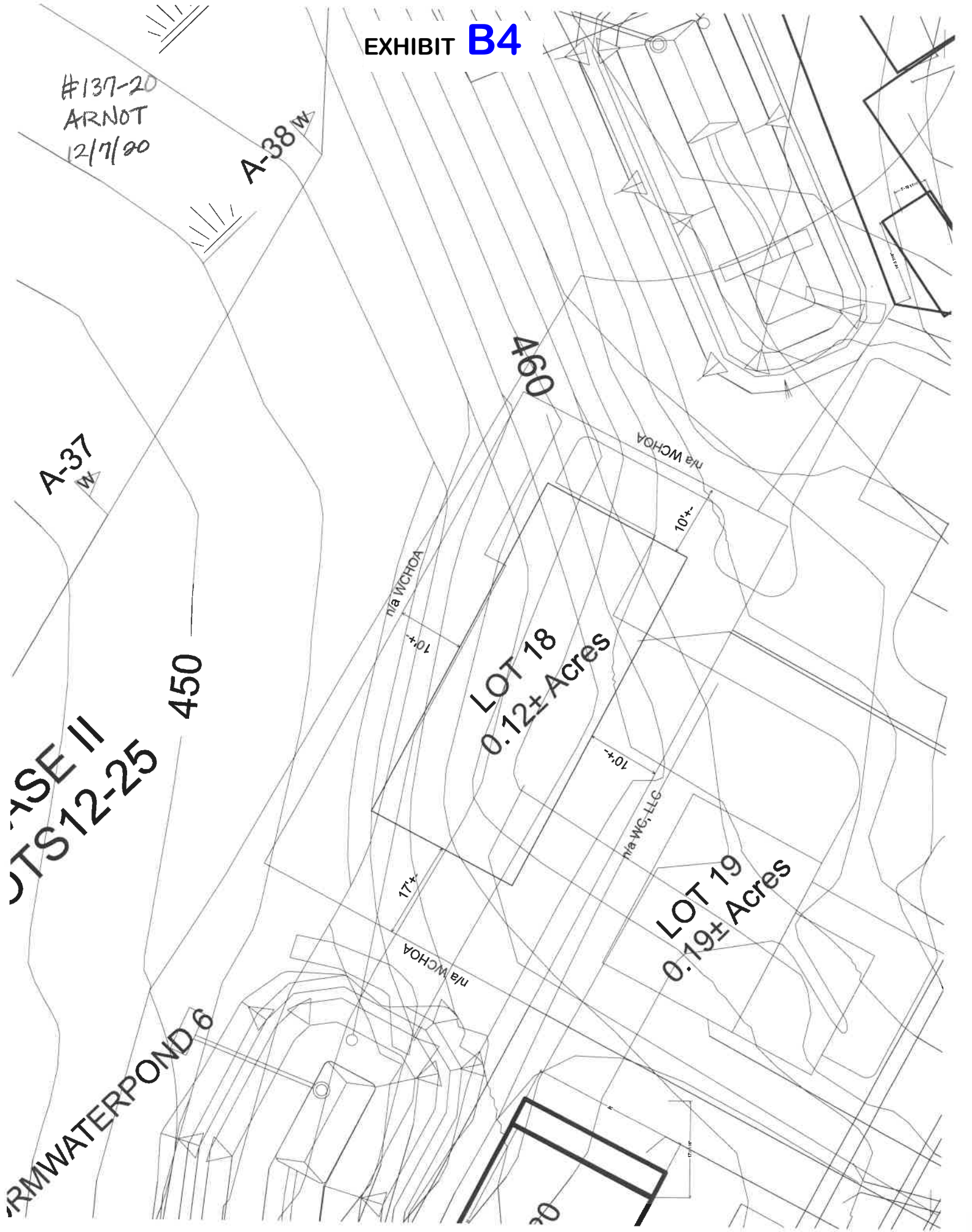
n/a WCHOA

10'+

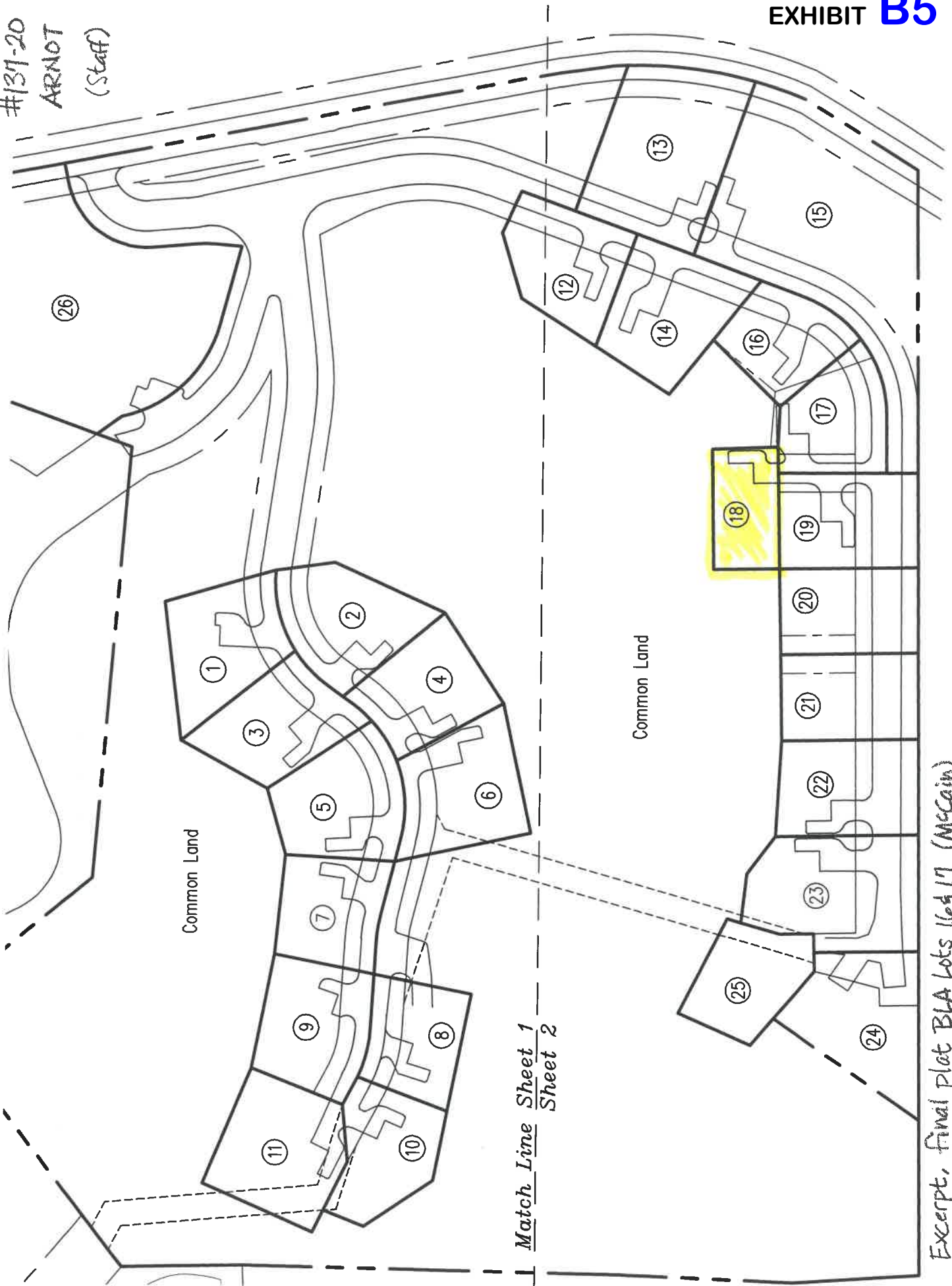
10'+

10'+

17'+



#137-20  
ARNOT  
(Staff)



Match Line Sheet 1  
Sheet 2

Excerpt, final plat BLA lots 16-17 (McCain)





# Lot 18 Carrie Lane

Waterbury, VT

1 inch = 100 Feet



## EXHIBIT B6



December 8, 2020

(Staff)



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED MINUTES, FINDINGS, & DECISION  
Date: February 7, 2013**

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Board Members Present: Joel Baker, Acting Chair; Jeff Whalen; David Rogers, Martha Staskus

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Second Order of Business: Application for Planned Unit Development Subdivision, Findings and Decision. The public hearing was opened at 06:40 pm  
Permit Application #: 68-12-V  
Applicant: Sparks Holding LLC  
Landowner: SAME  
Location of Project: Perry Hill Road, Waterbury, VT

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The following Parties were in attendance and sworn in.

The following interested parties were present and sworn in:  
Paul Arnot, Applicant; Gunner McCain, Consultant; Jon Conti, Resident; Dan DeSanto, Resident; Nat and Abby Fish, Resident; Roger and Ann Barr, Residents; Dorianne Cedro, Resident; Justin Hadley, Resident; Glenn Spence, Resident; Susan Mehrteus, Resident; Pat Labbes, Resident; Scott Collins, Resident

**TESTIMONY:**

1. Traffic count estimate is per the ITE (Institute of Transportation Engineers) Trip Generation Manual.
2. Houses will meet Efficiency Vermont's energy code plus standards and that requirement will be in the covenants.
3. The plan is based on 3 bedroom homes.
4. The homes will probably be 1,200 to 2,500 square foot in size.
5. The DRB has the authority to reduce the double setback criteria required for PUD's. The request is to reduce the double setback for Lots 13 and 15 to the standard setback of 30'.
6. The density is less than what could be applied for based on the zoning and acreage of the parcel.
7. Two turnarounds have been added for larger trucks such as fire trucks that does not require using the driveway of the last home on each of the two roads in the development.
8. The roads in the development will be private.



9. Construction traffic was discussed. Limiting/regulating delivery times could be a condition of approval. A staging area has been added to the plans.
10. The roads will be gravel.
11. It is walking distance to the park & ride.
12. The possibility of a pedestrian connection to Lincoln Street and/or East Street was brought up. Sidewalks currently exist on these streets. The applicant has explored options for connecting the proposed development to one or both of those sidewalks.
13. Utilities will be underground.
14. There will be no street lights.
15. The applicant has a letters of intent for easements for a walking/bike path along Perry Hill Rd. to Lincoln Street.
16. The applicant proposes to provide the machine and machine time for constructing the walking/biking path, while the town would provide the gravel and a culvert.
17. A memo was provided to outline the construction traffic and what the timing would be on the truck traffic.
18. The applicant represented that they are projecting an increasing of 4.6% to the traffic counts in this area.
19. The traffic increase identified by Clare Rock on advice from the Central Vermont Regional Planning Commission is 28% on Lincoln Street.
20. Construction equipment or construction material delivery, related to the infrastructure construction phase, shall not deliver between the hours of 7am to 9am and 4pm to 6pm.

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**EXHIBIT LIST:**

- |           |  |
|-----------|--|
| Exhibit A | Zoning Permit Application #68-12-V   |
| Exhibit B | Project Narrative  |
| Exhibit C | Response to Section 704 – Narrative  |
| Exhibit D | Response to Section 705 – Standards for Review   |
| Exhibit E | Draft Declaration of Protective Covenants and Conditions                                       |
| Exhibit F | Draft Bylaws of Perry Hill Owners Association  |
| Exhibit G | Sparks Holding Proposed Acreages Area of Land Uses Matrix                                      |
| Exhibit H | Overview Site Plan, Sheet S-1, dated November 26, 2012, revision 2/06/13                       |
| Exhibit I | Site Plan with Finished Grades, Sheet S-2, dated November 26, 2012 , revision 1/31/13          |
| Exhibit J | Existing Conditions Site Plan, Sheet S-3, dated November 26, 2012, revision 1/31/13            |
| Exhibit K | Site Plan with Existing and Final Grades, Sheet S-4, dated November 26, 2012, revision 1/31/13 |
| Exhibit L | Landscaping Plan, Sheet S-5, dated November 26, 2012, revision 1/31/13                         |

- Exhibit M McCain Consulting Letter with additional information, dated December 19, 2012
- Exhibit N Copy of McCain Letter to Bill Shepeluk re: water and sewer allocation, dated December 6, 2012
- Exhibit O Copy of Village of Waterbury Application for Water & Sewer Allocation & Connection, signed December 5, 2012
- Exhibit P Copy of Act 250 School Impact Questionnaire for Residential Projects, signed December 10, 2012
- Exhibit Q Copy of McCain Letter to Waterbury Fire Chief Gary Dillion
- Exhibit R ANR Natural Resources Atlas map, dated January 10, 2013
- Exhibit S Copy of Letter re: adequate municipal water and wastewater capacity, dated Jan. 8, 2013
- Exhibit T Copy of Municipal Impact Questionnaire, signed by William Shepeluk, dated Jan. 8, 2013
- Exhibit U Notice sent to Adjacent Landowners dated December 31, 2012
- Exhibit V Road Profiles, Sheet S-6, dated November 26, 2012
- Exhibit W Erosion Prevention & Sediment Control, Sheet EC-1, dated November 26, 2012
- Exhibit X Erosion Prevention & Sediment Control, Sheet EC-2, dated November 26, 2012 (with staging area identified)
- Exhibit Y Letter from Paul Arnot, dated February 5, 2013 (with info about pedestrian access, construction traffic & staging area and general traffic)
- Exhibit Z ITE Trip Rates chart
- Exhibit aa Letter from Paul Arnot, dated February 5, 2013 (re: rail bed easement)
- Exhibit bb Letter of Intent re: Kingsbury Easement Agreement re: rail bed
- Exhibit cc Letter of Intent re: Mac Easement Agreement re: rail bed

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The public testimony was closed at 07:40 p.m.

**Description of Project:**

This project proposes to subdivide a 14.8 acre property into a 26-lot Planned Unit Development located off lower Perry Hill Road within the Village of Waterbury, VT (Tax Map 19-070.000)

**FINDINGS OF FACT:**

Section 705 Standards for Review

The following standards must be met for PUD approval.

(a) The project must conform to the density and dimensional requirements set forth in Section 702.

Section 702 Permitted Densities

(a) Pursuant to the provisions in 24 V.S.A. §4417, density limitations in a PUD are established as follows:

(1) The total area of undeveloped land shall be designated to be at least 50 percent of total project land.

The total acreage of the parcel is 14.8 acres, and based upon Exhibit G "Area of Land Uses Matrix", the total area of undeveloped land is 7.56 acres. Therefore the total area of undeveloped land equals 52.9%.

(2) For PUDs that are entirely residential, the maximum number of dwelling units allowed is as follows:

(A) For single-family dwellings, divide the total acreage of the parcel, or portion thereof, by the minimum lot size applicable in the district.

The lot is located within the Village Residential District, where the minimum lot size is 10,000 sf (or 0.23 acres) for single family dwelling. The total acreage of the parcel is 14.8 acres. The maximum number of dwelling units allowed is 62 single family dwellings. The proposal is for 26 three-bedroom single family dwellings.

(b) Along the outside boundary of the PUD project, setbacks shall be twice the dimensions established for the district in which the project, or applicable portion of the project, is located.

The Development Review Board may, in accordance with the review process contained in Section 704(g), reduce this double setback for a portion of the entire outside boundary, provided the following criteria are met: 1) The setback is not less than the required setback for the district in which the affected portion of the project is located; 2) the applicant shall demonstrate that a lot configuration which utilizes the double setback exclusively does not yield practical building sites and does not meet the general purpose of these PUD bylaws; and 3) adequate screening and landscaping exist or are proposed as required in Sections 301(f)(3) and 705(k). Other than this setback, no other setbacks apply to PUDs.

Within the Village Residential District setbacks are:

Front=30 ft, Sides=10 ft, Rear=30 ft

Based upon the PUD Standards projects these setbacks are doubled:

Front=60 ft, Sides=20 ft, Rear=60 ft

This project proposes the following setbacks:

Front=60 ft, with the exception of Lots 13 & 15 which propose a Front Setback = 30 ft.

The applicant requests a reduction to the double setback requirement for Lots 13 & 15 in accordance with Section 702(b) as identified in Exhibit M where the applicant states that "these 2 lots complies with the regulations as the requested setback is not less than the standard setback and 2 building lots would be eliminated without the reduction."

The remaining setbacks are as follows: Sides=20 ft, Rear=60 ft

## EXHIBIT C5

(c) The project is an effective and unified treatment of the development possibilities of the site and makes appropriate provision for preservation of streams and stream banks, steep slopes, wetlands, soils unsuitable for development, agricultural and open lands, unique natural and man-made features, watersheds, wildlife habitat, floodplains, and scenic features.

Based upon Exhibit J "Existing Conditions Site Plan" and Exhibit R "ANR Natural Resources Atlas map" there are no streams on the site. Steep slopes on the western portion of the property are set aside as undeveloped land. Delineated Class II wetlands are preserved and set aside as undeveloped land, with the exception of a small area within Lot 14. A Vermont Wetlands Permit will be required for this project. Statewide agricultural soils are present on the eastern portion of the property and will be developed. There is no identified significant wildlife habitat present on the property and no mapped floodplain.

Erosion Prevention & Sediment Control Plans outline protective measures and techniques to be utilized during the construction phases.

(d) Phasing of the development shall be scheduled or phased to ensure that adequate municipal facilities and services will be provided. In the event it is determined that the project will unduly burden municipal facilities or services, the municipality may require contributions to cover costs or dedication of land or interests in land for the purpose of providing or contributing toward the provision of necessary facilities or services.

The project is proposed to be implemented in 2 phases. Phase I consists of Lot 1 – 11 and Lot 26. Phase I is anticipated to commence during summer 2013, assuming all permits are obtained. Phase II consists of Lots 12 – 25. Phase II will begin 2-4 years after all permits are issued. Application submittals indicate that no more than 7 homes will be constructed per year.

(e) If a project is to be served by a public water supply or a public sewer system, a letter from the appropriate municipal department shall be submitted to the Development Review Board certifying that such services can be provided to all habitable units before occupancy.

The projects will be located within the municipal water and sewer service area. Based upon a letter from the municipal manager there is adequate capacity. The project proposes a 210 gallon per day (gpd) per house sewer allocation and a 450 gdp per house, minus 10% for low-flow fixtures, water allocation. In addition to the local Water and Sewer Allocation Application the project will require a Wastewater Systems and Potable Water Supply Permit from the VT ANR. This permit has not yet been submitted.

(f) If a project is not served by a public water supply system and a public sewer system, approval of the water supply and sewage disposal systems by all state authorities shall be required. n/a

## EXHIBIT C6

(g) The proposed PUD shall not unduly burden the school system. The applicant may be required to obtain a letter from the Superintendent of Schools regarding the impact of the project on the school system.

The project estimates an increase of 26 new students to the local school system. The applicant has received a signed School Impact Questionnaire for Residential Projects, dated 12/10/2012, in which the Superintendent of Washington West Supervisory Union certifies Thatcher Brook Primary School, Crossett Brook Middle School and Harwood Union High School have the capacity to accept 26 new students.

(h) The proposed PUD shall not unduly burden municipal roads, including intersections and access roads immediately burdened by the project.

The applicant estimates the project will generate approximately 15-20 morning peak hour trips and 17-26 evening peak hour trip ends, with the total average daily trips are estimated at 249 - 260.

Erosion Prevention & Sediment Control Plans identify a vehicle and equipment staging area at the northeast corner of the property.

(i) Development access roads shall be of a width, surface, and design adequate for handling proposed traffic, including accessibility for emergency vehicles, school buses, and public transit, if appropriate.

The access road from Perry Hill servicing the subdivision is proposed to be 20 ft wide with 2-ft shoulders. Two turnarounds for emergency and service vehicles are identified on the site plan, next to Lot 8 and Lot 24. The applicant submitted a letter to the Waterbury Fire Chief Gary Dillion dated December 19, 2012, requesting his review of the project as it relates to emergency vehicle access. The municipal manager has signed off on a Municipal Impact Questionnaire which states that the municipality has enough capacity of the following services to accommodate the proposed project: fire, police, solid waste and road maintenance.

(j) Adequate pedestrian circulation, which may include sidewalks, maintained trails, or other pathways, shall be provided.

No sidewalks, trails or pathways are located within the interior of the subdivision. There are not sidewalks on Perry Hill Road. The applicant has identified a pedestrian route to provide access from the new neighborhood to the intersection of Lincoln Street and Perry Street. The proposed gravel path will follow the old trolley line bed and will necessitate securing an easement over 2 private properties. The 2 property owners have provided Letters of Intent to grant easements to the Town for the path. For the construction the applicant will provide machine time and labor if the Town provides the materials. This arrangement is subject to approval by the Town of Waterbury Selectboard.

(k) Adequate landscaping and screening of both buildings and parking areas shall be required in order to protect scenic vistas and the site's natural aesthetic features.



## EXHIBIT C7

Exhibit L "Landscaping Plan" identifies that twenty-three 1 ½" caliper deciduous trees will be planted by the developer along the right-of-way on the northern portion of the development. The plan also identifies that each lot owner will be required to plant two 1 ½" caliper deciduous trees within the road right-of-way in front of their lot, except lots 10, 11, 18, 24 and 25 which will be required to plant two trees but due to lot configuration need not be within the r.o.w. Additional landscaping is at the discretion of the homeowners.

(l) The proposed PUD must be consistent with the Municipal Plan.

The property is located within the Growth Center Boundary as identified Waterbury Future Land Use: Growth Center Map. Within the Growth Center Boundary the property is identified as an area for Rural Residential/Agriculture Area where the desired future conditions are stated as "In Keeping with the desire to accommodate new development while protecting important resources within the area,..."

(m) Land that is not included in building lots, streets, rights-of-way, or utility easements shall be reserved as undeveloped land for recreation, conservation, agriculture, and the enhancement of the natural environment for living. Such undeveloped land shall not be less than 50 percent of the total project area.

Further, the undeveloped land shall:

- (1) Take the fullest advantage of all natural features, such as natural watercourses and drainages, topography, existing trees, outlook, agricultural land, forests, and other features;
- (2) Be in a location, and of a character, size, extent, and shape suitable for the land's intended use;
- (3) Contain no building or development, except one primarily devoted to a purpose for which the undeveloped land is intended, including swimming pool, tennis courts, and similar recreational facilities, and minor incidental buildings connected therewith; and
- (4) Be conveyed to:
  - (B) An association of homeowners or tenants, which adopts and imposes covenants and restrictions on the undeveloped land that adequately provide for its continuing maintenance;Exhibit E "Draft Declaration of Protective Covenants and Conditions" reference the wetlands on the property which are contained within the undeveloped portion of the property. The Covenants state the wetlands shall be maintained by the Declarants of the Owners Association and they shall not be drained, filled, dredged or disturbed, except by amendment to the Land Use Permit. It also identified a 50-ft undisturbed buffer zone be maintained around the wetlands. Exhibit F "Draft Bylaws of Perry Hill Owners Association" states the purpose of the Association is to own and manage the common area.

# EXHIBIT C8

## CONCLUSION

The Development Review Board concludes that the applicable standards of review in Section 705 for this Planned Unit Development, within the Village of Waterbury, have been met.

## DECISION AND CONDITIONS

### MOTION:

Dave Rogers moved and Jeff Whalen seconded the motion to approve application # 68-12-V to subdivide a 14.8 acre property into a 26-lot Planned Unit Development located off lower Perry Hill Road within the Village of Waterbury, VT Tax Map #19-070.000) with the following conditions:

1. This permit is granted on the condition that the applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits.
2. The applicant brings a copy of the Final Plat to the Zoning Administrator within 150 days so that the Development Review Board can review, approve, and sign off on the Final Plat and meet the 180 day timeline for recording the plat that is required by 24 V.S.A., Section 4463.
3. Construction equipment or construction material delivery, related to the infrastructure construction phase, shall not deliver between the hours of 7am to 9am and 4pm to 6pm.

VOTE: The motion passed unanimously.

Decision Approved,

  
\_\_\_\_\_, Chair

Date: 2-21-13

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An 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.

THESE MINUTES WERE APPROVED ON FEBRUARY 21, 2013.

## WATERBURY MUNICIPAL OFFICE

## PLANNING DEPARTMENT

51 South Main Street

WATERBURY, VERMONT 05676

Planning (802) 244-1012 Zoning (802) 244-1018

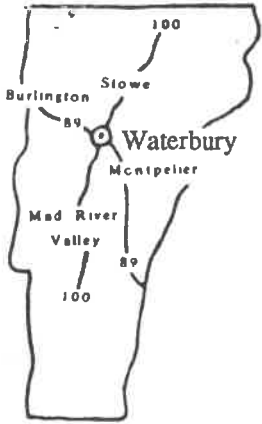
FAX (802) 244-1014

Permit Application # 68-12-V

Tax Map # 19-070.000

Permit Issuance Date March 28, 2013

Permit Effective Date April 13, 2013



## ZONING PERMIT

Applicant: Sparks Holding, LLC  
 c/o Travis and Madaileine Kingsbury  
 264 Mad River Park,  
 Waitsfield, VT 05673

Landowner: SAME

Your application for a zoning permit for a 26-lot planned unit development subdivision off Perry Hill Road, Waterbury, VT has been reviewed by the Zoning Administrator. The proposal, as contained in the application 68-12-V (copy attached), conforms to the requirements of the Zoning Ordinance of the Town/Village of Waterbury and is hereby approved, subject to the representations made in your application and subject to the approved findings of fact and decision made by the Development Review Board (copy attached). Any change from that indicated on the application must have the approval of the Zoning Administrator.

The Development Review Boards decision was issued on February 21, 2013; no appeal was made by March 27, 2013. Title 24 V.S.A. §4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings requires a 30-day appeal period for the Development Review Boards decision.

This permit is effective on **April 13, 2013** provided no appeal is made by **April 12, 2013**. Title 24 V.S.A. §4465(a) requires a 15-day appeal period for this permit and 24 V.S.A. The enclosed *Permit Notice Poster* must be posted on your property for the 15-day appeal period within view of a public right-of-way to avoid future appeals.

Any action or construction started prior to the effective date is in violation of the Zoning Ordinance and a penalty may be imposed. All requests made on this permit must be completed within 2 years of the issuance date of this permit. All Subdivisions must record a survey plat within 180 days from Development Review Board Decision for this permit to be legally binding. Plats are due to the Zoning Administrator within 150 days (before **July 19, 2013**) for Development Review Board approval.

This permit is valuable. It is a part of the property records and must be retained.

ZONING PERMIT ISSUED BY:

Clare Rock, Zoning Administrator

Enclosures: Permit Notice Poster—must be posted on property within view of public right-of-way to avoid future appeals. Date to Post: Permit Issuance Date. Date to Remove: Permit Effective Date

cc: Paul Arnot (with Poster), McCain Consulting, Town Clerk, Plans & File

APPLICATION FOR ZONING PERMIT  
TOWN/VILLAGE OF WATERBURY  
51 SOUTH MAIN STREET  
WATERBURY VERMONT 05676

EXHIBIT C10

Page 1 of 3

Application Number: 68-12V Tax Map Number: 19-070.000  
Zoning District: Village Residential Parcel ID Number: 400-0200V  
Date Application Received: 12/10/2012 Fees Paid: \$ 2725 Recording \$ 8.00 10.00

Nature of Project and Review Required (check where app

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Single-Family Dwelling | <input type="checkbox"/> Sign                                     | <input type="checkbox"/> DEVELOPMENT REVIEW BOARD |
| <input type="checkbox"/> Two-Family Dwelling    | <input type="checkbox"/> Mobile Home                              |   |
| <input type="checkbox"/> Multi-Family Housing   | <input type="checkbox"/> Change of Use                            | <input type="checkbox"/> SITE PLAN REVIEW         |
| <input type="checkbox"/> Garage                 | <input type="checkbox"/> Home Occupation                          | <input type="checkbox"/> CONDITIONAL USE REVIEW   |
| <input type="checkbox"/> Porch                  | <input type="checkbox"/> Addition / Apartment                     | <input type="checkbox"/> VARIANCE                 |
| <input type="checkbox"/> Deck                   | <input checked="" type="checkbox"/> Subdivision, # Lots <u>26</u> | <input type="checkbox"/> DESIGN REVIEW            |
| <input type="checkbox"/> Shed                   | <input type="checkbox"/> Other (explain) _____                    | <input type="checkbox"/> FLOOD HAZARD REVIEW      |
| <input type="checkbox"/> Industrial / DMUD      |   |   |
| <input type="checkbox"/> Commercial / Retail    |   |   |

Applicant(s):  
Name(s): Sparks Holdings, LLC c/o Travis<sup>RHS</sup> + Madaileine Kingsbury  
Mailing Address: 264 Mad River Park, Waitfield, VT 05673  
Telephone(s) Home: \_\_\_\_\_ Work: 802-496-2205 Cell: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

Landowner(s) (if different from applicant(s)):  
Name(s): same  
Mailing Address: \_\_\_\_\_  
Telephone(s) Home: \_\_\_\_\_ Work: \_\_\_\_\_ Cell: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

Physical Location of Property (911 address):  
Perry Hill Road, Waterbury

Builder's Name and Phone Number(s): Kingsbury Construction, Inc.  
Estimated Start Date of Construction: Phase I a.s.a.p.

INSTRUCTIONS:  
Please provide ALL OF THE INFORMATION REQUESTED IN THIS Application AND A SKETCH PLAN. Read the Zoning Bylaws and familiarize yourself with the requirements for building and development in the Town or Village of Waterbury. Failure to provide all required information will delay the processing of this application. Submit one copy of the completed application and a check payable to the Town or Village of Waterbury according to the fee schedule attached herein.

The undersigned hereby applies for a Zoning Permit for the use described in pages 1 through 3 of this application to be issued on the basis of the representations made herein all of which the applicant swears to be complete and true.

Exhibit A  
1/17/2013



ALL APPLICANTS AND LANDOWNERS MUST SIGN THIS APPLICATION

Signature(s) of Applicants:

[Signature]

12-6-12  
Date

Signature(s) of Landowners:

Landowner(s)

\_\_\_\_\_  
Date

Complete the Following (where applicable):

Legal Interest in Property: Fee title

Date Property Acquired: \_\_\_\_\_ Property Elevation above Sea Level 500 Ft.

Size of Property in Acres or Lot Size: 14.8

Frontage on Road(s) or Access by Rights-of-Way: 1000'

(If property fronts on more than one public road, please include each frontage measurement individual)

Existing Use of Property: pasture

Date Use Started: \_\_\_\_\_

Description of Project Applied For: A housing subdivision consisting of 26 lots with single family homes + associated infrastructure.  
Proposed Use of Property: To provide housing for the Village of Waterbury in a clustered neighborhood setting.

Dimensions of Proposed and Existing Buildings:

PROPOSED:

Length \_\_\_\_\_ No. of Stories \_\_\_\_\_  
Width \_\_\_\_\_ Total Footprint Sq Ft \_\_\_\_\_  
Height \_\_\_\_\_

EXISTING:

Length \_\_\_\_\_ No. of Stories \_\_\_\_\_  
Width \_\_\_\_\_ Total Sq Footage \_\_\_\_\_  
Height \_\_\_\_\_

Setbacks from edge of Right of Ways or Public Road(s): 30 feet

Property Lines (Setbacks): Front per PRD Rear \_\_\_\_\_ Side(s) \_\_\_\_\_

Type of Water System:  Public  Private Type \_\_\_\_\_ Permit # \_\_\_\_\_

Type of Septic/Waste Water System municipal Permit Numbrers \_\_\_\_\_

Complete the site plan on the following page of this application (you may attach a separate sheet providing all required information).

Please attach any other information you feel is relevant for this application.

For Use by Administrative Officer

Approved

Denied

REFERRED TO DRB ON: 12/20/12

REFERRAL EFFECTIVE ON: 1/4/13

PERMIT ISSUE DATE: 3/28

EFFECTIVE DATE: 4/13

Remarks and of Conditions: \_\_\_\_\_

Authorized Signature: [Signature]

Administrative Officer

Date 5/28

DEVELOPMENT REVIEW BOARD DECISION ISSUED ON: 2/21/2013

**SPARKS HOLDINGS, LLC  
26-LOT PERRY HILL SUBDIVISION  
VILLAGE DISTRICT, WATERBURY**

**PROJECT NARRATIVE**

In 2008 Amelia Acres 2, LLC, received permits allowing for the creation of 4 residential building lots with a retained, undeveloped parcel of approximately 15 acres, which is known as Lot 7. This application is a proposal to develop that 15 acre parcel.

The project involves creating a 26-lot subdivision with single family homes and associated infrastructure. The project will be accessed by the existing curb cut, which was constructed to serve the Ameila Acres Subdivision. The Ameila Acres access will be re-configured to provide ingress/egress to/from the existing and the proposed lots. Infrastructure will include an access road, shared driveways, stormwater management structures, and municipal water and sewer lines. The land is within the corporate limits of the Village of Waterbury.

Approximately 51% of the parcel will be protected as common land, which will serve as an aesthetic benefit to the lot owners, and will protect the wetland and small stream on the property. Maintenance of shared infrastructure and conformance with traditional architectural design elements will be regulated by a Home Owners' Association and Protective Covenants.

Other permits required for this project include: Amendment to Act 250 Land Use Permit 5W1374-2, Vermont Wetlands Permit, Wastewater and Potable Water Supply Permit, Operational Stormwater Permit, and Construction General Permit. Once issued, these permits will provide evidence that the site's stormwater management systems, erosion prevention and sediment control techniques, wetland protection parameters, water and sewer systems, and other aspects of infrastructure design and operation and natural resource protection are adequately addressed.

Preliminary evaluation and design work for these permits has been completed to ensure that the plans presented with this application will not conflict with those permit requirements. Copies of the permits will be submitted once they are received.

Exhibit B  
08-12-V  
1/17/2013


**Section 704 – Narrative  
Perry Hill Road Subdivision  
Waterbury Village District**

As per the application requirements as listed in the Town and Village of Waterbury Zoning Regulations As amended through March 2011, Article VII, §704, please consider the following information in support of the application of Sparks Holding, LLC to create a 26 lot PUD on a parcel located on Perry Hill Road in the Village of Waterbury.

A pre-application conference with the DRB was held on August 7, 2012 and the project was generally well received. The application procedure for a preliminary review is as listed in §704 and includes:

- 1) Final Version of the information submitted for the pre-application conference. This includes:
  - a. (1) A permit application including the name and address of the landowner and a statement describing the proposed development. *The application and a Project Narrative are attached.*
  - b. Development schedule including commencement date and phasing. *Commencement of construction is anticipated to begin in the summer of 2013, assuming all permits are in place and the economic climate is favorable. Phase 1 of the project will include lots 1 through 11 and lot 26. Phase 2 of the project includes lots 12 through 25. It is anticipated that no more than 7 homes per year will be constructed.*
  - c. Quantitative data. *An Area of Land Use Matrix detailing the total acreage, acreage in lots, acreage in r.o.w.s, acreage in common land and building information is attached.*
  - d. Final Site Plans for the project, depicting the lots, buildings, boundaries, adjacent uses and owners, environmental features and landscaping. *Site Plans Sheets S-1 through S-5 are attached.*
- 2) Name and address of the Owner of Record. *See Site Plans and Application.*
- 3) Site Maps showing the following:
  - a. Name and address of firm preparing map, with scale and north arrow. *See Site Plans.*
  - b. Property boundaries including adjacent uses and owners. *See Site Plans.*
  - c. Existing site features. *See Site Plans.*
  - d. Depiction of proposed infrastructure. *See Site Plans.*
  - e. Location of proposed undeveloped land. *See Site Plans.*
  - f. Landscaping and grading plans. *See Site Plans.*
- 4) Statement on character and uses of undeveloped land. *The majority of the undeveloped land on the project will be the wet meadow located in the center of the property. In addition, there will be other green spaces around*

*the project perimeter. The common land will be for the use and enjoyment of the project residences. No public uses are envisioned.*

- 
- 5) Statement of impact to public infrastructure. *It is anticipated that the existing road network will not be adversely affected by the additional traffic. School and municipal impact questionnaires are being obtained and will be forwarded when received. Allocation letters for water and sewer capacity are being obtained. We do not anticipate that the project will have an undue adverse impact on any of these infrastructure items.*
- 6) Landowner documents: *Draft homeowners association and other deed information is attached.*
- 7) A description of conformance with §705. *See attached Narrative on Section 705.*
- 8) Additional information as may be required by the DRB. *To Be Determined*



**Section 705 – Standards for Review  
Narrative for Perry Hill Road Subdivision  
Waterbury Village District**

- (a) The project conforms to the density and dimensional requirements as evidenced by the Site Plans and the Area of Land Use Matrix, both as attached to the application.
- (b) No density bonus is being requested.
- (c) The project layout is an effective and unified treatment of the development possibilities *for* the site. Steep slopes, streams, wetlands, and other site features have been considered, and the project has been designed to minimize impacts to natural resources. The center section of the parcel, which contains a wet meadow in the upper portion and a stream in the lower portion, has been protected and is included as common land.
- (d) The project will be phased to ensure municipal facilities are not overburdened. Phase 1 of the project will include lots 1 through 11 and lot 26. Phase 2 of the project includes lots 12 through 25. It is anticipated that no more than 7 homes per year will be constructed.
- (e) A request for municipal water and sewer allocations is being submitted.
- (f) An application for a state permit for the municipal water and sewer connections will be obtained.
- (g) A school impact questionnaire is being obtained and will be submitted when available.
- (h) The existing road network is capable of handling the additional traffic that will be generated by the project.
- (i) The development road will be capable of handling the proposed traffic, including but not limited to school buses and emergency vehicles.
- (j) The road will be of sufficient width to facilitate pedestrian circulation.
- (k) Landscaping is proposed. Please refer to the Landscaping plan submitted with the application.
- (l) The PUD is consistent with the Municipal Plan. The 2008 Waterbury Municipal Plan states housing Objectives such as 1.3 “Ensure that all new housing is of quality construction and is consistent with the character of the community.”; and 2.1 “Support housing that employs creative site designs maximizing development potential, minimizing environmental impact, preserving open space, and ensuring greater efficiency in infrastructure.” Action Item 3 states “Explore density to Planned Residential and Planned Unit Developments to encourage preservation and to reduce infrastructure and housing costs.”
- (m) 7.56 acres of Common Land is proposed for the project, which is 51% of the total land mass of 14.8 acres and:
  - (1) Provides protection to the existing natural features such as the wetland and the stream;
  - (2) Is in a location and is an appropriate size and configuration to serve the intended purpose;
  - (3) Will contain no buildings or development other than those that would normally be associated with the use.
  - (4) The Homeowners Association will be responsible for maintaining the common land.

Exhibit D

68-12-V

1/17/2013

PERRY HILL  
DECLARATION OF PROTECTIVE COVENANTS AND CONDITIONS

ADG, Inc., a Vermont corporation, (referred to herein as "Declarant") is the owner of a tract of real estate situated in the Town of Waterbury, County of Washington, and State of Vermont as depicted upon a Site Plan entitled "Perry Hill" in Waterbury, Vermont" dated \_\_\_\_\_, prepared by McCain Consulting, and recorded in Map Book \_\_\_\_\_, Page \_\_\_\_\_ of the Waterbury Land Records (said tract of real estate being referred to herein as the "Property"). The Property consists of twenty-six residential building lots numbered as parcels number 1-26 and common area, including roadways. The twenty-six residential buildings lots as well as the common area are depicted on said Plan. The twenty six residential building lots within the Property (referred to herein as "lots") as well as the common area are hereby declared to be subject to the covenants, restrictions, obligations, and conditions set forth herein.

Each and every one of these covenants , restrictions , obligations , and conditions is imposed on each lot within the Property and shall run with the land and be binding upon and inure to the benefit of Declarant and the owners of said lots, and his and their respective heirs, successors, and assigns The purpose of these provisions is to establish a general plan for the improvement and development of lots within the Property as a residential area , and all of the land and lots comprising the Property shall be improved, held, used, sold, conveyed , and reconveyed in accordance herewith.

All lots within the Property are hereby declared to be subject to the following covenants, restrictions, obligations and conditions:

1. Subdivision Prohibited. No lot within the Property may be subdivided for sale or for any other purpose without the written permission of Declarant. This provision does not exclude boundary line adjustments.
2. Residential Use. The lots shall be used for residential purposes only and not for any mercantile, commercial, or industrial purposes, provided, however, that this restriction does not exclude the establishment of a professional office in the residence of an accountant, architect, attorney, doctor, or other such professional and provided further that this restriction shall not prevent the rental by an owner of his lot and residence thereon for residential or seasonal vacation use.
3. Structures Permitted. The only buildings permitted to be constructed on a premise are: One single family dwelling and one additional unattached building. The additional unattached building may be a garage or workshop. Attached garages do not preclude the owner from building a separate unattached building as referenced above. In addition, under the single family roof structure one separate residential apartment may be allowed. Other structures such as satellite dishes, swimming pools and tennis courts may be permitted provided they have no undue adverse impacts on the Property and its owners.
4. Mobile Homes & Seasonal Vehicles. No house trailers or mobile homes shall be kept on the Property at any time; however, a motor home or camper, so-called, may be stored in a garage. No unlicensed vehicles shall be allowed to stand outdoors on any lot; provided, however, that the exterior storage of seasonal vehicles, such as boats and snow mobiles, may be allowed.
5. Approval of Plans. All plans and specifications for the construction, remodeling, alteration , or reconstruction of or addition to any building or other structure to be erected or placed upon any lot, and landscaping to be planted thereon , shall require the approval in writing by Declarant prior to commencement of construction or planting. Two sets of plans and specifications showing in detail the buildings, structures, and landscaping proposed by the owner of a lot shall be submitted to Declarant for review which said review shall encompass all aspects of such building, structures, and landscaping, including but not limited to location, exterior form and appearance, materials, color, architectural style, exterior lighting affixed to or separate from any structure, and finish grade elevation of any structure. If approval of an owner's plans and specifications is granted, such approval shall be evidenced by written endorsement on such plans and specifications or separate written certification by Declarant executed prior to commencement of construction or planting, and no changes or deviations in such plans and specifications as approved shall be allowed without the prior written consent of Declarant.

By way of general guidance with respect to design elements and construction components emphasized by the Declarant, but without any prior commitment or obligation upon him with respect to approval thereof, the following guidelines and suggestions shall apply:

Exhibit E  
68-12-V  
1/17/2013

- a) The use of traditional design elements and appearance is encouraged. Roofs with ten/twelve or twelve/twelve pitch are preferred, with a minimum of eight/twelve required
  - b) Exterior siding shall be traditional in nature, with preference given to wood style clapboards. Use of aluminum or vinyl exterior siding may be approved at discretion of Declarant. Installation of solar panels and satellite dishes on the roof should be done to be as unobtrusive as possible.
  - c) Choice of colors for all exterior siding and roof shingles is critical to ensure compatibility with the natural setting and scenic nature of the area.
  - d) All exterior lighting shall be the minimum necessary to provide safe night time access to the dwelling on the property and for security purposes. Approval of exterior lighting plans shall be granted only if plans are submitted in sufficient detail to ensure that the proposed lighting fixtures are shielded adequately and designed to prevent any undue glare or bright lights visible from neighboring property owners.
6. Completion of Construction. The construction of the foundation and all exterior surfaces, including roof, siding, windows, doors, and all other exterior finish details, shall be completed in accordance with the approved plans no later than twelve months from the date of commencement of construction. All disturbed earth shall be adequately stabilized within 72 hours of initial disturbance. If a lot owner fails to comply with this requirement, Declarant may complete the exterior construction in accordance with the approved plans or remove the structure altogether, in which event the lot owner shall reimburse Declarant for all costs incurred in completing or removing the structure.
  7. Fencing. Fencing on the perimeter of or within lots shall not be allowed, other than so-called post and rail fencing not to exceed four feet in height, provided, however, that Declarant may approve other types of fencing on a case- by-case basis.
  8. Brooks, Streams, Storm water Ponds & Wetlands. No owner of any lot shall interfere in any way with water rights relative to the brooks, streams, storm water ponds and wetlands flowing through or located upon the Property, and no owner shall cause or allow any pollution or degradation of the quality of water in said brooks. All streams located within the project boundaries shall be protected with a 25-foot undisturbed, naturally vegetated buffer strip measured from the top of each stream bank.
  9. Grounds Maintenance. The owner of a lot shall at all times maintain his land and premises in a clean, neat, and presentable fashion. No refuse or debris shall be stored or accumulated upon any lot, and all trash on any lot awaiting removal shall be stored out of sight from the roadways and adjoining lots and removed promptly so as to prevent any unsightly appearance or noxious odors.
  10. Nuisances Prohibited. No lot owner shall cause or allow any activity, condition, or other thing to occur or exist on his lot that generates loud noises, disturbs the peace, quiet, and serenity of occupants of neighboring lots, or otherwise creates a nuisance not in keeping with the residential character of the neighborhood. With specific regard to noise pollution, the operation of mechanical devices such as trail motorcycles, ATV's, go-carts, or snowmobiles is prohibited within the Property. The use of garden tractors, brush hogs, power lawn mowers, snow removal equipment, and chain saws shall be permitted during daylight hours only.
  11. Animals. No animals or fowl may be kept upon any lot, except domestic pets such as cats and dogs and a limited number of poultry. Any and all such animals or fowl shall be for the personal use and enjoyment of a lot owner and his family and guests only, and not for breeding, public use, or other commercial purposes. All dogs must be kept on restraining devices at all times.
  12. Signs. No signs shall be permitted on the Property except signs constructed by the Declarant, and one identification sign per lot, which sign shall not be more than two square feet in area. Permission for said signs shall be governed by the provisions of section number 5 above. Other temporary signs may be approved by Declarant on a case-by- case basis.
  13. Easements Over Lots. No owner shall grant, convey, or establish any easement or right-of-way across or upon his lot to establish access in any manner to property adjacent to or adjoining such lot. Nothing

contained herein shall be construed to be a prohibition against necessary easements for utilities, sewage disposal, or recreation trails.

14. Energy Conservation. All buildings on lots within the Property shall be erected at a minimum to be in compliance with conservation measures as prescribed by Efficiency Vermont Residential New Construction “Energy Code Plus” requirements or all pertinent energy conservation measures as set forth in the State of Vermont Land Use Permit \_\_\_\_\_.

a)

Component	Package 1	Package 2	Package 3	Package 4
1. Ceiling R-Value	R-49	R-38	R-38 or R-30+10	R-28
2. Above-Grade Wall R-value	R-20 or R-	R-20+5 or R-13+7.5	R-20 or R-13+5	R-21 cont.
3. Floor R-value	R-30	R-30	R-30	R-30
4. Basement/Crawl Space Wall R-value	R-15/20	R-15/20	R-20 cont.	R-15/20
5. Slab Edge R-value	R-15, 4ft.	R-15, 4ft.	R-15, 4ft	R-15, 4ft
6. Heated Slab R-value (Edge and	R-15	R-15	R-15	R-15
7. Window and Door U-value	0.32	0.32	0.30	0.32
8. Skylight U-value	0.55	0.55	0.55	0.55

- b) All heated structures shall be oriented and sited in a manner that maximizes solar heating potential to the greatest extent possible depending on lot configuration and topography.

- d) Oil or gas heating systems should have a minimal Annual Fuel Utilization Efficiency (AFUE) of:

- 1) Boilers: 85 AFUE or higher
- 2) Furnaces: 90 AFUE or higher

- e) No electric heating, including off peak storage systems shall be utilized in any buildings without the prior written consent of Green Mountain Power and the District 5 Environmental Commission or its successor.

- f) All fire places and stoves shall have appropriate devices to prohibit excess amounts of heat from dissipating from the residences through chimneys.

15. Water Conservation. All residential dwellings on lots within the Property shall be equipped with water-conserving plumbing fixtures, including but not limited to low-flush toilets, low-flow showerheads, and aerator-type or flow-restricted faucets.

16. Construction and Maintenance of Utilities. Declarant reserves an easement and right-of-way under and upon those portions of lots within the Property that are necessary or advisable for purposes of performing or causing to be performed proper installation, repair, maintenance, and replacement of all utility service lines (including sewer, water, hydrants, electrical, telephone, cable television, pipes, conduits, pedestals, pull boxes, trans closures, and other related equipment). All such utility system installations, maintenance, repair, and replacement work shall be performed in a good and careful manner, causing the least disruption possible, followed by all necessary actions to restore any disturbed earth surface to its natural and undisturbed condition, including filling, grading, seeding and mulching. All utility service lines shall be installed underground. Declarant will be responsible for laying and installing, at its sole cost, main sewer lines, main water lines, primary electric power and telephone service lines and related trans closures, to which secondary electric power, telephone and cable television service lines serving each lot shall be connected.

Declarant hereby gives, grants, and conveys to the owners of all lots within the Property the perpetual non-exclusive right and authority in common with others to and utilize said sewer, water, primary electric power, cable television, and telephone service lines and related trans closures. Following installation of



the primary service lines, Declarant shall have no further responsibility or liability for operation, maintenance, repair, or replacement thereof.

17. Common Area. Portions of the property are common areas; wetlands, storm water ponds and roadways. Other sections of the common area may be designated for other specific uses.

Declarant hereby grants to the owner of each lot within the Property as appurtenant thereto a non-exclusive easement and right of access in common with others to all portions of the common area, including the roadways. In consideration of Declarant granting this easement and right of access, which shall be appurtenant to and shall pass with the title to each lot, each lot owner covenants and agrees to pay his proportionate share of the costs of maintaining the common area after completion of construction of improvements by the Declarant. Each lot owner shall be liable for a proportionate share of the cost of maintaining the completed roadways, including snow-plowing, graveling, grading, replacement of culverts, and other necessary maintenance. As used here in, proportionate share means a fraction of the total costs of maintaining the completed roadways, where the numerator is one and the denominator is the total number of lots sold which are accessed by completed roadways.

The Owners' Association will have the responsibility of maintaining the common areas in addition to supervising the uses and activities which are permitted on the common areas. The Owners' Association rules and regulations, as may be amended in the future, will govern use of the common areas.

Declarant reserves an easement to construct and maintain roadways, utility installations, or other improvements on the common area, and specifically reserves the right to grant any other additional easements or rights of way in the common area it deems advisable for the development of the property.

18. Association of Owners. Each owner of a lot covenants and agrees to become a member of an association of owners, to be organized and operated as Perry Hill Owners' Association, Inc. (referred to herein as the "Association"). Each such lot owner shall be entitled to the benefits of, and shall be subject to, the duly enacted bylaws, rules, and regulations of the Association. The Association shall be operated to preserve and promote the residential character and living conditions in the development and to make and collect such annual or special assessments from time to time as the Association deems necessary or advisable for the purpose of promoting the health, safety and welfare of residents within the development as well as the maintenance of the roadway and other portions of the common area. The obligation to become a member of the Association, to abide by its bylaws, rules, and regulations, and to pay its assessments shall be a covenant that, like all other covenants set forth herein, shall run with the land and be binding upon each owner of a lot and each subsequent owner of such lot. Termination of ownership shall automatically terminate membership in the Association.

The Association shall at all times maintain a general liability insurance policy with general aggregate limits of not less than \$1,000,000 and each occurrence limits of not less than \$1,000,000.

19. State Land Use Permit: Town Subdivision Permits. The Property is subject to the conditions of the State of Vermont District Environmental Commission #V Land Use Permit \_\_\_\_\_ and any amendments thereto, which Land Use Permit is recorded in the Waterbury Land Records. The property is also subject to a Town of Waterbury subdivision permit dated the \_\_\_\_\_ which is on file at the Waterbury Zoning Administrators Office. Any change in the project design and layout as approved by said Land Use Permit and Town of Waterbury subdivision permit shall require written approval from the District V Environmental Commission. Any significant change from the approved site plan will require an amendment to the permit.
20. Permanent Erosion Controls. All permanent erosion controls will be maintained by the Declarant or the Owners' Association.
21. Wetlands. The Property contains some wetlands, as set forth on the Site Plan. These wetlands shall be maintained by the Declarant or the Owners' Association. They shall not be drained, filled, dredged or disturbed, except by amendment to the Land Use Permit. A 50-foot undisturbed buffer zone shall be maintained around all wetlands, except those wetlands that are currently meadow, which meadow may be mowed.

22. Storm water Pond. There are storm water ponds located on the property as shown on the Site Plan. These ponds shall be maintained in accordance with the State of Vermont Land Use Permit \_\_\_\_\_ and Operational Storm water Permit and responsibility for maintenance shall rest with the Owners ' Association. State and local officials are hereby granted permission to inspect these ponds at anytime.
23. Transfer of Declarant's Rights and Duties; conveyance of Common Area. Declarant shall transfer to the Owners' Association all of its rights, duties and obligations contained in the State of Vermont District Environmental Commission #V Land Use Permit \_\_\_\_\_ and Town of Waterbury Subdivision Permit. Declarant hereby agrees that said transfer shall automatically take place upon the conveyance of all of the lots in the subdivision. In addition, Declarant agrees to convey all of the common area and easement interests which have been reserved to the Owners ' Association prior to the conveyance of the last lot in the subdivision.
24. Enforcement. The burdens and benefits of the protective covenants and restrictions comprising the general plan for improvement and development of the Property , the condition that each lot owner accept membership in the Owners' Association, and the obligation of each lot owner to pay his proportionate share of costs as provided herein, shall run with the land and be binding upon and inure to the benefit of the Declarant , the owners of Lots within the Property , and the Owners' Association, and its and their respective heirs, successors, and assigns. In the event of breach or violation of any of these covenants, restrictions, obligations and conditions by the owner or owners of any lot, Declarant or the Owners' Association, and their respective successors and assigns, may enforce these protective covenants, restrictions, and obligations against the violator by appropriate proceedings for monetary damages, injunctive relief, or otherwise.
25. Costs of Enforcement. In the event Declarant or the Owners' Association, and their respective successors and assigns, enforces any of these covenants, restrictions, obligations, and conditions against the owner or owners of a lot who is in breach or violation thereof, all costs and expenses, including reasonable attorney's fees, incurred in such enforcement shall be the obligation of and paid by the violating owner or owners. In the event any such owner or owners fail or refuse to pay such costs and expenses, a lien shall arise against such owner's or owners' lot and shall continue thereon in favor of Declarant or the Owners' Association, and their respective successor or assigns, upon recordation of a notice of such lien in the Waterbury Land Records. Said lien shall be subordinate to any prior recorded mortgages on the lot made by the owner in good faith and for value. Interest shall accrue on the amount of said lien at the rate of twelve percent (12%) per annum until all costs and expenses secured by such lien are paid in full. If payment in full is not received by Declarant or the Owners' Association , or their respective successors or assigns, within thirty (30) days of the date of recordation of the notice of lien, then said lien may be foreclosed in accordance with the provisions of Vermont law applicable to foreclosure or mortgages of real property. In the event of fore- closure of the lien, the owner or owners in default shall be required to pay all costs and expenses of such proceedings, including reasonable attorney's fees.
26. Amendments, Modifications and Waivers. The covenants, restrictions, obligations, and conditions set forth in this Declaration may be amended or modified in whole or in part, and waivers thereof may be granted, by written consent of the record owners of eighty percent of the lot owners, provided, however, that any amendment altering the method of determining the proportionate sharing of costs for maintenance of the roadways, as provided hereinbefore shall require the written consent of one hundred percent (100%) of the lot owners. Any amendment shall require written approval from the District V Environmental Commission or its successor. Any such amendment, modification or waiver constitutes a change in the site plan for the PRD and requires an application to the Waterbury Development Review Board for approval to revise the zoning permit for the PRD, and shall be recorded in the Waterbury Land Records.

Dated at Waterbury, Vermont this \_\_\_\_\_

\_\_\_\_\_  
(Witness to signature)

DECLARANT: \_\_\_\_\_  
ADG, INC.  
BY ITS DULY AUTHORIZED AGENT

STATE OF VERMONT  
WASHINGTON COUNTY  
AT WATERBURY this \_\_\_\_\_

\_\_\_\_\_  
ADG, INC. BY ITS DULY AUTHORIZED AGENT

who personally appeared and acknowledged this instrument by him subscribed to be his free act and deed and the free act and deed of ADG, INC.

BEFORE ME: \_\_\_\_\_  
NOTARY PUBLIC

BY-LAWS OF  
PERRY HILL OWNERS' ASSOCIATION, INC.

EXHIBIT C22

1. Name of the Association. The name of the Association shall be Perry Hill Owners' Association, Inc...
2. Principal Office. The principal office shall be located at 358 South Pinnacle Ridge, Waterbury, Vermont 05676. The principal office and post office address of the Association may from time to time be changed by the Association giving notice to each member.
3. Membership. From and after the date of these by-laws, all lot owners in Perry Hill shall become members of the Association. Membership in the Association, with respect to any lot, shall terminate upon cessation of lot ownership.
4. Purposes and Powers Of The Association. The Association shall have the following powers and purposes:
  - (a) To accept an assignment of the rights and responsibilities of ADG, Inc., as more particularly set forth in a document entitled "Perry Hill Declaration Of Protective Covenants and Conditions" recorded in the Waterbury, Vermont land records and any amendments thereto.
  - (b) To own and manage the common area, including roadways and community land, of Perry Hill subdivision, Waterbury, Vermont.
  - (c) To open and maintain bank accounts in the name of the Association. All checks, drafts or other orders for payment of money, notes or other evidence of indebtedness issued in the name of the Association shall be signed by the president or treasurer.
  - (d) To make, levy and collect annual and special assessments and charges to defray costs of operation of the Association, and to pay costs of maintaining and repairing the subdivision infrastructure.
  - (e) To employ personnel for reasonable compensation to perform the above services; to enter into contracts, including a management contract for the performance of such services.
  - (f) To require members who are delinquent in payment of charges or assessments to pay interest and the costs of collection of such charges or assessments including reasonable attorneys' fees, if such delinquent fees have not been cured after thirty (30) days notice to do so.
  - (g) To borrow money by open loan or by pledging collateral of the Association.
  - (h) To invest the assets of the Association in other savings accounts or time deposits.
  - (i) To make, amend, promulgate and enforce reasonable administrative rules and regulations for the use and enjoyment of the common areas and facilities.
  - (j) The Association shall have such other additional powers as may reasonably be inferred or as may be necessary, to carry out the aforesaid purposes.
5. Meetings.
  - (a) As soon as practicable after activation of the Association, a meeting with no less than fifteen (15) days notice shall be called by the incorporator for the purpose of organizing the Association.
  - (b) After the first meeting, each annual meeting of the members shall be held in a convenient place in the Waterbury, Vermont area during the month of July of each year or at such other dates the members may approve. The secretary shall give each member at least fifteen (15) days prior written notice of the time and place of the meeting.
  - (c) Special meetings of the members may be held at the request of at least one-third (1/3) of the then members. At least fifteen (15) days prior written notice shall be given of any special meeting.
  - (d) All notices shall contain a statement of the purpose of the calling of a meeting. Notices of meetings may be waived by all members entitled to vote.

Exhibit F  
68-12-V  
1/7/2013



- (e) Except as hereinafter provided:
- (1) All members as of the date of notices, or if a meeting is held pursuant to waiver of notice, then as of a date fifteen (15) days prior to the holding of a meeting, shall be entitled to vote at a meeting.
  - (2) No member who is in default more than thirty (30) days in the payment of any dues or assessments shall be entitled to vote at any meeting of the Association.
  - (3) At any meeting of members, fifty one per cent (51%) of the members entitled to vote represented in person or by proxy shall constitute a quorum of the meeting of members.
- (f) At all meetings of the members, a member may vote by proxy executed in writing by the member or by his duly authorized attorney in fact. Such proxy may be filed with the Secretary of the Association before the time of the meeting.
6. Voting. Each lot in Perry Hill shall be entitled to one (1) vote in the Association. Where ownership of a lot is in the name of more than one person, whether husband and wife or otherwise, the several owners thereof shall be entitled to only one (1) vote among them. A corporation owning a lot shall be entitled to authorize persons to represent the corporation in voting for the lot.
7. Informal Action by Members. Unless prohibited by law, any action required to be taken at a meeting of the members may be taken without such meeting if a consent in writing setting forth the action so taken shall be signed by all of the members entitled to vote with respect to the subject matter thereof.
8. Board of Directors. The business and affairs of the association shall be managed by a Board of Directors consisting of three persons who need not be members of the association. The term of office shall be three years. ADG, Inc. shall be entitled to appoint two of the directors until such time as it is no longer the owner of any lots in Perry Hill. The third director shall be elected by the Owners' Association. A vacancy in the Board shall be filled for the unexpired term of the retiring director by the Board
- (a) Meetings of Directors. A regular meeting of the Directors shall be held without notice immediately after, and at the same place as, the annual meeting of owners. Special meetings of the Directors may be called by the President or any two Directors.
- (b) Quorum. A majority of the Directors shall constitute a quorum for the transaction of business.
- (c) Power of Board of Directors. The Board of Directors shall have the power to:
1. Adopt, amend and rescind administrative rules and regulations for use of association property.
  2. Establish penalties for the infraction of said administrative rules and regulations.
  3. Employ a manager, independent contractor or such other employees as it deems necessary.
  4. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership or conferred upon it by other provisions of these By-Laws, the Articles of Association, and the Vermont Non profit Corporation Act.
9. Officers. The officers shall consist of a President, Secretary and Treasurer. Any two offices may be held by the same person, except the offices of President and Secretary. All officers shall be elected from the Board of Directors.
- (a) Election and Term of Office. The officers shall be elected annually by the Board of Directors at each annual Directors' Meeting. Each officer shall hold office until the next annual meeting and until his successor shall have been duly elected and qualified, unless he shall sooner resign, be removed or otherwise become disqualified to serve.

- (b) Resignation. Any officer may resign at any time by written notice to the Board of directors, President or Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein. Unless otherwise specified therein, acceptance of such resignation by the Board shall not be necessary to make it effective.
  - (c) Removal. Any officer may be removed from office by the Board of Directors with or without cause whenever in its judgment the best interests of the Association will be served thereby.
  - (d) Vacancies. A vacancy in any office may be filled by the Board of Directors for the unexpired term of the predecessor in office.
  - (e) President. The President shall be the principal executive officer of the Association, and shall be subject to the control of the Board of Directors, and shall supervise and control the business and affairs of the Association. He shall, when present, preside at all meetings of the Members and Directors. In general, he shall perform all duties incident to the office of President and such other duties as may from time to time be prescribed by the Board of Directors.
  - (f) Secretary. The Secretary shall keep the minute book wherein all resolutions and votes of the Members and Directors shall be recorded and have custody of the record book containing the names and places of residence of all Members. In the event of the absence or death of the President or his inability or refusal to act, Secretary shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. In general, he shall perform all duties incident to the office of Secretary and such other duties as may from time to time be prescribed by the Board of Directors.
  - (g) Treasurer. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Corporation and, in general, perform all duties incident to the office of Treasurer and such other duties as may from time to time be pre- scribed by the Board of Directors.
9. Compensation. No officer shall be compensated for his services unless otherwise voted by the Association, excepting that the Secretary shall be reimbursed for expenses incurred.
10. Budget and Assessment.
- (a) Directors' Proposal. At least 30 days before the Annual Members' Meeting, the Board of Directors shall submit to the Members a proposed budget for the ensuing year which depicts anticipated operating expenses and taxes to be paid. At the same time, the Board shall propose an assessment to the Members for such year sufficient in amount to defray those expenditures.
  - (b) Members' Adoption. Said proposed budget shall not become final until submitted to the Annual Meeting of the Members who may either adopt the proposed budget and assessment or revise the same and adopt them as revised. The annual assessment shall take effect the first month following its adoption.
  - (c) Supplemental Assessments. If during any fiscal year the Board of Directors determines that the annual assessments for that year are less than operating expenses actually incurred or likely to be incurred, the Board may recommend a supplemental assessment and convene a Special Members' Meeting for the purpose of acting upon such recommendation. Such a supplemental assessment shall be payable in accordance with the resolution authorizing the same.
11. Liens. Assessments and charges levied by the Association pursuant to its authority hereunder shall constitute a lien against each lot on which such assessments and charges are levied. Such lien shall be effective as of the date on which such assessments and charges are due and payable, which date shall be clearly reflected on any billing sent to Perry Hill lot owners.
12. Notices. All notices provided for herein may be given by ordinary mail, and shall be deemed given as of the date of depositing in an official United States Postal Services Depository.
- (a) Unless otherwise provided by law, whenever any notice is required to be given to any member of the Association under the provisions of these by-laws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein , shall be deemed equivalent to giving such notice.

13. Amendments. These by-laws may be altered, repealed or new by-laws adopted by a vote of the members representing two-thirds ( $2/3$ ) of all members entitled to vote. No by-laws shall be so amended, repealed or adopted unless the notice of the meeting specifically set forth such amendments.

Sparks Holding Proposed Acreages  
Area of Land Uses Matrix

Lot #	Acreage +/- Including road R.O.W	Acreage +/- Excluding road R.O.W	Lot #	Acreage +/- Including road R.O.W	Acreage +/- Excluding road R.O.W
1	0.19	0.15	14	0.21	0.15
2	0.19	0.13	15	0.61	0.45
3	0.18	0.14	16	0.20	0.17
4	0.17	0.13	17	0.21	0.13
5	0.20	0.13	18	0.12	0.12
6	0.20	0.26	19	0.19	0.11
7	0.16	0.11	20	0.17	0.16
8	0.17	0.21	21	0.17	0.09
9	0.19	0.13	22	0.19	0.09
10	0.19	0.17	23	0.27	0.16
11	0.22	0.22	24	0.24	0.21
12	0.18	0.12	25	0.17	0.17
13	0.31	0.26	26	0.48	0.48
Total Column	2.55	2.16		3.23	2.49

Road/Drive Outside Building Lots (To Limit of R.O.W)      Total Road/Drive (To Limit of R.O.W)      2.4

Total Building Lots      5.78

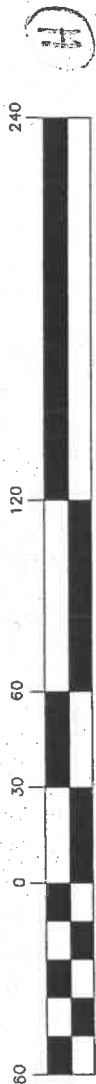
Open Area      7.56 = 52.9% of total acreage

Total Acreage      14.3

Exhibit G  
08-12-V  
1/17/2013



GRAPHIC SCALE



( IN FEET )

1 inch = 60 ft.

#68-12V  
 SPARKS HOLDINGS  
 SD/PUD  
 DRG 2/17/2013

Topography by Total Station  
 Contour Interval 2'  
 Approximate USGS Datum  
 Based on Hand Held GPS Unit

REVISIONS

02/06/13	ADD LABELS, MISCELLANEOUS
01/31/13	ADD TURNAROUNDS, REVISE SHOULDER AT CURB CUT, MISCELLANEOUS
12/18/12	ADD LOCAL ZONING INFORMATION, MISCELLANEOUS NOTES

CONSTRUCTION

OVERVIEW  
 SPARKS HOLDINGS, LLC  
 (MAPLE BASIN)

PERRY HILL ROAD

WATERBURY, VT

SCALE : 1" = 60'  
 DESIGNED BY: GNM PROJECT : #98061A  
 DRAWN BY: SJH/WDB  
 CHECKED BY: GNM

MCCAIN CONSULTING, INC.  
 93 SOUTH MAIN STREET  
 WATERBURY, VERMONT 05676

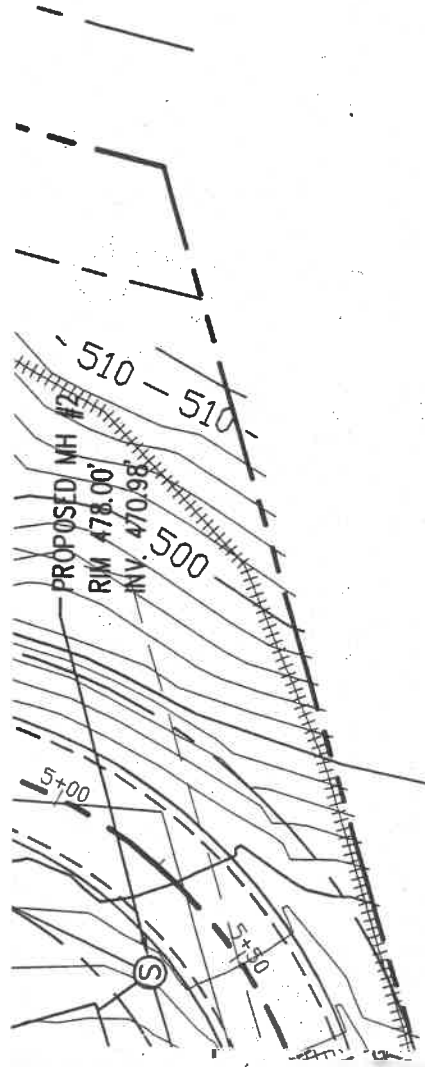
DATE: NOVEMBER 26, 2012

SHEET S-1

IN

(I)

#68-12V  
SPARKS HOLDINGS  
SD/PUD  
PRB 2/7/2013



REVISIONS	
01/31/13	REVISE SHOULDER AT CURB CUT, MISCELLANEOUS
01/24/13	ADD TURNAROUNDS, MISCELLANEOUS

SITE PLAN WITH FINISH GRADES  
 SPARKS HOLDINGS, LLC  
 (MAPLE BASIN)

PERRY HILL ROAD WATERBURY, VT

SCALE : 1" = 40'  
 DESIGNED BY: GNM PROJECT : #98061A  
 DRAWN BY: SJH/WDB  
 CHECKED BY: GNM

McCain Consulting, Inc.  
 93 SOUTH MAIN STREET  
 WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012 SHEET S-2

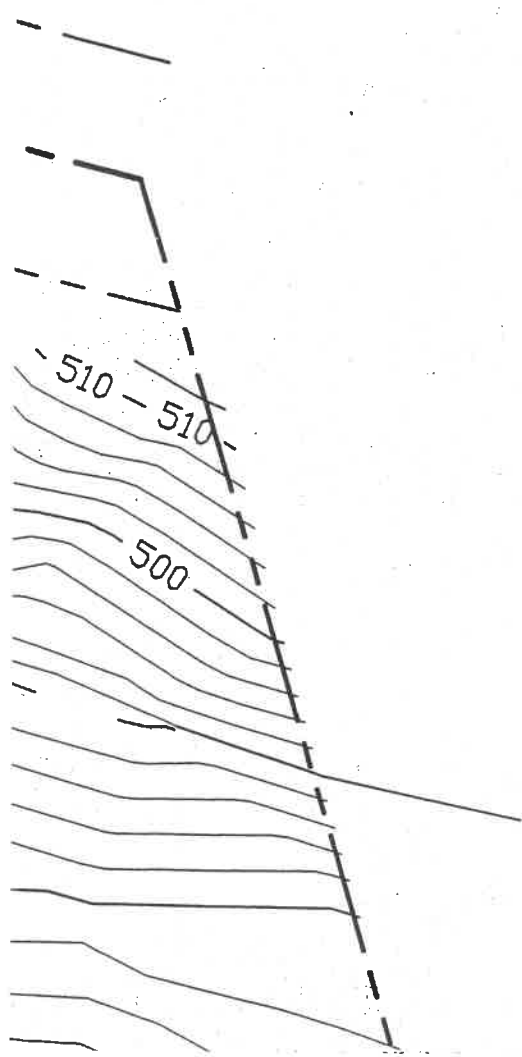
#68-12V

(I)

Sparks Holdings

PUD/SD

DRB 2/7/2013



EXISTING CONDITIONS PLAN  
 SPARKS HOLDINGS, LLC  
 (MAPLE BASIN)

PERRY HILL ROAD

WATERBURY, VT

SCALE : 1" = 40'

DESIGNED BY: GNM

DRAWN BY: SJH/WDB

CHECKED BY: GNM

PROJECT : #98061A

McCain Consulting, Inc.

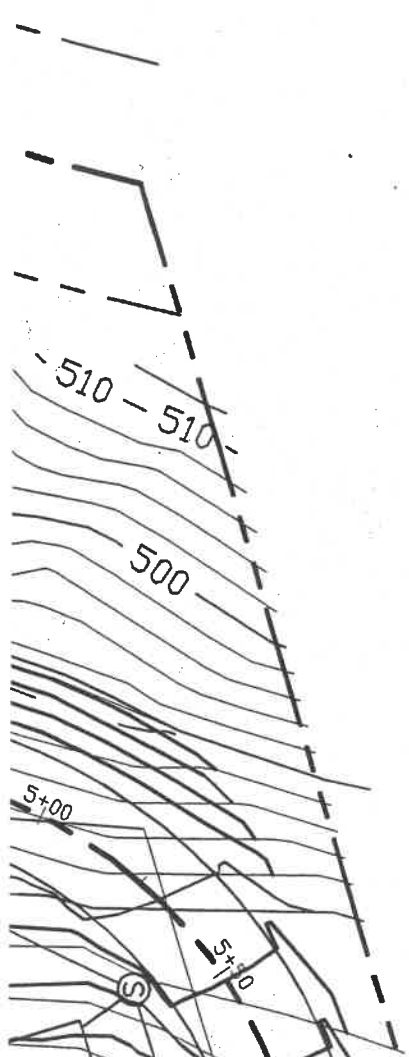
93 SOUTH MAIN STREET

WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012

SHEET

S-3



#68-12V

Sparks Holdings

PUD/SD

DEC 21/7/2013

REVISIONS

01/31/13

ADD TURNAROUNDS, MISCELLANEOUS

SITE PLAN WITH EXISTING AND FINAL GRADES  
 SPARKS HOLDINGS, LLC  
 (MAPLE BASIN)

PERRY HILL ROAD

WATERBURY, VT

SCALE : 1" = 40'

DESIGNED BY: GNM

DRAWN BY: SJH/WDB

CHECKED BY: GNM

PROJECT : #98061A

McCain Consulting, Inc.

93 SOUTH MAIN STREET

WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012

SHEET

S-4

NOT





GRAPHIC SCALE

( IN FEET )  
1 inch = 40 ft.

*Topography by Total Station  
Contour Interval 2'  
Approximate USGS Datum  
Based on Hand Held GPS Unit*

REVISIONS

01/31/13

ADD TURNAROUNDS, REVISE SHOULDER AT CURB CUT, MISCELLANEOUS

LANDSCAPING PLAN  
SPARKS HOLDINGS, LLC  
(MAPLE BASIN)

PERRY HILL ROAD

WATERBURY, VT

SCALE : 1" = 40'  
DESIGNED BY: GNM  
DRAWN BY: SJH/WDB  
CHECKED BY: GNM

PROJECT : #98061A

McCain Consulting, Inc.

93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012

SHEET S-5



December 19, 2012

Clare Rock  
Zoning Administrator  
51 South Main Street  
Waterbury, VT 05676

RE: Preliminary DRB hearing  
Sparks Planned Unit Development  
Perry Hill Road, Waterbury  
McCain Project No. 98061A

Dear Clare,

In response to your email of December 18, 2012 on the above referenced application, we are providing the requested additional information below:

1. The PUD's double setback on the perimeter of the property is shown on the revised site plan S-1 Overview dated 11/26/2012 last revised 12/18/2012, a copy of which is attached. All lots meet the double setback requirement excepting lots 13 and 15. As noted on the plans, the reduced setback for these 2 lots complies with the regulations as the requested setback is not less than the standard setback, and 2 building lots would be eliminated without the reduction. The request conforms with the general purpose of the by-laws, and as the sites are 20+ feet below the road they are adequately screened.
2. The Class II wetland is labeled on the enclosed site plan S-1. A Vermont Wetlands Permit is required for the project. Please see below for additional information on this and other required state permits.
3. The stormwater detention areas have been identified on the enclosed site plan S-1. The location/configuration of these areas is preliminary. See below for additional information concerning the stormwater permits for the project.
4. The timing of phasing will depend on the state of the economy and the sale of the Phase I lots. Phase I will take a minimum of 2 years to build out, and the rate of lot and home sales is unknown at this time. It is anticipated that construction of Phase II will begin 2 - 4 years after all permits are issued.
- 5 & 6. The Application for Water and Sewer Allocation was submitted to Bill Shepeluk on December 6, 2012. A copy is enclosed for your reference.

Exhibit M  
08-12-✓  
4/17/2013

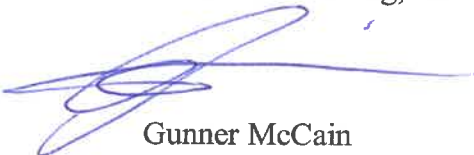
## EXHIBIT C33

7. A copy of the School Impact Questionnaire completed by Brigid Sheffert, Superintendent of Washington West Supervisory Union, is enclosed for your reference. The Superintendent did not have any concerns with the proposed project.
8. A traffic study has not been completed for this project. Based on data found in the ITE Trip Generation Manual, the project will generate approximately 15 morning *peak hour* trip ends and approximately 17 evening *peak hour* trip ends. Considering the number of homes that access the village and points beyond via Perry Hill and Lincoln Street, the addition of these trips should not be problematic. Total average daily trips ends are estimated at 260. We note that during busy times the traffic flow at the Stowe Street – Lincoln Street intersection is controlled by the traffic lights on Route 100.
9. The proposed access road from Perry Hill that will serve the subdivision is 20-foot wide with 2-foot wide shoulders. The road network and driveways will provide ample room for maneuvering large vehicles within the subdivision. A letter to Chief Dillon on December 19, 2012 requests his review of the project as it relates to emergency services. A copy of the letter is attached.

In addition to the town permit, the project requires an Act 250 Permit; a Vermont Wetlands Permit for impacts to the wetland and its' buffer; coverage under the Construction General Permit for erosion prevention and sediment control; an Operational Stormwater Permit for treatment of runoff from impervious surfaces; and a Wastewater System and Potable Water Supply permit for the municipal water and sewer extensions, all of which are issued by the ANR. We have completed preliminary design work for all of these permits to ensure that the grading plans and other aspects of the project will not conflict with the infrastructure required for those items, however to date we have not completed the final plans and applications. These permits are technical in nature, and create a rebuttable presumption in the Act 250 process. This means that issuance of the ANR permit proves that the project satisfies the criteria covered by that particular permit. The applicant will obtain all the required permits prior to construction of the project. However, due to the cost of developing plans and the cost of permit application fees, these applications will not be submitted until there is a level of comfort that other aspects of the project are accepted.

Please let us know if you have any questions.

Sincerely,  
McCain Consulting, Inc.



Gunner McCain

Enc.



December 6, 2012

Bill Shepeluk  
Municipal Manager  
51 South Main Street  
Waterbury, VT 05676

Re: Maple Basin Project  
Subdivision and Construction of 26 Single Family Homes  
Perry Hill Road, Waterbury Center  
McCain Project No. 98061a

Dear Bill,

Please find enclosed a request for water and sewer allocation for the above referenced project. We have based this analysis on a 26 lot subdivision with each lot containing one 3-bedroom single family home with low-flow fixtures installed. The enclosed Site Plan dated November 26, 2012, shows the proposed layout of the subdivision. Sewer needs are based on the 2007 Agency of Natural Resources (ANR) Wastewater and Potable Water Supply Rules. The sewer allocation is calculated at 210 gallons per day (gpd) per house for a total design flow of 5,460 gpd. Water needs are based on the 2005 ANR Water Supply Rule. The water allocation is calculated at 450 gpd per lot, minus 10% for low flow fixtures, for a total design flow of 10,530 gpd.

Please feel free to call if you have any questions or if you need additional information.

Sincerely,  
McCain Consulting, Inc.

Kristen Howell

Enc.  
CC: Sparks Holdings, LLC  
Arnot Development Group, Inc.

Exhibit N  
08-12-V  
1/17/2013



VILLAGE OF WATERBURY  
APPLICATION FOR  
WATER & SEWER ALLOCATION & CONNECTION

The undersigned hereby requests an allocation of water and/or sewer from the Village of Waterbury and also requests permission to tap into the water and/or sewer system of the Village of Waterbury. If necessary a zoning permit cannot be issued until this permit has been received and processed by the Village of Waterbury Water Commissioners and/or Sewer Commissioners. The permit is void in the event of misrepresentation or failure to complete construction within two years of the date of approval.

PROPERTY ADDRESS: (Service Location) Perry Hill Road, 26 lot subdivision  
(Street Name and Number or Subdivision Name and Lot Number)

PROPERTY OWNER(S) NAME: Sparks Holdings, LLC  
MAILING ADDRESS: 264 Mad River Park  
Waitsfield, VT 05673

TELEPHONE NUMBER  
HOME: \_\_\_\_\_  
WORK: 802-496-2205  
X 26

NATURE OF PROJECT:  
 New Construction of a subdivision with municipal water/sewer connection.  
 Renovation/Addition to \_\_\_\_\_

Residential  Commercial  Church or Non-Profit Social Clubs  
Kitchen (Y/N) # of Dining Seats: \_\_\_\_\_

26 Number of Units (Apartments) \_\_\_\_\_ Number of Retail Stores  
78 Total Number of Bedrooms \_\_\_\_\_ Number of Offices  Other: \_\_\_\_\_

Bathrooms \_\_\_\_\_ Barber Shop, Beauty Salon # of Chairs \_\_\_\_\_  
\_\_\_\_\_ Number of New \_\_\_\_\_ Dental Office, # of Chairs \_\_\_\_\_  Employees  
\_\_\_\_\_ Number of Existing \_\_\_\_\_ Doctors Office, # of Seats \_\_\_\_\_ Number of Employees  
\_\_\_\_\_ Restaurant, # of Seats \_\_\_\_\_ (Office, Store(s), Restaurant)  
\_\_\_\_\_ Number of Employees  
(Per Shift) Number of Shifts \_\_\_\_\_

SIGNATURE OF APPLICANT: [Signature] DATE: 12-5-12

OFFICE USE ONLY

Based on the information provided by the applicant listed above:  
Allocation of Water is \_\_\_\_\_ gpd Water Allocation/Connection Fee\$: \_\_\_\_\_ TOTAL DUES: \_\_\_\_\_  
Allocation of Sewer is \_\_\_\_\_ gpd Sewer Allocation/Connection Fee\$: \_\_\_\_\_ FEE PAID ON: \_\_\_\_\_  
Meter Fee\$: \_\_\_\_\_ CHECK # \_\_\_\_\_ CASH\$ \_\_\_\_\_

FOR BILLING PURPOSES:  
The Residential Base Units are \_\_\_\_\_ The Commercial Base Units are \_\_\_\_\_ The Sewer Units are \_\_\_\_\_  
The Village Water Units are \_\_\_\_\_ Bond Charge Applies (Y/N) \_\_\_\_\_ Sewer Base Commercial \_\_\_\_\_  
The Town Water Units are \_\_\_\_\_ Sewer Base No Meter \_\_\_\_\_ Sewer Base Non-Residential \_\_\_\_\_  
Sewer Base Residential \_\_\_\_\_ Sewer Non-Metered \_\_\_\_\_

AUTHORIZED REPRESENTATIVE: \_\_\_\_\_ DATE: \_\_\_\_\_

NOTE: No Allocation is granted until an application is completed and all fees are paid. Allocation is effective on the date that the permit is signed by the authorized representative of the Village of Waterbury.

Exhibit 0  
68-12-V  
1/17/2013

ACT 250  
SCHOOL IMPACT QUESTIONNAIRE FOR RESIDENTIAL PROJECTS

This questionnaire is intended to help applicants gather evidence to submit under Criterion 6 - Educational Services. A letter or narrative from the Superintendent or appropriate school official may also serve as evidence.

EXHIBIT **C36**

APPLICANT TO COMPLETE:

Applicant Name: Sparks Holdings, LLC  
Municipality: Waterbury  
Number of Lots or Units: Development of 26 single-family homes  
Estimated Number of Students 26 Source of estimate: 2010 Census

SCHOOL SUPERINTENDENT OR EQUIVALENT TO COMPLETE:

a) What schools under your supervision will provide educational services for families who will live in this project?

Elementary school Matche Brook Primary School  
Middle school Crosett Brook Middle School  
High school Hawood Union High School

b) Do these schools have the capacity to accept the additional students listed above? (assume equal grade distribution)  Yes or [ ] No

c) If "no", what is the deficiency? \_\_\_\_\_  
\_\_\_\_\_

d) What plans are in place to correct the problem, including any capital construction projects? \_\_\_\_\_  
\_\_\_\_\_

e) Do you have other comments? I have no concerns related to these educational needs resulting from this project.

f) Are you available, after sufficient notice, to answer questions related to the above statements at an Act 250 hearing?  Yes or [ ] No

I certify the above information is true and accurate to the best of my knowledge.

Brigid Ahearn  
Name  
Superintendent of Schools  
Position  
12/10/12  
Date

Exhibit  
68-12-v  
1/17/2013  
P



December 19, 2012

Gary Dillon, Fire Chief  
Waterbury Fire Department  
51 South Main Street  
Waterbury, VT 05676

Re: Perry Hill Subdivision  
Perry Hill Road, Village District, Waterbury  
McCain Project No. 98061A

Dear Chief Dillon,

We are preparing for Planned Unit Development review by the Development Review Board and Act 250 for a project in the Waterbury Village District. Your review of the project as it relates to emergency services is requested. Please find the enclosed site plan S-1 Overview dated 11/26/2012 last revised 12/18/2012.

Sparks Holdings, LLC owns 14+ acres in the Village District on Perry Hill Road. The proposed project will involve a 26 lot subdivision for moderate single family homes. The subdivision will have an access road off of Perry Hill that will be 20-foot wide with 2-foot shoulders to accommodate resident and service vehicles. Shared driveways are proposed for all homes, providing ample room for maneuvering large vehicles within the subdivision.

Please let us know if you have any questions or concerns with this project.

Sincerely,  
McCain Consulting, Inc.

Kristen Howell  
Permit Specialist

Exhibit Q  
68-12-V  
1/17/2013





**EXHIBIT C38**

**1:8,016**  
January 10, 2013

**LEGEND**

**Rare Threatened Endangered**  
Threatened or Endangered  
Rare

**Significant Natural Community**  
Deer Wintering Areas  
Class A Watersheds  
Class A(2) Public Water Supplies  
Class A(1) Ecological Waters

**Wetlands - VSWI**  
Class 1 Wetland  
Class 2 Wetland

**Wetlands - VSWI Advisory Lay**  
Special Flood Hazard Areas (A Counties)  
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

**Soils - Hydric**  
Soils - Prime Agricultural  
Local  
Local (b)  
Prime  
Prime (b)  
Prime (c)  
Statewide

**NOTES**

Map created using ANR's Natural Resources Atlas  
*Created by 2A*  
*Exhibit R*  
*05-12-13*  
*1/17/2013*

**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.

**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

407.0 0 204.00 407.00 Meters

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Vermont Agency of Natural Resources



# WATERBURY MUNICIPAL OFFICE

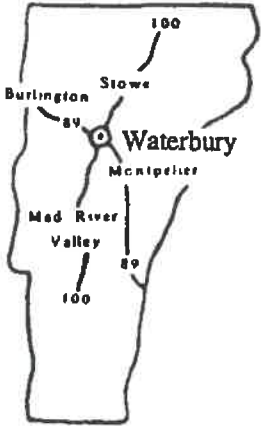
WATERBURY, VERMONT 05676

51 South Main Street

(802) 244-7033 (802) 244-5858

FAX (802) 244-1014

EXHIBIT **C39**



January 8, 2013

Mr. Gunner McCain  
McCain Consulting, Inc.  
93 S. Main St., suite 1  
Waterbury, VT 05676

I have reviewed the information you sent me regarding the water/wastewater needs for the Maple Basin Project in Waterbury Village which includes a subdivision of land and the construction of 26 single-family homes. Regarding the water/sewer allocation: I agree with your calculations. The village has adequate capacity in its water and wastewater systems to approve the allocations of 10,530 gpd for water capacity and 5,460 gpd for wastewater capacity.

I have not signed off on that permit yet as I'd like to offer a down payment and then an installment plan for the balance as the allocation fees are pretty high—\$39,487.50 for water and \$30,903.60 for wastewater. Given the total is more than \$70,000 I need to discuss this with the water/sewer commissioners. They meet on January 14th at 4:30. You or your client are welcome to attend, but attendance is no means obligatory.

Feel free to present this letter at any hearing you may be required to attend for this project's permitting

Sincerely,

William A. Shepeluk  
*Mun. Mgr.*

[www.waterburyvt.com](http://www.waterburyvt.com)

VERMONT'S RECREATION CROSSROADS

*Exhibit S*

*08-12-V*

*1/17/2012*

This questionnaire is intended to help applicants gather evidence to submit under Criterion 7 - Municipal Services. A letter or narrative from the Town Manager, Selectboard Chair or appropriate official may also serve as evidence.

**APPLICANT TO COMPLETE:**

Applicant Name: Sparks Holdings, LLC Municipality: Waterbury  
Title and Date of Site Plan Submitted: Sketch Plan, September 20, 2012

**TOWN MANAGER, DEPARTMENT HEADS, OR EQUIVALENT TO COMPLETE:**

a) Does the municipality have the capacity to provide the following services without unreasonable burdens for the above project:

- Fire Protection  Yes  No  Mun. does not provide this service.
- Police Protection  Yes  No  Mun. does not provide this service.
- Rescue Service  Yes  No  Mun. does not provide this service.
- Solid Waste Disposal  Yes  No  Mun. does not provide this service.
- Road Maintenance  Yes  No  Mun. does not provide this service.

b) If "no", what are the deficiencies? \_\_\_\_\_  
\_\_\_\_\_

c) If the service is unavailable from the municipality, who provides the service so that the town doesn't have to? Rescue/Ambulance provided by Waterbury Ambulance Service, Inc., a private not for profit

d) Would the deficiencies occur without this project?  Yes or  No? If "no", what measures can the applicant take to alleviate the deficiencies?  
\_\_\_\_\_  
\_\_\_\_\_

e) If the deficiencies are common to many projects, does this project create burdens which are disproportionate to the taxes and user fees to be paid to the municipality?  Yes or  No? If "yes", does the municipality recommend the imposition of an impact fee or other means to mitigate any unreasonable burdens?  
\_\_\_\_\_

f) Are you available, after sufficient notice, to answer questions related to the above statements at an Act 250 hearing?  Yes or  No

I certify that the above information is true and accurate to the best of my knowledge.

*William A. Shepeluk*  
 Name William A. Shepeluk  
 Position Municipal Manager  
 Date 1/8/13

*Exhibit T  
68/12-v 2  
1/17/2012*



**EXHIBIT C41**

**NOTICE FOR A PUBLIC HEARING**

---

**NOTICE OF PUBLIC HEARING  
DEVELOPMENT REVIEW BOARD**

**DATE:** December 31, 2012  
**TO:** Adjacent Landowner  
**FROM:** Sparks Holdings, LLC,  
264 Mad River Park, Waitsfield, VT 05673

---

This notice is being sent to you as an adjacent property owner.

On January 17, 2013 at 6:40 pm at the Waterbury Municipal Office, located at the Main Street Fire Station, 43 South Main Street, Waterbury a public hearing has been scheduled with the Town of Waterbury's Development Review Board. The Development Review Board will conduct a Planned Unit Development Review for the following project:

*This project involves a 26-lot subdivision and associated single family home development*

This application and all supporting material are on file at the temporary Waterbury Municipal Office (43 South Main Street, 2<sup>nd</sup> Floor) for your review. Please call the Zoning Administrator at 244-1018 to make arrangements to review the file.

Participation in the proceedings is a prerequisite to the right to take any subsequent appeal.

Exhibit U  
08-12-V  
1/17/2013

#68-12-V

(V)

Sports Holdings

PUD/SD

DRB 2/7/2013

CONSTRUCTION

N

ROAD PROFILES  
SPARKS HOLDINGS, LLC  
(MAPLE BASIN)

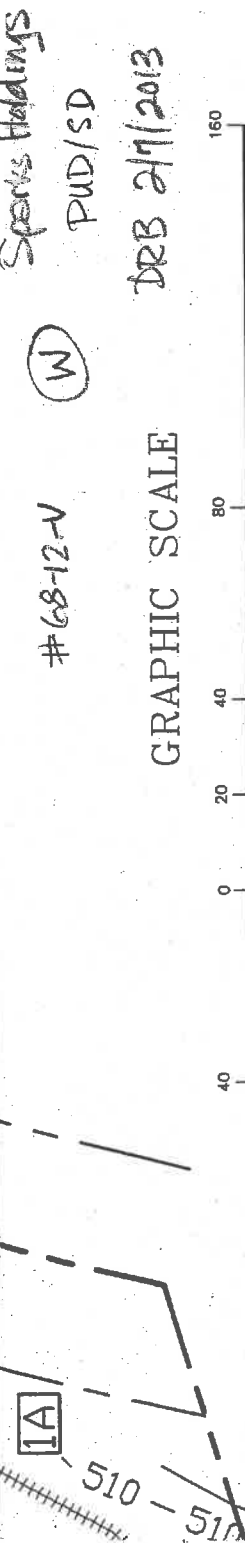
PERRY HILL ROAD  
WATERBURY, VT

McCain Consulting, Inc.  
93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

SCALE : NTS  
DESIGNED BY: GNM PROJECT : #98061A  
DRAWN BY: WDB  
CHECKED BY: GNM

DATE: NOVEMBER 26, 2012 SHEET S-6





#68-12-V

(W)

DRB 2/7/2013

GRAPHIC SCALE



( IN FEET )

1 inch = 40 ft.

Topography by Total Station  
 Contour Interval 2'  
 Approximate USGS Datum  
 Based on Hand Held GPS Unit

REVISIONS

01/31/13	REVISE SHOULDER AT CURB CUT, MISCELLANEOUS
01/24/13	ADD STAGING AREA, MISCELLANEOUS

EROSION PREVENTION & SEDIMENT CONTROL  
 OVERVIEW/PRE-CONSTRUCTION PLAN  
 SPARKS HOLDINGS, LLC

PERRY HILL ROAD

WATERBURY, VT

SCALE : 1" = 40'  
 DESIGNED BY: PROJECT #98061A  
 DRAWN BY: SJH/WDB  
 CHECKED BY: GNM/PCL

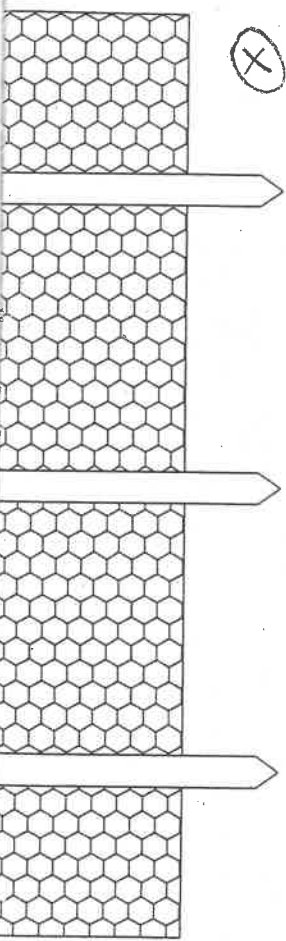
McCain CONSULTING, INC.  
 93 SOUTH MAIN STREET  
 WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012

SHEET

EC-1

#68-12V  
Sparks Holdings  
PUD/SD  
DRB 2/7/2013



EROSION CONTROL NUMBER 5  
SNOW FENCE DETAIL  
(NOT TO SCALE)

FINAL GRADE

REVISIONS

01/31/13	REVISE SHOULDER AT CURB CUT, MISCELLANEOUS
01/24/13	ADD STAGING AREA, REVISE NOTES, MISCELLANEOUS

EROSION PREVENTION & SEDIMENT CONTROL  
OVERVIEW/PRE-CONSTRUCTION PLAN  
SPARKS HOLDINGS, LLC

PERRY HILL ROAD WATERBURY, VT

SCALE : 1" = 60'  
DESIGNED BY: PROJECT #98061A  
DRAWN BY: SJH/WDB  
CHECKED BY: GNM/PCL

McCain CONSULTING, INC.  
93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012 SHEET EC-2



EXHIBIT C45

**To:** Clare Rock  
**From:** Paul Arnot  
**Date:** February 5, 2013  
**Subject:** Sparks Holdings

---

Dear Clare:

At our January 17, 2013 hearing before the DRB some questions were raised regarding our proposed development. As I recall the questions related to pedestrian access, construction traffic and staging area, general traffic and large truck turn-arounds.

**Pedestrian Access:**

Initially we proposed to create pedestrian access across the existing 50' utility right-of-way between Sparks Holding's property and Clover Lane. Through discussions with the property owner it was discovered that the Clover Lane neighborhood has concerns with adding pedestrian traffic to their road. A number of shortcomings with their road were cited as the reason for their concerns. As an alternative a Letter of Intent has been secured from Amelia Acres property owners to allow for the restoration of the existing rail road bed for a pedestrian path. This path will link our access road with Lincoln Street.

**Construction Traffic & Staging Area:**

A takeoff for the materials necessary to construct the development's roads and utilities was performed. In brief, approximately 236 truck trips will be necessary to transport materials to the site. If you take this number and divide by two to account for the two phases you arrive at 118 trips per phase. Taking this number and spreading it out over two weeks, an estimate of the number of days material will be trucked; you arrive at 8.5 truck trips per day. A staging area has been identified on the plans.

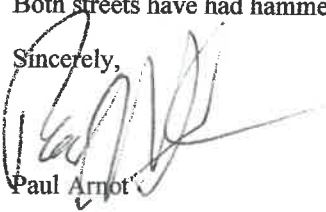
**General Traffic:**

A chart has been developed to show the percentage increase that the proposed development will add to existing Lincoln Street and Perry Hill traffic. In order to estimate traffic currently being generated by existing homes on or directly off of Perry Hill, Google Maps was used to perform a physical count. Using Google Maps 140+- homes were counted. A shortcoming to this approach is that it likely underestimates by a large margin additional traffic generated by vehicles using Perry Hill as access to downtown rather than proceeding to Route 100 via Guptil Road. It also does not account for traffic generated by the Park & Ride. Even without accounting for this additional traffic the chart shows that the percentage increase in traffic generated by the proposed development is quite small.

**Hammer Heads:**

Both streets have had hammer heads added to provide a location for large trucks to turn around.

Sincerely,



Paul Arnot

Enc. Brian Mac Letter of Intent  
Perry Hill Traffic Summary

Cc: Steve Lotspeich

08-12-V  
EXhibit Y  
2/7/2013



February 6, 2013

Clare Rock  
Town of Waterbury  
51 South Main Street  
Waterbury, VT 05676

Re: Sparks Holdings, LLC  
Perry Hill Subdivision  
McCain Project No. 98061a

Dear Clare,

Please find enclosed two copies of the revised Sheet S-1 Overview for the above-referenced project. The plans were revised to include the setbacks, and also show the area of the pedestrian easement to Lincoln Street, as recently discussed.

Let me know if you have any questions or require additional information.

Sincerely,  
McCain Consulting, Inc.

A handwritten signature in black ink, appearing to read 'Kristen Howell'.

Kristen Howell  
Permit Specialist

Enc.



# EXHIBIT C47

Land Use (ITE Code)	Units	ITE Trip Rates (1)						Daily Trip Rate
		AM Peak Hour Rates			PM Peak Hour Rates			
		In	Out	Total	In	Out	Total	
Single-Family Detached Housing (210)	du	0.19	0.56	0.75	0.64	0.37	1.01	9.57
Sparks Holdings	26	4.94	14.56	19.5	16.64	9.62	26.26	248.82
Perry Hill & Lincoln Street (2) (4)	140	26.6	78.4	105	89.6	51.8	141.4	1339.8
Percentage Increase Per Year (3)	4.64%	4.64%	4.64%	4.64%	4.64%	4.64%	4.64%	4.64%

1. Sources: 2008 ITE Trip Generation Manual, 8th Edition.  
 2. Physical Count of Existing Homes  
 3. Four Year Phasing  
 4. Not Including Park & Ride Traffic

68-12-V  
 Exhibit 2  
 2/7/2013



## EXHIBIT C48

February 5, 2013

Steve Lotspeich  
Community Planner  
Town of Waterbury  
51 South Main Street  
Waterbury, VT 05676

RE: Rail Bed Easement

Dear Steve:

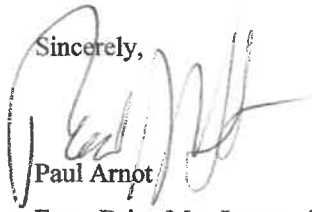
The purpose of this letter is to clarify my intent in respect to upgrading the old rail bed into a pedestrian path.

As we discovered, the rail bed from the old trolley line to Stowe still exists along a portion of Perry Hill Road from the entrance to my proposed development to Lincoln Street. As suggested, I have secured Letters of Intent from the two property owners upon whose land the rail bed lies to grant to the Town of Waterbury an easement for a pedestrian path.

If the Town of Waterbury chooses to accept easements for the rail bed I propose a shared approach to its restoration. Coinciding with my development I will supply machine time and labor, while for its part the Town will provide the necessary materials, e.g., gravel and culvert. The path, once developed, will be available for use by the general public.

As questions arise, please feel free to either call or email me.

Sincerely,

  
Paul Arnot

Enc: Brian Mac Letter of Intent  
Travis & Madaileine Kingsbury Letter of Intent

Cc: Clare Rock

68-12-V  
EXHIBIT AA  
2/7/2013

# EXHIBIT C49

February 5, 2013

Steve Lotspeich  
Community Planner  
Town of Waterbury  
51 South Main Street  
Waterbury, VT 05676

RE: Rail Bed Easement

Dear Steve:

The purpose of this letter is to express my intent to grant an easement to the Town of Waterbury for the purpose of establishing a pedestrian path upon the rail bed currently located along the northeast boundary of my property.

I have outlined the below, in general, terms and conditions for the granting of this easement:

**Grantor:** Travis and Madaileine Kingsbury

**Grantee:** Town of Waterbury

**Property Description** – Pedestrian Easement on Lot 7B, Amelia Acres

**Conditions:** The Village will provide documentation acceptable to Grantor's legal counsel that absolves Grantor of any and all liability associated with the preparation and use of the rail bed for pedestrian use. Village must acknowledge that the pedestrian path once established will be for pedestrian use only and that the Grantor has no responsibility for construction or maintenance of the pedestrian path.

**Tax Credit:** Should Grantor choose to pursue any tax deductions available for granting the easement, Town agrees to support Grantor's efforts.

Sincerely,

  
Travis J. Kingsbury

Sincerely,

  
Madaileine Kingsbury

68-12-✓  
Exhibit BB  
2/7/2013

# EXHIBIT C50

January 31, 2013

Steve Lotspeich  
Community Planner  
Town of Waterbury  
51 South Main Street  
Waterbury, VT 05676

RE: Rail Bed Easement

Dear Steve:

The purpose of this letter is to express my intent to grant an easement to the Town of Waterbury for the purpose of establishing a pedestrian path upon the rail bed currently located along the northeast boundary of my property.

I have outlined the below, in general, terms and conditions for the granting of this easement:

**Grantor:** Brian Mac

**Grantee:** Town of Waterbury

**Property Description** – Pedestrian Easement on Lot 7C, Amelia Acres

**Conditions:** The Village will provide documentation acceptable to Grantor's legal counsel that absolves Grantor of any and all liability associated with the preparation and use of the rail bed for pedestrian use. Village must acknowledge that the pedestrian path once established will be for pedestrian use only and that the Grantor has no responsibility for construction or maintenance of the pedestrian path.

**Tax Credit:** Should Grantor choose to pursue any tax deductions available for granting the easement, Town agrees to support Grantor's efforts.

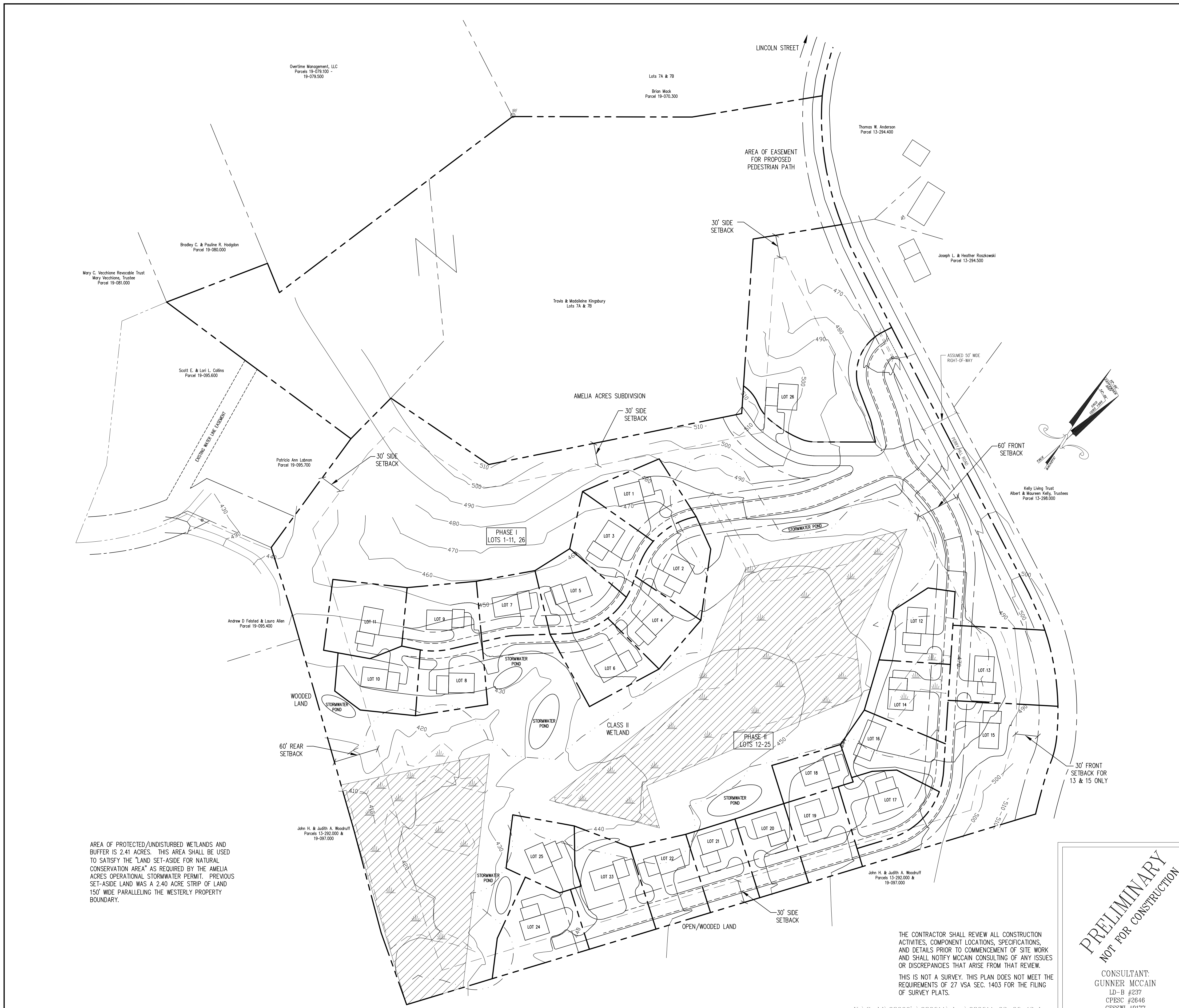
Sincerely,



Brian Mac

08-12-V  
Exhibit CC  
2/7/2013





AREA OF PROTECTED/UNDISTURBED WETLANDS AND BUFFER IS 2.41 ACRES. THIS AREA SHALL BE USED TO SATISFY THE "LAND SET-ASIDE FOR NATURAL CONSERVATION AREA" AS REQUIRED BY THE AMELIA ACRES OPERATIONAL STORMWATER PERMIT. PREVIOUS SET-ASIDE LAND WAS A 2.40 ACRE STRIP OF LAND 150' WIDE PARALLELING THE WESTERLY PROPERTY BOUNDARY.

THE CONTRACTOR SHALL REVIEW ALL CONSTRUCTION ACTIVITIES, COMPONENT LOCATIONS, SPECIFICATIONS, AND DETAILS PRIOR TO COMMENCEMENT OF SITE WORK AND SHALL NOTIFY MCCAIN CONSULTING OF ANY ISSUES OR DISCREPANCIES THAT ARISE FROM THAT REVIEW.

THIS IS NOT A SURVEY. THIS PLAN DOES NOT MEET THE REQUIREMENTS OF 27 VSA SEC. 1403 FOR THE FILING OF SURVEY PLATS.

**PRELIMINARY**  
NOT FOR CONSTRUCTION

CONSULTANT:  
GUNNER MCCAIN  
LD-B #237  
CPESC #2646  
CESSWI #0177

DIMENSIONAL REQUIREMENTS, STANDARD SUBDIVISION

MINIMUM LOT AREA	SETBACKS		
	FRONT	SIDE	REAR
10,000 SF	30	10	30

DIMENSIONAL REQUIREMENTS, PUD

DENSITY (PER §702(a))  
# UNITS = TOTAL ACREAGE/MINIMUM LOT SIZE  
TOTAL ACREAGE = 14.8 = 644,688 SF/10,000 = 64  
- 26 LOTS PROPOSED, MEETS DENSITY REQUIREMENT

WITH PUD NO MINIMUM LOT SIZE, NO INTERNAL SETBACKS.

PERIMETER SETBACK REQUIREMENT FOR PUD (DOUBLE STANDARD SETBACK)

FRONT	SIDE		REAR
	FRONT	REAR	
60	20	60	

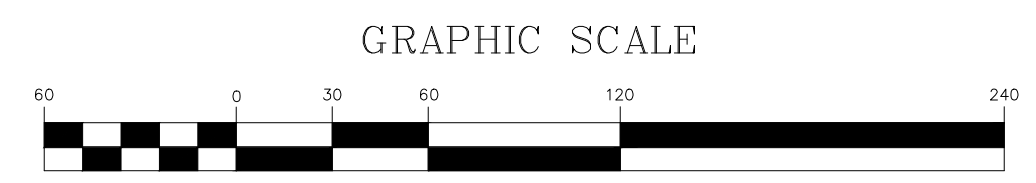
ALL LOTS MEET DOUBLE PERIMETER SETBACKS EXCEPTING LOTS 13 & 15 WHERE A 30' FRONT SETBACK IS REQUESTED. THE REDUCED SETBACK WILL NOT ADVERSELY AFFECT ANY ADJONER AS THE SETBACK IS EQUAL TO THE STANDARD SETBACK FOR THE DISTRICT, WOULD RESULT IN THE ELIMINATION OF 2 BUILDING LOTS IF NOT GRANTED, MEETS THE GENERAL PURPOSE OF THE PUD BY-LAWS, AND AS THE BUILDING SITES ARE ELEVATIONALLY LOWER THAN THE ROAD BY 20+ FEET THEY WILL BE ADEQUATELY SCREENED.

**LEGEND**

- 100 — 10' contours
- — — — — Property line
- - - - - Property line adjainer
- - - - - Right of way line
- ▨ Land set-aside for natural conservation area
- Wetland boundary
- Wetland buffer
- - - - - Setback line

**EXHIBIT C27**

(71) #68-12-V  
SPARKS  
2/6/2015



Topography by Total Station  
Contour Interval 2'  
Approximate USGS Datum  
Based on Hand Held GPS Unit

REVISIONS

02/06/13	ADD LABELS, MISCELLANEOUS
01/31/13	ADD TURNAROUNDS, REVISE SHOULDER AT CURB CUT, MISCELLANEOUS
12/18/12	ADD LOCAL ZONING INFORMATION, MISCELLANEOUS NOTES

OVERVIEW  
**SPARKS HOLDINGS, LLC**  
(MAPLE BASIN)

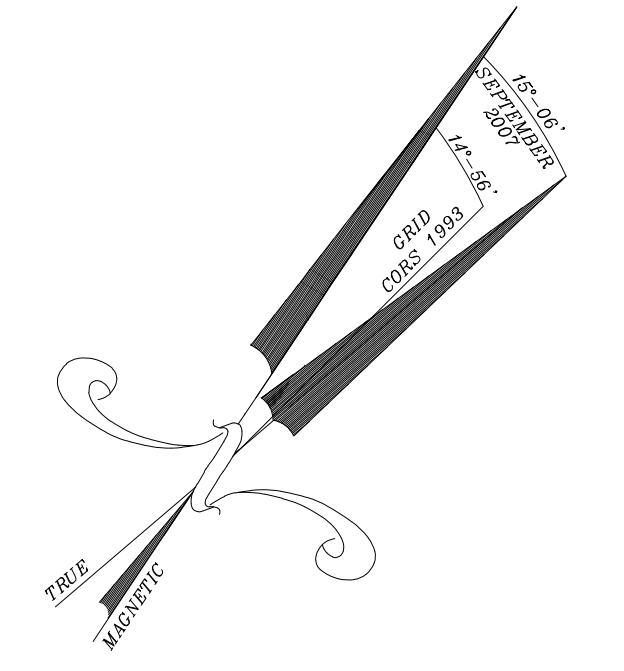
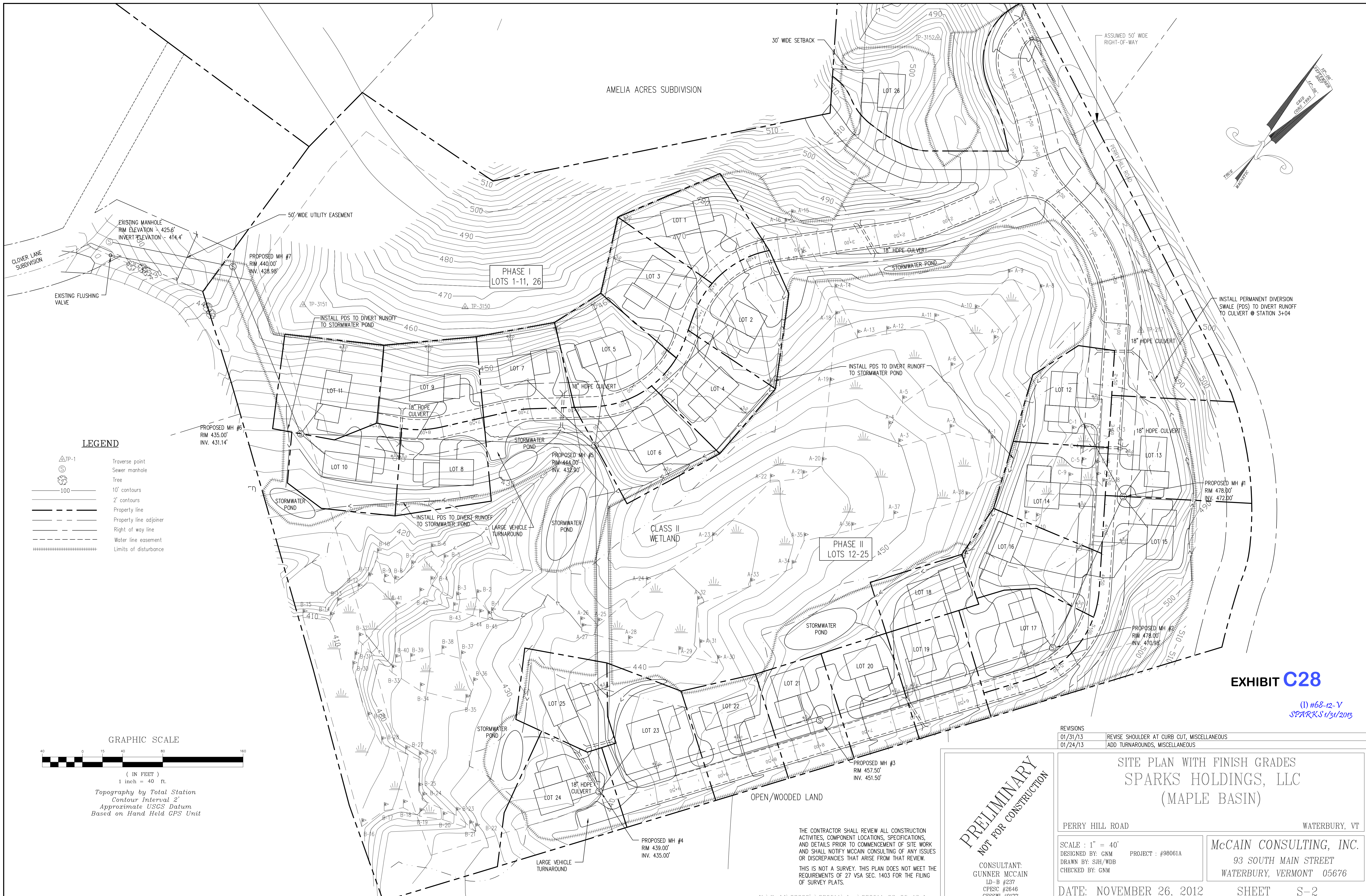
PERRY HILL ROAD WATERBURY, VT

SCALE : 1" = 60'  
DESIGNED BY: GNM PROJECT : #98061A  
DRAWN BY: SJH/WDB  
CHECKED BY: GNM

**McCAIN CONSULTING, INC.**  
93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

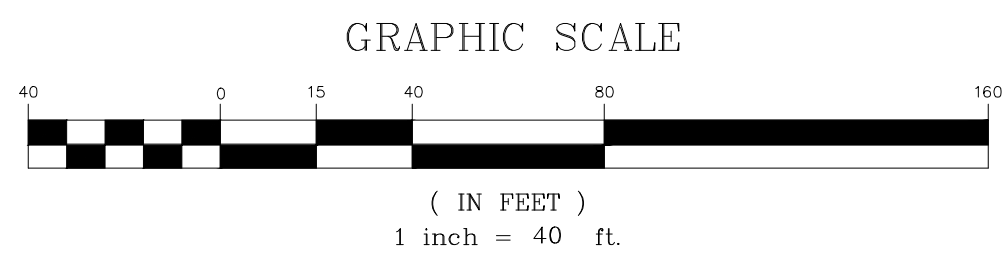
DATE: NOVEMBER 26, 2012 SHEET S-1





**LEGEND**

- △ TP-1 Traverse point
- ⊙ Sewer manhole
- ⊙ Tree
- 100' 10' contours
- 2' contours
- Property line
- Property line adjoiner
- Right of way line
- Water line easement
- Limits of disturbance



Topography by Total Station  
Contour Interval 2'  
Approximate USGS Datum  
Based on Hand Held GPS Unit

**EXHIBIT C28**

(1) #68-12-V  
SPARKS/3/31/2015

REVISIONS	
01/31/13	REVISE SHOULDER AT CURB CUT, MISCELLANEOUS
01/24/13	ADD TURNAROUNDS, MISCELLANEOUS

**PRELIMINARY**  
NOT FOR CONSTRUCTION

SITE PLAN WITH FINISH GRADES  
SPARKS HOLDINGS, LLC  
(MAPLE BASIN)

PERRY HILL ROAD WATERBURY, VT

SCALE : 1" = 40'  
DESIGNED BY: GNM PROJECT : #98061A  
DRAWN BY: SJH/WDB  
CHECKED BY: GNM

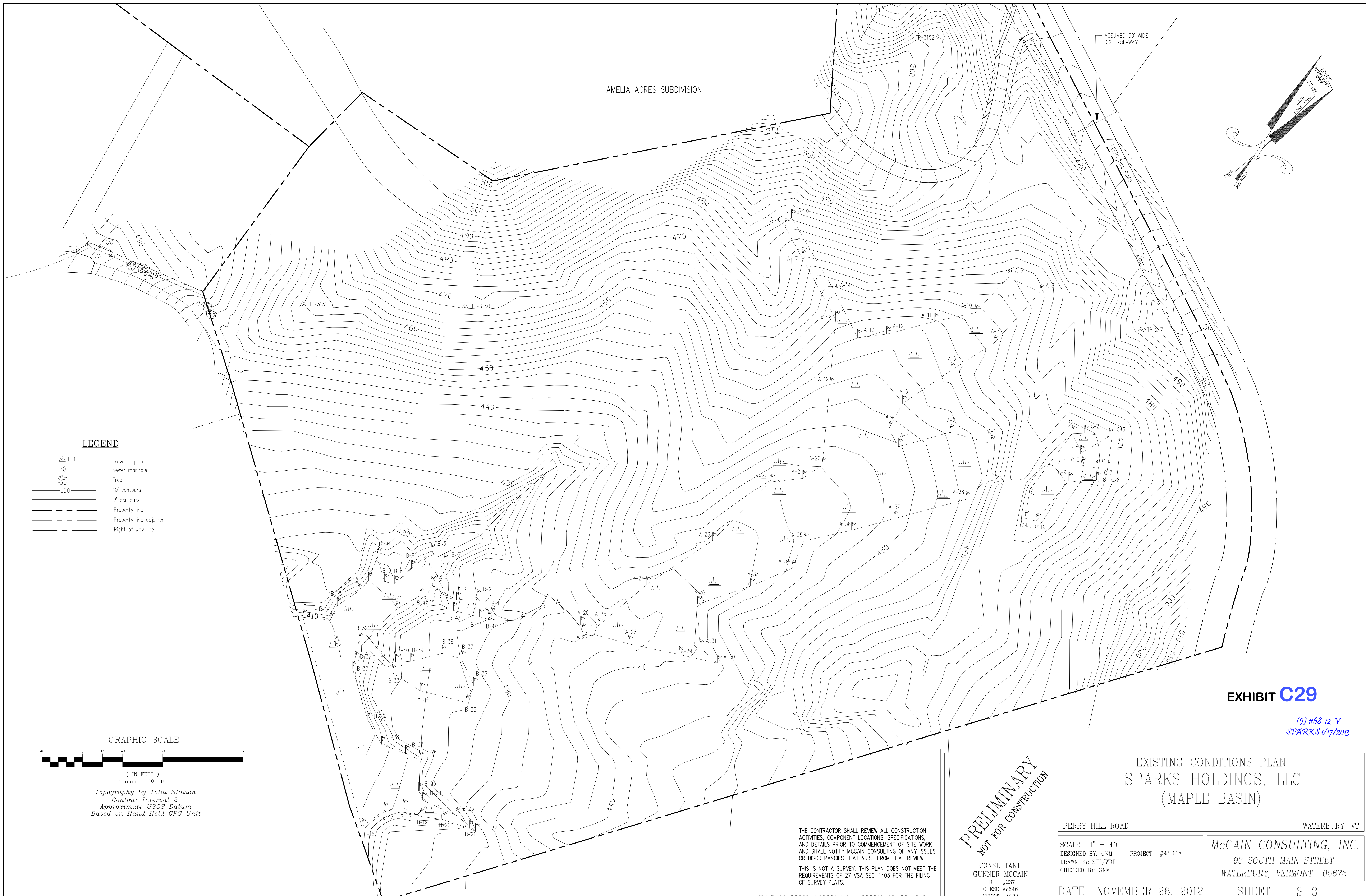
**McCAIN CONSULTING, INC.**  
93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012 SHEET S-2

THE CONTRACTOR SHALL REVIEW ALL CONSTRUCTION ACTIVITIES, COMPONENT LOCATIONS, SPECIFICATIONS, AND DETAILS PRIOR TO COMMENCEMENT OF SITE WORK AND SHALL NOTIFY MCCAIN CONSULTING OF ANY ISSUES OR DISCREPANCIES THAT ARISE FROM THAT REVIEW.  
THIS IS NOT A SURVEY. THIS PLAN DOES NOT MEET THE REQUIREMENTS OF 27 VSA SEC. 1403 FOR THE FILING OF SURVEY PLATS.

CONSULTANT:  
GUNNER MCCAIN  
LD-B #237  
CPESC #2646  
CESSWI #0177

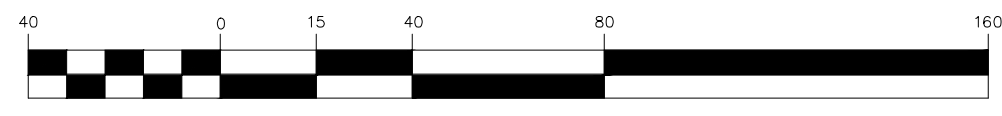




**LEGEND**

- △ TP-1 Traverse point
- ⊙ Sewer manhole
- ⊙ Tree
- 100' 10' contours
- 2' contours
- Property line
- Property line adjointer
- Right of way line

**GRAPHIC SCALE**



Topography by Total Station  
Contour Interval 2'  
Approximate USGS Datum  
Based on Hand Held GPS Unit

**EXHIBIT C29**

(9) #68-12-V  
SPARKS 1/17/2013

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**PRELIMINARY**  
NOT FOR CONSTRUCTION

CONSULTANT:  
GUNNER MCCAIN  
LD-B #237  
CPESC #2646  
CESSWI #0177

EXISTING CONDITIONS PLAN  
SPARKS HOLDINGS, LLC  
(MAPLE BASIN)

PERRY HILL ROAD

WATERBURY, VT

SCALE : 1" = 40'  
DESIGNED BY: GNM  
DRAWN BY: SJH/WDB  
CHECKED BY: GNM

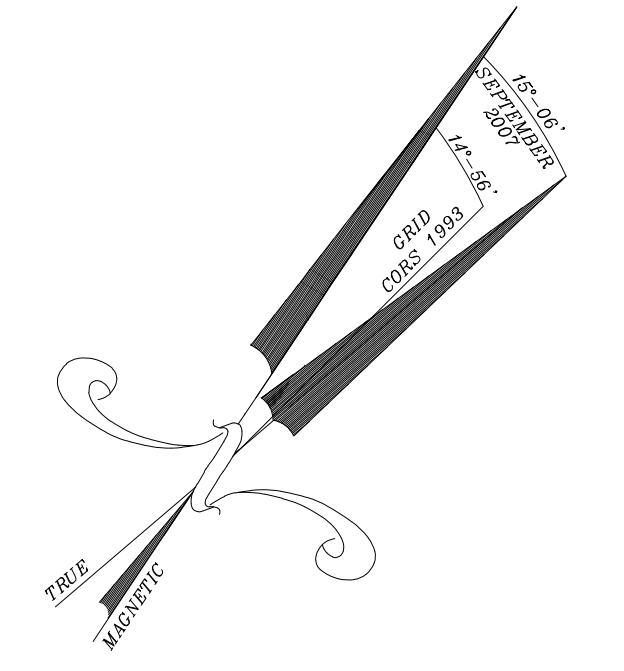
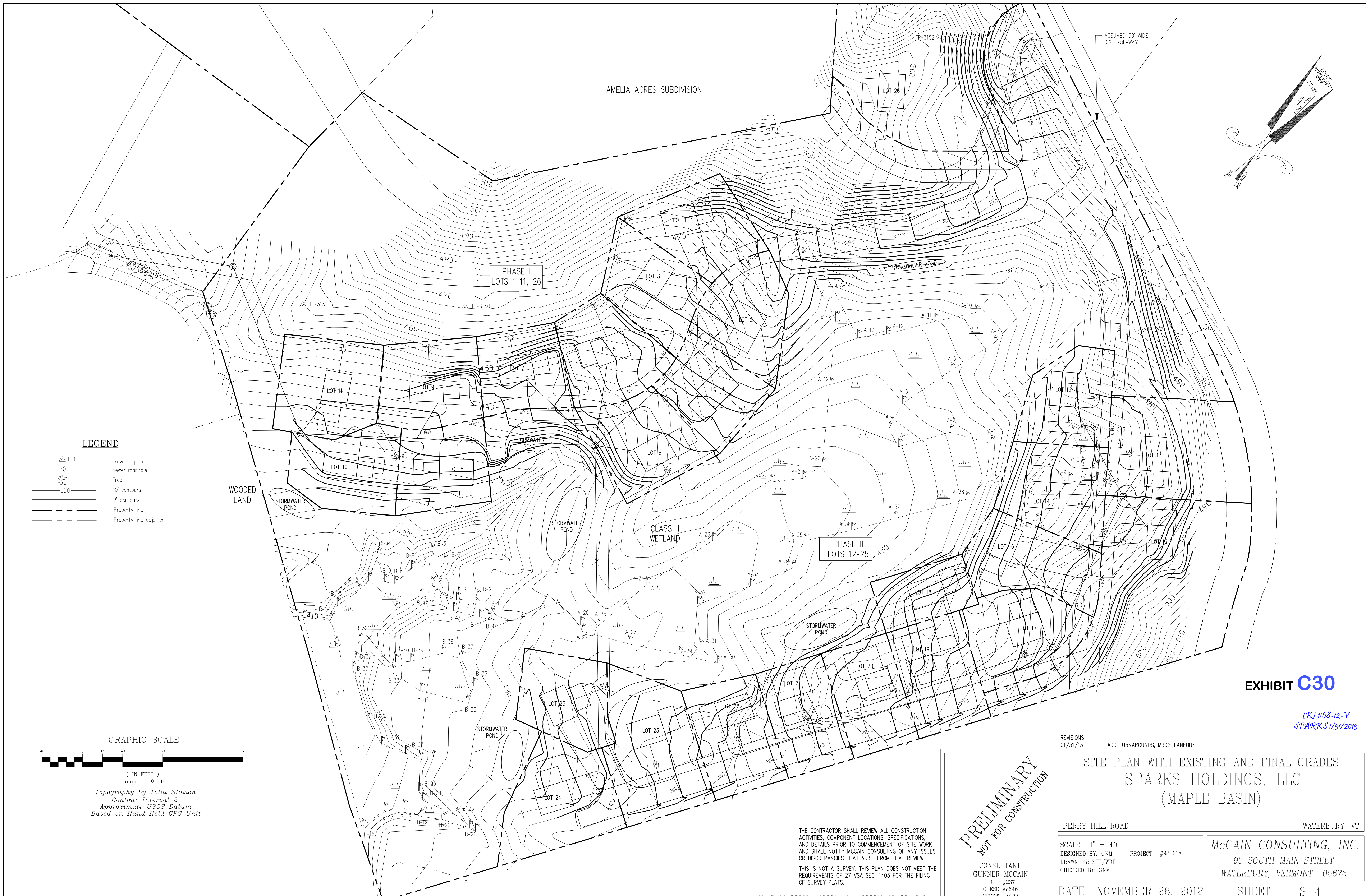
PROJECT : #98061A

**MCCAIN CONSULTING, INC.**  
93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012

SHEET S-3





**LEGEND**

- △ TP-1 Traverse point
- ⊙ Sewer manhole
- ⊕ Tree
- 100' 10' contours
- 2' 2' contours
- Property line
- Property line adjoiner

WOODED LAND

AMELIA ACRES SUBDIVISION

PHASE I  
LOTS 1-11, 26

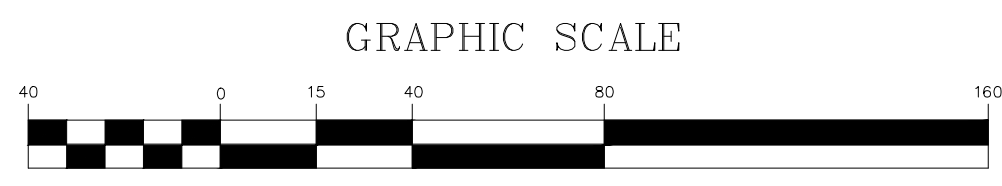
PHASE II  
LOTS 12-25

CLASS II  
WETLAND

ASSUMED 50' WIDE  
RIGHT-OF-WAY

**EXHIBIT C30**

(K) #68-12-V  
SPARKS 1/31/2015



GRAPHIC SCALE  
( IN FEET )  
1 inch = 40 ft.  
Topography by Total Station  
Contour Interval 2'  
Approximate USGS Datum  
Based on Hand Held GPS Unit

THE CONTRACTOR SHALL REVIEW ALL CONSTRUCTION ACTIVITIES, COMPONENT LOCATIONS, SPECIFICATIONS, AND DETAILS PRIOR TO COMMENCEMENT OF SITE WORK AND SHALL NOTIFY MCCAIN CONSULTING OF ANY ISSUES OR DISCREPANCIES THAT ARISE FROM THAT REVIEW.  
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**PRELIMINARY**  
NOT FOR CONSTRUCTION

CONSULTANT:  
GUNNER MCCAIN  
LD-B #237  
CPESC #2646  
CESSWI #0177

REVISIONS	
01/31/13	ADD TURNAROUNDS, MISCELLANEOUS

SITE PLAN WITH EXISTING AND FINAL GRADES  
SPARKS HOLDINGS, LLC  
(MAPLE BASIN)

PERRY HILL ROAD WATERBURY, VT

SCALE : 1" = 40'  
DESIGNED BY: GNM PROJECT : #98061A  
DRAWN BY: SJH/WDB  
CHECKED BY: GNM

**MCCAIN CONSULTING, INC.**  
93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012 SHEET S-4



**LANDSCAPING SPECIFICATIONS:**

Trees along the road r.o.w that are on the Common Land shall be planted by the developer.

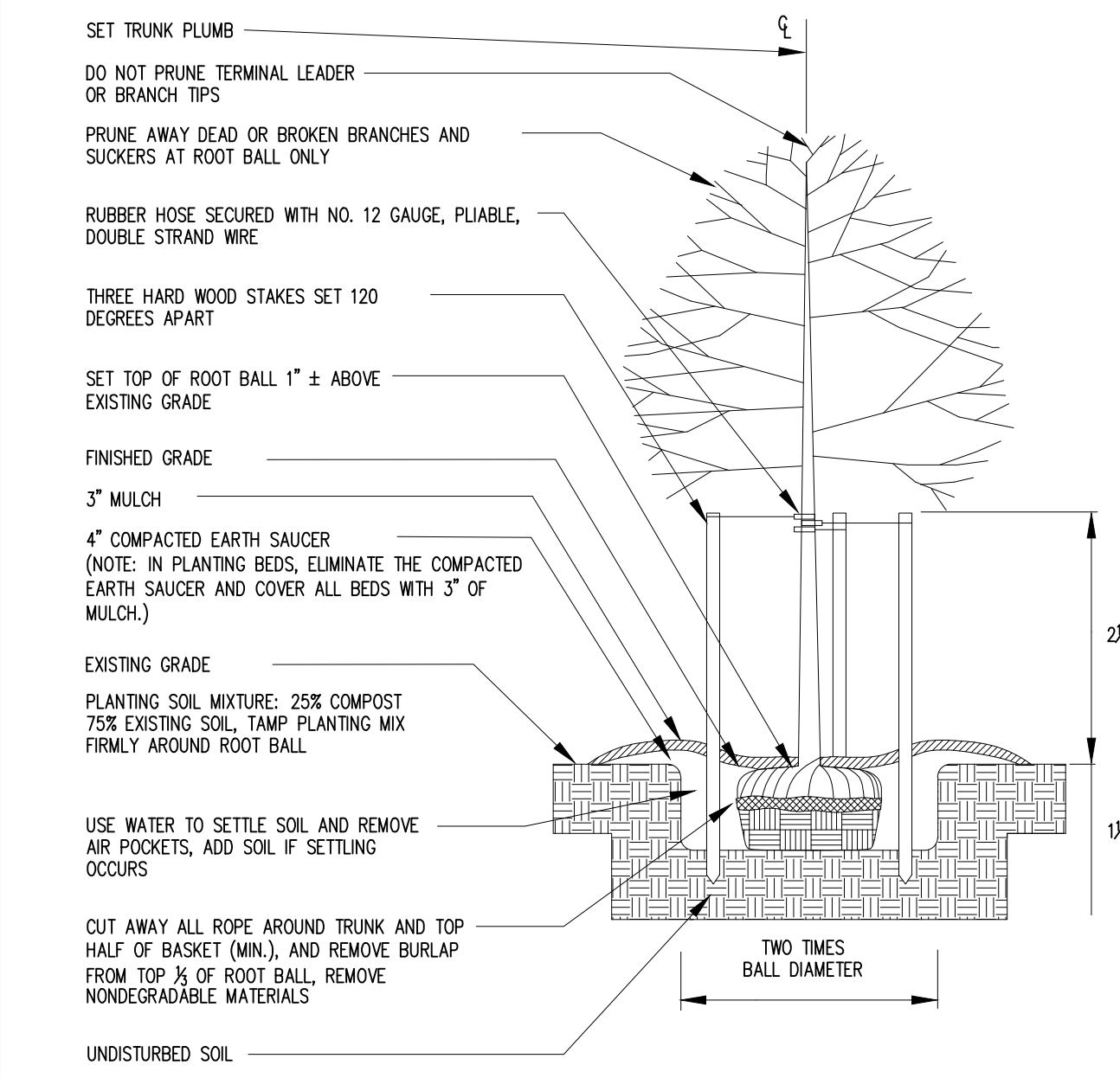
Each lot owner shall be required to plant 2 - 1 1/2" caliper deciduous trees within the road r.o.w. in front of their lot, excepting lots 10, 11, 18, 24 and 25. These lots are required to plant 2 - 1 1/2" caliper trees, however due to the lot configuration they do not need to be within the road r.o.w.

All trees to be 1 1/2" caliper deciduous nursery stock.

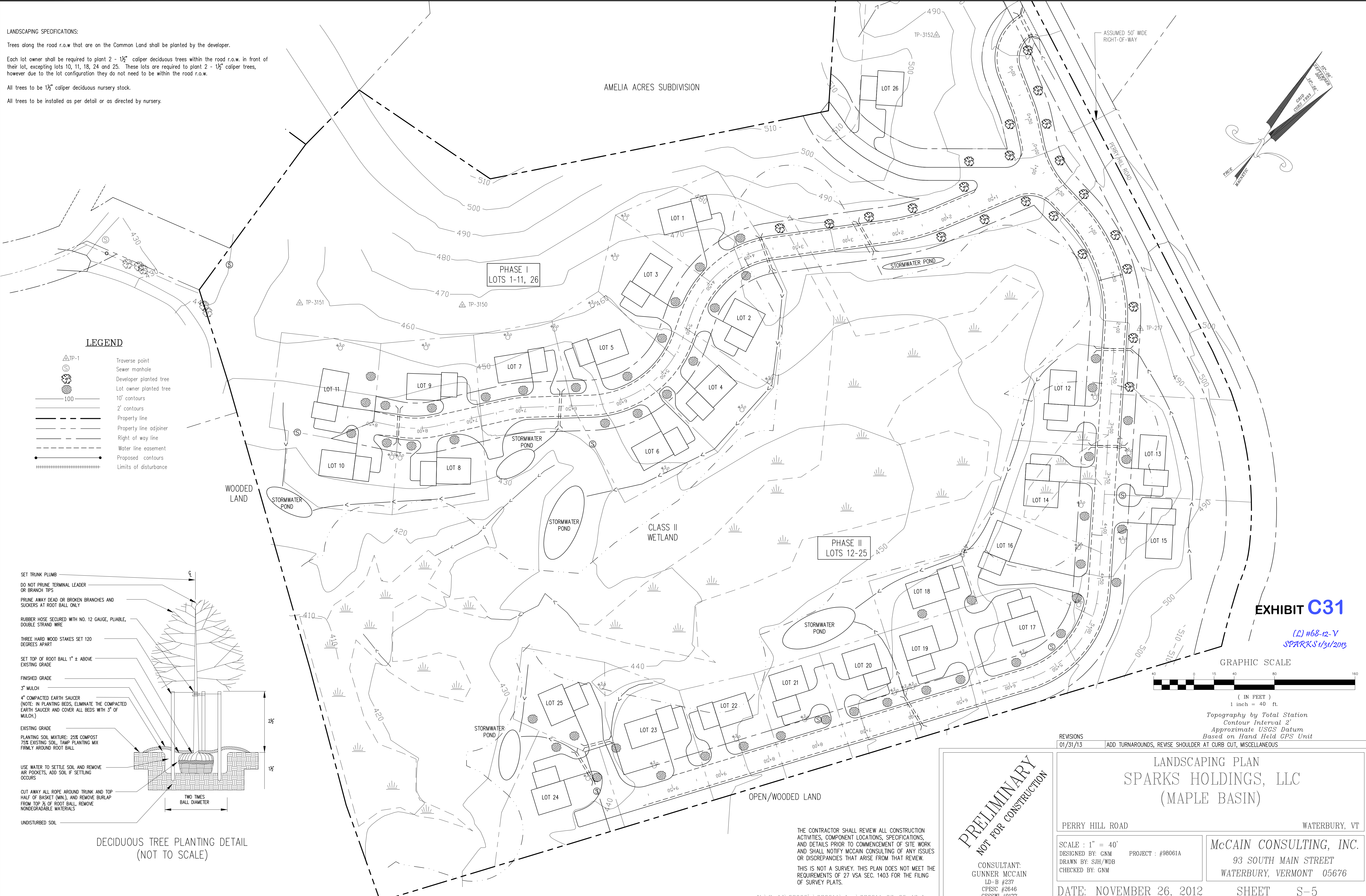
All trees to be installed as per detail or as directed by nursery.

**LEGEND**

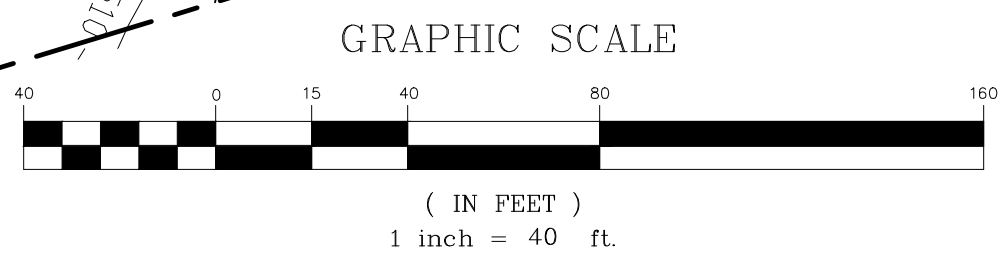
	Traverse point
	Sewer manhole
	Developer planted tree
	Lot owner planted tree
	10' contours
	2' contours
	Property line
	Property line adjoiner
	Right of way line
	Water line easement
	Proposed contours
	Limits of disturbance



DECIDUOUS TREE PLANTING DETAIL  
(NOT TO SCALE)



**EXHIBIT C31**  
 (L) #68-12-V  
 SPARKS 1/31/2015



Topography by Total Station  
 Contour Interval 2'  
 Approximate USGS Datum  
 Based on Hand Held GPS Unit

REVISIONS	DATE	DESCRIPTION
01/31/13		ADD TURNAROUNDS, REVISE SHOULDER AT CURB CUT, MISCELLANEOUS

**LANDSCAPING PLAN**  
**SPARKS HOLDINGS, LLC**  
**(MAPLE BASIN)**

PERRY HILL ROAD WATERBURY, VT

SCALE : 1" = 40'  
 DESIGNED BY: GNM PROJECT : #98061A  
 DRAWN BY: SJH/WDB CHECKED BY: GNM

**McCAIN CONSULTING, INC.**  
 93 SOUTH MAIN STREET  
 WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012 SHEET S-5

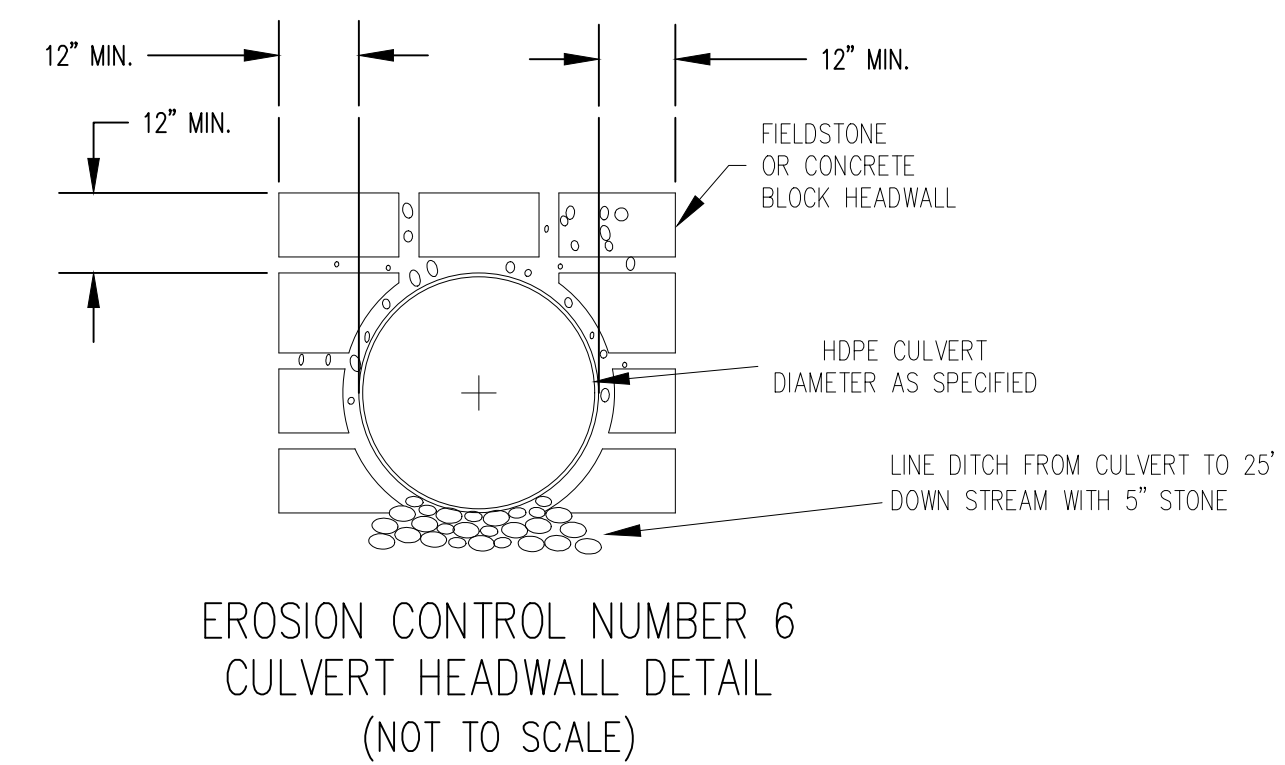
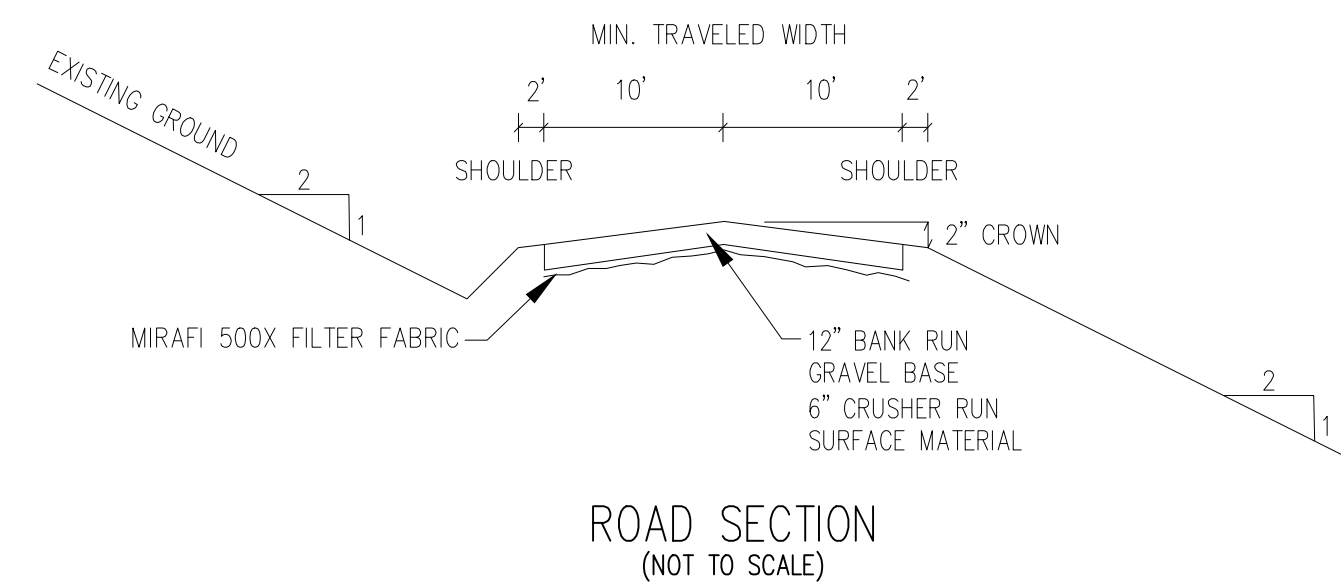
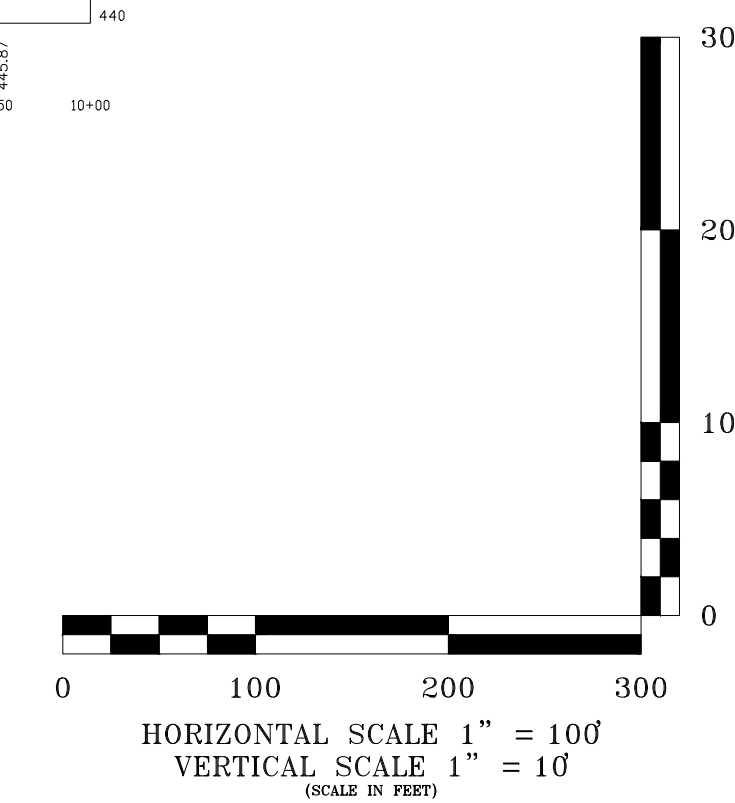
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**PRELIMINARY**  
 NOT FOR CONSTRUCTION

CONSULTANT:  
 GUNNER MCCAIN  
 LD-B #237  
 CPESC #2646  
 CESSWI #0177





## EXHIBIT C42

(V) #68-12-V  
SPARKS 2/6/2013

THE CONTRACTOR SHALL REVIEW ALL CONSTRUCTION ACTIVITIES, COMPONENT LOCATIONS, SPECIFICATIONS, AND DETAILS PRIOR TO COMMENCEMENT OF SITE WORK AND SHALL NOTIFY MCCAIN CONSULTING OF ANY ISSUES OR DISCREPANCIES THAT ARISE FROM THAT REVIEW.

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**PRELIMINARY**  
NOT FOR CONSTRUCTION

CONSULTANT:  
GUNNER MCCAIN  
LD-B #237  
CPESC #2646  
CESSWI #0177

ROAD PROFILES  
SPARKS HOLDINGS, LLC  
(MAPLE BASIN)

PERRY HILL ROAD

WATERBURY, VT

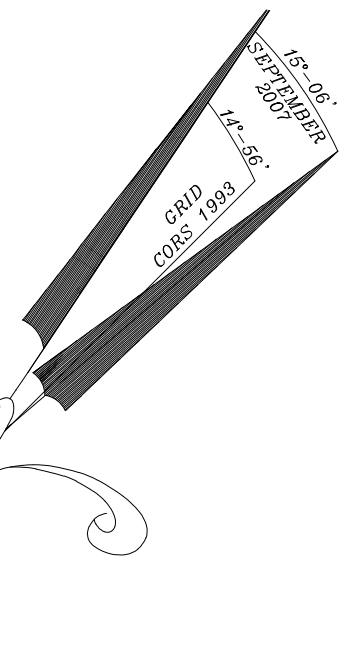
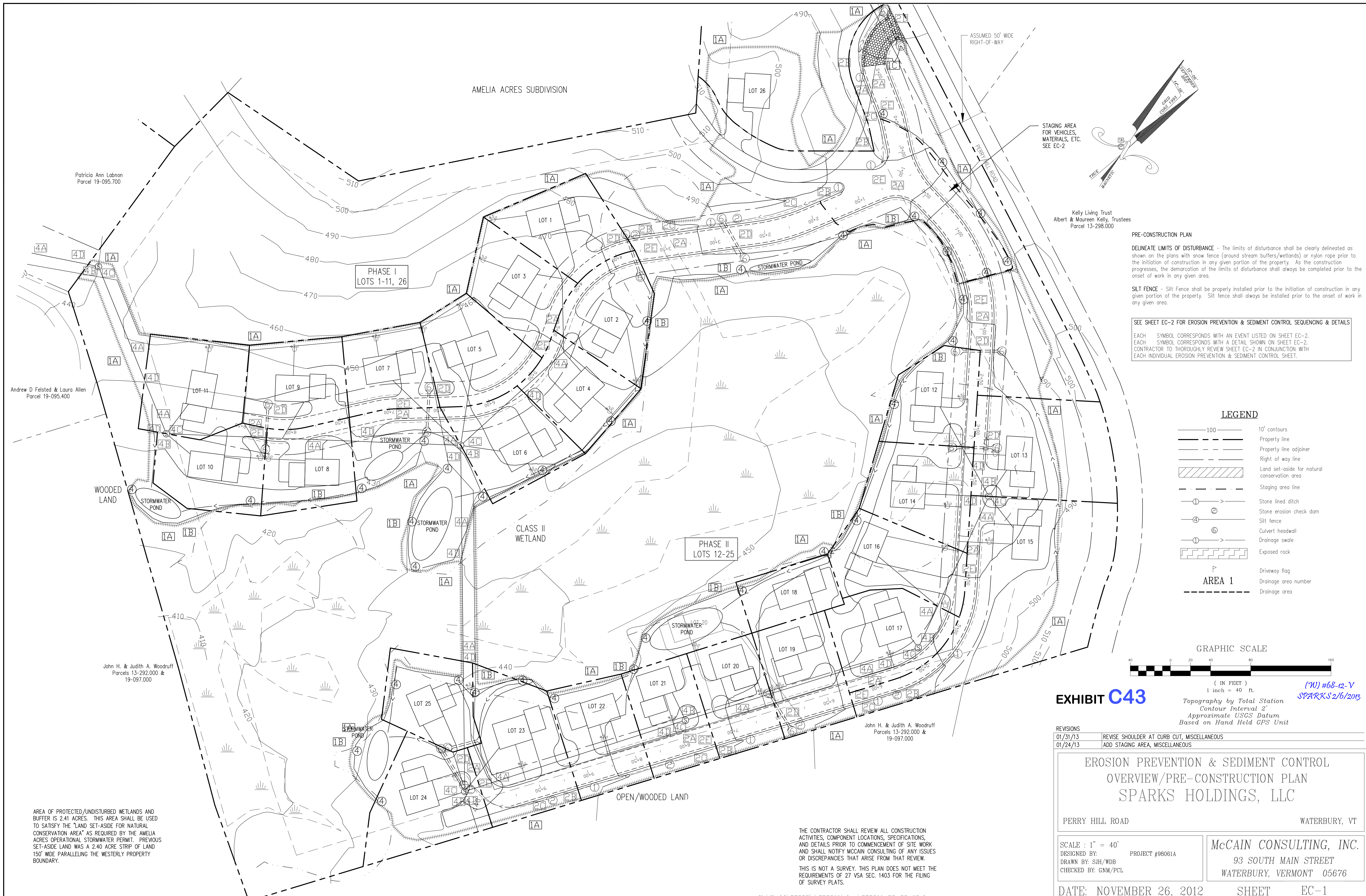
SCALE : NTS  
DESIGNED BY: GNM PROJECT : #98061A  
DRAWN BY: WDB  
CHECKED BY: GNM

**McCain CONSULTING, INC.**  
93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012

SHEET S-6





**PRE-CONSTRUCTION PLAN**

**DELINEATE LIMITS OF DISTURBANCE** - The limits of disturbance shall be clearly delineated as shown on the plans with snow fence (around stream buffers/wetlands) or nylon rope prior to the initiation of construction in any given portion of the property. As the construction progresses, the demarcation of the limits of disturbance shall always be completed prior to the onset of work in any given area.

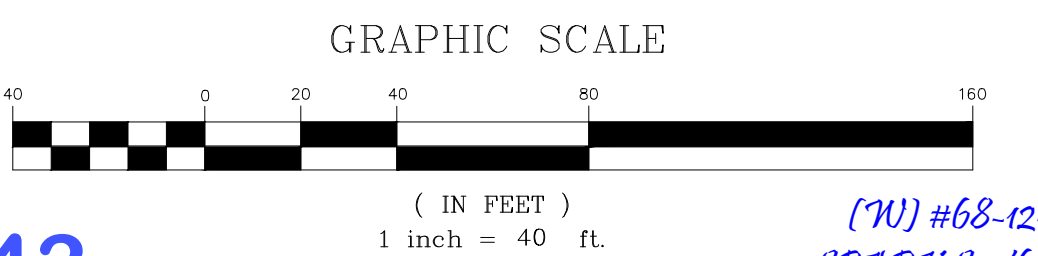
**SILT FENCE** - Silt Fence shall be properly installed prior to the initiation of construction in any given portion of the property. Silt fence shall always be installed prior to the onset of work in any given area.

**SEE SHEET EC-2 FOR EROSION PREVENTION & SEDIMENT CONTROL SEQUENCING & DETAILS**

EACH SYMBOL CORRESPONDS WITH AN EVENT LISTED ON SHEET EC-2.  
 EACH SYMBOL CORRESPONDS WITH A DETAIL SHOWN ON SHEET EC-2.  
 CONTRACTOR TO THOROUGHLY REVIEW SHEET EC-2 IN CONJUNCTION WITH EACH INDIVIDUAL EROSION PREVENTION & SEDIMENT CONTROL SHEET.

**LEGEND**

	10' contours
	Property line
	Property line adjointer
	Right of way line
	Land set-aside for natural conservation area
	Staging area line
	Stone lined ditch
	Stone erosion check dam
	Silt fence
	Culvert headwall
	Drainage swale
	Exposed rock
	Driveway flag
	Drainage area number
	Drainage area



**EXHIBIT C43**

Topography by Total Station  
 Contour Interval 2'  
 Approximate USGS Datum  
 Based on Hand Held GPS Unit

(10) #68-12-V  
 SPARKS 2/6/2013

**REVISIONS**

01/31/13	REVISE SHOULDER AT CURB CUT, MISCELLANEOUS
01/24/13	ADD STAGING AREA, MISCELLANEOUS

**EROSION PREVENTION & SEDIMENT CONTROL  
 OVERVIEW/PRE-CONSTRUCTION PLAN  
 SPARKS HOLDINGS, LLC**

PERRY HILL ROAD WATERBURY, VT

SCALE : 1" = 40'  
 DESIGNED BY: PROJECT #98061A  
 DRAWN BY: SJH/WDB  
 CHECKED BY: GNM/PCL

**McCAIN CONSULTING, INC.**  
 93 SOUTH MAIN STREET  
 WATERBURY, VERMONT 05676

DATE: NOVEMBER 26, 2012 SHEET EC-1

Patricia Ann Labnon  
 Parcel 19-095.700

Andrew D Felsted & Laura Allen  
 Parcel 19-095.400

John H. & Judith A. Woodruff  
 Parcels 13-292.000 &  
 19-097.000

John H. & Judith A. Woodruff  
 Parcels 13-292.000 &  
 19-097.000

AREA OF PROTECTED/UNDISTURBED WETLANDS AND BUFFER IS 2.41 ACRES. THIS AREA SHALL BE USED TO SATISFY THE "LAND SET-ASIDE FOR NATURAL CONSERVATION AREA" AS REQUIRED BY THE AMELIA ACRES OPERATIONAL STORMWATER PERMIT. PREVIOUS SET-ASIDE LAND WAS A 2.40 ACRE STRIP OF LAND 150' WIDE PARALLELING THE WESTERLY PROPERTY BOUNDARY.

THE CONTRACTOR SHALL REVIEW ALL CONSTRUCTION ACTIVITIES, COMPONENT LOCATIONS, SPECIFICATIONS, AND DETAILS PRIOR TO COMMENCEMENT OF SITE WORK AND SHALL NOTIFY MCCAIN CONSULTING OF ANY ISSUES OR DISCREPANCIES THAT ARISE FROM THAT REVIEW.

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**GENERAL EROSION PREVENTION AND SEDIMENT CONTROL NOTES**

1. AN ON-SITE PLAN COORDINATOR SHALL BE IDENTIFIED PRIOR TO THE START OF CONSTRUCTION. THE ON-SITE COORDINATOR SHALL HAVE THE AUTHORITY TO STOP OR MODIFY CONSTRUCTION ACTIVITIES AS NECESSARY TO COMPLY WITH THE PLAN AND THE TERMS AND CONDITIONS OF THE PERMIT. THE ON-SITE COORDINATOR SHALL HAVE ADEQUATE EXPERIENCE IN EROSION CONTROL AND CONSTRUCTION TECHNIQUES. THE NAME AND CONTACT INFORMATION OF THE ON-SITE PLAN COORDINATOR MUST BE FILED IN WRITING WITH THE VERMONT AGENCY OF NATURAL RESOURCES PRIOR TO THE START OF CONSTRUCTION.
2. ALL CONSTRUCTION/CLEARING TO BE CONDUCTED DURING THE SUMMER CONSTRUCTION SEASON, BETWEEN APRIL 15 AND OCTOBER 15. A WINTER EROSION PREVENTION AND SEDIMENT CONTROL PLAN WILL BE PREPARED IF CONSTRUCTION IS TO EXTEND BEYOND THIS PERIOD. ALL SEEDING AND MULCHING SHALL BE DONE BY SEPTEMBER 15 TO ENSURE VEGETATIVE COVER IS ESTABLISHED BEFORE WINTER. CONTACT DESIGNER FOR OTHER STABILIZATION MEASURES TO BE APPROVED BY THE VERMONT AGENCY OF NATURAL RESOURCES IF SEEDING CANNOT BE COMPLETED BY SEPTEMBER 15TH. IF WINTER CONSTRUCTION IS PROPOSED A WINTER EPSC PLAN MUST BE PREPARED AND SUBMITTED TO ANR WATER QUALITY DIVISION PRIOR TO SEPTEMBER 15TH AND NO CONSTRUCTION SHALL CONTINUE PAST OCTOBER 15TH WITHOUT APPROVAL BY ANR.
3. ALL EROSION PREVENTION AND SEDIMENT CONTROL STRUCTURES SHALL BE INSPECTED BY OR UNDER THE DIRECTION OF THE ON-SITE PLAN COORDINATOR AT LEAST ONCE EVERY SEVEN CALENDAR DAYS AND AS SOON AS POSSIBLE BUT NO LATER THAN 24 HOURS AFTER ANY STORM EVENT WHICH GENERATES A DISCHARGE OF STORMWATER RUNOFF FROM THE CONSTRUCTION SITE.
4. THE SEQUENCE OF CONSTRUCTION ACTIVITIES SHALL BE PLANNED SUCH THAT DISTURBED SOIL CAN BE PROTECTED AND STABILIZED AS SOON AS POSSIBLE (WITHIN 48 HOURS). TEMPORARY MULCH SHALL BE APPLIED TO ANY DISTURBED AREAS NOT TO BE WORKED ON FOR 7 DAYS OR MORE. SEED AND MULCH AREAS NOT TO BE WORKED ON FOR A MONTH OR MORE. THERE SHALL NEVER BE MORE THAN TWO ACRES OF DISTURBED EARTH EXPOSURE AT ANY GIVEN TIME.
5. THE PROJECT'S NOTICE OF INTENT (NOI) MUST BE CONSPICUOUSLY POSTED NEAR THE ENTRANCE OF THE PROJECT. IN ADDITION A COPY OF THIS PLAN AND ALL AMENDMENTS MUST BE KEPT ON SITE FROM THE DATE OF COMMENCEMENT OF CONSTRUCTION ACTIVITIES TO THE DATE OF FINAL STABILIZATION.

**CONSTRUCTION SEQUENCING/EROSION PREVENTION AND SEDIMENT CONTROL NOTES**

[1A] EROSION CONTROL EVENTS SHOWN ON SHEET EC-1 CORRESPONDS WITH SEQUENCING LISTED BELOW EACH PHASE.

**PHASE 1 - PRE-CONSTRUCTION -** DELINEATE LIMITS OF DISTURBANCE, BUILD CONSTRUCTION ENTRANCE, INSTALL SILT FENCE, AND PREPARE STAGING AREA.

- [1A] - The limits of disturbance shall be clearly delineated as shown on the plans with snow fence or nylon rope prior to the initiation of construction in any given portion of the property. As the construction progresses, the demarcation of the limits of disturbance shall always be completed prior to the onset of work in any given area.
- [1B] - Install Silt Fence as shown on plan - see details for specifications.
- [1C] - Build Construction Entrance as shown on plan - see details for specifications.

**PHASE 2 - ROAD, DRIVEWAY, & DETENTION POND CONSTRUCTION -** Construction to be divided into phases. For each phase, road construction events 2A-2D are to be completed before construction of detention ponds.

All phases of road, driveway, and detention pond construction are to be sequenced as follows:

- PHASE 2.1 - Road stations 0+00± to END.
- PHASE 2.2 - Road stations 0+00± to END.

- [2A] - Grade new road to subgrade elevation.
- [2B] - Shape ditches and install stone check dams as specified on Erosion Control Detail #2. Check dams are to remain in place until side slopes are stabilized, at which point dams will be replaced with stone lined ditches where shown.
- [2C] - Seed and mulch side slopes. Side slopes to be sloped at a maximum of 2:1. Erosion control matting is to be used on all disturbed slopes of 3:1 or steeper. All other disturbed areas are to be stabilized with seed and mulch in accordance with the Suggested Seeding Rates Table on this Sheet. A soil test shall be performed in each area to determine which seed mixture and appropriate fertilizer is required.
- [2D] - Install culverts where specified on site plans.
- [2E] - Apply gravel surface to traveled area of road.

**PHASE 3 - SITE CLEARING.**  
Tree cutting and slash and stump disposal will be negligible as the project site is predominately open land.

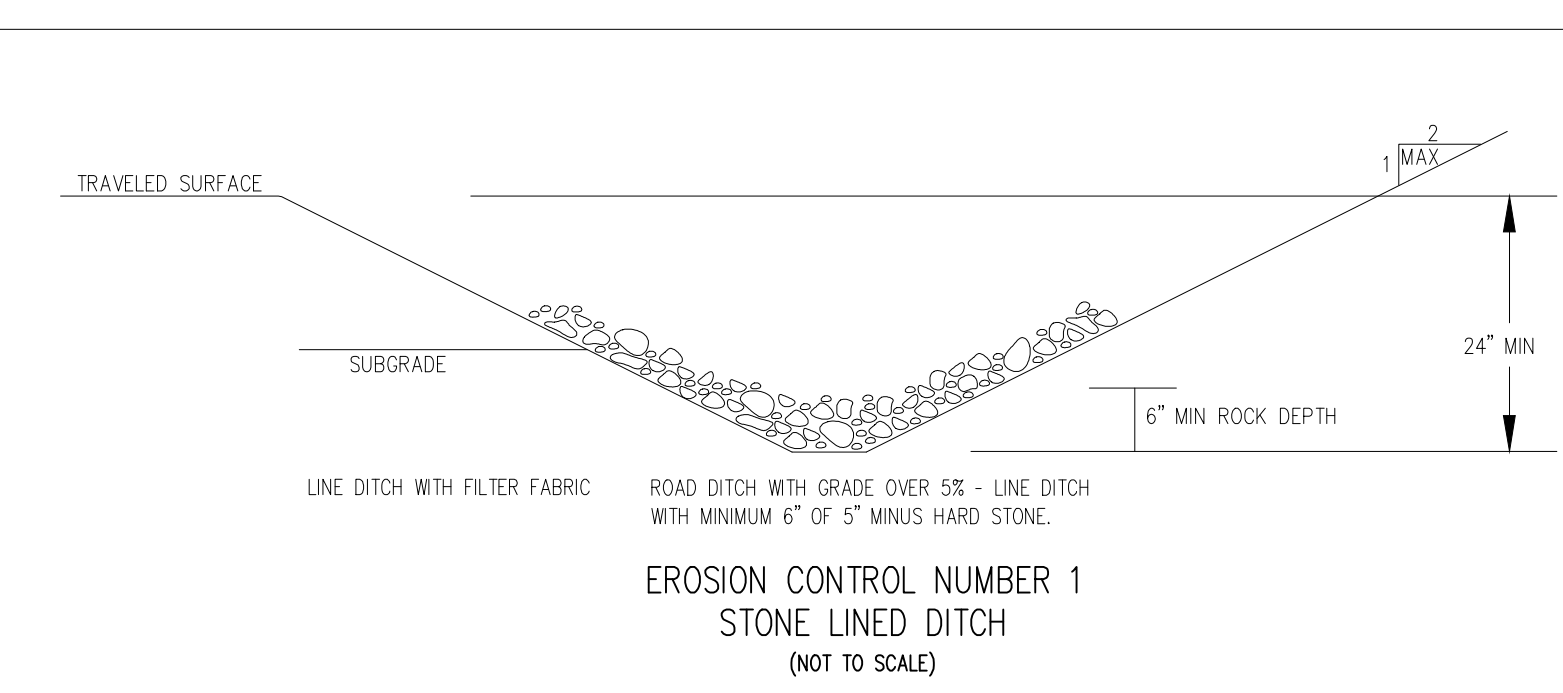
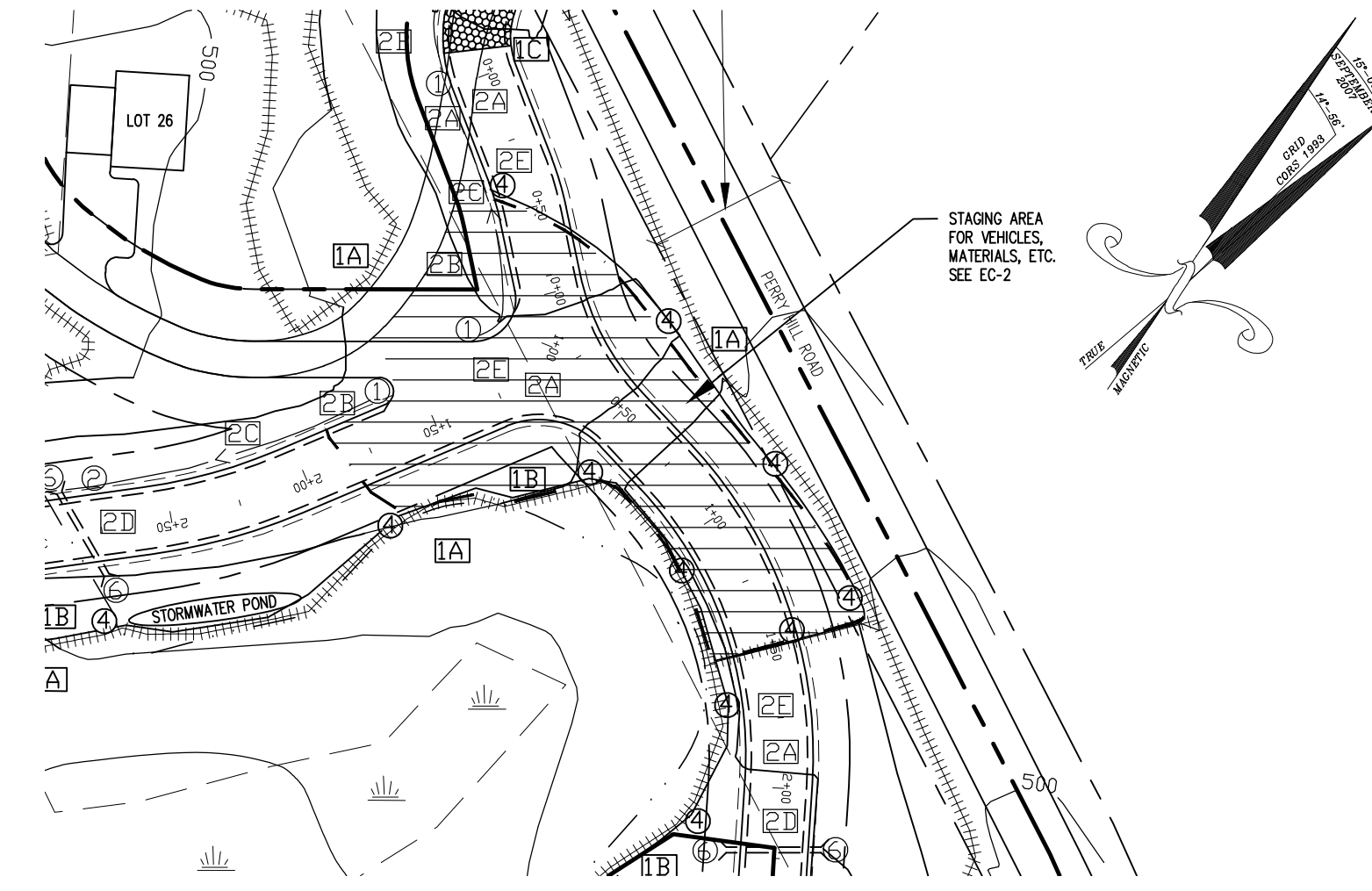
**PHASE 4 - INSTALLATION OF SEPTIC PIPE LINE AND SEWER MANHOLES.**  
All pipes and manholes to be installed in the location and as specified on the design plans.

- [4A] - Excavate pipe trench, place bedding, pipe and backfill to final grade.
- [4B] - Excavate pit for sewer manholes on the same day that the units will be delivered.
- [4C] - Install sewer manholes and install and seal pipes into manholes.
- [4D] - Seed and mulch all disturbed areas immediately upon completion of backfilling of pipe trench.

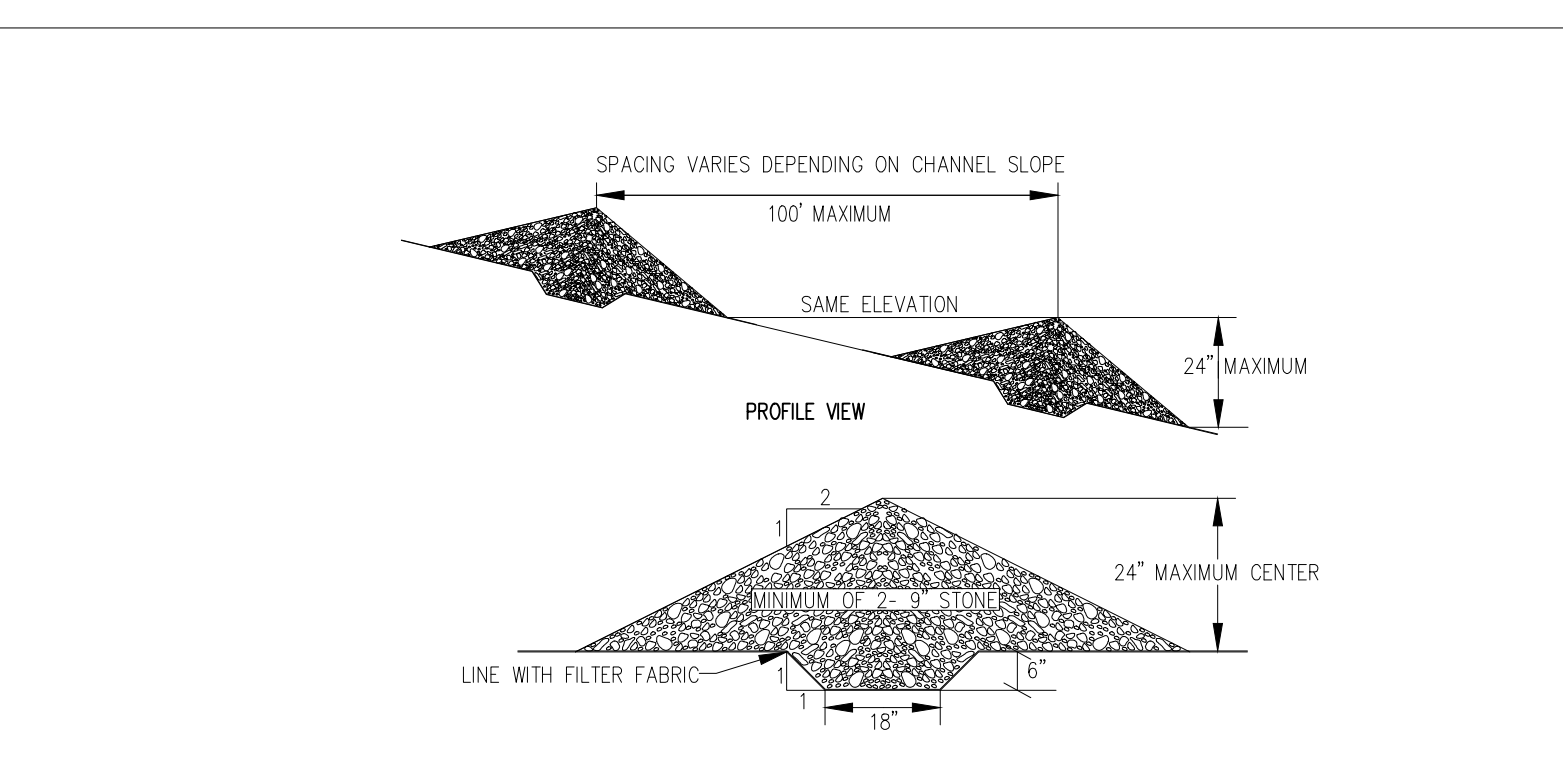
**PHASE 5 - END USER - DRIVEWAY CONSTRUCTION, HOUSE CONSTRUCTION, AND WATER LINE IMPACTS.**

- PHASE 5.1 - Driveways - Follow steps 2A - 2E listed above.
- PHASE 5.2 - Houses, septic pipe lines, and water lines.

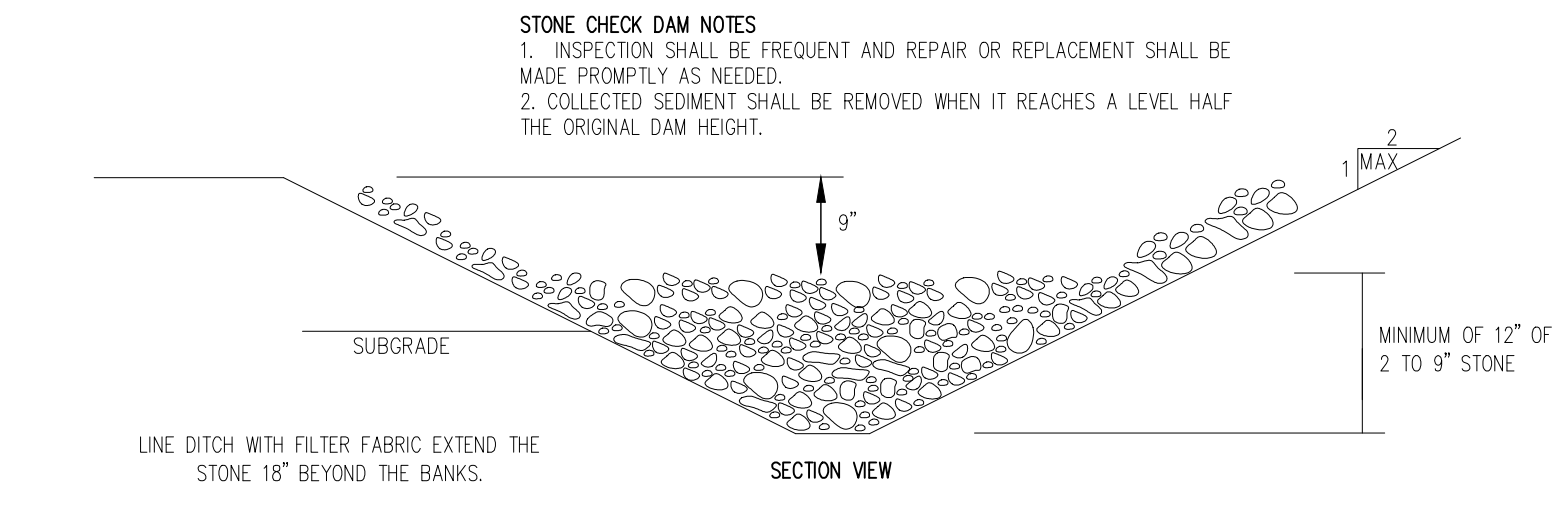
- [5A] - Install silt fence downslope of house site prior to commencement of construction.
- [5B] - Install diversion swale with stone splash pad at outlet upslope of house site prior to commencement of construction. Seed and mulch swale immediately upon completion.
- [5C] - All exterior site work to be complete within 6 months of commencement of construction.
- [5D] - Apply temporary mulch to all disturbed areas.
- [5E] - Excavate pipe trench, place bedding, pipe and backfill to final grade.
- [5F] - Excavate waterline trench, place bedding, pipe and backfill to final grade.
- [5G] - Seed and mulch all disturbed areas immediately upon completion of backfilling of pipe trenches.



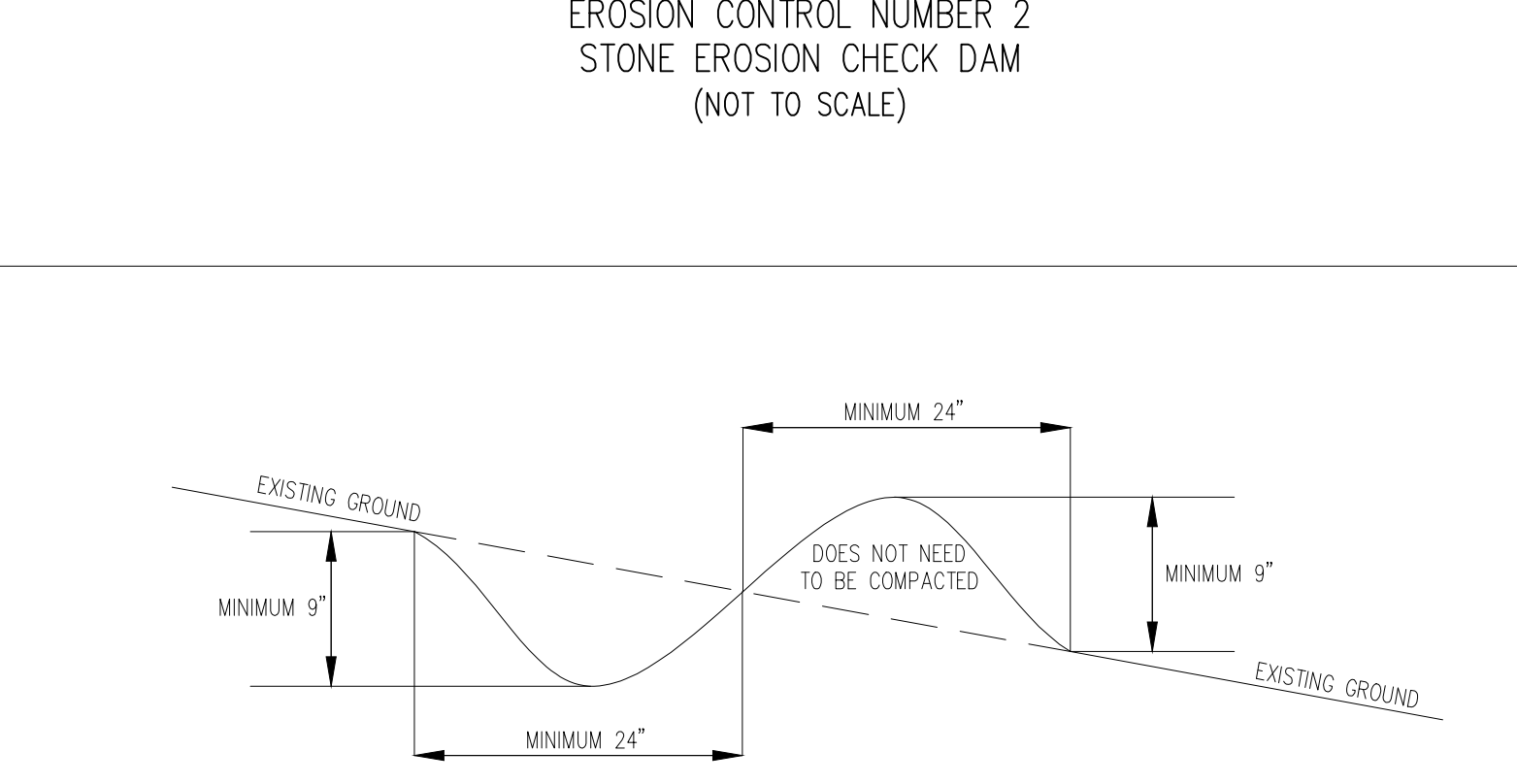
**EROSION CONTROL NUMBER 1  
STONE LINED DITCH  
(NOT TO SCALE)**



**EROSION CONTROL NUMBER 2  
STONE EROSION CHECK DAM  
(NOT TO SCALE)**

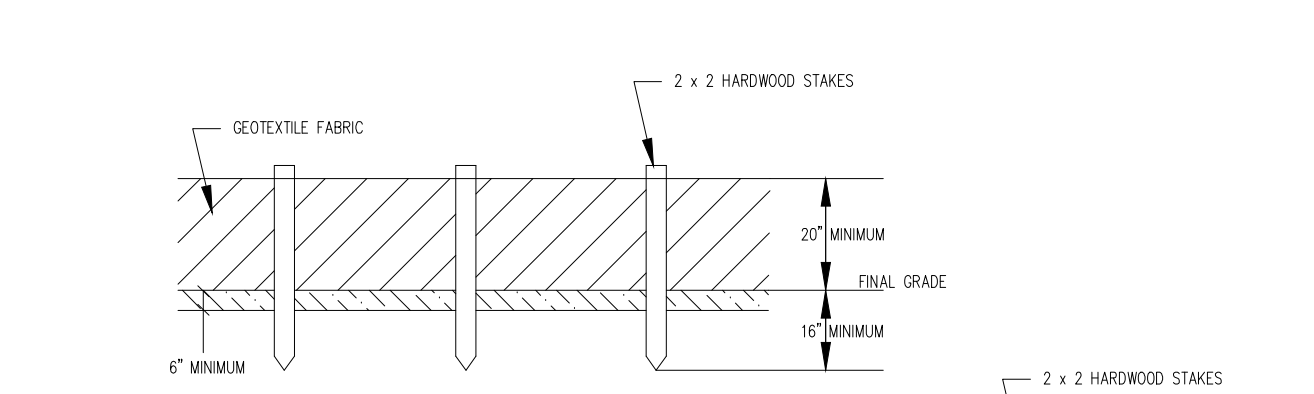


**EROSION CONTROL NUMBER 2  
STONE EROSION CHECK DAM  
(NOT TO SCALE)**

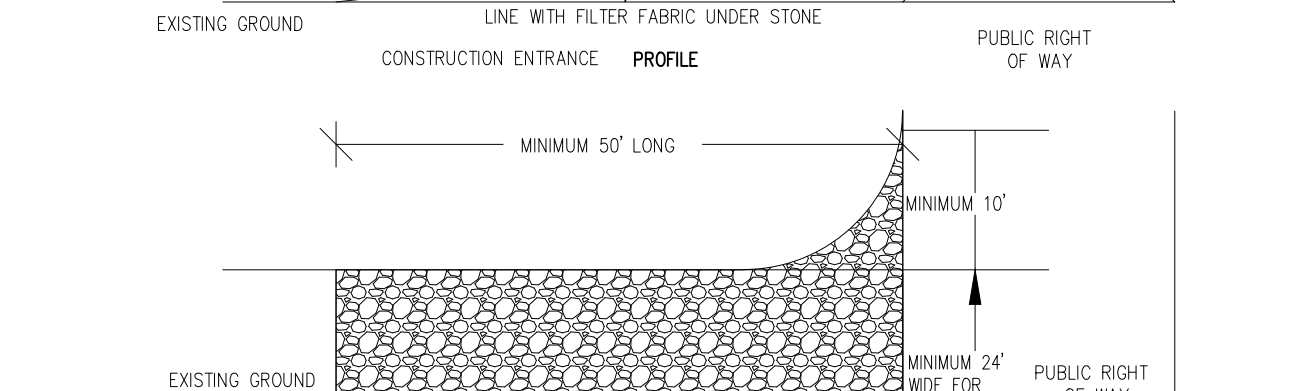
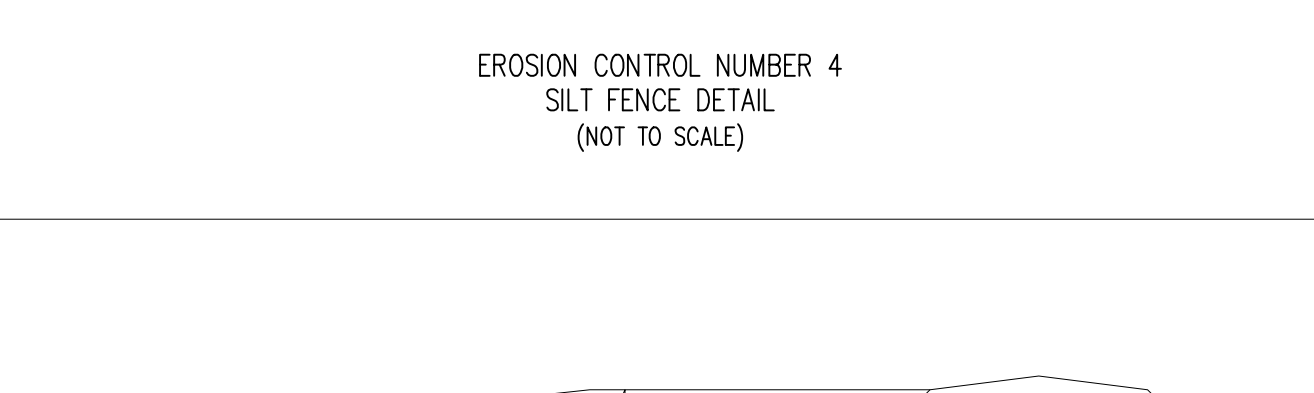
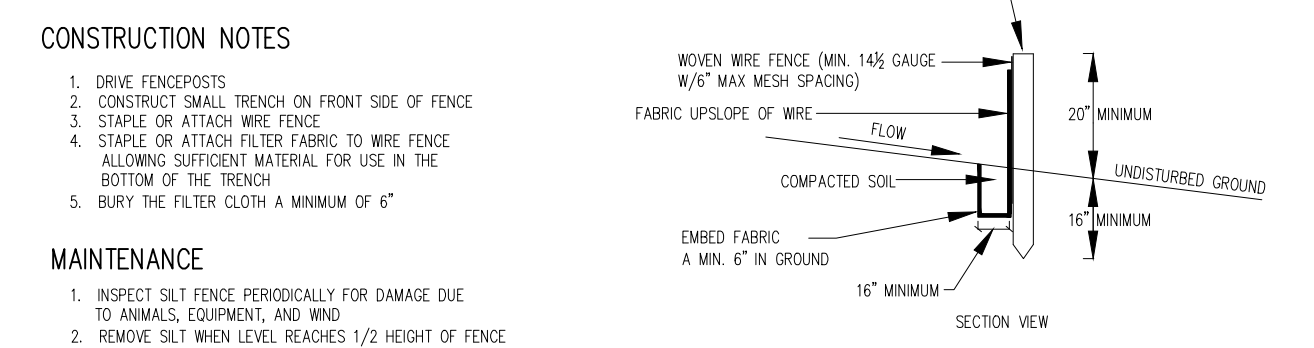


**EROSION CONTROL NUMBER 9  
DRAINAGE SWALE DETAIL  
(NOT TO SCALE)**

EROSION CONTROL SCHEDULE		
CONSTRUCTION ELEMENT	EROSION CONTROL	MAINTENANCE
GENERAL	<ol style="list-style-type: none"> <li>1. ALL CONSTRUCTION WILL STRICTLY ADHERE TO THE PRACTICES OUTLINED IN THE VERMONT HANDBOOK FOR SOIL EROSION AND SEDIMENT CONTROL ON CONSTRUCTION SITES AND THE SPECIFICATIONS &amp; DETAILS PROVIDED ON THESE PLANS</li> <li>2. WATER IS TO BE APPLIED TO DISTURBED AREAS AS NECESSARY TO CONTROL DUST.</li> </ol>	
DRIVEWAY CLEARING & GRUBBING	<ol style="list-style-type: none"> <li>1. SITE VISIT BY ENGINEER AND CONTRACTOR TO FLAG WORK LIMITS. NO HEAVY EQUIPMENT ALLOWED BEYOND THESE LIMITS.</li> <li>2. INSTALL SILT FENCES DOWNSLOPE OF CONSTRUCTION SITE.</li> <li>3. REMOVE STUMPS FROM DRIVEWAY DITCH LINES ONLY. STUMP DISPOSAL IS TO BE OFFSITE OR IN A PRE-APPROVED DISPOSAL LOCATION OR ON-SITE IN ACCORDANCE WITH ANR REGULATIONS.</li> </ol>	ENGINEER AND CONTRACTOR TO INSPECT EFFECTIVENESS OF DIKES AND DAMS. DRAINAGE SWALES UPSLOPE OF DITCHING WILL BE INSTALLED AS REQUIRED DURING CONSTRUCTION.
TOPSOIL STRIPPING & ROUGH GRADING	<ol style="list-style-type: none"> <li>1. INSTALL CULVERTS AND STONE CHECK DAMS AS PART OF INITIAL ROUGH GRADING.</li> <li>2. INSTALL STONE HEADWALLS AT INLET AND OUTLET OF ALL CULVERTS.</li> </ol>	INSPECT DAILY AFTER RAINS; OTHERWISE WEEKLY AND REPAIR AS REQUIRED.
DRIVEWAY SLOPING & DITCHING	<ol style="list-style-type: none"> <li>1. ALL SEEDING AND MULCHING TO BE APPLIED WITHIN 2 DAYS OF COMPLETION OF DRIVEWAY SLOPING AND DITCHING.</li> <li>2. INSTALL STONE CHECK DAMS IN ALL DRIVEWAY DITCHES. SEE DETAIL NUMBER 2.</li> </ol>	INSPECT DAILY AFTER RAINS; OTHERWISE WEEKLY AND REPAIR AS REQUIRED.
FINAL GRADING	<ol style="list-style-type: none"> <li>1. DRIVEWAY DITCHES TO BE LINED WITH STONE AS PER DETAIL WHEREVER SLOPE EXCEEDS 5%. DITCHES UNDER 5% TO BE SEEDED AND MULCHED.</li> <li>2. ALL DISTURBED AREAS TO BE SEEDED IN ACCORDANCE WITH THE SEEDING RATE TABLE ON THIS SHEET.</li> <li>3. APPLY HAY MULCH AT A RATE OF 2.5 TONS/ACRE.</li> <li>4. APPLY A TEMPORARY SEED MIX OF ANNUAL RYE GRASS AT A RATE OF 20 LBS./ACRE IN AREAS LEFT UNPROTECTED FOR MORE THAN 14 DAYS.</li> </ol>	INSPECT DAILY AFTER RAINS; OTHERWISE WEEKLY AND REPAIR AS REQUIRED.



**EROSION CONTROL NUMBER 4  
SILT FENCE DETAIL  
(NOT TO SCALE)**

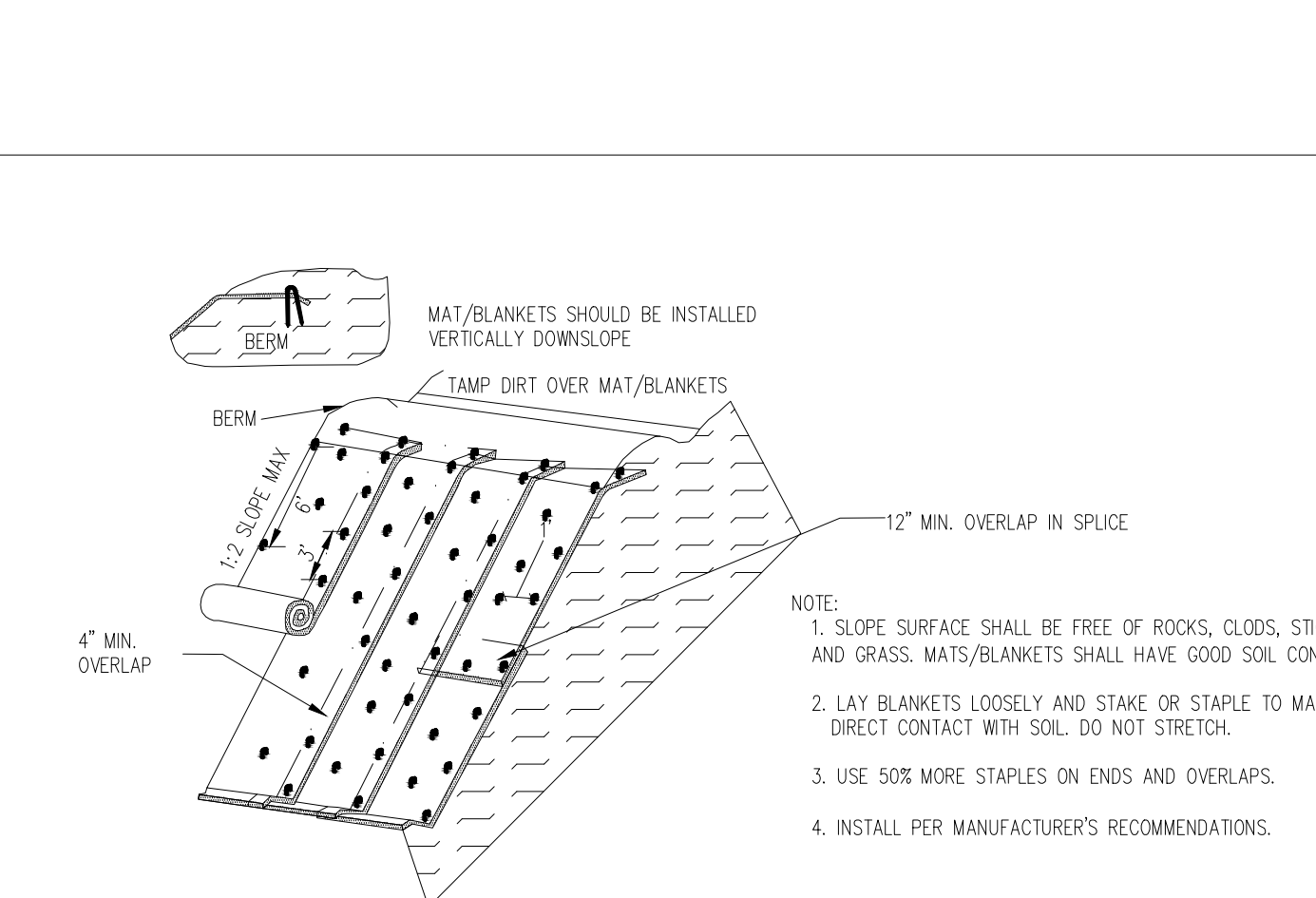


**EROSION CONTROL NUMBER 7  
STABILIZED CONSTRUCTION ENTRANCE  
(NOT TO SCALE)**

THIS IS NOT A SURVEY. THIS PLAN DOES NOT MEET THE REQUIREMENTS OF 27 VSA SEC. 1403 FOR THE FILING OF SURVEY PLATS.

Y:\Cadd\98000's\98061A\dwg\98061A 02-06-13.dwg

SUGGESTED SEEDING RATES AND OTHER INFORMATION OF VARIOUS SPECIES AND SEED MIXTURES				
Seed species & mixtures	Seed variety	Rate in lbs. per acre	Per 1000 sq. ft.	When and where to use
<b>Temporary seeding</b>				
Ryegrass (annual or perennial)		20	0.5	See May 1 - September 15
Winter rye (cereal rye)		120	2.0	See September 15 - May 1
<b>Mix #1</b>				
Creeping red fescue	Ensyva, Penlawn, Boreal	10	0.25	This mix is used extensively for shaded areas.
Perennial ryegrass	Pennfine, Linn	10	0.25	
<b>Mix #2</b>				
Switchgrass	Shelter, Pathfinder, Trailblazer, or Blackwell	20	0.5	This rate is in pure live seed. Good for upland edge of a wetland to filter runoff and provide wildlife benefits. In areas where erosion may be a problem, a companion seeding of sand love grass should be added to provide quick cover at a rate of 2 lbs. per acre (0.05 lbs. per 1000 sq. ft.)
<b>Mix #3</b>				
Switchgrass	Shelter, Pathfinder, Trailblazer, or Blackwell	4	0.1	This mix has been successful on sand and gravel plantings. It is very difficult to seed without a warm season grass seeder such as a Traux seed drill. Broadcasting this seed is very difficult due to the fluffy nature of some of the seed, such as bluestems and Indiangrass.
Big bluestem	Niagra	4	0.1	
Little bluestem	Aldous or Camper	2	0.05	
Indiangrass	Rumsey	3	0.1	
Coastal panicgrass	Atlantic	2	0.05	
Sideoats grama	El Reno or Trailway	2	0.05	
Wildflower mix		0.5	0.01	
<b>Mix #4</b>				
Switchgrass	Shelter, Pathfinder, Trailblazer, or Blackwell	10	0.25	This mix is salt tolerant, a good choice along the upland edge of tidal areas and roadsides.
Coastal panicgrass	Atlantic	10	0.25	
<b>Mix #5</b>				
Creeping red fescue	Ensyva, Penlawn, Boreal	20	0.45	General purpose erosion control mix. Not to be used for a turf planting or play grounds.
Tall fescue	KY - 31, Rebel	20	0.45	
Perennial ryegrass	Pennfine, Linn	5	0.10	
Birdsfoot trefoil	Empire, Paradee	10	0.45	

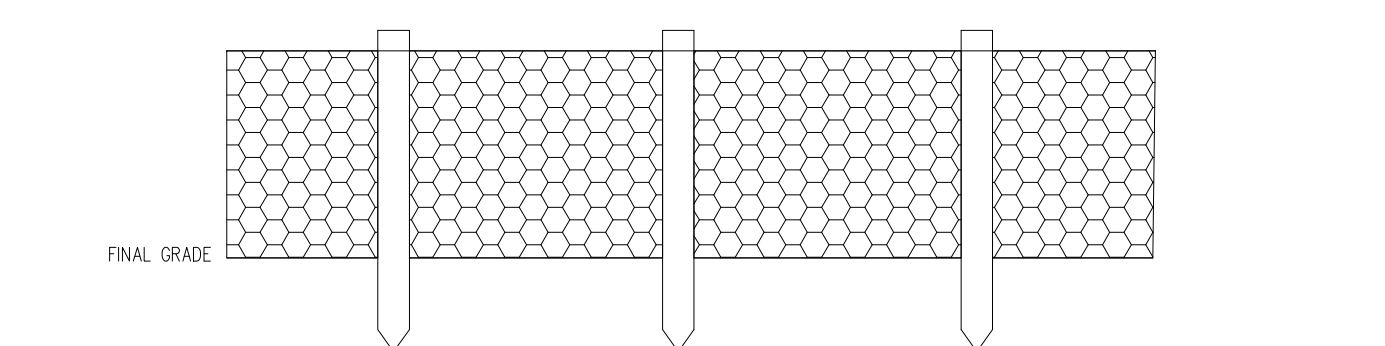


**EROSION CONTROL MATTING DETAIL  
(NOT TO SCALE)**  
TO BE USED ON ALL CUT/FILL SLOPES THAT ARE STEEPER THAN 2:1

- NOTE:
1. SLOPE SURFACE SHALL BE FREE OF ROCKS, CLODS, STICKS AND GRASS. MATS/BANKETS SHALL HAVE GOOD SOIL CONTACT.
  2. LAY BANKETS LOOSELY AND STAKE OR STAPLE TO MAINTAIN DIRECT CONTACT WITH SOIL. DO NOT STRETCH.
  3. USE 50% MORE STAPLES ON ENDS AND OVERLAPS.
  4. INSTALL PER MANUFACTURER'S RECOMMENDATIONS.

**CONSTRUCTION NOTES FOR SNOW FENCE**

1. DRIVE FENCEPOSTS
2. STAPLE OR ATTACH SNOW FENCE



**EROSION CONTROL NUMBER 5  
SNOW FENCE DETAIL  
(NOT TO SCALE)**

REVISIONS	
01/31/13	REVISE SHOULDER AT CURB CUT, MISCELLANEOUS
01/24/13	ADD STAGING AREA, REVISE NOTES, MISCELLANEOUS

**EROSION PREVENTION & SEDIMENT CONTROL  
OVERVIEW/PRE-CONSTRUCTION PLAN  
SPARKS HOLDINGS, LLC**

PERRY HILL ROAD WATERBURY, VT

SCALE : 1" = 60'  
DESIGNED BY: PROJECT #98061A  
DRAWN BY: SJH/WDB  
CHECKED BY: GNM/PCL

**McCAIN CONSULTING, INC.**  
93 SOUTH MAIN STREET  
WATERBURY, VERMONT 05676

**EXHIBIT C44**

(X) #68-12-Y  
SPARKS 2/16/2013



*#143-20 Appeal  
2/1/21*

*Via Electronic Mail*

February 1, 2021

Dina Bookmyer-Baker  
Zoning Administrator  
28 North Main Street, Suite 1  
Waterbury, VT 05676

**Re: In re. Appeal of Peck, Permit No. 137-20 for Lot 18 of the Waterbury Commons**

Dear Ms. Bookmyer-Baker and Members of the Waterbury Development Review Board,

On behalf of the Arnot Development Group and Waterbury Commons, LLC (“Applicant”) I write to respond to the appeal of Ms. Eve Peck. As explained herein, there is no basis to overturn Ms. Bookmyer-Baker’s issuance of Permit No. 137-20 (“the Permit”). The Permit, and the application, conforms to the Town and Village of Waterbury Zoning Regulations (“WZRs”) and should be upheld. Ms. Peck’s appeal raises a number of baseless allegations and issues outside of this DRB’s jurisdiction. This appeal is nothing more than attempt to stop a lawful development and generate leverage so that Ms. Peck can have inappropriate control over the look of her neighbors’ house. There is no basis for the DRB to permit such.

By way of background, Lot 18 of the Waterbury Commons Development was approved by Permit No. 68-12-V, April 13, 2013. This approval allowed a 14.8 acre property to be subdivided into 26 lots, broken out into two phases of development. Lot 18, and Ms. Peck’s lot are in Phase-II. There is no reference or discussion in the 2013 decision as to the exact and specific location of any home on the various lots. There was no finding by the DRB in the 2013 approval as to whether the exact location of any specific home was relevant to its approval. Nor is there any condition directly relating to the location of any home on any of the specific lots. Nor are any specific building envelopes shown on S-1, the overall site plan. All that is shown are loose depictions of residential structures to illustrate this is a residential development. The only significance to the depiction of a house on each lot is to show that it is a developable lot.<sup>1</sup>

The 2013 approval allowed Applicant to perform road and utility installation, landscaping and other such related site work to effectuate the approved PUD. Each home built out required a specific zoning permit.

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<sup>1</sup> Gunner McCain letter January 21, 2021

- 2 -

In permitting and building out Phase I, and parts of Phase II, including Ms. Peck's lot, Applicant obtained zoning permits for each home. As each home was custom built to suit the needs of each buyer, the designs took into account the features of each individual lot and were sited accordingly. At no point did Waterbury require any amendment to the 2013 approval or further DRB review. Nor should it. Each house is a permitted use, met the standards set in the WZRs and was "consistent" with the 2013 approval.

Despite the years of consistent action, including action which resulted in Ms. Peck having the home she does now, Ms. Peck objects to the development of her neighbors land. She does so with no valid objection.

I address each of Ms. Peck's stated issues in the order she raised them:

**1) The application materials are sufficient and Ms. Peck's claim is misleading and disingenuous**

Ms. Peck argues that the WZRs required that the Applicant supply a "sketch plan showing the dimensions of the proposed structure." Ms. Peck argues that this includes the "dimensions of the house, habitable interior space, the number of bedrooms and its height." Ms. Peck contends that this is necessary both to comply with the WZRs and prior approvals which permit at least a 3 bedroom, 2500 square foot home on Lot 18.<sup>2</sup> Ms. Peck is wrong.

All required information has been provided by Applicant. As much as Ms. Peck and her counsel seek to stretch the truth to suit their needs, Applicant's application is proper and complete. The WZRs make clear that the "sketch" required in a zoning permit application needs to contain the following information: "the dimensions of the lot to be built on; location of all new construction, including all setbacks; and a surveyor's plot plan of the property, if available." WZRs Section 300(c).

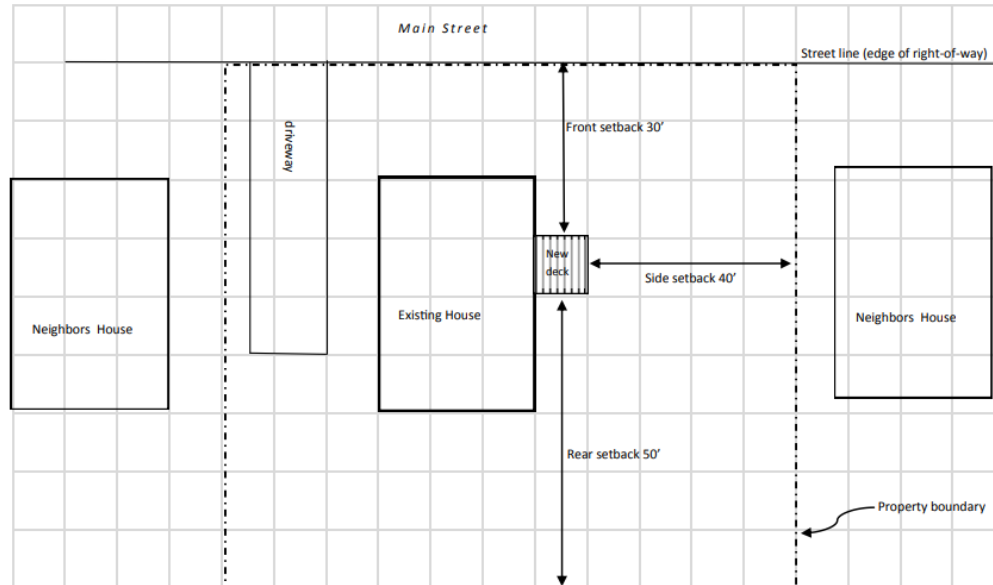
This is reinforced by Waterbury's instructions on how to complete a zoning permit application. These instructions show that for a permitted use, the information that must be provided are the setbacks, the location of proposed development, and the lot lines. House schematics and floor plans are not required. Below is a direct copy of the instructions from the Waterbury Town website:

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<sup>2</sup> Applicant disputes that these are binding or valid obligations in its approval as they are not permit conditions. This information was provided to establish proper sewer allocation and as a general description of the development so as to demonstrate compliance with aesthetic review criteria. This issue is immaterial to this appeal however as the house permitted is three bedrooms and 2200 square feet. Well below whatever threshold Ms. Peck believes exists.

**SKETCH PLAN** Please include a sketch drawing of the proposed development. Additional information may be required depending on the additional applications and type of review your project may need.

- Boundary lines and rights-of-ways
- Existing /proposed accesses (curb cuts) driveways and parking areas
- Setbacks
- Existing /proposed utilities
- Surface waters and wetlands
- Existing /proposed water and wastewater systems
- Dimensions of existing and proposed structures



[https://www.waterburyvt.com/fileadmin/files/Zoning\\_Planning/ZP\\_application\\_instructions\\_2018.pdf](https://www.waterburyvt.com/fileadmin/files/Zoning_Planning/ZP_application_instructions_2018.pdf).

Applicant has supplied the information required by the WZR's and as directed by this Town's instructions. The application contains a sketch matching the exact description of what a sketch should be.

Ms. Peck and her counsel attempt to mislead this DRB and suggest that without schematic diagrams of the proposed house, this DRB cannot determine if the proposed development satisfies applicable height limitations or is consistent with prior application statements as to expected square footage and bedrooms. This is totally wrong. Below, I provide the information supplied on the application by Applicant:

- 4 -

PROPOSED	
Square footage:	2,200 Height: 30
Number of bedrooms/bath:	3/ 2 1/2
# of parking spaces:	2
Setbacks: front:	n/a
sides:	n/a / rear: n/a

As this DRB can see the height of the proposed house is provided as is a bedroom count and square footage. It is misleading, disingenuous and wrong for Ms. Peck and her counsel to suggest that the Applicant has not supplied information when it was plainly in the application. The DRB must reject Ms. Peck's baseless and misleading claim.

## 2) The Application Does not Require DRB Review

Ms. Peck argues that the minor variance in the location of the home on Lot 18 over what was shown as a conceptual house in the original permit requires DRB approval. Ms. Peck is wrong in this regard.

There are no changes to the site plan. The boundaries and access remain the same. The buildings depicted on the project's site plan provided in the PUD process were conceptual. The buildings, if they can even be called that as they are nothing more than undefined "boxes," were shown for the general purpose of depicting that each lot would be residential and would be developed with a home, and potentially other structures that meet required setbacks.<sup>3</sup> No exact survey was provided to the DRB and no final home design was provided.

The exact location of homes was not relevant to this PUD's approval and was not discussed, considered and approval was not conditioned on the location of any home on a lot. Applicant also never represented that the buildings shown on the plans were the final structure locations and no house plans were a part of the application. There is simply no clear permit condition stating that the houses must be built in the *exact* location of the building depicted.

The only condition of approval closely relevant is Condition 1 which states that development must be "consistent" with the approved plans. S-1 was not the final approved plan. Rather, the only final "approved" plan for the PUD is the surveyed Final Plat. The Final Plat survey for Phase-II includes no conceptual homes. Thus the PUD truly never considered such relevant or meaningful. The approved plans elements were the lot lines, roads, and utilities. The development of Lot 18 is certainly consistent with that as it matches all the elements on the approved plans.

<sup>3</sup> Gunner McCain letter January 21, 2021.



- 5 -

Furthermore, consistent does not mean slavish replication. Rather it means that development must remain in concert with the essential elements of the approved PUD – i.e. 26 lots of residential development each with a single family residence and associated infrastructure. If no variations were allowed to the house layouts it would mean that the twenty-one permits for the construction of homes in Waterbury Commons were issued in error, and likely hundreds of others over the years throughout Waterbury.

Further, if every minor variance or change to a house over what was in the original PUD approval required DRB review, there would be hundreds of DRB applications a year. This is not workable or reasonable. Under Ms. Peck's reading of the law, every time an owner of a PUD lot wanted to install a deck, addition, pool, shed, pond, new windows, expand a driveway, or conduct any other minor development that is *per se* permitted by the WZRs, but was not shown on the original PUD site plan, that project would have to come before the DRB as an amendment to the existing PUD. That is both unreasonable and inconsistent with the intent of the WZRs. It is also inconsistent with Waterbury's application of its WZRs.

In fact the dual permit process mandated by the PUD underscores that Ms. Peck's position is wrong. The 2013 PUD approval didn't authorize the construction of a single home. That was left to subsequent building permit applications. Each application requires the sketch of the exact location of the home on the lot. That application process would be unnecessary if Ms. Peck's point had merit. If S-1 and the conceptual homes shown had any relevance, they could be constructed without any further permitting. That's not the case and the reason it is so is because there is no legal substance to the houses shown on S-1.

Ms. Peck also misreads Section 704(g). Section 704(g) does not contain a blanket obligation that every minor change to any plan requires DRB review and approval. Rather, 704(g) requires that if there is a change to something "included" in the DRB review and approval, that change is to come to the DRB. As discussed above, the location of the house of Lot 18 was not referenced, discussed or even considered by the DRB in the 2013 review and approval. As it was plainly not included in the DRB review and approval and therefore required no further review under 704(g). This conclusion is underscored by Waterbury's consistent application of its own regulations where it has not required DRB review for every minor variance or development not shown in the 2013 site plan.

To hold otherwise and find that the building locations shown in S-1 was something critical, and in effect a binding condition in need of amendment runs counter to Vermont law. The Vermont Supreme Court has been very clear that a subdivision plat showing a general building location does not create a permit condition limiting development to that exact spot. See *In re Willowell Found.*, 2016 VT 12, ¶ 15, 201 Vt. 242 (holding that the words "agricultural reserve" and "building envelope" on a subdivision plat did not impose permit conditions that prevented applicant from building non-agricultural buildings in the agricultural reserve and did

- 6 -

not limit development to solely the area within the depicted building envelopes); *In re Stowe Highlands Merger/Subdivision Application*, 2013 VT 4, U 12, 193 Vt. 142 (where the Vermont Supreme Court held that reference on a subdivision plat showing a single hotel did not limit development to a single hotel). Rather, permit conditions must be express and clearly stated to be implied. They cannot be “implied.” *In re Kostenblatt*, 161 Vt. 292, 298, 640 A.2d 39 (1994). Thus, plats with general references to buildings are insufficient to establish enforceable conditions (or any condition at all) that a building must be *exactly* as shown. This is because they do not provide adequate notice of what is required. *In re Willowell Found.*, 2016 VT 12, ¶ 18. To apply Section 704(g) to this project so as to in effect create a binding condition in need of amendment would violate Supreme Court precedent.

Ms. Peck’s argument therefore fails. It is an overly technical reading of the 2013 approval and the WZR that is inconsistent with the intent of the PUD approval and Waterbury’s interpretation of its own regulations. This DRB need not review the proposed development as a matter of course. It has been properly reviewed and approved by the Waterbury Zoning Administrator.

### 3) Applicant is in conformity with its permits and has followed the WRZs.

Applicant has not commenced development prior to the effective date of the Permit. On December 6 and December 17, 2020 Mr. Steve Lotspeich visited Lot 18 in response to complaints from Ms. Peck. After the December 17<sup>th</sup>, visit Mr. Lotspeich reported that no violation had occurred. He observed “that the workers haven’t started digging the cellar hole, are constructing a rock retaining wall at the outer edge of the lot and brought the rest of the lot up to grade.” He wrote that he “sees no compliance issues at this point.” After that visit, Applicant continued site work consistent with what Mr. Lotspeich observed prior to December 17, 2020. No dwelling specific work on Lot 18 has commenced. Ms. Peck complained a second time on or about December 23, 2020. Waterbury issued a “warning letter” and took no further action. No specific development authorized by the Permit is occurring and the issue is moot.

Critically though this issue is outside of the DRB’s review. This concerns matters *outside* of the Permit and cannot be addressed in this appeal. Whether Lot 18 development commenced without a permit (it didn’t), or before a permit was effective (it didn’t) is a matter of zoning enforcement and not within DRB authority. The Zoning Administrator has the statutory obligation to administer the WZR (24 V.S.A. §4448(a)) and is the Administrator that has the mandatory duty to enforce the regulations. *Id.* The DRB has no authority to do so. *See* Section 310(b) directing that the Administrator is responsible for enforcement. The DRB may only consider enforcement on appeal from an enforcement action. In this matter, the Administrator has acted and sent out a warning letter. No enforcement action exists. Ms. Peck has not appealed that act and the time to do so has passed (15 days). Simply the DRB has no role in enforcement, or even considering the issue of what development has occurred, at this time. For the DRB to

- 7 -

address a matter outside the scope of this appeal, and within the jurisdiction of the Administrator, is improper and jurisdictionally void.

Similarly any commentary on the development or construction of stormwater ponds and other infrastructure cannot be at issue in this appeal. Those aspects of development are not within the Permit and not within this appeal. Ms. Peck simply has no right to raise them in this appeal. Further the construction of such has been approved, properly certified to the State and years have passed since that occurred. Ms. Peck's foray into these areas must be curtailed and rejected.

The DRB must also recognize that there *is* an effective permit for development on Lot 18. It is indisputable that Applicant has approval to develop Lot 18 and that such development includes site work, infrastructure and general grading of land – the very thing that has occurred. The only permit that is not effective yet is the construction of a single family dwelling on Lot 18. Thus the only development not allowed by statute at this time is the construction of a single family dwelling. That has not occurred and will not occur until the statutory timeframes have run.

Lastly, Applicant notes that the dirt piles shown are just topsoil that was generated during the installation of the project's infrastructure and site grading associated with Phase II's approved site work. The lots have also been used over the years to store materials generated from the construction of other homes in the project. That is what is shown in the photos.

For these reasons, I ask that you reject Ms. Peck's baseless appeal and uphold the Permit.

Thank you,

*/S/ Alexander LaRosa*  
A.J. LaRosa, Esq.  
[ajlarosa@mskvt.com](mailto:ajlarosa@mskvt.com)

Cc: Paul Arnot (*via email*)  
Peter Raymond (*via email, as counsel to Ms. Peck*)

**EXHIBIT D8**

January 21, 2021

*#143-20 Appeal  
2/2/21*

Paul Arnot  
Arnot Development Group  
South Pinnacle Ridge  
Waterbury, VT 05676

RE: Waterbury Commons Permitting Plan Set

To Whom it may concern:

McCain Consulting, Inc. prepared the engineering, permitting, survey plans and the associated permit application documents required for project approval of the Waterbury Commons Subdivision on Perry Hill in Waterbury.

We also represented the project at land use hearings by the town Development Review Board and Act 250. As is typical of Site Plans prepared for permitting processes, the plans depict houses on each of the lots. The depiction of houses is provided to prove that there is at least one way that each lot can be developed with a home and potentially other structures that meet required setbacks, can be connected to water and sewer systems, and can accommodate a driveway on the lot, basically to document that the lots being created are developable. In no way are the depicted houses intended to be the required footprint or location of the actual home to be built, and during the various permit processes it was never represented that the depicted houses would be the actual houses built. It is the industry standard to prepare plans in this fashion for these types of residential subdivisions.

Please let me know if you need any additional information.

Sincerely,  
McCain Consulting, Inc.



Gunner McCain  
Principal



*Ref: #143-20 Appeal of zp #137-20*

**EXHIBIT E1**

**From:** Dina Bookmyer-Baker [<mailto:dbookmyerbaker@waterburyvt.com>]

**Sent:** Wednesday, December 23, 2020 12:17 PM

**To:** Paul Arnot ([arnotdevelopmentgroup@gmail.com](mailto:arnotdevelopmentgroup@gmail.com)) <[arnotdevelopmentgroup@gmail.com](mailto:arnotdevelopmentgroup@gmail.com)>

**Cc:** Steve Lotspeich <[slotspeich@waterburyvt.com](mailto:slotspeich@waterburyvt.com)>

**Subject:** Lot 18 Carrie Lane, construction prior to permit effective date

**VIA EMAIL**

December 23, 2020

Arnot Development Group, Inc.  
Waterbury Commons LLC  
358 South Pinnacle Ridge  
Waterbury, VT 05676  
[arnotdevelopmentgroup@gmail.com](mailto:arnotdevelopmentgroup@gmail.com)

**RE: Zoning Violation Warning Letter – Commencing construction pursuant to zoning permit #137-20 for Lot 18 Carrie Lane prior to the zoning permit effective date**

Dear Mr. Arnot,

It has come to my attention that you have commenced construction on Lot 18 Carrie Lane, prior to the effective date of December 31, 2020. See the attached photos sent to me this morning by a Waterbury Commons resident.

I reminded you on 12/17/20 (email below) to not start construction on this project until the permit effective date was reached. You assured me that no work, specific to house construction on Lot 18, had begun. A site visit on the morning of 12/18 confirmed that the excavation work included bank stabilization and general site preparation and grading of the lots, as you described. There was no evidence of dwelling-specific excavation for Lot 18.

However, the photos taken this morning show that excavation for the foundation specifically for the proposed dwelling on Lot 18 has commenced. You must stop this activity immediately.

This is a warning: You are in violation of the *Waterbury Zoning Regulations*. Violations of the Regulations are a serious matter and, pursuant to the *Regulations* Section 310, you may be subject to fines of up to \$50.00 per day (and \$100.00 per day in the case of default) for each day that the violation exists.

Sincerely,

*Dina Bookmyer-Baker*

Dina Bookmyer-Baker, Zoning Administrator

Cc: Steve Lotspeich

Ref: #143-20 Appeal of zp #137-20

EXHIBIT E2

---

Dina Bookmyer-Baker, Zoning Administrator  
Town of Waterbury  
28 N. Main St., Suite 1, Waterbury, VT 05676  
802-244-1018

*As of 11/18/20, until further notice, the Zoning Office is closed to the public. I will be working remotely 4 days/week, receiving email & voice-mail. Note: The Town Offices will be closed on Thursday and Friday 12/24 & 25.*

---

**From:** Dina Bookmyer-Baker  
**Sent:** Thursday, December 17, 2020 4:32 PM  
**To:** 'Paul Arnot' <[arnotdevelopmentgroup@gmail.com](mailto:arnotdevelopmentgroup@gmail.com)>; Steve Lotspeich <[slotspeich@waterburyvt.com](mailto:slotspeich@waterburyvt.com)>  
**Subject:** RE: Permit 137-20

Hi Paul,

I heard from a property owner in the Waterbury Commons neighborhood that workers have started on the foundation for the dwelling on Lot 18. Please note that the permit effective date is 12/31/2020. Any action or construction started prior to the effective date is in violation of the *Zoning Regulations* and a penalty may be imposed.

– Dina

---

Dina Bookmyer-Baker, Zoning Administrator  
Town of Waterbury  
28 N. Main St., Suite 1, Waterbury, VT 05676  
802-244-1018

*As of 11/18/20, until further notice, the Zoning Office is closed to the public. I will be working remotely 4 days/week, receiving email & voice-mail.*

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*Ref: #143-20 Appeal of zp #137-20*











**NOTICE OF PUBLIC HEARING  
WATERBURY DEVELOPMENT REVIEW BOARD  
Wednesday, February 3, 2021**

*#143-20 PECK  
Abut-ltr & mail-certs  
1/13/21*

Date mailed certified: 1/13/2021

FROM: Eve Peck  
84 Carrie Lane  
Waterbury, VT 05676

TO: Adjoining Landowners

Adjoining landowners are hereby notified: The Waterbury Development Review Board will convene a Public Hearing at **6:30 p.m. on Wednesday, February 3, 2021, via ZOOM and conference call. Connection details will be provided on the DRB agenda published on [www.waterburyvt.com](http://www.waterburyvt.com) prior to the meeting.** The Board will act on the following:

#143-20: Eve Peck (appellant), Waterbury Commons LLC (landowner/appellee)  
Appeal of zoning permit #137-20 issued to Arnot Development Group Inc. for a new single-family dwelling on Lot 18 Carrie Lane. (VR zoning district)

This notice is being sent to you as an adjacent property owner to the project described above. You should receive this notice not less than 15 days prior to the date of the public hearing above.

Although you are not required to attend this hearing, your participation in the local regulatory proceeding is a prerequisite to the right to appeal any resulting decision or action of the Development Review Board, as set forth in 24 V.S.A. § 4471. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

This application and all supporting materials are on file at the Waterbury Municipal Offices. Please call or email the Zoning Administrator, Dina Bookmyer-Baker, at 802-244-1018 or [dbookmyerbaker@waterburyvt.com](mailto:dbookmyerbaker@waterburyvt.com) to make arrangements to review the file. The municipal offices are currently closed to the public except by appointment only.



7020 1290 0002 2496 6589

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Sent To  
 Waterbury Commons Homeowners  
 PO Box 691 Assn.  
 Waterbury, VT 05676

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Postage	\$0.55	
<b>Total Postage and Fees</b>	<b>\$4.10</b>	

Sent To  
 Waterbury Commons LLC  
 Arnot Dev. Grp. Inc., 6105 Mountain  
 Stowe, VT 05672

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
Postage	\$0.55	
<b>Total Postage and Fees</b>	<b>\$4.10</b>	

Sent To  
 Waterbury Commons Homeowners  
 358 S. Pinnacle Lodge  
 Waterbury, VT 05676

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

EXHIBIT **G1**

VIA EMAIL  
February 3, 2021

#143-20  
PECK Appeal  
2/3/21

Dina Bookmyer-Baker  
Zoning Administrator  
Town of Waterbury  
28 N. Main St., Suite 1  
Waterbury, VT 05676  
[dbookmyerbaker@waterburyvt.com](mailto:dbookmyerbaker@waterburyvt.com)

RE: Appeal of Permit No. 137-20 for Lot 18 of Waterbury Commons,

Dear Ms. Bookmyer-Baker,

Appellant Eve Peck, through counsel, submits this brief reply to address the inaccuracies of Applicant's February 1, 2021 Response to Ms. Peck's Appeal of Permit No. 137-20 ("Applicant's Response").

As an initial matter, Applicant's Response makes several false statements about the basis for this appeal and the facts leading up to it. First, Applicant's suggestion that Ms. Peck has appealed Permit No. 137-20 ("Permit") due to concerns about the look of the proposed house on Lot 18 is not true. Rather, as explained in the Notice of Appeal as well as below, the changes Applicant proposes to Lot 18 threaten to have a direct impact on Ms. Peck's property as well as the common land she, along with the other lot owners of Waterbury Commons, now own. Second, Applicant erroneously claims that construction did not occur prior to the effective date of the zoning permit. As the images accompanying Ms. Bookmeyer-Baker's Dec. 23, 2020 Warning Letter, attached as **Exhibit A**, demonstrate, Applicant began excavation for the foundation on Lot 18 before it was permitted.

**1. Applicant's Changes to the Approved Site Plans Matter and Require DRB Review.**

Applicant's Response attempts to dismiss the consequence of his changes to the approved site plan arguing that he is free to make whatever changes to the house location he might wish. That is simply not the case.

As the DRB's Feb. 21, 2013 Approved Minutes, Findings, and Decision (the "Approval") makes clear, its approval was granted "on the condition that the applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits." One of those plans was Exhibit I to the DRB's decision, Site Plan with Finished Grades, S-2, dated November 26, 2012, last rev. 1/31/13 (the "Site Plan"). Per Section 704 of the Zoning Regulations, the location of the proposed structures, driveways, and utilities, amongst other

features, was required to be shown on that Site Plan. Section 704(g) of the Zoning Regulations provides, “Any changes that the applicant wants to make to the approved project that involve aspects included in the Development Review Board review and approval or as a result of subsequent state permit reviews and requirements shall require a subsequent review by the Development Review Board under this bylaw.” Accordingly, it is clear that the location of the proposed houses was an aspect within the DRB’s review.

The plan Applicant submitted with his application for Lot 18 is significantly different than what is shown on the Site Plan—it is a larger structure with the garage shifted closer to the neighboring Lots 17 and 19. Such changes require review by the DRB’s express conditions of approval and according to Section 704(g).<sup>1</sup>

What is more, this is not the case where the change will have no impact. Quite the opposite. As any brief site visit to the development reveals, the houses in the Waterbury Commons are extremely close together. Changes of five or ten feet, therefore, can have dramatic impacts on the functionality of the development, including aspects such as access, stormwater runoff, and aesthetics. This is particularly true here. Ms. Peck owns the adjacent Lot 17 and holds a permit for a driveway and garage on that lot. *See* the attached **Exhibit B**. That application was submitted in reliance on the approved Site Plan referenced in the DRB’s Approval. As the to-scale drawing attached as **Exhibit C** shows,<sup>2</sup> because Applicant is proposing a much bigger house and garage than what was shown on the Site Plan, and likely bigger than what has been represented on the application, this necessitated the house and garage to be located closer to the property line with Lot 17. As a result, any car parked in the driveway on Lot 18 will now be blocking Ms. Peck’s driveway.

In addition, these changes are likely to impact the flow of stormwater and further impact the adjacent lots. In Applicant’s stormwater plans submitted to the State, stormwater is shown to flow from the eastern edge of Lot 18 to the stormwater pond just beyond the southwestern edge of the lot. Now Applicant has added impervious surface and located the garage and structure in the stormwater flow path, leaving the question of where the stormwater will go. Likely, it will go nowhere and instead just pool on the shared driveway with Lots 17 and 19. While this is not a question the DRB needs to resolve at this juncture, it demonstrates that the changes Applicant has made are significant and should be reviewed by the DRB as well as other permitting authorities whose approvals are impacted by these changes.<sup>3</sup>

## **2. Applicant’s Refusal to Supply Information that Accurately Shows the Size of the House and Number of Bedrooms it will Contain Only Validates Ms. Peck’s Concerns.**

---

<sup>1</sup> Applicant’s attorney misleadingly focuses on whether there is a permit condition requiring review under Stowe Club Highlands. (Applicant’s Response at 5-6) That discussion is irrelevant. Ms. Peck has not argued that there is a binding permit condition that requires the Stowe Club Highlands analysis. That says nothing, however, whether DRB review is required for the changes Applicant is making to the prior approvals. *See In re Stowe Highlands Merger/Subdivision*, No. 35-3-11VTEC, 2012 WL 597856 (Vt.Super. Feb. 15, 2012).

<sup>2</sup> This demonstrative exhibit depicts, to scale, a standard vehicle parked in front of the garage on Lot 18.

<sup>3</sup> It is within the DRB’s authority to require Applicant seek approval from other state permitting authorities for the changes proposed before ruling on the permit. *See* Regulations, Section 300(h).



Applicant contends that he has supplied all required information with his zoning application. What Applicant chooses to ignore is that the requirement is not only to supply pro-forma application materials, but crucially, accurate materials. Applicant represented on his application that the house will be 2,200 sq. ft. with three bedrooms. Applicant provides no plans, however, showing those representations are accurate. Based on Applicant's own diagrams for the house, it appears to be much closer to 3,000 sq. ft.<sup>4</sup> Based on Ms. Peck's own experience, and observations of houses elsewhere in the development, Applicant appears to consistently underrepresent the size, and the number of bedrooms and bathrooms of the dwellings on his applications. The DRB's prior approval was based on a design of homes with three bedrooms that would be 2,500 sq. ft. or less. Applicant's wastewater permit also limits the number of bedrooms. It is well within the DRB's authority to require Applicant to demonstrate how the substantial house Applicant proposed to build complies with these requirements. *See* Regulations, §§ 300(c), 704(a)(8).

### **3. Changes Associated with Development of Lot 18 are Appropriately Reviewed in This Proceeding.**

Applicant argues that the DRB should not review site changes to Lot 18, the common land, or the stormwater pond because those issues are purportedly beyond the scope of this permit. That assertion is incorrect because Applicant made those changes in connection with his development of Lot 18. The fact Applicant failed to disclose them in his zoning application, or any other permit application, should not insulate those actions from DRB review. Moreover, Applicant's suggestion that there is a current permit authorizing such alterations is incorrect. While there are existing permits, they only permit Applicant to develop Lot 18, and the surrounding infrastructure, consistent with those permits. The actions Ms. Peck has properly raised in this appeal, particularly placing fill beyond the limits of disturbance (*see Exhibit D*<sup>5</sup>), are not authorized.

Accordingly, for these as well as the reasons discussed in the Notice of Appeal, the DRB should either deny the permit or require Applicant submit revised plans detailing the changes over the previously approved plans, as well as confirmation such changes have been reviewed by applicable state regulators as well, and the impacts those changes will have on the neighboring lot owners.

---

<sup>4</sup> Floor Area is defined under the Zoning Regulations as the: "Sum of the gross horizontal area of the floors of a building, excluding basement floor areas except when used or intended to be used for human habitation or public service." (emphasis added).

<sup>5</sup> Exhibit D shows the retaining wall constructed on Lot 18 beyond the limits of disturbance on Applicant's site plan.

Dina Bookmyer-Baker  
February 3, 2021  
Page 4

EXHIBIT **G4**

Sincerely,

SHEEHEY FURLONG & BEHM P.C.

*/s/ Peter G. Raymond*

Peter G. Raymond

Enclosures

Cc: Alexander J. LaRosa, Esq.  
Eve Peck



# EXHIBIT G5

Ref: #143-20  
PECK Appeal  
2/3/21

WATERBURY MUNICIPAL OFFICE  
802.244.7033 OR 802.244.5858  
FAX: 802.244.1014  
28 NORTH MAIN ST., SUITE 1  
WATERBURY, VT 05676  
WATERBURYVT.COM

Permit Application # 139-20  
Tax Map # 13-293.170  
Permit Issuance Date: January 14, 2021  
Permit Effective Date: January 30, 2021

## ZONING PERMIT

---

Applicant: Eve Peck  
(mail address) 84 Carrie Lane  
Waterbury, VT 05676

Landowner: (same)

Project: New garage on undeveloped lot.

Project Lot 17 Carrie Lane  
Location: Waterbury, VT

Your application for a zoning permit has been reviewed by the Zoning Administrator. The proposal, as represented in the attached application, conforms to the requirements of the Zoning Regulations for the Town of Waterbury<sup>1</sup> and is hereby approved, subject to the representations made in your application. Any change from the information provided on your application must be approved by the Zoning Administrator.

Title 24 V.S.A. §4465(a) requires a 15-day appeal period for this permit. Provided no appeal has been made within 15 days of the Permit Issuance Date above, this permit is effective on the sixteenth day. The enclosed *Permit Notice Poster* must be posted on your property for the 15-day appeal period within view of the nearest adjacent public right-of-way.

Any action or construction started prior to the effective date is in violation of the Zoning Regulations and a penalty may be imposed. All requests made on this permit must be completed within two years of the issuance date of this permit. *Please note:* State permits may be required. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367, and the appropriate state agencies to determine what permits must be obtained.

This permit is valuable. It is a part of the property records and must be retained.

ZONING PERMIT ISSUED BY:

*Dina Bookmyer-Baker*

Dina Bookmyer-Baker, Zoning Administrator

Enclosures: *Permit Notice Poster* –must be posted on the subject property within view of the nearest adjacent public right-of-way. Post upon receipt; remove on/after the Permit Effective Date.

cc: Town Clerk, Listers, & File

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<sup>1</sup> *Waterbury Zoning Regulations*, as amended through May 16, 2016.



# EXHIBIT G6

## TOWN OF WATERBURY ZONING PERMIT APPLICATION

Date:	12/16/2020	Application #:	139-20V
Fees Paid:	\$50	+ \$15 recording fee =	65
Parcel ID #:	402-0084.V		
Tax Map #:	13-293.016 .170		

Please provide all of the information requested in this application. Read the Zoning Regulations and familiarize yourself with the requirements. Failure to provide all the required information will delay the process of this application. Based upon the nature of the project you may need to submit additional information. For instructions on how to fill out this form please refer to the *Zoning Permit Application Instructions & Fee Schedule* available on the municipal website or at the municipal offices. Submit one copy of the completed application and a check payable to the *Town of Waterbury* according to the zoning fee schedule. For questions about the permit process, please contact the Zoning Administrator at 802-244-1018.

### CONTACT INFORMATION

#### APPLICANT

Name: EVE PECK  
 Mailing Address: 84 CARRIE LANE  
WATERBURY, VT 05676  
 Home Phone: \_\_\_\_\_  
 Work/Cell Phone: (585) 820-5175  
 Email: epeck802@gmail.com

#### PROPERTY OWNER (if different from Applicant)

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Home Phone: \_\_\_\_\_  
 Work/Cell Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_

### PROJECT DESCRIPTION

Physical location of project (E911 address): Lot 17  
Waterbury Commons  
 Lot size: .16 Acre Zoning District: Village Residential  
 Existing Use: \_\_\_\_\_ Proposed Use: one car garage  
 Brief description of project: one car garage with  
left a @1200 sqft house to be  
added at a much later date - new  
application for additional structure will be  
 Cost of project: \$ 85,000 Estimated start date: Summer 2021  
 Water system: none Waste water system: none

### CHECK ALL THAT APPLY:

#### NEW CONSTRUCTION

- Single-Family Dwelling
- Two-Family Dwelling
- Multi-Family Dwelling
- Commercial / Industrial Building
- Residential Building Addition
- Comm./ Industrial Building Addition
- Accessory Structure (garage, shed)
- Accessory Apartment
- Porch / Deck / Fence / Pool / Ramp
- Development in SFHA (including repairs and renovation)
- Other \_\_\_\_\_

#### USE

- Establish new use
- Change existing use
- Expand existing use
- Establish home occupation

#### OTHER

- Subdivision (# of Lots: \_\_\_\_\_)
- Boundary Line Adjustment (BLA)
- Planned Unit Development (PUD)
- Parking Lot
- Soil/sand/gravel/mineral extraction
- Other \_\_\_\_\_

#### EXISTING

Square footage: \_\_\_\_\_ Height: \_\_\_\_\_  
 Number of bedrooms/baths: \_\_\_\_\_  
 # of parking spaces: \_\_\_\_\_  
 Setbacks: front: \_\_\_\_\_  
 sides: 1 rear: \_\_\_\_\_

#### PROPOSED

Square footage: 356 Height: 22ft  
 Number of bedrooms/bath: 0  
 # of parking spaces: 2  
 Setbacks: front: 10'  
 sides: 10' / 10' rear: 10'

### ADDITIONAL MUNICIPAL PERMITS REQUIRED:

- Curb Cut / Access permit
- E911 Address Request
- Water & Sewer Allocation
- none of the above

[Additional State Permits may also be required]

**SKETCH PLAN**

#139-20

PECK

Please include a sketch of your project, drawn to scale, with all required measurements - see *Zoning Permit Application Instructions*. You may use the space below or attach separate sheets. For plans larger than 11"x17" please provide a digital copy (pdf, file format) in addition to a paper copy.

*See attached*      **EXHIBIT G7**

**SIGNATURES**

The undersigned hereby applies for a Zoning Permit for the use described in this application to be issued on the basis of the representations made herein all of which the applicant swears to be complete and true.

*[Signature]*  
 Applicant Signature 12/16/20  
 date

*[Signature]*  
 Property Owner Signature 12/14/20  
 date

**CONTACT**

Zoning Administrator Phone: (802) 244-1018  
Mailing Address: Waterbury Municipal Offices, 28 North Main Street, Suite 1, Waterbury, VT 05676  
Municipal Website: www.waterburyvt.com

**OFFICE USE ONLY**

Zoning District/Overlay: Village Residential

Review type:  Administrative  DRB    Public Warning Required:  Yes  No

DRB Referral Issued (effective 15-days later): —

DRB Mtg Date: —      Decision Date: —

Date Permit issued (effective 16-days later): Jan. 14, 2021

Final Plat due (for Subdivision only): —

Remarks & Conditions: \_\_\_\_\_

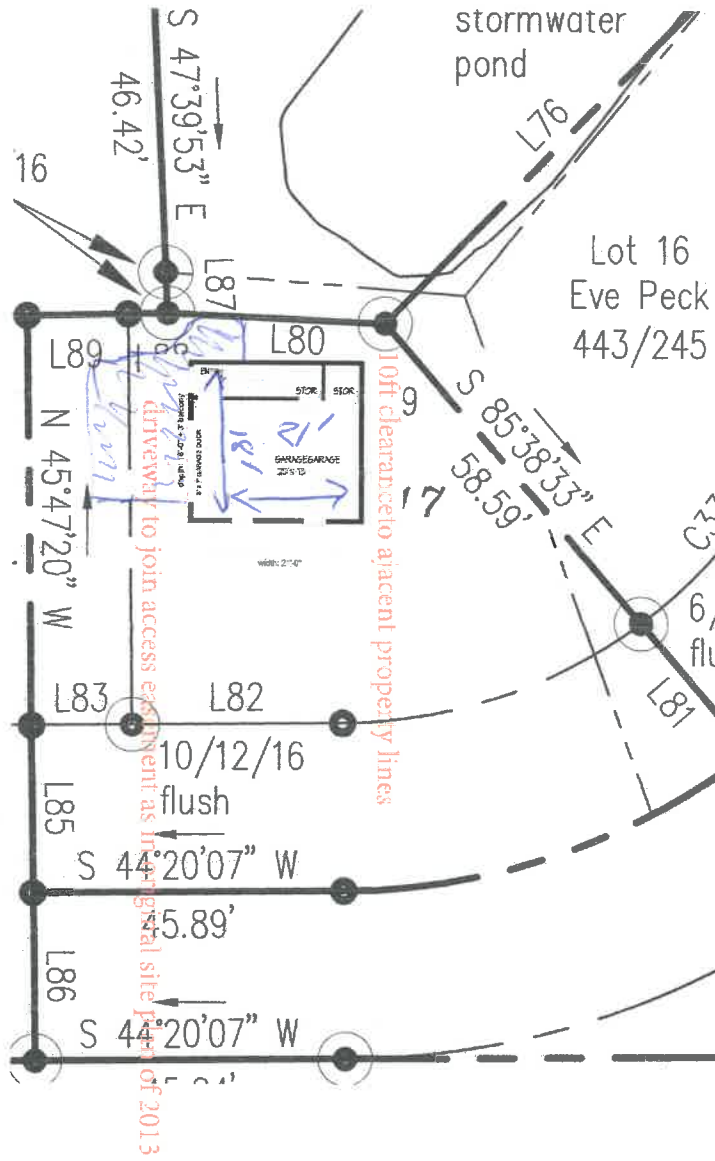
Authorized signature: *[Signature]*      Date: 1/14/2021

**REVIEW/APPLICATIONS:**

- Conditional Use     Waiver
- Site Plan
- Variance
- Subdivision:
  - Subdv.     BLA     PUD
- Overlay: *(existing)*
  - DDR     SFHA     RHS     CMP
- Sign
- Other \_\_\_\_\_
- n/a

# EXHIBIT G8

# 139-20  
PECK  
12/16/20





# Plan Details EXHIBIT **G9**

#139-20  
PECK  
12/14/20

~~Heated Sq. Ft.~~ *none no apartment will be built*

First Floor	22 sq. ft.
Second Floor	378 sq. ft.
Total	400 sq. ft.

### Unheated Sq. Ft.

<del>Deck/Balcony</del>	<del>42 sq. ft.</del> <i>none</i>
Garage	356 sq. ft.

### Full Baths

~~1~~ *none*

### Dimensions

Width	21 ft. 0 in.
Depth	18 ft. 0 in.
Approx. Height	21 ft. 8 in.

### Ceiling Heights

First Floor	8 ft. 0 in.
-------------	-------------

### Roof Pitch

3/12 Main

### Garage Door Size(s)

9x7

### Roof Framing

Stick

### Exterior Wall

2x6

### Foundation

Slab

7/20

A-38

# EXHIBIT G10

Ref:#143-20  
PECK Appeal  
2/3/21

450  
450  
SERPOND 6

460



LOT 18  
0.12± Acres

LOT 19  
0.19± Acres

LOT 17  
driveway

2 CAR GARAGE

CAR PICKUP TRAVEL

20ft from garage

Property line

Property line

n/a WCHOA

n/a WCHOA

n/a WG, LLC

n/a WCHOA



EXHIBIT **G11**

#143-20  
*PECK Appeal*  
2/3/21