



TOWN OF MORRISTOWN PLANNING COMMISSION  
MEETING NOTICE & AGENDA  
COMMUNITY MEETING ROOM  
43 Portland St. Morrisville, VT 05661  
5:00 PM Tuesday, March 10, 2026

[Join Zoom Meeting](#) or by phone join via conference call (audio only): 1 (646) 558-8656 | Meeting ID: [810 342 4528](#) | Passcode 05661

The meetings will be live-streamed on the Town of Morrystown's website: <https://www.morrystownvt.gov/community/page/meetings-agendas-minutes>

**I. CALL TO ORDER**

**II. AGENDA CHANGES/ADDITIONS**

**III. APPROVE PRIOR MEETING MINUTES**

1. Approve minutes from 2/24/26.

**IV. NEW BUSINESS**

1. Appointment of Chair and Vice Chair for 2026.
2. Review of draft community survey designed by intern Gabriella Coutts.
3. Discussion with Gary Nolan and Donald Blake Jr about a letter submitted by the Morrystown Development Review Board requesting that the Planning Commission consider changing the bylaw to allow for major submissions that are not automatically conservation submissions that require 50% of the land associated with a project to be conserved.

**V. OLD BUSINESS**

1. Discussion with Gary Nolan and Donald Blake Jr about their experience with earth extraction.
2. Discussion on Legal Feedback from VLCT regarding questions related to earth extraction.
3. Discuss feedback from the town attorney on the proposed 2026 bylaws and make additional edits.

**VI. FUTURE PLANNING AGENDA TOPICS**

**VII. CORRESPONDENCE/NOTICES**

**VIII. ADJOURN**



## PLANNING COMMISSION MEETING MINUTES OF FEBRUARY 24, 2026

Members: Etienne Hancock, Joshua Goldstein, John Meyer, James Morris, Wally Reeve

Absent:

ADMINISTRATION and STAFF: Tyler Machia Zonign and Planning Administrator

PARTICIPANTS/GUESTS: Jerry Throne, Leah Hollenberger, Martin Green

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### CALL TO ORDER

Etienne Hancock called the Planning Commission to order at 5:00 PM at the Tegu Building.

### AGENDA CHANGES/ADDITIONS

None

### APPROVE PRIOR MEETING MINUTES

**1. Approve minutes from 2/10/26.**

*Motion made by Wally Reeve to approve the minutes of 2/10/26. Motion seconded by Jamie Morris. Motion carried (5/0). Joshua Goldstein was present for the first part of the meeting but had to leave halfway through.*

### OLD BUSINESS

**1. Update on the draft 2026 Bylaws.**

Tyler Machia provided an update on the draft 2026 Bylaws. He noted that the last round of substantive changes has been sent to the town attorney. His review is expected on March 9th. At the March 10th Planning Commission meeting, the legal review will be presented, and any necessary changes will be made. Tyler is expected to attend the April 1st meeting of the Village Trustees to walk through the bylaws. It is anticipated that the Planning Commissions public hearing will take place in May of 2026. Tyler plans to draft a memo containing all the revisions made to the current bylaws.

### FUTURE PLANNING AGENDA TOPICS

**1. Discuss workflow for upcoming monthly meetings.**

Tyler informed the Commission that he would like to change the format of the meeting's agenda to alternate zoning bylaw and technical details with planning topics and presentations relevant to the Commission.

### NEW BUSINESS

**1. Discuss planning priorities worksheet.**

Tyler introduced Etienne's priority list and solicited each member's list of priorities. A discussion ensued with Tyler recording the items and ranking the top three as agreed; drafting the language on rock extraction, conducting a housing needs assessment, and reviewing the town plan

implementation. Tyler keep track of this priority list for the members.

**2. Discussion with LCPC about Tier 1B.**

**3. Discussion on making a recommendation to the Selectboard whether the town should pursue Tier 1B.**

**4. Draft and approve PC Tier 1b recommendation letter.**

Tyler invited Seth Jensen from the Lamoille County Planning Commission to review the details of the Tier 1B designation. He differentiated between the Tier 1A and Tier 1B options. Tier 1B offers the opportunity to reduce Act 250 reviews by increasing the thresholds that trigger reviews. For example, the current 10 units have been increased to 50 units, and local zoning still applies. Jensen presented a draft map of the Tier 1B area. The eligible areas for Tier 1B are the mapped downtown centers and planned growth areas. The commission drafted a letter that will be signed by the chair, with a recommendation to the Selectboard and Village Trustees that the Planning Commission supports the town of Morristown in pursuing the Tier 1B designation based on the LCPC map.

***Motion made by Jamie Morris to support the recommendation letter from the Planning Commission that the town pursue the Tier 1B designation and to give the Zoning and Planning Administrator and Chair the ability to make non-substantive changes to the letter. Motion seconded by John Meyer. Motion carried (4/0). Joshua Goldstein was absent by this point in the meeting.***

**CORRESPONDENCE/NOTICES**

None

**ADJOURN**

***Motion made by Jamie Morris to adjourn. Motion seconded by John Meyer. Motion carried. (4/0)***

Meeting adjourned at 6:40 pm  
Submitted and filed this 2/26/26.  
Bonnie McDermott, Scribe

*Please note all minutes are in Draft form and are subject to approval at the next Planning Commission meeting.*

Morrisville + Morristown

# COMMUNITY SURVEY

A new town plan is coming in 2030, and we want to hear from you. Please fill out this short (4-5 question) survey to let us know how you feel.

QR CODE HERE  
(unavailable until form  
is active)

iPhone: Open camera, point at the QR code, and click on pop up banner.

Android: Download a QR app, point at the QR code, and click on pop up banner.

**Paper Copies of the survey are also available at our office at 43 Portland Street in the Planning and Zoning office, and at Morristown Centennial Library. The online version is also available through our website at [Morristownvt.gov](http://Morristownvt.gov)**

THIS QUESTIONNAIRE WAS DEVELOPED TO GAIN COMMUNITY INSIGHT SURROUNDING OUR CURRENT TOWN PLAN IN PREPARATION FOR UPCOMING WORK ON FUTURE TOWN PLANS STARTING IN THE YEAR 2030. RESPONSES WILL BE RECORDED AND USED TO INFORM PLANS GOING FORWARD.



## Town Plan Questionnaire

Please drop off or mail your filled-out questionnaire to our office at 43 Portland Street. Please fill out this short questionnaire. This questionnaire was developed to gain community insight surrounding our current (2022-2030) Town Plan in preparation for upcoming work on the future town plan due in the year 2030. Responses will be recorded and used to inform plans going forward.

Question 1: Have you ever read the town plan?

- Yes
- No

Question 2:

**If you answered “Yes” to Question 1:** How satisfied are you with the current (2022-2030) town plan? Please circle the number that best reflects your feelings.

1	2	3	4	5	6
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Extremely  
Unsatisfied

Extremely  
Satisfied

Question 3:

**If you answered “No” to Question 1:** Why didn’t you read the town plan? Please select all that apply.

- It’s too long
- Not interested
- Not relevant to me
- Not sure
- Other: \_\_\_\_\_

Please see back of page for final questions

Question 4: How satisfied were you with the level of outreach surrounding the current (2022-2030) town plan? Please circle the number that best reflects your feelings.

1	2	3	4	5	6	
Extremely Unsatisfied				Extremely Satisfied		

Question 5:

**If you answered 1, 2, or 3 to Question 4:** How can we improve outreach surrounding the town plan process? Please select all that apply.

- More mentions during town meetings
- More consistent updates (Front Porch Forum, Morristown Website, etc.)
- More surveys

Question 6: Please rank your top 1-5 priorities for our town in the future (starting 2030), where “1” is your HIGHEST priority. *If you don't care about an option, leave the corresponding box blank.*

	Please write numbers 1-5 below.
Environmental Issues (protection, floodplain resilience, parks and trails, green space, etc.)	
Transportation (walkability, public transport, roads & traffic, parking, boardwalk, etc.)	
Housing Development	
Small Business Development	
Large Commercial Development	
Public Schools & Higher Education	
Energy	

Please Drop off or mail your filled-out questionnaire to our office at 43 Portland Street.  
Thank you!



## **Introduction**

The office of Planning and Zoning is currently working on a citizen outreach plan to determine attitudes around the town plan and the town plan process. As we move towards creating a new town plan to be implemented starting in 2030, it is important that we determine community members' interest in the town plan. We plan to achieve these goals through a public town survey.

## **Purpose**

The reason for this survey is to ensure that townspeople feel sufficiently involved in the town plan process. To create an accurate plan, outreach is important to discover what the community hopes to see changed or improved in our town. Citizens have a right to have a say in what shapes their surroundings, which should be reflected in future town plans. This survey will help determine exactly how interested citizens are in being involved in the process and gather preliminary information on where their priorities lie. Broad participation in processes such as these allows for a long-term plan's success, as noted in section 1.5 of the Vermont Planning Manual. A survey, in particular, is helpful as it allows citizens to be involved while avoiding an influx of personal statements with complicated paragraphs of information.

## **Survey Design**

The attached survey includes only select-choice (closed-ended) options. This makes it possible to gather necessary information while avoiding unnecessary tangents. There are 6 questions in total, though each community member will only answer 4-5 questions. A shorter survey makes it more likely that citizens will finish the questionnaire, leading to a higher response rate.

The survey will be available online through Jotform and in a paper version. Jotform is compliant with WCAG 2.1 and Section 508 accessibility standards, meaning that any community members with visual impairments can use screen readers to navigate and fill out the form. Paper copies of the survey include a large (14pt) font, which is standard to ensure accessibility to any members of the community with reduced visual acuity.

## **Outreach Methods**

Outreach methods for the survey include utilizing the Front Porch Forum, emailing all members of town boards and committees for which emails are available, mentioning at planning commission meetings, posters around town with a QR code to the survey, and a posting on the Morristown website. Paper copies of the survey will be located at 43 Portland Street in the Planning and Zoning office and the Morristown Centennial Library.

These outreach methods were determined to keep the outreach cost-effective while maintaining good reach. While mailing surveys to all town members would be ideal, it includes a high cost barrier, which is not appropriate for this particular survey. For this reason, we chose to focus on the methods listed above.

We recognize that the listed methods may exclude citizens who may not visit town frequently or attend public meetings. However, it is important to note that we have weighed the costs against the barriers and have found that this is the most ideal way to move forward.

## **Conclusion**

As a whole, the survey is a step towards developing a shared community vision with goals and objectives, as suggested in section 1.6 of the Vermont Planning Manual. Finding common ground between community members on priorities can lead to an effective town plan. Citizens being more satisfied with our town plan and process can allow community members to feel more pride in our town, while restoring trust and faith in local institutions through project transparency.

Sincerely,  
Gabriella Coutts



**To: Morristown Planning Commission,**

**RE: Removing the mandatory 50% conserved land requirement for Major Subdivisions**

Members of the Commission,

As you move forward with updates to the Morristown Zoning and Subdivision regulations the Development Review Board would like to request that you consider making changes to the major subdivision regulations. Specifically, the board requests that you do not require all major subdivisions to be automatically considered Planned Unit Development Conservation Subdivisions. Currently the Conservation Subdivision regulations require 50% of the developable land to be conserved on its own lot. The board feels that this requirement is overly burdensome to developers as it requires any developer to conserve half of the land of a particular project limiting the development potential for a parcel. The board feels that the choice to pursue a Conservation Subdivision should be left up to the applicant and should not be mandatory as this allows for more flexibility in project design and would allow a developer to fully utilize the space that they have. The language as written also incentivizes applicants to pursue a series of sequential minor subdivision rather than a major subdivision as it allows them to skirt the 50% land conservation requirement.

Conservation subdivisions are an important development tool and should be allowed in our regulations as it allows developers to have denser developments. However, making it mandatory deprives property owners of their ability to fully utilize their property to its maximum potential. Therefor the Board respectfully request that the Commission consider removing this requirement.

Sincerely

Gary Nolan

Development Review Board Chair

A handwritten signature in blue ink, appearing to read "Gary Nolan", is written over a horizontal line.

Date: 2-27-2020

# The Vermont Statutes Online

The Statutes below include the actions of the 2025 session of the General Assembly.

**NOTE:** The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

## **Title 24 : Municipal and County Government**

### **Chapter 117 : Municipal and Regional Planning and Development**

#### **Subchapter 007 : BYLAWS**

(Cite as: 24 V.S.A. § 4417)

#### **§ 4417. Planned unit development**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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**Re: Draft Agenda**

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**From** Ron Rodjenski <ron@stoneshoremc.com>

**Date** Thu 3/5/2026 1:36 PM

**To** Tyler Machia <tmachia@morristownvt.gov>

No, there is **nothing in the Vermont State Statutes that requires** mandatory conservation PUDs for major subdivisions.

The power to mandate a PUD (and any associated conservation/open space requirements) is explicitly **granted to the towns**, but the state does not exercise that power itself.

### 1. Statutory "Permission" vs. "Mandate"

The primary statute, **24 V.S.A. § 4417**, is written as **enabling legislation**. It says:

- "Any municipality... **should** provide for planned unit developments..."
- The bylaws **may** include provisions that "limit [PUDs] to parcels that have a minimum area... or a minimum size or number of units."

While the state "encourages" the protection of forest blocks and agricultural land (most recently reinforced by **Act 171**), it stops short of mandating a specific development format like a PUD or a Conservation Subdivision at the state level.

### 2. Why it is not mandated by the State

Vermont law operates on the principle of **Home Rule** regarding land use. The state provides the "toolbox," but the town chooses which tools to use based on its **Municipal Plan**.

If the state mandated PUDs for all major subdivisions:

- It would interfere with a town's right to allow "traditional" subdivisions (large lots spread across the land) if that's what their local plan calls for.
- It would impose a complex review process (PUDs often require more administrative work) on small towns that may not have the staff to handle it.

### 3. The "Act 250" Factor

While Chapter 117 (the zoning/subdivision law) doesn't mandate PUDs, larger projects often trigger **Act 250** (Vermont's state-level land use permit).

- Act 250 has **Criterion 8(A)** (Wildlife Habitat) and **Criterion 9(B)** (Primary Agricultural Soils).
- To satisfy these criteria, the District Commission often *effectively* forces a developer to cluster houses and conserve open space. However, they don't technically call it a "PUD"—they just issue a

permit with a "site plan" that looks like a conservation subdivision.

## Summary

24 VSA 4417 allows towns to add PUDS to a bylaw (permissive not mandatory to add PUDs). If adopted, the town has the option under state law for adding a mandatory % dedicated to open space. Some towns use "protect open areas" with no % required. Act 250 approves a Site Plan addressing conservation priorities of the state.

4417(e) allows standards for dedication of common land or open space - but only if dedication is added to the bylaw (thus a town can remove "conservation" requirements via abylaw amendment process and just leave PUD flexibility "carrot" option without as big a "stick" as 50%, maybe trail connectivity as a give by the developer over open space conservation.

A developer could be encouraged in a bylaw amendment to provide open space, but if 25% or 50% minimum is in bylaw than that % becomes mandatory.

Note: the word 'conservation subdivision' is not in 24 VSA 4417 - that's more of a nickname because of the 50% requirement. "Conservation subdivision" is a professional planning term (popularized by planners like Randall Arendt) that refers to a specific *style* of PUD. In Vermont, the legal relationship is in 4417 (a)(5) - PUDs for conservation of open space features" but no where is the term "Conservation subdivisions" codified but you and other towns might use it locally to express community support for the 50% - if you revert to 0% or 25% then "conservation subdivision" term wouldn't work as well.

Under **24 V.S.A. § 4417(b)(3)**, a municipality can explicitly state in its bylaws that PUDs are **mandatory** and again, optional to add it to a bylaw, not a mandate from state law to pair PUDs in a bylaw with a conservation mandate.

Jericho has a mandatory PUD at 4<sup>th</sup> lot in 10 years & a mandatory conservation requirement at 25% and 50% depending on your location (more in forested areas). Jericho PC is also considering lifting the "mandatory PUD" and "mandatory open space %" but no formal amendment yet.

Hope this is helpful,

Ron

Ronald Rodjenski

Project Manager

Stone Shore Municipal Consulting, LLC

**802.316.6921**



**Disclaimer:** This response and any provided resource are only intended to provide information, and it does NOT constitute legal advice. Readers with specific legal questions are encouraged to contact an attorney.

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**From:** Tyler Machia <tmachia@morristownvt.gov>

**Sent:** Thursday, March 5, 2026 12:06 PM

**To:** Ron Rodjenski <ron@stoneshoremc.com>

**Subject:** Fw: Draft Agenda

**Morristown/Morrisville Planning Council**  
**PO Box 748 / Morrisville, VT 05661**  
**Phone (802) 888-6373**

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**Meeting Minutes of October 21, 2014**

**Planning Council Present:** Paul Griswold (Chair), Etienne Hancock, Yvette Mason, Max Paine & Mark Struhsacker

**Planning Council Absent:** Andrea Caldwell & Tom Snipp

**Staff:** Planning Director Todd Thomas

**Guests:** Terry Hirschak and Conservation Commission Chair Ron Stancliff

**Call to Order:** The meeting was called to order in the Community Meeting Room of the Tegu Building at 43 Portland Street at approximately 7:00 P.M.

**Public Hearing: Proposed Fall Zoning Change Vote** – Mr. Thomas advised the Council that he would like them to vote on the pending zoning change after having two weeks to digest the public comments made at the October 7<sup>th</sup> public hearing. The pending zoning change consists of the following:

- a. §215 strike existing Business Enterprise Zone, replace with new version of zone
- b. §490 strike existing Exterior Lighting Bylaw, replace with new version of bylaw
- c. §503 add stormwater treatment section to existing “Additional Conditions” section of the Site Development Plan Review Bylaw
- d. §638 strike existing Stormwater Treatment Bylaw designed for Conditional Uses
- e. Article 9, add Definition for “Water Quality Storm”
- f. §1140 add parcel 12-156 to the Airport Zone

Member Struhsacker, who was not present for the prior sidewalk discussion at the hearing said that he was opposed to the BE Zone language that required sidewalks. The Council discussed this sidewalk requirement in greater detail, but ultimately decided to leave the proposed sidewalk requirements unchanged in the zoning. The Council also decided to leave the proposed stormwater bylaw unchanged even it faced potential hurdles in regards to obtaining legislative approval. Council members agreed that having some sort of local stormwater bylaw was the right thing to do and they still should go ahead and propose it, even if it would be voted down later. Member Paine said that he was not sure the Council should vote to add parcel 12-156 to the Airport Business Zone as proposed. He said that this parcel would be the last time they could zone new land for business under the Town Plan, which allowed only two expansion opportunities. He said that he would rather hold onto this last zoning change for the Cheng property across from Bishop Marshall if something may be in the works there. Member Hancock agreed and said that he was not present for the vote that started the zoning change for parcel 12-156 and that he preferred to add business zoning closer towards the Village. Chair Griswold asked which parcel of the two would be better for the Town to zone for business use in the long run. It was decided that the Cheng property was more advantageous, in that it could be served by village sewer and water and it was not encumbered by a flood zone. Member Paine suggested that the zoning change for parcel 12-156 should be tabled for now. All Members present agreed with this suggestion. Member Paine moved to approve the proposed zoning changes as revised. A vote of 5-0 affirmed the motion. Mr. Thomas

said that he would send the as-revised proposed zoning change to the legislative bodies for approval.

**Discussion: Conservation Subdivision Design** – Mr. Thomas led the Council through a first reading of a proposed conservation subdivision design bylaw. Mr. Thomas also demonstrated how the Natural Resource Atlas on the Vermont Agency of Natural Resources website could be used to define what high value land qualities should be protected in the open space provided by a conservation subdivision. Council Members were pleased with the proposed use of the website to define what land should be protected as open space. Upon a question from Member Hancock, Mr. Thomas said that, as proposed, any “major” subdivision would trigger the conservation subdivision process. Mr. Thomas added that a major subdivision was defined by four or more lots and clarified that a smaller subdivision than this would still have the conventional subdivision approval process route available to it. Member Paine questioned if the Town would want to own open space if there as a septic system located therein. Mr. Thomas said that this was a good question and he would look to clarify this language prior to the next review.

**Public Hearing: November Hearing Schedule** – Mr. Thomas said that he was scheduled to have a hearing every Monday night in November due to the pending zoning changes. As a result, the Council decided to hold its next regular meeting in December. Mr. Thomas encouraged Council members to attend some of the upcoming legislative body hearings regarding the proposed zoning changes.

**Approve prior meeting minutes** – Approval of the October 7<sup>th</sup> meeting minutes were tabled until a majority of members at this meeting could be present to vote on a motion.

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The meeting adjourned at 8:30 PM – submitted by Todd Thomas, Planning Director

**Morristown/Morrisville Planning Council**  
**PO Box 748 / Morrisville, VT 05661**  
**Phone (802) 888-6373**

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**Meeting Minutes of December 2, 2014**

**Planning Council Members Present:** Andrea Beeman, Paul Griswold (Chair), Yvette Mason, Max Paine, Tom Snipp & Mark Struhsacker

**Planning Council Members Absent:** Etienne Hancock

**Staff:** Planning Director Todd Thomas

**Guests:** Terry Hirschak, Tyler Hirschak, Orah Moore, Richard Duda, Carol Chanania, Jim Bradley and Marilyn Bradley

**Call to Order:** The meeting was called to order in the Community Meeting Room of the Tegu Building at 43 Portland Street at approximately 7:02 P.M.

**Approve prior meeting minutes** – Member Snipp moved to approve the October 7<sup>th</sup> meeting minutes as presented. A vote of 4 to 0 to 2 affirmed the motion with members Paine and Struhsacker abstaining. Member Paine moved to approve the October 21<sup>st</sup> meeting minutes. A vote of 4 to 0 to 2 affirmed the motion with members Beeman and Snipp abstaining.

**Discussion (Agenda Addendum): Jim Bradley Regarding Road Right-Of-Way Exclusion in the Lot Size Zoning Definition** – Jim Bradley and Marilyn Bradley appeared before the Planning Council regarding their property on Westside Court. Mr. Thomas advised the Council that he had been working with Mr. Bradley for a few months regarding the maximum permitted residential density on the Bradley's 0.39 acre parcel. Mr. Thomas gave Council members an informational packet regarding the property that showed that the Bradley's 0.39 acres equals 16,988 ft.<sup>2</sup> of land area and that this lot size divided by the 6,000 ft.<sup>2</sup> Minimum Area per Residential Unit in the Medium Density Residential Zone yielded 2.8 residential units for maximum density. Mr. Thomas explained that after last year's zoning change regarding density rounding, Mr. Bradley could legally seek a third dwelling unit for this property in this zone. However Mr. Bradley was currently unable to obtain a permit for a third apartment on this property because the property was subject to a 33 foot wide by approximately 150 foot long road right-of-way that serves as the only access to the land of the adjacent property owner. Mr. Thomas further explained that the definition for Lot Size in the zoning bylaw required that the area of any public or private right-of-way be subtracted there from for zoning purposes. Mr. Thomas demonstrated that when you subtract the right-of-way area from Mr. Bradley's lot size, he only has enough density remaining for the existing two unit apartment building. Mr. Bradley says that because the right-of-way in question is private, he has to pay taxes on this land and he should therefore be able to use this land for zoning purposes. Mr. Thomas said that Mr. Bradley was correct that land under a private right-of-way is taxed while the land under a public right-of-way is not taxed. Mr. Thomas said that by simply taking the word private out of the definition for Lot Size, the zoning regulations would better line up with how the town taxes properties and that the Bradley's could seek an additional rental unit on his Westside Court property. Member

Struhsacker asked what the implications of making this change would be. Mr. Thomas answered that there were likely dozens of examples like this and making the proposed change to the definition for Lot Size would likely result in greater residential density throughout the village and the north end of the town. By consensus, the Council decided to table this item until the January 20 meeting so it could be studied in greater detail.

**Discussion: Truck Route and Industrial Zone Signage** – Mr. Thomas recommended that the Council increase the sign size allowance for businesses in the Industrial Zone now that the truck route is open. Mr. Thomas explained that the currently allowed 50 ft.<sup>2</sup> of sign size per business in the Industrial Zone was impractical for the businesses located along Old Creamery Road. He said that due to the prevailing speed of traffic on the truck route, the signage for these businesses on the Old Creamery Road appeared to be too small. Mr. Thomas suggested increasing the sign size allowance in the Industrial Zone to 100 ft.<sup>2</sup> per business to match the maximum sign size currently allowed in the Commercial Zone. Member Paine moved to increase the maximum allowable sign size in the Industrial Zone to 100 ft.<sup>2</sup> but the motion was not seconded. Member Struhsacker moved to increase the maximum allowed sign size in both the Industrial Zone and the Commercial Zone to 150 ft.<sup>2</sup>. Mr. Thomas said that this is the maximum sign size allowable by law in the State of Vermont. The motion was affirmed by a vote of 6 to 0.

**Discussion: Conservation Subdivision Bylaw** – Mr. Thomas explained the concept of conservation subdivision design for those in the audience unfamiliar with it. Mr. Thomas asked Council members if they had any questions with proposed revisions to the bylaw requested at last meeting. Mr. Thomas said that this was the second meeting of the proposed conservation subdivision bylaw and that it should be substantially complete at this point. Resident Richard Duda asked about what kind of subdivisions would use this bylaw. Mr. Thomas responded that all ‘major’ subdivisions (subdivisions of four lots or more) would be required to go through the conservation subdivision design process if this zoning change was approved. Members were satisfied with the changes and unanimously agreed to include the proposed conservation subdivision design bylaw within the next zoning update.

**Discussion: Zoning for Storage Facilities** – Chair Griswold explained that he noticed a large amount of storage facilities for the first time when he drove the new truck route. He said that storage is clearly needed in town, but that it should be located off major state and town roads so that this valuable land could support higher value buildings and commerce and allow for greater employment opportunities in these high value land areas. Mr. Thomas shared research he completed at the request of the Chair regarding storage facilities with the Council. He said that other than the storage of seasonal items like boats in existing barns in the Rural Residential Agricultural Zone, the various storage uses allowed were limited to the Industrial Zone. Member Struhsacker said he is not sure where storage facilities should go, but that this was a good question to look into. By consensus, the Council agreed to table this item and move it to its January 20 meeting so members could think about this issue in greater detail.

**Discussion: Intersection of the Truck Route and Historic Route 100 and the Welcome to Morrisville Sign There at** – Member Mason said that she does not like how the intersection of the truck route and Historic Route 100 functions. She said that she drives this intersection everyday and the traffic movements are awkward and turning traffic often does not know when it can safely enter or exit the road. She added that she believes the intersection needs more lighting at night and traffic lights. Morrisville business owner Orah Moore said that she feels that downtown Morrisville is getting bypassed and better signage is needed at this intersection to alert people to take the ride into downtown. It was agreed by everyone in the room that a green traffic sign designating the right to downtown Morrisville with the distance thereon should be added to the northbound lane of the truck route just prior to this intersection. Mr. Thomas polled Council Members about the lighting at night and the traffic light. All agreed that better lighting at night was needed at this intersection. Member Struhsacker was opposed to a traffic light being added to this intersection. However, the rest of the Council Members agreed that a traffic light should be added here. Mr. Thomas said that this was not in the town's jurisdiction but that he would write a letter to the Vermont Agency of Transportation asking for better site lighting, the green downtown Morrisville designation sign and a traffic light at this intersection. Chair Griswold added that he had a hard time seeing northbound traffic on the truck route when trying to enter the State Highway at this intersection when he is trying to drive toward Stowe due to the height of the guardrails.

**Discussion: Fall Zoning Change Legislative Body Approvals** – Mr. Thomas updated the Council regarding the approval process for the zoning changes proposed earlier this fall. He said that all of the zoning was approved except for the proposed stormwater site plan review language. He said that both the Trustees and the Selectboard preferred to trigger local storm water review at 20,000 ft.<sup>2</sup> of building footprint, as opposed to the 10,000 ft.<sup>2</sup> of building footprint originally proposed. He said that resubmitting the bylaw as such, along with other various minor changes requested during the hearing process, should allow for it to be approved by both legislative bodies if it is submitted with the next zoning change. Member Paine moved to include the as-revised stormwater bylaw within next zoning change. A vote of 6 to 0 affirmed the motion.

Mr. Thomas noted that there was a controversy created after the legislative body zoning hearings had concluded regarding the zoning for the green mountain arena parcels owned by Tom Hirschak. He said that he spoke with Terry Hirschak after the Selectboard's November 24 vote on the zoning, and also after a long Selectboard discussion at that same meeting regarding the green mountain arena area zoning and agreed to clear the December 16 Planning Council agenda in order for Tom Hirschak to again make his case for a zoning change that would allow him to use this land area in the town for his auction business. Mr. Thomas reiterated his opinion that this zoning change required a Town Plan update first due to the very public process in which the possibility for a zoning change for this area was removed from the Town Plan last winter. He said that, if a zoning change was desired, he could have the town plan updated in the requested zoning change completed by July.

**Discussion: January Meeting Schedule** – Mr. Thomas said that the normally scheduled January 6 Planning Council meeting will be cancelled as he would be out-of-state visiting family for the Christmas holiday. He added that the next Planning Council meeting would be on December 16 for the green mountain arena area zoning discussion and that the following meeting would take place on January 20.

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The meeting adjourned at 8:20 PM – submitted by Todd Thomas, Planning Director

**2/5/26**

**To: Morristown Planning Commission**

**Re: Earth Extraction Regulations compilation**

The following is a compilation of earth extraction regulations. The following towns land use regulations are represented below Stowe, Hardwick, Waterbury, Hinesburg, Jericho, Northfield and Fairfax. All of these towns are either of a similar size or located close to Morristown. This document is intended to help guide the initial conversation.

**Stowe Regulations:**

**4.14 Removal of Earth Products**

- A. Removal Permitted. Surplus material resulting from a bona fide construction or landscape operation being executed on the premises may be removed from the premises without a permit being required.
- B. Permit for Removal or Processing of Earth Products. The DRB, after a public hearing, may grant a permit for the removal or processing of earth, sand, gravel, clay, stone or minerals, under the following conditions
- C. The applicant shall submit a plan of the proposed operation.
- D. The operator shall provide for proper drainage of the area of the operation during and after completion. No removal or processing shall take place within twenty (20') feet of a property line except that where the grade from a property line rises towards the lot where removal is to take place. Material lying above the grade at the property line may be removed.
- E. At the conclusion of the operation, or of any substantial portion thereof, topsoil shall be replaced and a suitable cover crop established, except where ledge rock is exposed.
- F. If removal or fill takes place within any streambed or its banks, a permit shall first be obtained from the Vermont Department of Environmental Conservation, if required.

**Earth Resources**

- A. A permit may be granted whenever it is demonstrated by the applicant, in addition to all other applicable criteria, that the development or subdivision of lands with high potential for extraction of mineral or earth resources, will not prevent or significantly interfere with the subsequent extraction or processing of the mineral or earth resources.
- B. Extraction of earth resources. A permit may be granted for the extraction or processing of mineral and earth resources:

- a. When it is demonstrated by the applicant that, in addition to all other applicable criteria, the extraction or processing operation and the disposal of waste will not have an unduly harmful impact upon the environment or surrounding land uses and development; and
- b. Upon approval of site rehabilitation plan, which insures that upon completion of the extracting or processing operation the site will be left by the applicant in a condition, suited for an approved alternative use or development. A permit will not be granted for the recovery or extraction of mineral or earth resources from beneath natural water bodies or impoundments except that gravel, silt and sediment may be removed pursuant to the regulations of the Vermont Agency of Natural Resources.

### **Hardwick Regulations:**

#### Section 4.8 Extraction of Earth Resources

- A. The extraction or removal of topsoil, sand, gravel, rock, minerals or other similar earth resource for may be allowed in designated districts subject to conditional use review under Section 5.2. In addition to the conditional use standards set forth in Section 5.2, for commercial extraction operations which are likely to impact surrounding properties due to the scale, intensity and timing of the extraction, the presence of fragile natural features (e.g., steep slopes, riparian land), and/or the relative density of nearby land uses, the Development Review Board may also require erosion control and site reclamation plans showing:
  - a. existing grades, drainage patterns and depths to bedrock and the seasonal high water table;
  - b. the extent and magnitude of the proposed operation, including proposed phasing;
  - c. finished grades at the conclusion of the operation; and a detailed plan for the restoration of the site, including final grading and revegetation.
  - d. In granting approval, the Development Review Board may impose conditions with regard to any of the following factors:
    - i. depth of excavation or quarrying;
    - ii. slopes created by removal;
    - iii. effects on surface drainage on and off-site;
    - iv. storage of equipment and stockpiling of materials on-site;
    - v. hours of operation for blasting, trucking, and processing operations;
    - vi. effects on adjacent properties due to noise, dust, or vibration;

- vii. effects on traffic and road conditions, including potential physical damage to public highways;
  - viii. creation of nuisances or safety hazards;
  - ix. temporary and permanent erosion control, including project phasing to limit exposed area;
  - x. effect on ground and surface water quality, and drinking water supplies;
  - xi. effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
  - xii. effect on agricultural land; and
  - xiii. public health, safety and general welfare.
- B. In accordance with the Act [§4412(12), §4464(B)(6)] a performance bond, escrow account, or other surety acceptable to the Select Bboard may be required to ensure reclamation of the land upon completion of the excavation, to include any re-grading, reseeding, reforestation or other reclamation activities that may be required.
- C. This provision specifically does not apply to mining or quarrying operations; however upon failure of the permit holder, or their successors or assigns, to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.
- D. This section shall not apply to non-commercial uses associated with normal agricultural and/or forestry operations; public (municipal and state) road maintenance and construction; the operation of a cemetery, or the removal of earth resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted.

**Waterbury Regulations:**

SOIL/SAND/GRAVEL/MINERAL EXTRACTION: The removal of sod, loam, sand, gravel, clay, or quarried stone or other earth resources, except when incidental to or in connection with the construction of a building on the same lot. Extraction of material in excess of 1000 cubic yards that is transported off site shall not be considered incidental to construction.

Section 303 Conditional Uses

- A. Uses designated as Conditional Uses for a district (Article V, Table 5.1), shall not be established, enlarged, constructed, or altered without approval from the Development Review Board (hereafter, the "Board") in accordance with the standards and procedures established in this bylaw and 24 V.S.A. §4414.

- B. Any applicant for conditional use approval must notify adjacent land owners by certified mail of the nature of the application and of upcoming Development Review Board public hearing at least ten days prior to such hearing. The applicant must submit copies of certified mail receipts indicating that all adjacent landowners have received notice, and a copy of the notice sent.
- C. The applicant for any conditional use shall, at the time the application is submitted, post a notice on a form prescribed by the municipality within view of the public right-of-way most nearly adjacent to the subject property until a decision on the conditional use application has been rendered by the Development Review Board. This notice shall include the date, time, place, and purpose of the conditional use review. The municipality shall provide these notices to the applicant.
- D. Before the Board authorizes the issuance of a conditional use permit, the Board shall hold a public hearing and shall give notice of the public hearing as directed by 24 V.S.A. §4464. Failure of the Board to act to approve, approve with conditions, or disapprove any such requested conditional use within 45 days after the date of closing the final public hearing shall be deemed approval.
- E. Prior to granting any approval for conditional use, the Board must find that the proposed use conforms to the following general and specific standards:
  - a. The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities to accommodate it. The proposed use:
    - i. Will not cause the level of service on roads and highways to fall below a reasonable standard;
    - ii. Will not cause an unmanageable burden on municipal water or sewer systems;
    - iii. Will not lead to such additional school enrollments that existing and planned school system capacity is exceeded; and
    - iv. Will not cause an unmanageable burden on fire protection services.
    - v. The Board may seek or require advisory input from the Municipal Manager, Fire Department,
- F. Police Department, School Board, or other municipal officials regarding relevant facilities. The Board will also take into account sections of the Municipal Plan and of any duly adopted capital plan which specify anticipated demand growth, service standards, and facility construction plans.
- G. The proposed use will not have an undue adverse impact on the character of the area affected as defined by the Municipal Plan and the zoning district in which the proposed project is located. Specifically, the proposed use:

- a. Will not result in undue water pollution, undue adverse impacts to downstream properties, and will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result; in making this determination, the Board shall at least consider the elevation, the slope of the land, and the nature of soils and subsoils and their ability to adequately support waste disposal;
- b. Will not result in undue noise, light, or air pollution, including offensive odors, dust, smoke, or noxious gasses;
- c. Will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas;
- d. Will not be otherwise inconsistent with existing uses in the immediate area; in determining the appropriateness of the use or structure in an area, the Board shall consider the scale and design of the proposed use or structure in relation to the scale and design of existing uses and structures in the same district; and
- e. Will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area.
- f. The proposed use will not violate any municipal bylaws and ordinances in effect.
- g. The proposed use will comply with the specific lot area, setbacks, and lot coverage requirements set forth in this bylaw. The Board may require the proposed use to conform to more stringent lot area, setback, and lot coverage requirements as it may deem necessary to implement the purposes of the district in which the use is located and other provisions in this bylaw.
- h. The Board may attach any reasonable conditions and safeguards it may deem necessary to implement the purposes of the district in which the use is located and other provisions in this bylaw, including, but not limited to, the following conditions:
  - i. For uses that will cause the level of service on a road or street to exceed a Level of Service as defined by the Vermont Agency of Transportation, the Board may require modifications to the proposed access, circulation, and parking or may require contributions, based on the project's share of the projected volume of traffic above the Level of Service for making the following possible modifications:
    - 1. Reduction in curb cuts, change in location or number of access points, and shared access with adjoining property owners.

2. Installation of acceleration or deceleration lanes on the street or highway adjacent to any driveway, frontage, or service road;
3. Improvements to access or other intersections burdened by a project.
4. With the exception of agricultural uses, the Board may require the installation of devices or methods to prevent or control fumes, gas, dust, smoke, odor, noise, or vibration.

H. For any proposed development in flood hazard areas, the conditional use standards established in Section 603 shall be applied in addition to those in this section.

- a. The removal of earth or mineral products which is not incidental to a construction, landscaping, or agricultural operation shall require a conditional use permit. In addition to finding the project meets the other standards in this section, a removal project must meet the following conditions:
  - i. The applicant shall submit a general plan of extraction and reclamation.
  - ii. The operator shall provide for the proper drainage of the area of the operation during and after completion. Excavation operations shall not be conducted within 100 feet of adjoining lot lines. Excavation operations shall not have an undue adverse impact on soil fertility, drainage, and lateral support of adjacent land or other properties, nor shall it contribute to soil erosion by water or wind.
  - iii. At the conclusion of the operation, or of any substantial portion thereof, top soil shall be replaced to a depth capable of supporting vegetation and a suitable cover crop established, except where ledge rock is exposed.
  - iv. If removal or fill takes place within any stream bed or its banks, a permit shall first be obtained from the Vermont Department of Water Resources, if required.
  - v. The hours of operation, routes, and frequency of traffic generated by the operation shall be regulated to maintain the safety and character of neighborhoods along the routes of travel.
  - vi. All permits granted for the removal of earth or mineral products are subject to review by the Development Review Board every three years for continuation or termination.
  - vii. If the Board determines that no conditions or safeguards it may properly attach would result in compliance with the general standards and criteria set forth above, then it shall deny the application.

## Section 304 Nonconforming Uses and Noncomplying Structures

- A. A use made nonconforming or a structure made noncomplying (see definitions) by enactment of this bylaw, or an amendment thereto, may be continued, subject to the following conditions:
  - a. Under its power to grant conditional use approval and through that procedure, the Development Review Board may allow a nonconforming use to be changed to another nonconforming use, provided that it finds the change to be more in conformance with the district requirements and allowable uses.
  - b. A nonconforming use may be extended (see definition of extension of use) within the boundary lines of a parcel or lot existing on the date of this bylaw, or an amendment thereto, with the approval of the Development Review Board and with the granting of all required permits. The Development Review Board must find that a proposed nonconforming use meets the general and specific standards for conditional uses specified in Section 303.
  - c. When a nonconforming use has been discontinued for a period of one year, it shall not thereafter be reestablished, and the future use shall be in conformity with the provisions of this bylaw. Discontinuance shall not be deemed to have occurred if the Board finds that the maintenance of equipment and other acts of the owner demonstrate an intent to continually maintain the use. The Development Review Board must find that a proposed nonconforming use meets the general and specific standards for conditional uses specified in Section 303.
- B. Nothing in this section shall prevent the issuance of a building permit for restoration or reconstruction within one year of a structure damaged or destroyed by fire or other catastrophe to its condition prior to such damage or destruction.
- C. In accordance with 24 V.S.A. §4412(h), the Development Review Board, after public hearing, may approve the repair, relocation, replacement, or enlargement of a noncomplying structure within a designated flood hazard area, subject to compliance with applicable federal laws and regulations, and provided that the following criteria are met:
  - a. The Board must find that the repair, relocation, or enlargement of the noncomplying structure is required for continued economically feasible operation of a non-residential enterprise.
  - b. The Board must find that the repair, relocation, or enlargement of the noncomplying structure will not increase flood levels in the floodway, or

threaten the health, safety, and welfare of the public or other property owners.

- c. The permit affecting a noncomplying structure in a flood hazard area, if granted, must state that the repaired, relocated, or enlarged noncomplying structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner. A copy of the permit must be affixed to the copy of the deed of the concerned property on file in the Municipal Clerk's Office.

### **Hinesburg Regulations:**

- A. 5.13.3 The burden of proof shall be on the applicant to show that the proposed operations may be feasibly undertaken without violating the standards contained within this section and without substantial damage or hazard to the public or to adjoining properties.
- B. 5.13.4 Conditional Use Permit:
  - a. In considering an application for a Conditional Use Permit under this Section, the Development Review Board shall consider the following specific standards in addition to any other applicable standards specified elsewhere within this Regulation:
    - i. Adjoining land areas should be protected from undue adverse impacts resulting from dust, noise, or air pollution. There shall be a minimum setback of 200 feet from adjoining properties for all extraction or processing activities, except for offices and accessory automobile parking.
    - ii. Within the required setback areas, the natural vegetation shall be retained and supplementary planting may be required in order to buffer impacts from the proposed operation.
    - iii. An erosion and sedimentation control plan shall be submitted and shall provide that increased run-off shall not be permitted beyond the property boundaries of the proposed project area.
    - iv. No operation shall be permitted which may result in the pollution of surface or groundwater through by-products of the proposed operation.
    - v. Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and waste or equipment storage area.
    - vi. Proposed operations shall not create unusual or unreasonable traffic hazards, or the need for special public improvements or maintenance

of public streets or bridges, which would place an unreasonable additional financial burden on the Town.

- vii. Explosives may be utilized only in accordance with a plan approved under this section and only after it has been demonstrated by the applicant that the use of such materials will not have an adverse impact on adjoining properties.

C. 5.13.5 Site Rehabilitation

- a. Activities involving the extraction, exploration, or processing of earth resources, by their very nature disturb the natural landscape and utility of the site. These provisions are intended to ensure that the entire site, at the conclusion of such activities, is restored to a condition, which is free of hazards to the public and is conducive to subsequent use for other activities.
- b. Applicants for an earth resources extraction, exploration, or processing operation shall provide a site rehabilitation plan which shall include the following information, in addition to whatever other specific materials that may be required by the Development Review Board:
  - i. A plan of the entire site affected by the proposed operation which shall indicate:
    - 1. final grading and topography, including drainage patterns;
    - 2. location and depth of relocated topsoil;
    - 3. location, type, size, and quantity of restoration plan materials;
      - a. Sequence and timing of rehabilitation activities;
      - b. Provision for adequate bonding or surety to cover rehabilitation.
    - 4. In considering a site rehabilitation plan, the Development Review Board shall consider the following specific standards in addition to any other applicable standards specified elsewhere within this Regulation:
      - a. Suitability of the site following rehabilitation for uses that are permissible under the applicable zoning district;
      - b. Landscape in the vicinity of the site;
      - c. The top twelve (12) inches of topsoil on all disturbed areas shall be stockpiled for use in rehabilitating the site;
      - d. Implementation of rehabilitation activities shall be on a continuing basis commencing as soon as practical where extractive activities have been completed;

- e. Storm water runoff and erosion/sedimentation following rehabilitation shall not exceed that which existed prior to development;
- f. Bonding or surety shall be at a level to cover the costs of rehabilitation all disturbed areas, and may be adjusted periodically by the Development Review Board.

**Jericho Regulations:**

- A. EARTH RESOURCE EXTRACTION: The removal or filling of loam, gravel, stone, fill, sand, or other earth product except when incidental to the access, construction or maintenance of a BUILDING on the same lot.
- B. 4.7.18. Earth Resource Extraction:
  - a. 4.7.18.1 Review Requirements:
    - i. 4.7.18.1.1 All Districts. Removal from lots of more than sixteen [16] cubic yards of loam, gravel, stone, fill, sand, or other earth product in any twelve [12] month period, except when incidental to the construction or maintenance of a building on the same lot, or access to such building, shall be considered a conditional use subject to review and approval by the Development Review Board. For the purposes of this section “incidental to construction” is defined to include the area disturbed in the normal construction of the building to include driveway, foundation, leach field, access to water supply and to provide suitable grading around the house to provide lawn and garden.
    - ii. 4.7.18.1.2 Wetlands and River Overlay District. Filling of lots with loam, gravel, fill, sand, or other earth products shall be a permitted use except within the Wetlands Overlay District, or within the River Overlay District. Filling within these areas shall be prohibited except when occurring in conjunction with one or more of the following uses:
      - 1. Maintenance or repair of existing improvements;
      - 2. State approved erosion control measures;
      - 3. State approved wastewater disposal systems;
      - 4. Bridge construction or maintenance;
      - 5. Filling in the River Overlay District necessitated as part of an approved conditional use.
    - iii. 4.7.18.1.3 Exemptions. The provisions of this section shall not apply to normal agricultural or forestry operations, public road construction or maintenance, or the operation of a cemetery, to the extent

reasonably necessary for such purpose. 4.7.18.2 Submission Requirements:

1. The applicant seeking conditional use approval for earth removal or filling shall submit a site plan showing the following:
  - a. Names and addresses of all abutters, including those across any street.
  - b. Existing grades in the area of fill or excavation and in surrounding areas, together with the proposed finished grades at the conclusion of the operation.
  - c. Proposed cover vegetation and trees.
  - d. Depth to water table in the area of any proposed excavation.
  - e. Timetable for completion of project. 4.7.18.3 Criteria for Approval: In addition to the general requirements for Conditional Use approval under Section 10.8, the Development Review Board shall consider the following:
    - i. 4.7.18.3.1 Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto neighboring properties
    - ii. 4.7.18.3.2 Soil shall not be disturbed within one hundred [100] feet of the boundaries of the premises, except at the conclusion of operations if required in order to improve the overall grading
    - iii. 4.7.18.3.3 Removal shall not result in a cover of less than one [1] foot of native, undisturbed material over any water table, such water table elevation to be established at a seasonally high level
  - f. 4.7.18.3.4 A restoration plan ensuring that:
    - i. All land be so graded that no slope exceeds one [1] foot vertical rise in three [3] feet horizontal distance and shall be so graded as to safely provide for drainage without erosion.
    - ii. All boulders larger than one-half cubic yard be removed or buried unless such boulders are provided for as part of the plan. •

- iii. The entire area be covered with not less than four [4] inches of good quality loam that shall be planted with cover vegetation adequate to prevent soil erosion, using either grasses or ground cover.
- g. 4.7.18.4 Conditions of Approval:
  - i. 4.8.18.4.1 Required Conditions. In granting its approval the Development Review Board shall attach the following conditions:
    - 1. A restoration plan shall be provided in conformity with Section 4.7.18.3.4.
    - 2. A performance bond shall be required in an amount determined by the Development Review Board as sufficient to ensure satisfactory restoration of the site.
    - 3. | 45| 4.7.18.4.2 Optional Conditions. In granting its approval, the Development Review Board may also impose additional conditions, including but not limited to:
      - 4. Limits on the duration of the permit.
      - 5. Limits on the hours of operation, routes of transportation or amount or type of material moved.
      - 6. Release of Performance Bond: The performance bond required under Section 4.7.18.4.1 shall not be released until sufficient time has passed to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

**Northfield Regulations:**

- A. 5.10 Sand and Gravel Extraction.
  - a. 5.10.1 Sand pits, gravel pits, and removal of topsoil are permitted in districts specified in Table C, Table of Uses. Any new commercial sand, soil, or gravel removal operations, or any extension of any existing commercial soil, sand, or gravel operation shall be subject to the definitions, standards, and conditions in this section.
  - b. 5.10.2 A substantial change is one which could have an adverse effect on the criteria in Section 5.10.4 below.

- c. 5.10.3 The applicant shall submit to the DRB the application and study information required below, along with a plan to insure that upon completion of the excavation operations the site will be left in a safe and useful condition:
  - i. Study plans of the property at a scale of not less than one inch (1") to one hundred feet (100') showing the boundary lines, acreage, adjacent owners, and the following features, existing and proposed:
  - ii. Site contours (at two feet [2'] to five feet [5'] contour intervals), site drainage, and the horizontal and vertical limits of the quarry, stockpiles, and berms (including typical cross-sections); and
  - iii. Structures, roadways, equipment, materials, explosives and fuel
  - iv. storage, test wells (with a minimum of four [4] required), water supply, sewage disposal, trees, landscaping, and screening. Area maps, showing the general project location in the Town, and all roads, lands uses, and principal structures, surface waters, soils, and the location and depth of all water supplies within 5,000 feet of the proposed quarry.
- d. Comprehensive project description, including details of:
  - i. Each phase of quarrying, stockpiling, and the volumes involved;
  - ii. Proposed operations, including the nature, location and times of blasting, drilling, crushing, and operation of other major equipment on the site, safety measures, dust, sedimentation and erosion controls, water table monitoring and site dewatering, truck routes to be used; and
  - iii. The anticipated cost of complying with this Section's provisions concerning closing out of the operation.
- e. 5.10.4 Required conditions. Any quarry approved within the Town of Northfield shall be subject to the following standards and conditions.
  - i. The removal of all material shall be conducted in stages that limit the area of exposed earth and provide for progressive restoration of permanent vegetative cover.
- f. Adequate fencing or an approved alternative deterrent to unauthorized access shall be maintained by the applicant.
- g. The days, hours, and intensity of operations including trucking and haul routes shall be prescribed by the DRB so as to ensure reasonable quiet and compatibility with other uses in the area.

- h. The removal operation sites shall be graded smooth and left in a neat condition with all slopes fertilized, mulched, and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion
- B. All surface drainage courses affected by removal operations shall be protected throughout construction and operation with erosion control measures consistent with the Vermont Department of Environmental Conservation [CITE] to prevent erosion and siltation.
- C. No power-activated crushing or sorting machinery or equipment shall be located within 100 linear feet of any street or other property line. All such machinery, as well as excavating equipment and trucks, shall be equipped with satisfactory noise and dust control devices. No sand and gravel pits or soil extraction operations shall have stockpiles greater than 50 feet high.
- D. In all cases an undisturbed buffer shall be maintained around all property lines, with no removal of vegetation or other alterations in a minimum buffer no less than:
  - a. 100 feet from all existing public rights-of-way,
  - b. 200 feet from all existing dwellings and camps, and
  - c. 100 feet from all abutting property lines, subject to the following exceptions:
    - i. If there is no existing dwelling or camp on an abutting property within 400 feet of the property line in question, the buffer from that line may be reduced to 50 feet.
    - ii. If the primary land use on the abutting property is a gravel pit, with written consent of the abutting owner, the buffer from that property line may be further reduced to 0 feet, such that the excavation may extend to the common line with the abutting property.
    - iii. The operation site shall be effectively screened from view from any existing or approved dwelling, camp, or public right-of-way within 2,000 feet. In any approval, the DRB may establish conditions for closeout, monitoring, and escrow as provided in Section 2.2.5.
    - iv. The proposed operation shall not adversely affect the soil fertility, drainage, and lateral support of abutting land or other properties, nor shall it contribute to soil erosion by water or wind.
    - v. Any portion of access roads within the areas of permit and located within 100 feet of a lot line or an excavation operation shall be provided with a surface as free of dust as practical.
- E. The top of the cut slope for any excavation and any mechanical equipment shall not be less than fifty feet from any lot line.
- F. Where topsoil is removed, sufficient arable soil shall be set aside for retention on the premises and shall be re-spread over the premises after the operation. The area

shall be brought to final grade by a layer of earth two feet deep or the original thickness, whichever is less, capable of supporting vegetation.

G. 5.10.5 Duration of Approval.

- a. All permits granted for these operations are subject to review by the DRB every five (5) years for continuation or termination.

H. 5.10.6 Rehabilitation Plan.

- a. A plan for rehabilitation showing both existing and proposed final contours shall be submitted to and approved by the DRB in conjunction with the approval of any operation under this Section. A rehabilitation plan must demonstrate that after the closure of operations, the site will be reusable for a use permitted in the zoning district at the time of the plan's approval.

- I. The DRB may require a performance bond sufficient to ensure that the approved rehabilitation plan can be carried out.

**Fairfax Regulations:**

A. SECTION 4.04 EARTH RESOURCE EXTRACTION 4.04.A Applicability. Earth resource extraction:

- a. Includes the commercial extraction of minerals, including solids such as sand and gravel, liquids such as water, and gases such as natural gas.
- b. May include preparation activities such as crushing and washing customarily part of earth resource extraction activities.
- c. Does not include the removal of natural resources from a farm operation, nursery, or cemetery to the extent that such removal is necessary to the operation of the same.
- d. Requires conditional use and site plan approval in the Rural District and is prohibited in all other districts.

B. 4.04.B Application Requirements. In addition to all other applicable requirements of these regulations, earth resource extraction proposals must be prepared by a Vermont licensed engineer and include:

- a. the depth of excavation
- b. existing grade and proposed grade created by removal or addition of material
- c. proximity to roads and adjacent properties
- d. the average amount of earth resource to be extracted on a monthly or annual basis
- e. the hours of operation and seasons of use
- f. the expected duration of operation

- g. the number of truck trips per day traveling to/from the extraction site
  - h. an erosion and sediment control plan to be following while the extraction operation is active
  - i. a reclamation plan that addresses grading, seeding, mulching, planting, fencing, drainage, and other measures
- C. 4.04.C Standards. In addition to all other applicable requirements of these regulations, the following standards apply:
- a. The operation must not have an adverse effect upon the use of adjacent property or town roads due to noise, dust, or vibration.
  - b. Within the required setback areas, the natural vegetation must be retained, and supplementary planting or other screening may be required in order to buffer impacts from the operation.
  - c. Power-activated sorting or crushing machinery or equipment must be set back not less than 300 feet from public road rights-of-way and property lines. All such machinery must be equipped with satisfactory dust control devices.
  - d. The operation must not create traffic hazards or excessive congestion or physical damage to public highways and expected routes of truck traffic.
  - e. All surface drainage affected by excavation operations must be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property.
  - f. Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.
  - g. Explosives may be used only per a plan approved by the DRB.
  - h. The operation must reclaim the site by removing all debris, leveling all cut slopes and soil banks and grading to an even low angle, and establishing a firm cover of grass or other vegetation sufficient to prevent erosion.

Earth Resource Extraction: The extraction of minerals, including solids such as sand and gravel, liquids such as water, and gases such as natural gas. This use may also include preparation activities such as crushing and washing customarily part of the mining/quarrying activity.

# Municipal Access Portal

← MY ACTION ITEMS

## AI 92143 : Co Regulating ACT 250 Criteria

2

Legal Question (Legal Inquiry) Completed Follow Up PRIVATE

### Member Info

**Member:** Tyler Machia  
**Date Submitted:** 2/19/2026  
**Relationship(s):** Town Health Officer, Zoning Administrator  
**Requested Due Date:** 2/20/2026  
**Topic:** ZONE  
**Assigned To:** MAC\_LEGAL  
**Last Updated:** 2/27/2026

### Organization Info

**Organization:** Morristown, Town of- 500465 - FULL  
**VERB Member:** Yes  
**PACIF Member:** Yes  
**Town Manager Form of Government:** No  
**Phone:** [\(802\) 888-6370](tel:(802)888-6370)  
**Primary Contact:** Sara Haskins  
**Contact Email:** [admin@morristownvt.gov](mailto:admin@morristownvt.gov)

This Action Item has been closed. If you need to revisit this request, please create a new Action Item and reference this Action Item's number.

### Messages

Search messages...

Garrett Baxter - Senior Staff Attorney

🕒 14 days ago

Oh, sorry, Tyler, yes, please feel free.

Tyler Machia - Zoning Administrator

🕒 14 days ago

Thank you! Just to be clear this is ok to share with my PC in a public packet?

Garrett Baxter - Senior Staff Attorney

🕒 14 days ago

You're very welcome, Tyler, and yes, what you stated is accurate.

Tyler Machia - Zoning Administrator

🕒 14 days ago

Thank Garrett,

Just to clarify since Act 250 regulates the amount of particulate matter that a project emits ( i.e dust) the town could not set its own dust regulations as it is outside of the towns jurisdiction to regulate this correct? If possible I would like to share this response in the PCs public packet. I just would want to make sure that this is not an issue.

Garrett Baxter - Senior Staff Attorney

🕒 14 days ago

Hi again Tyler,

Unfortunately, when it comes to Act 250 jurisdiction, the State preempts the co-exercise of municipal authority by occupying the field save for, as you mentioned, a municipality's exercise of local 250 review under 24 V.S.A. § 4420 and the role that municipal legislative bodies and planning commissions play in the process, but that's limited to their capacity as statutory parties, not of as adjudicators of the application. It could be that there are other ways to approach this particular project, and for that the Selectboard may want to speak with the town attorney, but I don't think that would be through Act 250.

Sincerely,

Garrett Baxter, Esq.

Senior Staff Attorney, Municipal Assistance Center

Vermont League of Cities &amp; Towns

89 Main St. Suite 4, Montpelier, VT 05602

(802) 229-9111

gbaxter@vlct.org

Pronouns: he, him, his

VLCT.ORG

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Garrett Baxter - Senior Staff Attorney

🕒 14 days ago

Will do, thanks Tyler.

Tyler Machia - Zoning Administrator

🕒 14 days ago

Hello,

Yes please respond to this one there was an error I could not edit in the first post!

Garrett Baxter - Senior Staff Attorney

🕒 14 days ago

Good morning Tyler,

This post is the same as your prior post that you asked us to disregard. Did you want us to disregard this one as well or did you want us to respond to it?

Sincerely, Garrett Baxter, Esq. Senior Staff Attorney, Municipal Assistance Center Vermont League of Cities & Towns  
89 Main St. Suite 4, Montpelier, VT 05602 (802) 229-9111 gbaxter@vlct.org Pronouns: he, him, his VLCT.ORG

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Tyler Machia - Zoning Administrator

🕒 14 days ago

Hello,

My planning commission is curious as to a municipalities ability to regulate activities that fall under Act 250 jurisdiction. This stems from a contentious industrial park project that involves 10-year extraction of rock which has a high silica content. This led to a discussion amongst the members of my PC as to how much a municipality can regulate activities that are also regulated by Act 250. I know that state statute allows for local review of 3 Act 250 criteria provided the municipality follow MAPA. However, can a municipality regulate activities that ACT250 would regulate, such as the amount of certain types of particulates that are released in the air as a result of rock extraction? This is a complicated question so I am happy to provide some additional context if that helps as well.

### Related Documents

### Notifications

### Section 435. Maintenance

- A. The routine care or upkeep of a structure or property which results in retention of the current condition or value does not require a permit under the following conditions:
  - 1. Structures may be demolished in whole or in part and rebuilt to the same exterior elevations as the original structure without a permit provided the applicants can provide documentation that the renovations match the exterior elevations of the proposed structure prior to the demolition and meet the standards noted in Section 206 and 207, if applicable.
    - a. Failure to document that the renovated structure has the same exterior elevations as the original structure will require the applicant to submit a Zoning Permit application.
  - 2. The Applicants are not changing the footprint or location of the structure on the lot from its current location.
    - a. Relocating the structure or enlarging its footprint will require a permit.
  - 3. Routine maintenance will not result in new obstructions to flood flows or impair drainage or have the potential to be a substantial improvement as noted in Section 330 of The Bylaws.
- B. Maintenance of existing paths, recreation areas, storm water drainage areas, roads, bridges, culverts, boardwalks or channel management activities would also be exempt from permitting provided there is no relocation or enlargement of the above-mentioned items. Storm water drainage areas, culverts and may be enlarged without a permit as necessary to mitigate hazards to the public provided notification of their enlargement.
- C. The Zoning Administrator reserves the right to require an applicant to get a zoning at their sole discretion should they feel that the work in question is not Maintenance and requiring a permit is in the best interest of the town.

### Section 511. Short Term Rentals.

- A. **Four or Fewer Bedrooms.** Short term rentals, consisting of any structure or combination of structures on the same lot that is, renting 4 or fewer bedrooms to persons for a period of more than 14 days in a year or fewer than 30 consecutive days are allowed use by right on any lot without zoning permit if the following conditions are met:
  - 1. The Property must be owner occupied per the definition for Owner Occupied noted in Section 900 of the bylaws.
  - 2. The structure or structures where the bedrooms are located must have a valid State wastewater permit for the number of bedrooms.
  - 3. While renting out 4 or fewer bedrooms for a short-term rental is a by right use that does not require a permit the structure or structures that the bedroom or bedrooms are contained in would still be required to obtain a zoning permit.
  - 4. This would not apply to structures that are converting existing square footage of a structure that does not require an alteration to the building's footprint or exterior elevations.
- B. **Four to Eight Bedrooms.** Short term rentals, consisting of any structure or combination of structures on the same lot that is, renting between 4 to 8 rooms to persons for a period of more than 14 days in a year or fewer than 30 consecutive days are a permitted or

conditional uses as noted in the use table in Section 204.F and are subject to the following regulations:

1. The property must be owner occupied per the definition for Owner Occupied noted in Section 900 of the bylaws.
2. Requires Conditional Use approval per the standards noted in Section 500 and Section 630 of the bylaws.
3. Short-Term Rentals must be approved by the Division of Fire Safety.
4. Short-Term Rentals must and have a valid State waste-water permit.
5. Short term renting 9 or more bedrooms meets the definition of a hotel, Inn or Motel Use. The Short-Term Rentals use is not a Hotel, Inn or Motel use, with said use regulating 9 or more bedrooms for 17 or more people.

#### Section 640. Appeals.

**F. Appeals of DRB Decisions.** Any Interested Person who has participated in a regulatory proceeding under these Zoning Regulations may appeal a decision of the DRB, or an approval resulting from the failure of the DRB to act within the required 45-day period, within 30 days of such decision to the Vermont Environment Court, as provided in the Act (§§4449, 4471).

#### Section 710. Application of Regulations.

- C. Major Subdivision. For the purposes of these regulations Major Subdivision shall be defined as any proposed subdivision resulting in three or more new parcels and one parent parcel. All Major Subdivisions must go through the Section 740 Planned Unit Development: Conservation Subdivision process and be approved by the DRB. If the Applicant is proposing multiple principal uses on these lots then the project will also be subject to the regulations noted in Section 510 of the Bylaws. All Major Subdivisions will require Preliminary Subdivision Review.

### Section 435. Maintenance

- A. The routine care or upkeep of a structure or property which results in retention of the current condition or value does not require a permit under the following conditions:
1. Structures may be demolished in whole or in part and rebuilt to the same exterior dimensions, footprint, volume, height, and elevations as the original structure without first obtaining a permit provided the applicants can provide documentation prior to the demolition that the renovations match the exterior dimensions, footprint, volume, height, and elevations of the original/proposed structure prior to the demolition and meet the standards noted in Section 206 and 207, if applicable.
    - a. Failure to document that the renovated structure will have the same exterior dimensions, footprint, volume, height, and elevations as the original structure prior to the demolition will require the applicant to submit a Zoning Permit application.
  - ~~2. The Applicants are not changing the footprint or location of the structure on the lot from its current location.~~
    - ~~a-b.~~ Relocating the structure or enlarging its footprint will require a zoning permit.
  - ~~3-2.~~ Routine maintenance will/shall not result in new obstructions to flood flows or impair drainage or have the potential to be a substantial improvement as noted in Section 330 of ~~the~~ Bylaws.
- B. Maintenance of existing paths, recreation areas, storm water drainage areas, roads, bridges, culverts, boardwalks or channel management activities ~~is/would~~ also ~~be~~ exempt from needing a zoning permit/permitting provided there is no relocation, or enlargement of the area, height, volume, or footprint, of above-mentioned items. Storm water drainage areas ~~and~~ culverts ~~and~~ may be enlarged without a zoning permit as necessary to mitigate hazards to the public provided notification of their enlargement.
- C. The Zoning Administrator reserves the right to require an applicant to get/seek a zoning permit at their sole discretion should they feel that the work or activity in question is not merely maintenance but constitutes development such that and obtain requiring a zoning permit is in the best interests of the Town's health, safety, and welfare.

### Section 511. Short Term Rentals.

- A. **Four or Fewer Bedrooms.** Short term rentals, consisting of any structure or combination of structures on the same lot that is, renting 4 or fewer bedrooms to persons for a period of more than 14 days in a year and/or fewer than 30 consecutive days are an allowed use by right on any lot without zoning permit if the following conditions are met:
1. The property must be owner occupied as defined per the definition for Owner Occupied noted in Section 900 of the Bylaws.
  2. The structure or structures where the bedrooms are located must have a valid, unexpired State wastewater and potable water supply permit for the number of bedrooms therein, as well as approval from the Division of Fire Safety.
  3. While renting out 4 or fewer bedrooms for a short-term rental is a by right use that does not require a permit, a zoning permit is still required for the use or occupancy of the structure or structures in which that the bedroom or bedrooms are located contained in would still be required to obtain a zoning permit.

**Commented [DWR1]:** I'm reasonably confident that this is already required by the VT Division of Fire Safety, but we should confirm.

4. This ~~exemption does would~~ not apply to structures that are undergoing development to construct such new rooms or facilities or are converting existing square footage of a structure that does not require an alteration to the building's footprint or exterior elevations.

B. **Four to Eight Bedrooms.** Short term rentals, consisting of any structure or combination of structures on the same lot that ~~is,~~ rentsing between 4 ~~to and up to~~ 8 rooms to persons for a period of more than 14 days in a year ~~or and~~ fewer than 30 consecutive days are ~~a~~ permitted or conditional uses as noted in the Use Table in Section 204.F and are also subject to the following ~~regulations~~:

1. The property must be owner occupied ~~as defined per the definition for Owner Occupied noted~~ in Section 900 of the Bylaws.
2. ~~if designated as a conditional use, then r~~Requires Conditional Use approval per the standards noted in Section 500 and Section 630 of the Bylaws.
3. Short-Term Rentals must be approved by the Division of Fire Safety.
4. Short-Term Rentals must and have a valid State waste-water and potable water supply permit that reflects the proposed use and number of bedrooms in the structure being rented on a sort-term basis.
5. Short term renting 9 or more bedrooms ~~shall be considered meets the definition of~~ a hotel, Inn or Motel Use under these Bylaws. The Short-Term Rentals use is exclusive of and not a Hotel, Inn or Motel use, with said ~~latter uses~~ regulating establishments renting 9 or more bedrooms for 17 or more transient individuals ~~people~~.

#### Section 640. Appeals.

**F. Appeals of DRB Decisions.** Any Interested Person who has participated in a regulatory proceeding under these Zoning Regulations Bylaws may appeal a decision of the DRB, or an approval resulting from the failure of the DRB to act within the required 45-day period, within 30 days of such decision to the Environmental Division of Vermont Superior Environment Court, as provided in the Act (§§4449, 4471).

#### Section 710. Application of Regulations.

- C. Major Subdivision. For the purposes of these Bylaw regulation Major Subdivision shall be defined as any proposed subdivision resulting in three or more new parcels, typically coming from and one parent parcel. All Major Subdivisions must go through the Section 740 Planned Unit Development: Conservation Subdivision process and be approved by the DRB. If the Applicant is proposing multiple principal uses on these lots then the project will also be subject to the regulations noted in Section 510 of the Bylaws. All Major Subdivisions will require Preliminary Subdivision Review.