

**Town of Waterbury**  
**Development Review Board**  
**Decision #135-20 ■ January 6, 2021**

**Attending:** Board members: David Frothingham (Chair), Tom Kinley, Bud Wilson, Patrick Farrell, Harry Shepard, and George Lester. Staff: Dina Bookmyer-Baker (Zoning Administrator), Steve Lotspeich (Community Planner), and Patti Martin (Secretary).

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Owner/Applicant:	Lintilhac LLC, Phillip & Crea Lintilhac/William Lintilhac	
Address/Location:	Barnes Hill Rd., Waterbury Center, VT	
Zones:	Low-Density Residential (LDR), Conservation (CNS) & Ridgeline/Hillside/Steep Slope (RHS) overlay	
Application #	135-20	Tax Map # 10-008.000

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**Applicant Request:**

The applicant seeks to subdivide the existing lot on Barnes Hill Road into two residential lots and construct a single-family dwelling in the RHS overlay district.

**Present and sworn in:**

Will Lintilhac & Rosy Metcalfe, Applicant

Phillip & Crea Lintilhac, Landowner

Chris Haggerty, Surveyor for Applicant

Barry Reit, Adjoining Landowner

Thomas & Barbara Tomasi

*Also:* Thomas & Barbara Tomasi, adjoining landowner, sent comments via email

**Exhibits:**

A: Application #135-20 (9 pp: Zoning, Conditional Use, Subdivision, Overlay District), submitted 12/03/20.

B: Lintilhac LLC 2-lot Subdivision with dwelling location by Lakeside Engineering dated 9/29/20 (2 pp.).

C: Detailed Site Plans for dwelling by Metcalfe Associates Architecture dated 11/22/20 (2 pp.).

D: Elevations of dwelling by Metcalfe Associates Architecture dated 11/16/20 (4 pp.).

E: Orthophotos of parcel with tax map boundaries and zoning districts (2 pp., staff).

F: Plat of 2-Lot subdivision by Button Professional Land Surveyors, PC dated 6/29/20

G: Overall Property Plan by Lakeside Environmental Group dated 9/26/20.

H: Letter to adjoining landowners, mailed certified: December 21, 2021.

**Findings of Fact:**

1. Existing conditions: Lintilhac LLC, Phillip & Crea Lintilhac own a 232± acre parcel that is bisected by Barnes Hill Road. The parcel is located in both the Low-Density Residential (LDR) and Conservation (CNS) zoning districts, with portions within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district (Exhibit E).

2. Permit history: (applicable recent permits)
  - August 2017, Curb Cut Permit #08-17-C for field access into western portion of property.
3. Current proposal: To subdivide the existing 232± acre parcel into two lots as follows:
  - Lot 1 will be 78.95± acre, has ±1,417' of frontage on (the road right-of-way line) Barnes Hill Rd., and will be served by private well and septic for a two-bedroom single-family dwelling. This lot will include a building zone that will lie entirely in the LDR zoning district as shown on Exhibits C. The lot width at the building front line is greater than 300'. The lot includes area in the RHS Overlay District however the dwelling will be located entirely below 1,200' in elevation. The plat for the 2-lot subdivision (Exhibit F) includes a note that there is an agreement with the adjacent property owner, Nella Diana Wennberg, regarding the location of the western boundary of the Lintilhac property that is the common boundary between the two parcels.
  - Lot 2 will be the remaining 153± acres, contains land in both LDR and CNS zoning districts and is bisected by Barnes Hill Road A portion of this parcel is in the RHS Overlay District and the entire parcel will remain undeveloped at the current time.
4. Section 504 General Dimension Requirements: Any subdivision of land must conform to the relevant criteria in Section 504. See the table below for compliance with the LDR and CNS zoning districts.

	Zoning District Minimum Lot Size	Proposed Lot Size	LDR/CNS Minimum Frontage	Proposed Frontage
Lot 1	LDR: 5 acres CNS: 10 acres	78.95± acres	300'	> 300'± Barnes Hill Rd.
Lot 2	LDR: 5 acres CNS: 10 acres	153± acres	300'	> 300'± Barnes Hill Rd.

(definition) LOT FRONTAGE: Distance measured across the width of the lot at the building front line, or proposed building front line.

(definition) BUILDING FRONT LINE: Line parallel to the front lot line transecting the point in the building face that is closest to the front lot line...

In the LDR zoning district, the minimum setbacks are: 70' front and 75' sides/rear. In the CNS zoning district, the minimum setbacks are greater than 100' for the front, sides, and rear. The proposed dwelling on the Lot 1 meets the setback requirements for the LDR zoning district. Each lot as proposed meets the minimum lot size requirements and each will have access to Barnes Hill Road, a Town road (Exhibits F & G). The proposed dwelling will be two-stories plus a walk-out finished basement level.

5. Section 1201 Authority and Review of Subdivisions: All applications for land division shall be reviewed by the DRB under Section 1202, unless exempted under Section 1203. This application is not exempted from Board review, as the project involves lands within the RHS overlay district.

6. Section 1202 Subdivision Review Criteria: Prior to granting approval, the Board must find that the proposed subdivision conforms to the standards in Section 1202 (a)–(d).
- (a) The Board must find that the proposal will not have an undue adverse impact on the following:
- (1) The capacity of community facilities: The dwelling will not be connected to municipal water or sewer systems. The proposal to create two new residential lots will not exceed the school system capacity, or cause an undue adverse impact to traffic volumes, or create an unmanageable burden on fire protection services.
  - (2) The character of the area: The use of the proposed Lot A will be residential. The existing uses in the immediate area are residential, agricultural, forestry, and conservation. The dwelling will have horizontal wood siding (Exhibit D). The roof will be non-reflective standing-seam metal.
  - (3) Water quality: Applicant might be required to obtain a VT stormwater discharge permit. Applicant has obtained the water/wastewater permit from the state (ww-5-8382). Applicant should accept, as a condition of approval, that erosion protection and sediment control measures will be employed during the development of the Lot 1 to ensure that development of the lot will not result in undue adverse impact to water quality or downstream properties.
  - (4) Aesthetics and scenic or natural beauty: Additional plantings of various trees and shrubs will be installed as shown on Exhibit C2 to provide screening for the proposed dwelling as viewed from Barnes Hill Road.
  - (5) Significant natural resources: Significant Natural Resources are defined in the Regulations as: “Areas that include streams; Class I & II wetlands; prime agricultural soils; wildlife resources, including the Natural Heritage sites, as shown on the Waterbury Wildlife Resources Map in the Municipal Plan; and rare, threatened or endangered species.” The Natural Features Map 2-1 and the Wildlife Resources Map 2-2 in the 2018 Waterbury Municipal Plan do not identify any of these resource on Lot A. There is a deer overwintering yard shown in the wooded area on both Lots 1 & 2, however it is not in the immediate vicinity of the building zone which is entirely located in the existing field.
- (b) The project is *not* in the RT100 zoning district. This provision does not apply.
- (c) The project is in the RHS overlay district. See compliance with the RHS standards in Section 1004, in paragraph 7, below.
- (d) The Board may attach reasonable conditions and safeguards with respect to the subdivision attributes identified in Section 1202(d)(1–4). The proposal does not include excessive curb-cuts, as both of the lots will be accessed from Barnes Hill Rd. The building envelope for the dwelling is small relative to the size of the lot. New shrub and tree plantings are proposed, and the dwelling will meet the minimum setbacks for the LDR zoning district.

7. Section 1004 RHS Standards of Review: All of the proposed development is located below 1,499 FIE (feet in elevation). As per Section 1001, the project is classified as “minor” development. Minor development projects on lands within the RHS overlay district shall be subject to conditional use review. As noted above, the dwelling will be located entirely below 1,200 FIE.

Section 303 Conditional Use criteria: Development of lands within the RHS overlay district shall comply with the following conditional use review standards:

- (a) Section 303(e)(1) Community facilities: See compliance with the capacity of community facilities in paragraph 6(a)(1), above. Access to the site off Barnes Hill Road will be via an existing curb cut that will be improved.
- (b) Section 303(e)(2)(A–E) Character of the area: The existing uses in the immediate area are residential, agricultural, forestry, and conservation. Light and noise impacts from the proposed dwelling will be typical of standard residential use, which will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area. The application materials did not specify any historic sites, or rare or irreplaceable natural areas on the parcel. The Waterbury Municipal Plan does not identify any rare, threatened, or endangered species, or deer wintering areas on Lot A that is to be developed.
- (c) Section 303(e)(3) Municipal bylaws in effect: Residential lots are a permitted use within the LDR and CNS zoning districts and are a conditional use when they are located within the RHS overlay district. The application represents compliance with the zoning bylaws.
- (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed residential use will not typically create the above-named nuisances and therefore no devices or special methods are required to control these impacts.
- (e) Section 303(h) Removal of earth or mineral products conditions: The project does not include earth removal activities. This provision does not apply.

**Conclusion:**


Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Lintilhac LLC, Phillip & Crea Lintilhac/William Lintilhac to create a two-lot subdivision and construct a single-family dwelling on Barnes Hill Road in the RHS overlay district, as presented in application #135-20 and supporting materials, meets the Conditional Use, Ridgelines/Hillsides/Steep Slopes, and Subdivision criteria as set forth in Sections 303, 1004, and 1202.

**Decision Motion:**

On behalf of the Waterbury Development Review Board, George Lester moved and Tom Kinley seconded the motion to approve application #135-20 with the following conditions:

- (1) The applicant shall complete the project in accordance with the Board’s findings and conclusions and the approved plans and exhibits;
- (2) All exterior lighting shall be downcast and shielded.
- (3) Pre-development and construction activities shall comply with the most current version of the State of Vermont *Low Risk Site Handbook for Erosion and Sediment Control*, as published by the Vermont Department Environmental Conservation, and other regulations applicable to silvicultural activities.
- (4) The approved final plat, with updates as discussed, signed by the DRB Chair (or designee), shall be duly filed or recorded in the office of the clerk of the Town of Waterbury within 180 days from this approval, in accordance with 24 V.S.A. § 4463.

**Vote:** The motion passed unanimously 6–0.



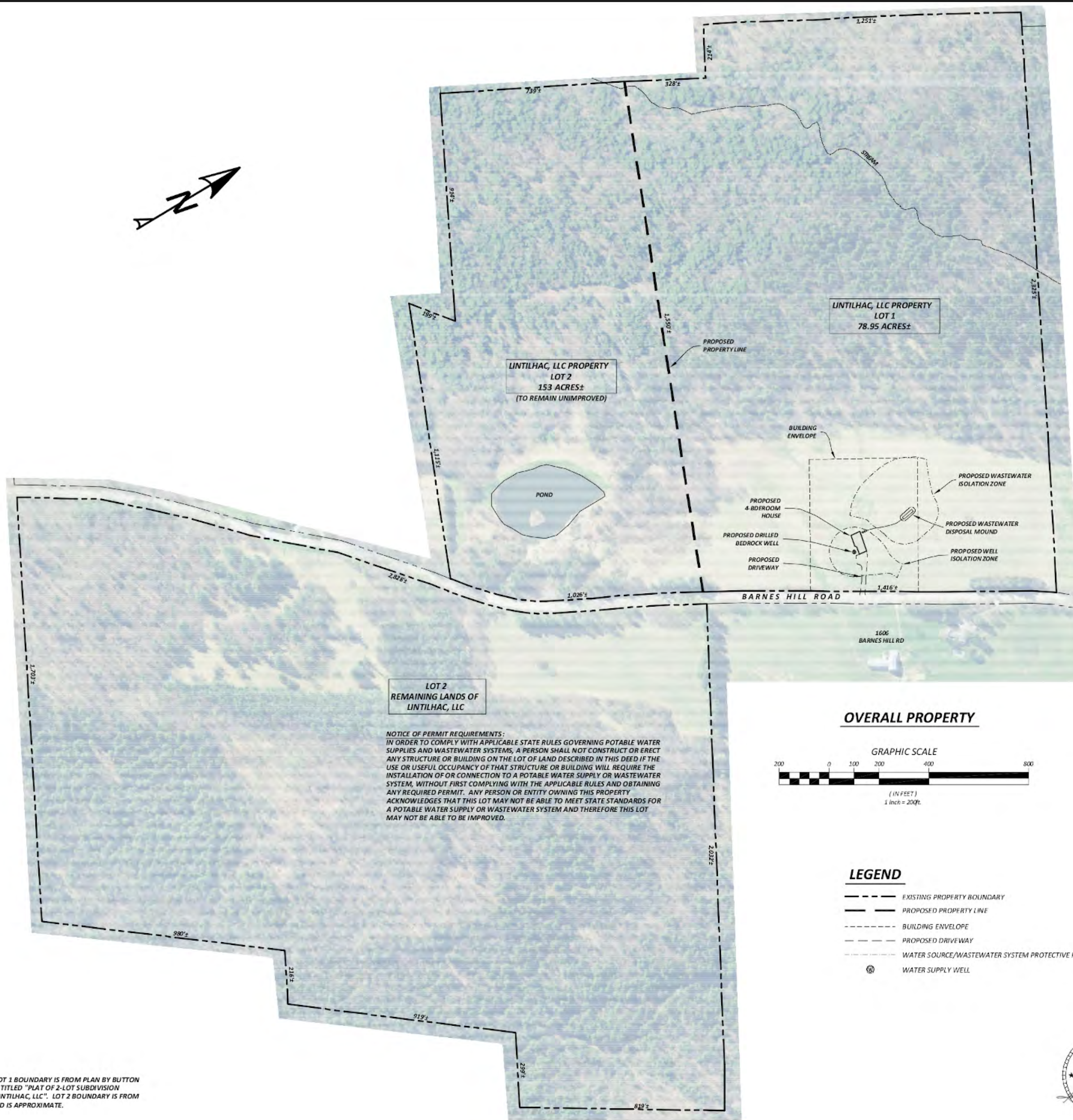
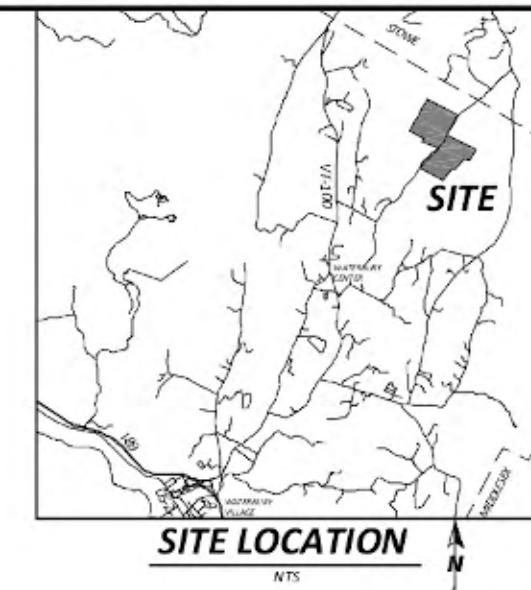
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(Chair David Frothingham)

January 30, 2021

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or [pete.kopsco@vermont.gov](mailto:pete.kopsco@vermont.gov), and the appropriate state agencies to determine what permits must be obtained.

**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.*

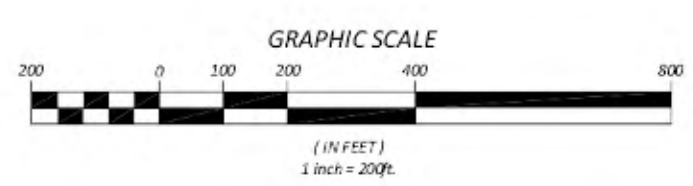


**LOT 2  
REMAINING LANDS OF  
LINTILHAC, LLC**

**NOTICE OF PERMIT REQUIREMENTS:**  
 IN ORDER TO COMPLY WITH APPLICABLE STATE RULES GOVERNING POTABLE WATER SUPPLIES AND WASTEWATER SYSTEMS, A PERSON SHALL NOT CONSTRUCT OR ERECT ANY STRUCTURE OR BUILDING ON THE LOT OF LAND DESCRIBED IN THIS DEED IF THE USE OR USEFUL OCCUPANCY OF THAT STRUCTURE OR BUILDING WILL REQUIRE THE INSTALLATION OF OR CONNECTION TO A POTABLE WATER SUPPLY OR WASTEWATER SYSTEM, WITHOUT FIRST COMPLYING WITH THE APPLICABLE RULES AND OBTAINING ANY REQUIRED PERMIT. ANY PERSON OR ENTITY OWNING THIS PROPERTY ACKNOWLEDGES THAT THIS LOT MAY NOT BE ABLE TO MEET STATE STANDARDS FOR A POTABLE WATER SUPPLY OR WASTEWATER SYSTEM AND THEREFORE THIS LOT MAY NOT BE ABLE TO BE IMPROVED.

**LINTILHAC, LLC PROPERTY  
LOT 1  
78.95 ACRES±**

**OVERALL PROPERTY**



**LEGEND**

- EXISTING PROPERTY BOUNDARY
- PROPOSED PROPERTY LINE
- ... BUILDING ENVELOPE
- - - PROPOSED DRIVEWAY
- - - WATER SOURCE/WASTEWATER SYSTEM PROTECTIVE ISOLATION ZONE
- ⊙ WATER SUPPLY WELL

**NOTICE TO PROPERTY OWNER / CONTRACTOR**

1. THE INFORMATION SHOWN ON THIS PLAN REPRESENTS THE RESULTS OF FIELD MEASUREMENTS INTENDED TO PRODUCE A DESIGN IN ACCORDANCE WITH LOCAL AND STATE REGULATIONS AND GUIDELINES.
2. PRIOR TO COMMENCING CONSTRUCTION, THE OWNER/CONTRACTOR SHALL STUDY THIS INFORMATION AND DIRECT ANY QUESTIONS TO THE DESIGNER.
3. THE OWNER/CONTRACTOR SHALL CONSTRUCT THE SYSTEM AS SHOWN ON THE "APPROVED" PLANS. ANY CHANGES TO THE "APPROVED" PLANS ARE TO BE REPORTED TO AND AUTHORIZED BY THE DESIGNER IN ADVANCE OF IMPLEMENTATION. ANY CHANGES NOT VERIFIED AND AUTHORIZED BY THE DESIGNER AS BEING SUITABLE, MAY NOT BE APPROVABLE AS PER PERMIT CONDITIONS.
4. THE OWNER/CONTRACTOR IS RESPONSIBLE FOR COORDINATING WITH THE DESIGNER THE SCHEDULE OF CONSTRUCTION INSPECTIONS AND CERTIFICATIONS IN ACCORDANCE WITH THE "APPROVED" DESIGN NOTES AND DETAILS PROVIDED ON THIS DRAWING AND AS PER STATE PERMIT REQUIREMENTS.

**DRAFT**

<b>LINTILHAC, LLC PROPERTY BARNES HILL ROAD/WATERBURY, VERMONT</b>	
<b>OVERALL PROPERTY PLAN</b>	
DRAWN BY:	SMS
CHECKED BY:	SMS
APPROVED BY:	SMS
DATE:	9-26-20
SCALE:	NOTED
SHEET:	1 OF 4



802.489.5214 - WWW.LEGVT.COM  
 P.O. BOX 4082, BURLINGTON, VERMONT 05406



**NOTE:**  
 THIS IS NOT A BOUNDARY SURVEY. LOT 1 BOUNDARY IS FROM PLAN BY BUTTON PROFESSIONAL LAND SURVEYORS, PC TITLED "PLAT OF 2-LOT SUBDIVISION SHOWING A PORTION OF LANDS OF LINTILHAC, LLC". LOT 2 BOUNDARY IS FROM TOWN OF WATERBURY TAX MAPS AND IS APPROXIMATE.

LINTILHAC, WATERBURY/LINTILHAC.DWG