



**TOWN OF MORRISTOWN PLANNING COMMISSION
MEETING NOTICE & AGENDA
COMMUNITY MEETING ROOM
43 Portland St. Morrisville, VT 05661
5:00 PM Tuesday, April 28, 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 Morristown's website: <https://www.morristownvt.gov/community/page/meetings-agendas-minutes>

I. CALL TO ORDER

II. AGENDA CHANGES/ADDITIONS

III. APPROVE PRIOR MEETING MINUTES

1. Approve Minutes from 4/14/26

IV. NEW BUSINESS

1. Review feedback from community survey.
2. Review and approve changes to the 2026 Zoning and Subdivision bylaws based on Selectboard feedback.
3. Review tiered approach to earth extraction and dust control.
4. Background memo on the history of the conservations subdivision language in Section 510 Morristown.

V. OLD BUSINESS

VI. FUTURE PLANNING AGENDA TOPICS

VII. CORRESPONDENCE/NOTICES

VIII. ADJOURN



PLANNING COMMISSION MEETING MINUTES OF APRIL 14, 2026

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

Absent:

ADMINISTRATION and STAFF: Tyler Machia Zoning and Planning Administrator

PARTICIPANTS/GUESTS: Martin Green, Jerry Throne

CALL TO ORDER

Joshua Goldstein 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 3/24/26

Motion made by John Meyer to approve the minutes of 3/24/26 with amendments. Motion seconded by Etienne Hancock. Motion carried (4/0)

NEW BUSINESS

1. Review feedback from 4/1/16 Village Trustees meeting and consider changes to the proposed 2026 bylaws.

Tyler reported on the results of his review of the 2026 bylaws at the Village Trustees meeting. They expressed appreciation for the Planning Commission's work and requested that the location-dependent part of the definition of legislative body be removed from the bylaws. The town attorney recommended either removing the definition entirely or keeping the current 2023 definition, with removal being the preferred option. The Commission agreed with the suggestion and opted to remove the definition. Tyler will present the 2026 bylaws to the Selectboard at their next meeting.

2. Review model bylaw language on earth extraction.

Tyler presented draft regulation on earth extraction operations. The discussion focused on reviewing different options for implementing dust control standards in the zoning bylaw, specifically for earth extraction and rock processing projects. Tyler explained three main options (A, B, and C) with varying levels of restrictions and requirements, including fugitive dust control plans, specific suppression measures, windbreaks, buffers, and monitoring requirements. Tyler then presented option D, a hybrid approach that combines elements from the previous options to create clear standards while allowing some flexibility for developers. The group discussed option E, a tiered approach to regulating mining and excavation projects, with participants expressing support for the concept while raising concerns about the complexity it would add to the bylaws. The discussion highlighted concerns about truck traffic impacts and crushing operations, with participants suggesting that regulatory thresholds should consider both material quantity and truck traffic volume. While there was debate about referencing federal and state regulations versus creating municipal standards, the group ultimately aligned on pursuing the tiered approach with specific enforcement mechanisms, including fugitive dust control plans. The group discussed plans for comparing their proposed tiered approach to zoning regulations with similar towns and decided to research how other towns of similar size handle similar regulations.

3. Develop a list of stakeholders to reach out to for feedback.

It was decided to tentatively schedule public meetings on June 9th and 23rd to gather stakeholder feedback on the proposed earth extraction regulations. They agreed to compile a list of stakeholders to consult, including conservation groups, developers, and the

public, with Tyler offering to reach out to potential contacts. The discussion touched on whether to hold one large meeting or multiple tailored listening sessions, considering the different perspectives of attendees.

4. Zoning Report

Tyler reviewed the 2026 Zoning Activity Report, which focused on planning and zoning updates, including permit issuance and upcoming public hearings. He reported that 21 permits have been issued this year, with 13 housing units approved.

FUTURE PLANNING AGENDA TOPICS

1. Develop timeline for feedback on earth extraction from stakeholders.

The members decided to first develop a rough draft of the tiered approach to earth extraction without extensive stakeholder input, then schedule listening sessions with key groups, including public members, conservation groups, and the Highway Superintendent. The participants expressed a desire to move forward quickly while the issue maintains momentum.

OLD BUSINESS

Tyler will present the results of the survey compiled by the intern at the next meeting.

CORRESPONDENCE/NOTICES

None

ADJOURN

Motion made by Etienne Hancock to adjourn. Motion seconded by Wally Reed. Motion carried. (4/0)

Meeting adjourned at 6:35 pm

Submitted and filed this 4/15/26.

Judi Alberi, Scribe

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

Town Plan Questionnaire Findings

Introduction

The Town Plan Citizen Outreach Questionnaire was designed to determine attitudes around the town plan and the town plan process, as well as gather preliminary information on community priorities. The anonymous survey was released on Friday, March 20, and remained open until Friday, April 10. During this time, a total of 100 citizens completed the survey. It is necessary to note that this survey report should not be viewed as scientifically significant research, but rather, a way to gauge interest and priorities from the town in an attainable way. A written copy of the survey can be found in the Appendix of this report.

Questions in the survey revolve around citizen satisfaction with the 2022-2030 town plan and the past outreach surrounding it. It is hoped that the results of this survey can provide valuable insight into the opinions and priorities of community members as we move towards town plan review in 2030.

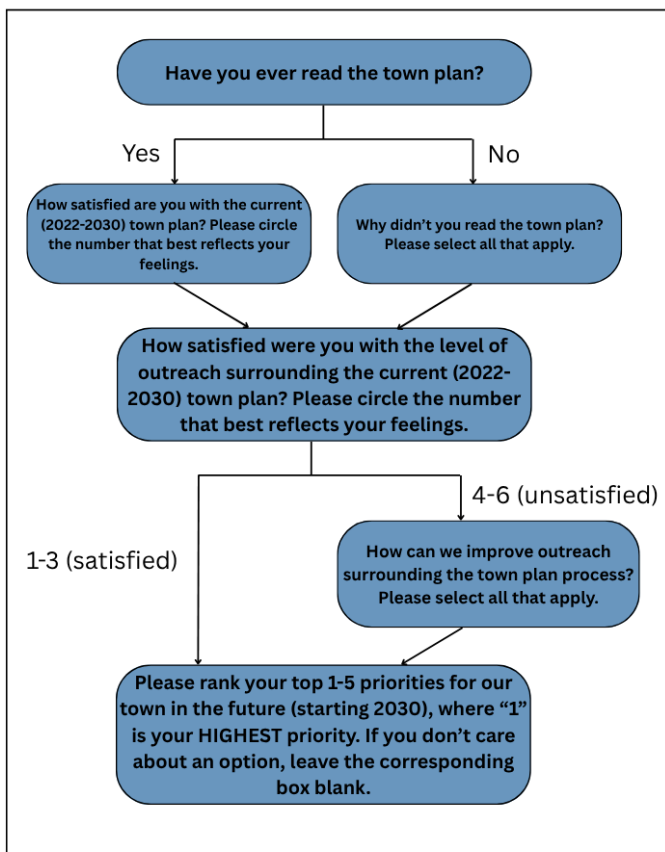


Figure 1. Order and path of survey questions based on responses

Methods

This survey was designed to be kept short in order to invite a greater number of complete responses. In the survey, there are six questions total, though each citizen only needed to respond to four or five questions, depending on their answers. Figure 1 (left) shows the path of the questions in order based on the citizen's response.

The questionnaire was shared virtually through multiple sources, including a Front Porch Forum post, emails to constituents for whom the town had contact information, and a post via the Town of Morristown Facebook. A poster including a QR code was also shared through each of these sources, as well as posted in the Town of Morristown Office, Morristown Centennial Library, and the Morristown post office. Paper copies of the survey were printed and advertised to be located in the Town of Morristown Office and Morristown Centennial Library.

Question 1: Have you ever read the town plan?

The first three questions were designed to gauge whether citizens are genuinely interested in the town plan and to determine whether it might be worthwhile pursuing continued outreach. A citizen’s response to question 1 led them to either question 2 or 3, to learn either the citizen’s satisfaction with the current town plan or the citizen’s reason for not reading it, accordingly.

Of the 100 survey responses, 56 community members had not read the town plan, while 44 had. Although the majority of community members had not read the town plan, responses to question 3 show that for some, it was not due to a lack of interest. It is important to note that this measurement may not reflect the majority of the community, as the sample population that filled out the survey is likely more involved in local government and, therefore, more likely to have read the town plan.

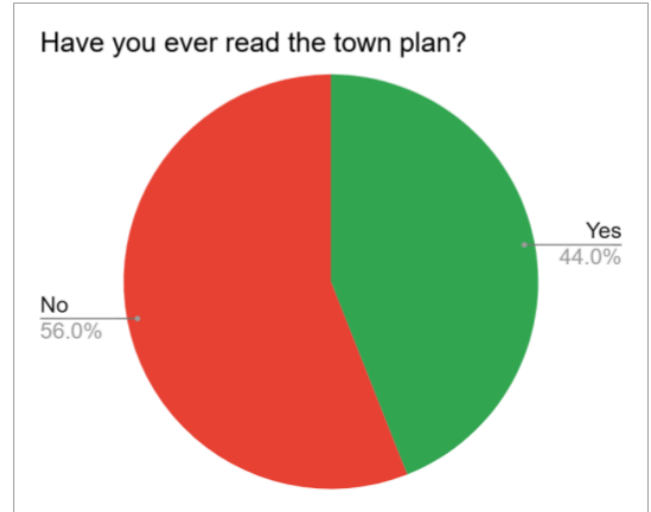


Figure 2. Responses to Question 1; “Have you ever read the town plan?”

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.

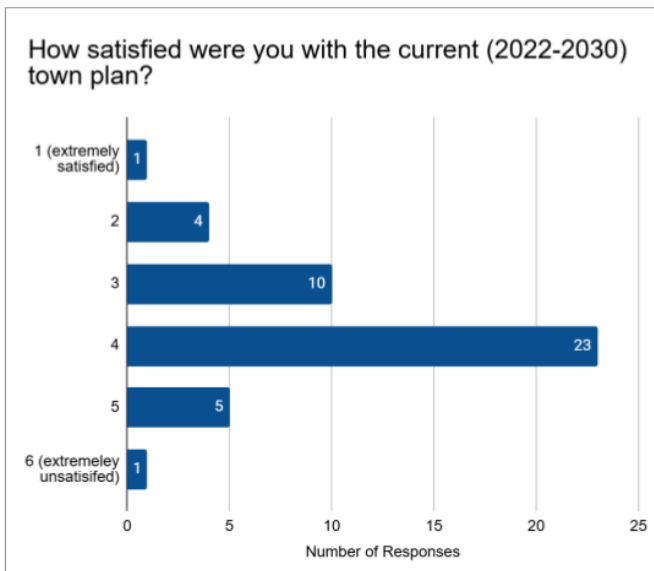


Figure 3. Responses to Question 2; “How satisfied were you with the current (2022-2023) town plan?”

This question was included to gauge satisfaction with the town plan among those who had read it. Respondents were given a range of 1-6 to select from, with 1 representing extreme satisfaction and 6 representing extreme dissatisfaction. About 66% (29 out of 44) of town members who read the current town plan were not satisfied (answered 4, 5, or 6), with only 15 people being on the satisfied end (answering 1, 2, or 3). With only one respondent expressing extreme satisfaction with the town plan, 97% of respondents seek some level of improvement.

Responses to this particular question could be helpful to the Planning Commission to determine how much town members should be involved in the town plan revision process. With a majority of town plan readers feeling that the current town plan is unsatisfactory, this may be a sign that community members would like to be more involved in the town plan revisions coming in 2030.

Question 3: If you answered “No” to Question 1: Why didn’t you read the town plan? Please select all that apply.

This question is especially important in conjunction with Question 1. This question brings to light whether community members haven’t read the town plan due to a lack of interest, or some other factor. Options were brainstormed to attempt to include the most common reasons why one might not read the town plan. This was a multiple-selection question, where respondents were given the following options in this order:

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

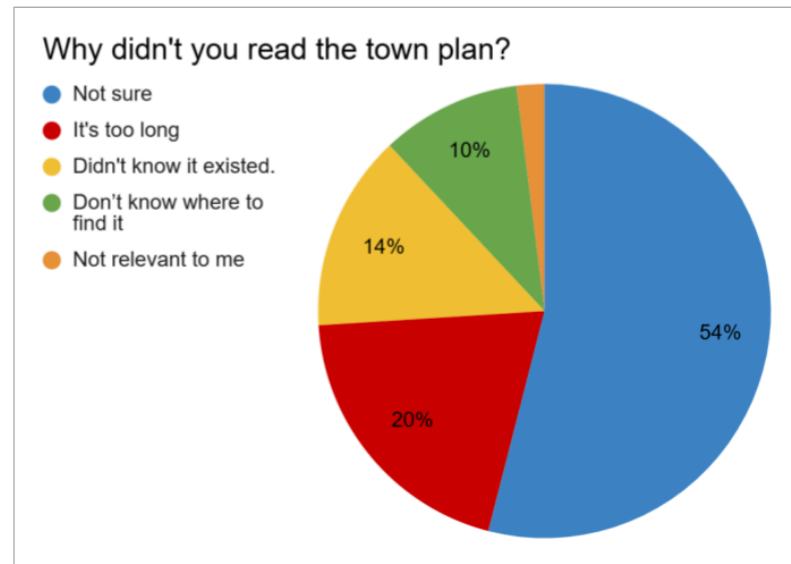


Figure 4. Responses to Question 3; “Why didn’t you read the town plan?”

For the pie chart in Figure 4 (left), some written responses from the “other” option were split into categories due to repeated content, such as “Didn’t know it existed” and “Don’t know where to find it”. Individual write-in responses are included in the Appendix of this report, along with the pie chart categories they were sorted into, if applicable. Write-in responses that did not fit accordingly into categories include:

- “Haven’t read it yet but it’s now on my list.”
- “Just moved to the area recently.”
- “Moved in 2024.”
- “Never thought about it.”
- “Not advocated enough.”
- “I would probably read it if there was a summary available as a link in Front Porch Forum. (Yes, I am that lazy.)”

The large number of citizens who selected that they were “Not Sure” about why they did not read the town plan could signify a lack of interest in getting involved. However, this could also have been the response that required the least thought from respondents if the provided options were inadequate. Additionally, it is important to note that out of the 56 people who responded to this question, not one person selected “not interested”, which was the second available answer. Another explanation could be that the group is apathetic to the Town Plan due to a perceived inability to get involved.

It is also important to note that 24% of people were either unaware of the Town Plan’s existence or did not know where to find it, and that these responses were actively written in. There is a possibility that if these responses were included among the provided responses, the count of “not sure” responses might have gone down.

Citizens had the opportunity to select multiple options for this question. However, only two people selected multiple options, and both of those people selected both “Not Sure” and a typed “other” response categorized as “Don’t know where to find it”. For these two responses, the “not sure” response was discounted for the included graph creation, leaving only their categorized written response. These responses are also shown in the Appendix of this report, notated with an asterisk (*).

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.

This question was required for all respondents, regardless of whether or not they had read the town plan. The question was included in the survey to determine whether or not community members felt adequately informed about the existing town plan.

40% of respondents landed on the more satisfied end of the spectrum, with the remaining 60% landing on the less-than-satisfied end. Only one out of 100 respondents felt extremely satisfied with the level of outreach surrounding the town plan. This means that 99% of our sample population feels that there could be some level of improvement in outreach, whether that be a minor or major increase in informing citizens about the town plan.

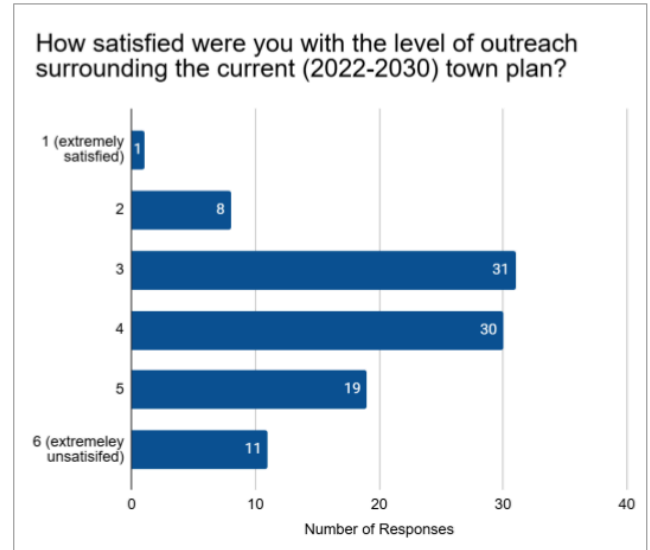


Figure 5. Responses to Question 4; “How satisfied were you with the level of outreach surrounding the current (2022-2030) town plan?”

Question 5: (If you answered 4, 5, or 6 to Question 4): How can we improve outreach surrounding the town plan process? Please select all that apply.

This question was included to find the most requested outreach method among community members who felt particularly unsatisfied with prior town plan outreach. This question was required for all respondents who were unsatisfied with outreach, and therefore selected 4, 5, or 6 for question 4. The question was multiple-choice, with options including the following:

- “More consistent updates (Front Porch Forum, Morristown Website, etc.)”
- “More Surveys”
- “More Mentions During Town Meetings”

These options were chosen to be included as they are the most feasible options for the Town of Morristown offices, as they are low-cost outreach methods that the Town of Morristown already participates in. Responses to this question could inform the Planning Commission on the most preferred form of communication surrounding town plan processes if deemed necessary.

Because citizens had the opportunity to select multiple options, the total number of responses is significantly higher than the total number of citizens who answered the question. This question was required for 60

respondents, and 94 responses were recorded. Figure 6 (below) shows how many out of the 60 respondents selected each option. 54 out of the 60 respondents (90%) selected “More consistent updates (Front Porch forum, Morristown Website, etc.)” Because of this, more consistent updates would likely be the best option for community outreach surrounding the town plan. Additionally, the fact that 25 (about 42% of) respondents selected “More Surveys” shows that community members would like to be more involved in the decision-making process.

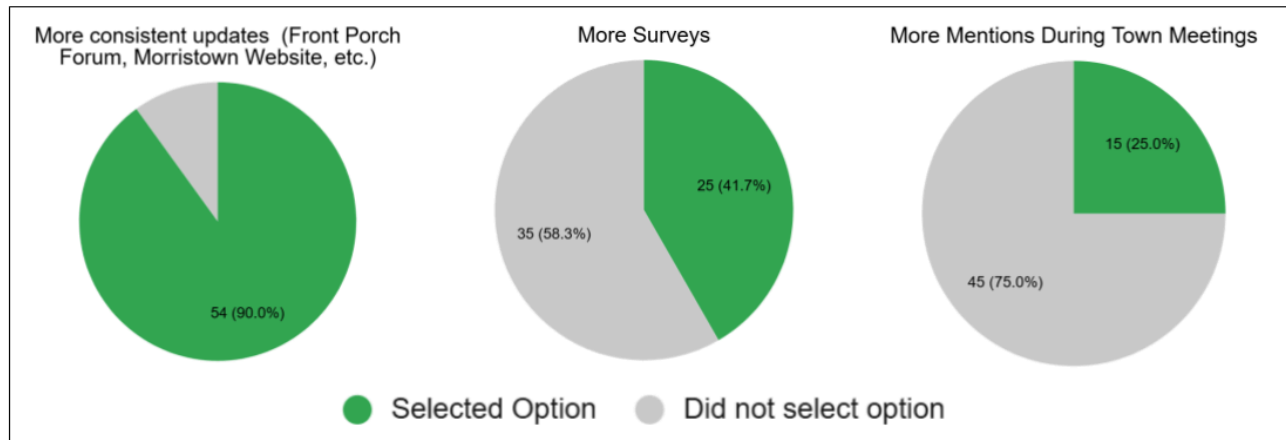


Figure 6. Responses to Question 5; “How can we improve outreach surrounding the town plan process?”. Pie charts show how many survey respondents out of 60 selected or did not select each option.

Question 6: Please rank your top 1-5 priorities for our town in the future, where "1" is your HIGHEST priority. For topics not in your top 5 priorities, select "Not a top priority". Please only select each number once.

This Question provides preliminary data on citizens' priorities for the town’s future. The categories were chosen by zeroing in on 7 broad issues extrapolated from the current town plan, including the following:

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

For each category, respondents could choose their ranking from a dropdown menu including the numbers 1-5 and “Not a Top Priority.” Respondents could also leave boxes blank, although they were required to fill out at least one box.

When reviewing our town plan in 2030, Morrisville and Morristown officials can use this data to ensure that proper emphasis is placed on the issues that citizens want to prioritize. Included below are two representations of a summarized version of the data in the form of bar graphs. Figure 7 (see next page) shows the number of citizens who ranked each category as a “first-priority” issue (i.e., chose “1” from the dropdown menu). Figure 8 (see next page) shows the number of citizens who did not include the category in their top 5 priorities for the town, whether they selected “Not a Top Priority” or left the box empty.

Unfortunately, it was not possible to ensure that each citizen used each number only once. Because of this, a few citizens noted multiple issues as (for example) “first-priority” issues. Therefore, the data in this report uses terms like “first-priority issue” rather than “top-ranked issue” to avoid misleading information.

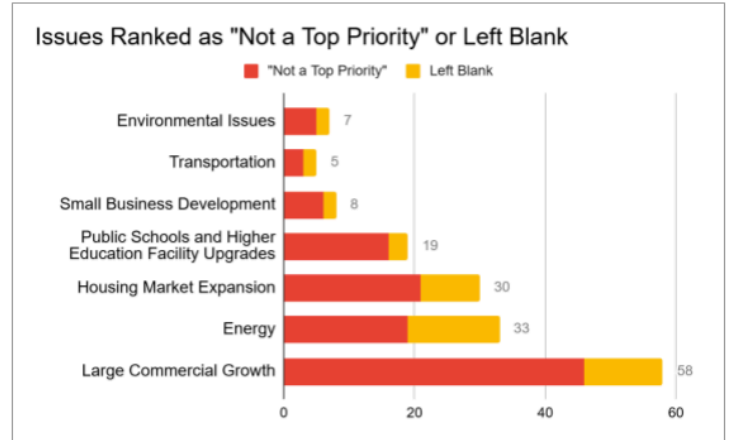
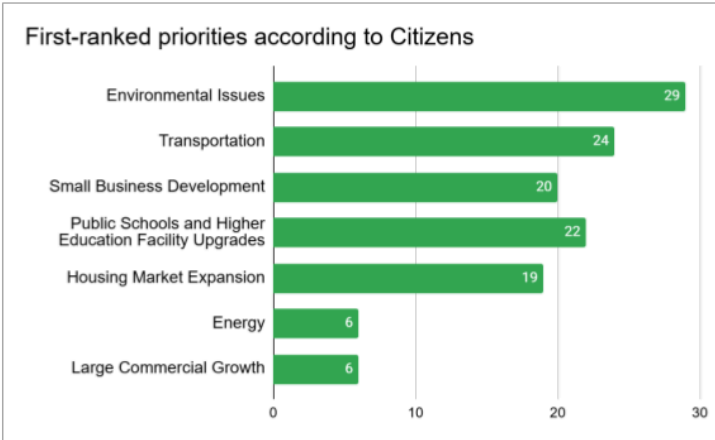


Figure 7. Responses to Question 6, showing the amount of times each category was ranked a first priority (ranked “1”)

Figure 8. Responses to Question 6, showing the amount of times each category was ranked “Not a Top Priority” or left blank.

Figures 7 and 8 (above) are meant to show the highest and lowest-ranked priorities, as they highlight both extremities of community responses. The issues are ranked in the graphs from top to bottom according to the number of times the issue was ranked as a first-priority minus the number of times the issue was ranked as “not a top priority” or left blank. However, these graphs leave out the full extent of responses to this question, excluding the number of times each issue was ranked as a second- through fourth-priority. Graphs depicting all responses for each category can be found in the Appendix of this report.

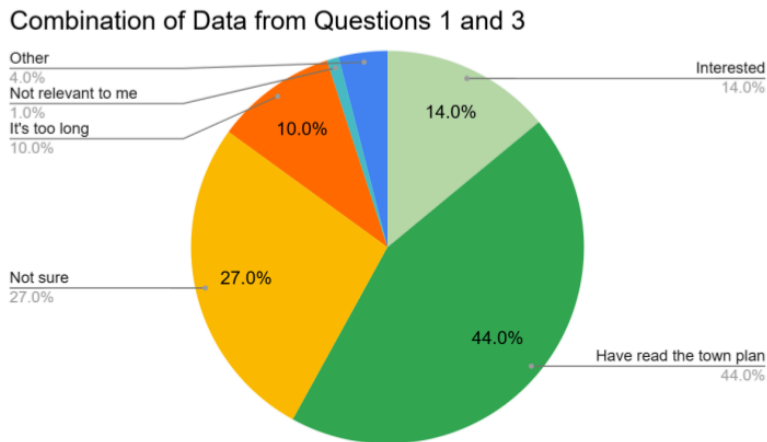
Environmental Issues and Transportation are the two highest-priority issues according to community members, both in first-priority rankings and being ranked 1-5 by the largest number of people. Energy and Large Commercial Growth, on the other hand, are the two lowest-ranked issues. This information can be utilized moving forward in the town plan process by ensuring that policymakers put proper emphasis on top-ranked issues according to the community.

Conclusions

A combination of data from questions 1 and 3 of this survey shows that at least half of the Morristown community in this sample group is interested in the Town Plan. Figure 9 (see next page) shows this combination of data, with all written responses sorted into two categories: “Other” and “Interested”. Responses sorted into the “Interested” category include those previously sorted into “Didn’t know it existed” and “Didn’t know where to find it,” as well as the two written-in responses below:

- “I would probably read it if there was a summary available as a link in Front Porch Forum. (Yes, I am that lazy.)”
- “Haven’t read it yet but now it’s on my list.”

Any other written responses were sorted into the “other” category. All written responses can be found in the Appendix of this report, along with the categories they were sorted into. The main purpose of Figure 9 is to summarize the status of all community members’ interest in the town plan.



The Planning Commission and other involved boards should take into account the community’s interest in the Town Plan. Considering that a majority of respondents are unsatisfied with both the Town Plan itself and the past outreach surrounding the town plan process, there is certainly potential for positive change.

Moving forward, an ideal outreach plan would include a variety of efforts to educate citizens about the town plan and request their input. One strategy could be inviting town members to meetings with town leaders to ask questions about the town plan and express community needs. At such meetings, the town could hold

Figure 9. Showing a combination of Data from Questions 1 and 3, intended to show the amount of community members interested in reading the Town Plan. Written responses were sorted into categories, which are shown in the Appendix.

focus groups to further explore community priorities, where citizens can provide oral or written testimonies about their concerns surrounding development. Citizens also expressed in the survey that they are interested in more consistent updates through Front Porch Forum and the Morristown Website, which the town could use to advertise such events and update the town as the Town Plan is edited. Finally, more surveys could provide a way for busier community members to get involved and voice their needs.

In the case of additional surveys, the next step is to further investigate the town’s priorities in greater detail. This can be done in multiple ways, depending on what input is deemed most important. One option is to provide a longer, more specific list of sub-priorities for town members to rank (for example, rather than “Transportation”, sub-priorities could include buses, bike paths, sidewalk improvements, etc.). More investigation could also be done to determine whether there are different priorities for the inner village versus the greater Morristown and Morrisville area.

By working with the community, the Town of Morristown boards can improve trust in local governments and bridge the gap in decision-making. By providing a time and space for citizens to voice their concerns and hopes for development in the town, we can avoid an influx of misplaced complaints, instead focusing efforts where citizens can be heard.

Appendix

Town Plan Questionnaire

Please drop off your filled-out questionnaire in the Planning and Zoning office at 43 Portland Street or the front desk of Morristown Centennial Library.

Please fill out this short questionnaire. This questionnaire was developed to gain community feedback 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
Extremely Satisfied			Extremely Unsat		

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: _____

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 Satisfied			Extremely Unsat		

Question 5:

If you answered 4, 5, Or 6 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.*

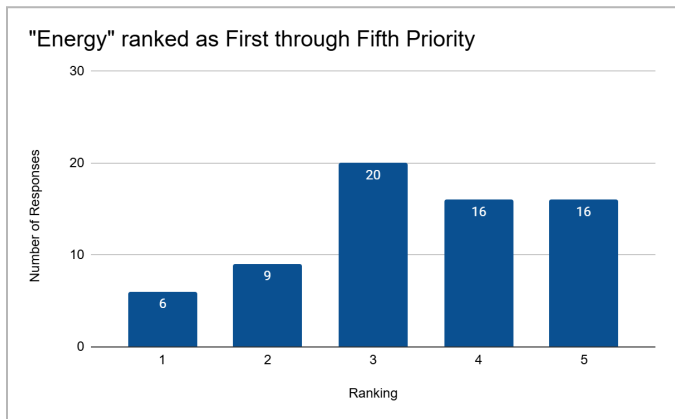
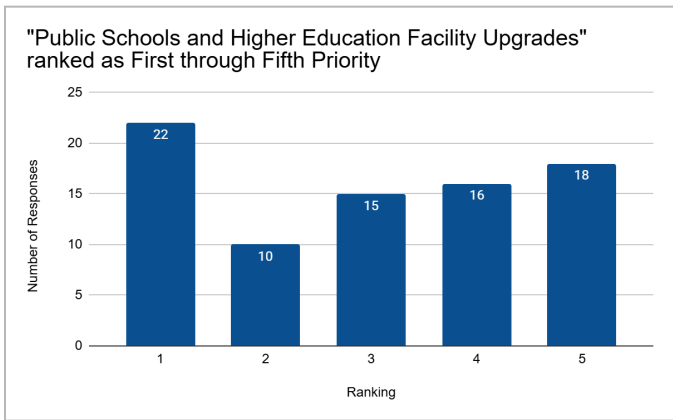
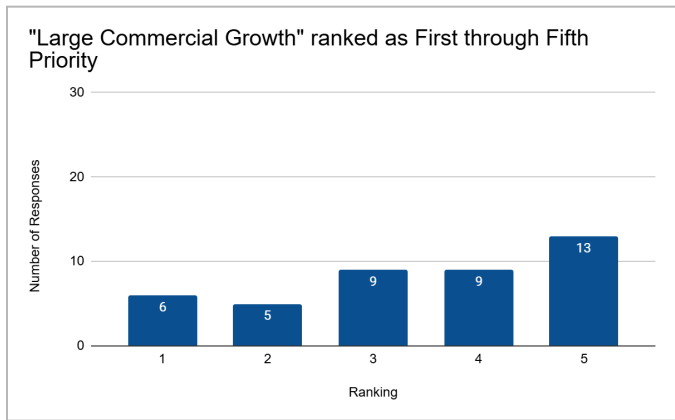
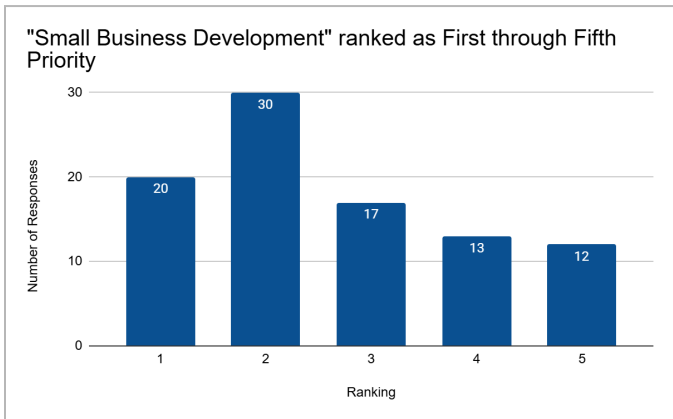
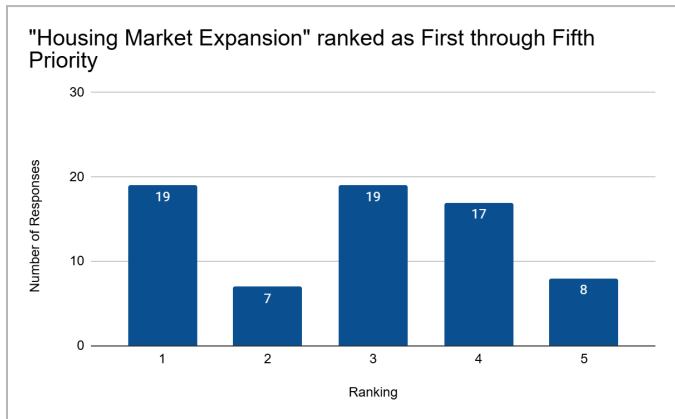
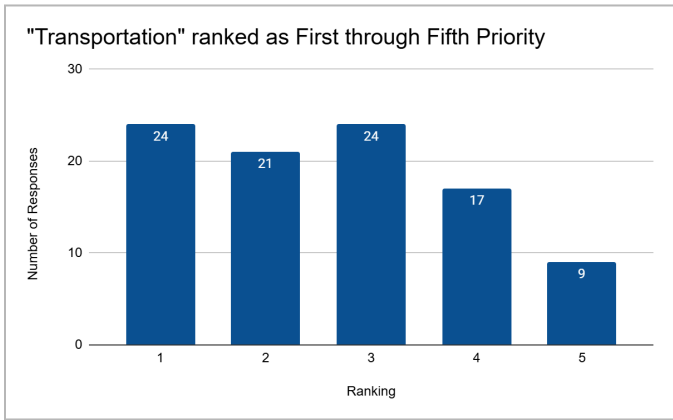
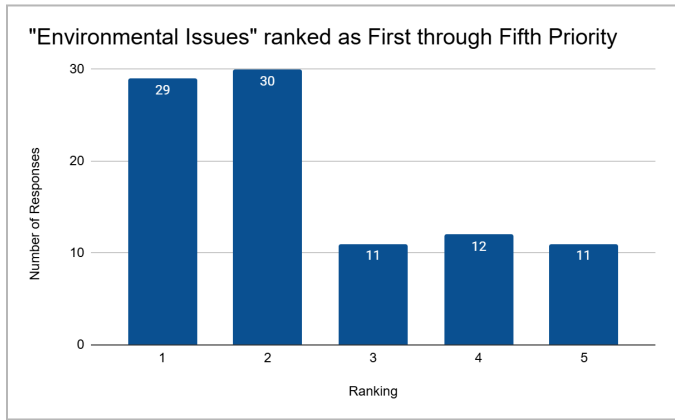
	Please write numbers 1-5 below.
Environmental Issues (protection, floodplain resilience, parks and trails, green space, etc.)	
Transportation (walkability, public transport, roads & traffic, parking, boardwalk, etc.)	
Housing Market Expansion	
Small Business Development	
Large Commercial Growth	
Public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

Write-in Responses for Question 3 and their Assigned Categories

Written Response	Assigned Category in Figure 4	Assigned Category in Figure 9
Not advocated enough	Not assigned a category	“Other”
Never thought about it	Not assigned a category	“Other”
Moved in 2024	Not assigned a category	“Other”
Just moved to the area recently	Not assigned a category	“Other”
I would probably read it if there was a summary available as a link in Front Porch Forum. (Yes, I am that lazy.)	Not assigned a category	“Interested”
Haven’t read it yet but it’s now on my list	Not assigned a category	“Interested”
Where can I read a Town Plan?	“Don’t know where to find it.”	“Interested”
Had no idea where it was located.*	“Don’t know where to find it.”	“Interested”
Didn’t know if it was available in a printed or downloaded form.*	“Don’t know where to find it.”	“Interested”
Don’t know where to find it	“Don’t know where to find it.”	“Interested”
Don’t know where it is	“Don’t know where to find it.”	“Interested”
Didn’t know it existed and I couldn’t find it when I just looked briefly	“Didn’t know it existed” and “Don’t know where to find it.”	“Interested”
I rent. I never knew there was a town plan.	“Didn’t know it existed.”	“Interested”
I didn’t know that there was one	“Didn’t know it existed.”	“Interested”
Didn’t know it existed.	“Didn’t know it existed.”	“Interested”
Didn’t know there was one.	“Didn’t know it existed.”	“Interested”
Didn’t know there was one.	“Didn’t know it existed.”	“Interested”
Didn’t know it existed.	“Didn’t know it existed.”	“Interested”

*This respondent also selected “Not Sure” from the multiple-choice options.

Graphs Depicting All Responses to Question 6



Average Ranking for Question 6

	Average Score	# of Times Selected	# of Times Not Selected	# of Times Selected "Not a Top Priority."
Transportation	2.64	95	2	3
Environmental Issues	2.42	93	2	5
Small Business Development	2.64	92	2	6
Public Schools and Higher Education Facility Upgrades	2.98	81	3	16
Housing Market Expansion	2.83	70	9	21
Energy	2.69	67	14	19
Large Commercial Growth	3.43	42	12	46

Question 1 and Question 4 Combined Summary

Question 1: Have you read the town plan?

Question 4: How satisfied were you with the level of outreach surrounding the current town plan?

	Read the Town Plan	Didn't Read the Town Plan	All Respondents
1 (Extremely Satisfied)	0	1	1
2	4	4	8
3	14	17	31
4	11	19	30
5	10	9	19
6 (Extremely Unsatisfied)	5	6	11
Average Ranking	3.95	3.875	3.91

Section 760. Filing of Approved Subdivision Plat. (New)

- A. **Filing.** Upon completion of requirements and approvals under Section 750 above, and so noted on Subdivision Plat and properly signed by the Zoning Administrator for Minor Subdivisions and the Chair (or Acting Chair) of the DRB for Major Subdivisions, the Record Plat (18" X 24" mylar) shall be filed in the office of the Town Clerk, and a copy thereof shall be entered into the DRB's Files. Any Subdivision Plat Mylar not so filed or recorded within 180 days of the date on which such Plat is approved or considered approved will result in the expiration of the subdivision approval and the applicants will have to reapply for final approval.
- B. **Private Streets.** Approval by the DRB of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance of any public street, easement, utilities, park, recreational area, or other open space shown on such subdivision plat. Such acceptance may only be accomplished per the standards noted the Morristown Road Policy.

Section 760. Filing of Approved Subdivision Plat.(Old)

- A. **Filing.** Upon completion of requirements and approvals under Section 750 above, and so noted on Subdivision Plat and properly signed by the Zoning Administrator for Minor Subdivisions and the Chair (or Acting Chair) of the DRB for Major Subdivisions, the Record Plat (18" X 24" mylar) shall be filed in the office of the Town Clerk, and a copy thereof shall be entered into the DRB's Files. Any Subdivision Plat Mylar not so filed or recorded within 180 days of the date on which such Plat is approved or considered approved will result in the expiration of the subdivision approval and the applicants will have to reapply for final approval. **The Zoning Administrator may extend the filing.**
- B. **Private Streets.** Approval by the DRB of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance of any public street, easement, utilities, park, recreational area, or other open space shown on such subdivision plat. Such acceptance may only be accomplished **by formal act of the Selectboard or Village Trustees, as the case may be.**

Earth Extraction Operations — Dust Control Regulations

Option E: Tiered Approach | Regulatory Comparison Tables

This document contains the following:

- Option E — Tiered Approach: Full regulatory text (Tiers 1, 2, and 3). Options A through D have been removed per planning commission direction.
- Table 1 — Comparison of Option E's three tiers against Morristown's current §485 Special Industry Use provision (2023 Zoning Bylaws).
- Table 2 — Comparison of Option E tiers and §485 against five peer Vermont municipalities within ±500 population of Morristown (Northfield, Waterbury, Stowe, Fairfax, and Jericho).
- Regulatory References and Definitions.
- Peer Municipality Bylaw References — Links to the earth extraction sections of Northfield, Waterbury, Stowe, Fairfax, and Jericho zoning regulations.

NOTE: This document was prepared with the assistance of Claude AI and reflects input from the Morristown Planning Commission. All options require additional stakeholder input and legal review before inclusion in the bylaws. The tables in this document are formatted in landscape orientation for readability.

Option E Tiered Approach | Scale-Based Standards: Tiers 1, 2, and 3

Table 1 — Option E Tier Comparison with Morristown §485 Special Industry Use

This table compares the three tiers of Option E side by side with the current Morristown/Morrisville Zoning Bylaw §485 (Extraction of Earth Resources via Special Industry Use) across all major regulatory dimensions. Green shading in text indicates stronger protections in Option E; §485 provides stronger reclamation and equipment setback provisions.

Feature / Requirement	Option E — Tier 1 (1,000–5,000 cy Residential No Off-Site Sale)	Option E — Tier 2 (5,000–10,000 cy or Any with Off-Site Sale >1,000 cy)	Option E — Tier 3 (>10,000 cy Any Project)	Morristown §485 — Special Industry Use (Current Bylaw: Extraction of Earth Resources)
Permit Trigger	Residential project generating >1,000 and up to 5,000 cy; no off-site sale	Residential or commercial project generating >5,000 up to 10,000 cy; OR any project >1,000 cy with off-site sale	Any project generating >10,000 cy regardless of off-site sale	Removal of rock, soil, sand, or gravel for sale (except incidental to development on same parcel); DRB approval required
Dust Control Plan	Basic Dust Control Plan submitted with permit application	Full FDCP submitted to DRB for approval before operations begin; optional independent consultant at applicant's expense	Full FDCP required before permit issued; DRB may require independent consultant at applicant's expense; annual update required; posted on-site	No specific dust control plan required; DRB may attach conditions (see §485.10)
Visible Dust Standard	No visible dust crossing property line	No visible dust crossing property line; proactive suppression required before dust is generated	Zero visible dust beyond active work area (within 50 ft of equipment); continuous suppression required; immediate suspension if systems inoperative	Not specified; general nuisance standard implied; §485.6 requires "satisfactory dust elimination devices" on power-activated machinery
Water Suppression	Required; method at operator discretion	Required at all active extraction and processing points (drilling, crushing, screening, conveyors, haul roads, stockpiles)	Automated misting systems required at extraction face; pre/post-blast misting (10 min before, 15 min after); all processing equipment continuously suppressed	Not specified beyond "satisfactory dust elimination devices" on machinery (§485.6)
Haul Road Treatment	Graveled access apron at public road exit; reasonable precautions to prevent tracking	Water or approved suppressant on internal roads; 10 mph speed limit posted; 50 ft graveled apron at public road	Roads paved, calcium chloride treated, or EPA-certified polymer suppressant; 10 mph limit; wheel wash station at every exit; daily road sweep	No power-activated machinery within 300 ft of any street or property line (§485.6); no specific haul road treatment
Stockpile Management	Wetting or covering during dry or windy conditions; best efforts	Stockpiles >500 cy covered or stabilized; 100 ft setback from property lines	All stockpiles covered or stabilized within 24 hrs of formation; 150 ft setback; misting during loading and unloading	No stockpiles >50 ft high (§485.6); no specific cover or setback requirement beyond 300 ft machinery setback
Blasting	24 hr abutter notice; 7:00 am–5:00 pm weekdays only	48 hr abutter + ZA written notice; 8:00 am–4:00 pm weekdays;	72 hr abutter + ZA written notice; 9:00 am–3:00 pm weekdays; no blasting >15 mph wind or during	Not addressed

Feature / Requirement	Option E — Tier 1 (1,000–5,000 cy Residential No Off-Site Sale)	Option E — Tier 2 (5,000–10,000 cy or Any with Off-Site Sale >1,000 cy)	Option E — Tier 3 (>10,000 cy Any Project)	Morristown §485 — Special Industry Use (Current Bylaw: Extraction of Earth Resources)
		misting at blast zone before and after detonation	inversions; licensed blaster documentation; pre/post misting	
Buffer / Windbreak	None required	25 ft vegetated buffer along residential and road frontages; native species required; removable post-operation with ZA approval	50 ft vegetated buffer all property lines; 100 ft near schools, childcare, water supply; native tree/shrub species; replaced within one growing season if lost	No excavation, blasting, or stockpiling within 200 ft of any street or property line (§485.5); no power-activated machinery within 300 ft (§485.6); no specific vegetated buffer
Monitoring & Recordkeeping	Complaint log; 3-year retention	Quarterly self-inspection log; complaint log; 5-year retention	Monthly inspection on standardized ZA form; complaint log with weather data; Annual Dust Control Report to ZA by March 1; 7-year retention; open to public	No monitoring or recordkeeping requirements specified; DRB may add conditions (§485.10)
Enforcement	Notice of violation (NOV); order to cease operations	NOV within 48 hrs; cease operations; civil fines; DRB revocation referral	1st violation: NOV + cease; 2nd: 5-day mandatory suspension + civil fine + DRB hearing; 3rd: permit revocation + bond forfeiture; independent monitor at operator expense	General bylaw enforcement; ; no tiered penalty structure specified (§485.10)
Financial Assurance	None	None	Performance bond, escrow, or irrevocable letter of credit required before permit issued	Performance bond required before approval of any new or extended operation; sufficient to ensure site left in safe, attractive, useful condition; bond covers redevelopment as park, lake, recreation area, or open space (§485.1)
Site Reclamation	Not addressed	Not addressed	Not addressed	Required: removal to improve land contours (§485.2); graded smooth, slopes fertilized/mulched/seeded (§485.3); 4" topsoil replaced (§485.3); drainage controlled (§485.4); non-conforming extension by DRB only (§485.8); topsoil stripping for off-site sale prohibited (§485.9)
Drainage	Not addressed	Not addressed	Not addressed	All surface drainage affected by excavation controlled by owner to prevent erosion debris from filling drainage courses, streets, or private property; all drainage provisions require ZA approval (§485.4)
Equipment Setbacks	Not addressed	Not addressed	Not addressed	No excavation, blasting, or stockpiling within 200 ft of any street or property line (§485.5); no power-activated sorting machinery within 300 ft of any street or property line (§485.6)
Slopes	Not addressed	Not addressed	Not addressed	Excavation slopes in excess of 1:2 shall be adequately fenced as determined by ZA (§485.7); digging of pits or steep slopes not permitted unless provision made to refill (§485.2)

Feature / Requirement	Option E — Tier 1 (1,000–5,000 cy Residential No Off-Site Sale)	Option E — Tier 2 (5,000–10,000 cy or Any with Off-Site Sale >1,000 cy)	Option E — Tier 3 (>10,000 cy Any Project)	Morristown §485 — Special Industry Use (Current Bylaw: Extraction of Earth Resources)
Best Suited For	Residential site work: home sites, driveways, accessory structures; no commercial sale of material	Residential or commercial projects with off-site material sale; moderate-scale operations	Large commercial quarrying; aggregate production; high-volume extraction near sensitive receptors	Commercial extraction for sale (rock, soil, sand, gravel) not incidental to development on same parcel; Special Industry Use in applicable districts

Table 2 — Option E Tiers + §485 vs. Peer Vermont Municipalities

This table compares Option E’s three tiers and Morristown’s current §485 Special Industry Use provision against five peer Vermont towns identified in the Planning Commission’s Earth Extraction Comparison document (2/5/26): Northfield, Waterbury, Stowe, Fairfax, and Jericho. These five towns fall within ±500 population of Morristown (2024 ACS estimate: 5,722).

Feature	Option E Tier 1	Option E Tier 2	Option E Tier 3	Morristown §485	Northfield (Pop. 5,920)	Waterbury (Pop. 5,405)	Stowe (Pop. 5,285)	Fairfax (Pop. 5,226)	Jericho (Pop. 5,114)
Permit Trigger	>1,000–5,000 cy; residential; no off-site sale	>5,000–10,000 cy; or >1,000 cy with off-site sale	>10,000 cy; any project	Any commercial extraction for sale not incidental to development	Any new or expanded commercial sand, gravel, or quarry operation	>1,000 cy transported off-site = conditional use	Any non-incidental removal; no volume threshold	Commercial extraction in Rural District only; conditional use + site plan	>16 cy removed in any 12-month period = conditional use
Dust-Specific Performance Standard	Yes — no visible dust at property line	Yes — no visible dust; proactive suppression required	Yes — zero visible dust within 50 ft of equipment; continuous suppression	Partial — “satisfactory dust elimination devices” on machinery (§485.6); no performance standard	None — dust mentioned in application requirements only	None — Board may condition approval; entirely discretionary	None	None	None
Dust Control Plan Required	Yes — basic plan with permit application	Yes — full FDCP; DRB approved before operations	Yes — full FDCP; DRB approved; annual update; posted on-site	No specific plan; DRB may attach conditions	Yes — detailed application including blasting plan, phasing, water supply mapping within 5,000 ft	Yes — site plan; DRB may require erosion/reclamation plan	General plan of operation required	Yes — prepared by Vermont licensed engineer	Yes — grades, water table, vegetation, timetable
Suppression Methods Specified	General (water spray, haul road, stockpile wetting)	Specific by activity: drilling, crushing, screening, haul roads, stockpiles, wind limits	Fully specified: automated misting, pre/post-haul roads, EPA-certified suppressants, wind monitoring	Machinery must have dust elimination devices; no methods specified	Machinery must have “satisfactory noise and dust control devices”; no specifics	DRB discretion only	None	None	None
Setback / Buffer	None required	25 ft vegetated buffer;	50 ft all sides; 100 ft near schools,	200 ft from any street or property line (no excavation,	100 ft public ROW; 200 ft from dwellings; 100 ft	100 ft from adjoining lot lines	20 ft from property lines	Not specified	100 ft from boundaries

Feature	Option E Tier 1	Option E Tier 2	Option E Tier 3	Morristown §485	Northfield (Pop. 5,920)	Waterbury (Pop. 5,405)	Stowe (Pop. 5,285)	Fairfax (Pop. 5,226)	Jericho (Pop. 5,114)
		native species; residential and road frontages	childcare, water supply; native species	blasting, or stockpiling); 300 ft for machinery	property lines (reducible to 50 ft if no dwelling within 400 ft)				
Blasting Provisions	24 hr notice; 7 am–5 pm weekdays	48 hr notice; 8 am–4 pm; misting at blast zone	72 hr notice; 9 am–3 pm; weather limits; licensed blaster; pre/post misting	Not addressed	Blasting plan required in application; DRB approval before use; hours set by DRB	Hours regulated by DRB condition; no specific blast notice	None	None	None
Monitoring & Recordkeeping	Complaint log; 3-yr retention	Quarterly inspection log; complaint log; 5-yr retention	Monthly inspection; complaint log; annual report to ZA by Mar. 1; 7-yr retention; public access	None specified; DRB may add conditions	None specified in bylaw; permit review every 5 years	None specified; 3-year DRB permit review	None	None	None
Financial Assurance	None	None	Performance bond, escrow, or letter of credit required	Performance bond required before approval; covers site redevelopment as open space	DRB may require bond for rehabilitation	Not specified	Not specified	Not specified	Performance bond required; not released until vegetation established
Site Reclamation Required	None	None	None	Yes — graded smooth; 4" topsoil; seeded; drainage controlled; ZA supervision	Yes — phased removal; progressive revegetation; 5-year DRB review	Yes — topsoil replaced; cover crop; drainage restored; 3-year DRB review	Yes — topsoil replaced; cover crop at conclusion	None specified	Yes — detailed: 1:3 slopes; boulder removal; 4-inch loam; grassed
Enforcement	NOV + cease operations	NOV 48 hrs; cease; fines; revocation referral	1st: NOV + cease; 2nd: 5-day suspension + fine + DRB; 3rd: revocation + bond forfeiture; independent monitor	General bylaw enforcement; DRB conditions; no tiered penalty structure	DRB permit conditions; revocation proceedings	Conditional use revocation through DRB	General bylaw enforcement	General bylaw enforcement	Bond forfeiture upon non-compliance with restoration
Equipment Setbacks	None	None	None	No excavation/blasting/stockpiling within 200 ft of street or property line; no machinery within 300 ft	Crushing machinery not within 100 ft of street or property line; machinery must have dust/noise devices	None specified	None specified	None specified	None specified

Feature	Option E Tier 1	Option E Tier 2	Option E Tier 3	Morristown §485	Northfield (Pop. 5,920)	Waterbury (Pop. 5,405)	Stowe (Pop. 5,285)	Fairfax (Pop. 5,226)	Jericho (Pop. 5,114)
Exemptions Defined	Not explicitly stated	Not explicitly stated	Not explicitly stated	Exempt: incidental to development on same parcel	Exempt: non-commercial agricultural/forestry, public road construction, cemeteries	Exempt: incidental to construction on same lot; agricultural; forestry; public roads	Exempt: surplus from bona fide construction/landscape on premises	Exempt: farm/nursery/cemetery operations to extent necessary	Exempt: agricultural/forestry, public road construction, cemeteries; incidental to building construction

Notes: Hardwick (pop. 2,965) and Hinesburg (pop. 4,718) from the peer compilation fall outside the ±500 population range and are excluded from this table. Column header populations reflect 2024 ACS estimates. “None” indicates the provision is entirely absent from that town’s bylaw.

Tier Applicability — Summary

The applicable tier is determined by the volume of material to be extracted and whether extracted material will be sold or used off-site:

- Tier 1 applies to residential extraction projects generating more than 1,000 and up to 5,000 cubic yards of material.
- Tier 2 applies to residential or commercial extraction projects generating more than 5,000 and up to 10,000 cubic yards, OR any project generating more than 1,000 cubic yards where extracted material will be sold or used off-site.
- Tier 3 applies to any extraction project generating more than 10,000 cubic yards, regardless of whether material is sold or used off-site.

Where a project's characteristics could place it in more than one tier, the more stringent tier shall apply. The Zoning Administrator shall determine the applicable tier at the time of permit application.

Tier 1 — Residential Projects | 1,000 to 5,000 Cubic Yards | No Off-Site Sale

Section __.01 — Purpose (Tier 1)

These regulations apply to residential extraction projects generating more than 1,000 and up to 5,000 cubic yards of material where no extracted material will be sold or used off-site. These regulations are adopted to protect the public health, safety, and welfare of town residents and abutting property owners by minimizing airborne dust, consistent with Vermont Air Pollution Control Regulations VAPCR 5-211 and 5-231(4).

Section __.02 — Applicability (Tier 1)

These provisions apply to residential earth extraction operations meeting the volume thresholds above, including ledge blasting, aggregate crushing, and related activities conducted in connection with residential site preparation. Residential projects with less than 1000 cubic yards of extraction are exempt from these regulations.

Section __.03 — Dust Control Plan (Tier 1)

A. All applicants shall submit a Dust Control Plan as part of their permit application. The Plan shall identify:

- The types and locations of dust-generating activities on the site;
- The dust suppression methods and equipment to be used at each activity area;
- The water source(s) available for dust suppression; and
- The name and contact information of the individual responsible for dust control compliance.

B. The Dust Control Plan shall be kept on-site during all operations and made available to the Zoning Administrator upon request.

Section __.04 — Visible Dust Standard (Tier 1)

No visible dust from any earth extraction operation shall be permitted to cross a property line or reach a public road. This standard is consistent with VAPCR 5-211, which prohibits visible air contaminants.

Reference: Vermont Air Pollution Control Regulation 5-211 — Prohibition of Visible Air Contaminants; VAPCR 5-231(4) — Reasonable precautions to prevent particulate matter from becoming airborne.

Section __.05 — Dust Suppression Measures (Tier 1)

Operators shall implement dust suppression appropriate to site conditions, including but not limited to:

- Water spraying at the active extraction face, drilling areas, and rock processing equipment;
- Water application on internal haul roads at a frequency sufficient to prevent visible dust;
- Wetting or covering of material stockpiles during dry or windy conditions; and
- Minimizing material dropped from heights that would generate airborne dust.

The specific method of suppression is at the operator's discretion provided the visible dust standard in Section __.04 is maintained.

Section __.06 — Blasting Operations (Tier 1)

Prior to any blasting operation, the operator shall notify all abutting landowners and the Zoning Administrator at least twenty-four (24) hours in advance. Blasting shall be conducted only between 7:00 a.m. and 5:00 p.m. on weekdays, unless otherwise approved by the Zoning Administrator.

Section __.07 — Public Roads (Tier 1)

The operator shall take reasonable precautions to prevent dust and mud from being tracked onto public roads. This includes use of a graveled access apron at site exits or other equivalent measures.

Section __.08 — Complaints and Corrective Action (Tier 1)

The operator shall maintain a written log of all dust-related complaints received from the public or town officials, together with a record of corrective actions taken in response. This log shall be retained for a minimum of three (3) years and made available to the Zoning Administrator upon request.

Section __.09 — Enforcement (Tier 1)

Upon a verified violation of the visible dust standard or any provision of this section, the Zoning Administrator shall:

- Issue a written notice requiring immediate corrective action; and/or
- Upon failure to achieve compliance, order the suspension of dust-generating operations until compliance is restored.
- Forfeiture of

Tier 2 — Residential or Commercial Projects | 5,000 to 10,000 CY, or Any Project with Off-Site Sale >1,000 CY

Section __.01 — Purpose (Tier 2)

These regulations apply to residential or commercial extraction projects generating more than 5,000 and up to 10,000 cubic yards of material, or to any project generating more than 1,000 cubic yards where extracted material will be sold or used off-site. These regulations are adopted to protect the public health, safety, and welfare of residents, abutting landowners, and the broader community by establishing enhanced standards for controlling airborne dust. These provisions are consistent with and supplement Vermont Air Pollution Control Regulations VAPCR 5-211 and 5-231(4) and reflect industry best practices for fugitive dust management.

Section __.02 — Applicability (Tier 2)

These provisions apply to all earth extraction operations meeting the Tier 2 thresholds above, including rock quarrying, ledge blasting, aggregate crushing, screening, and related activities requiring a permit under this bylaw.

Section __.03 — Fugitive Dust Control Plan (FDCP) (Tier 2)

A. Prior to the issuance of any earth extraction permit, the applicant shall submit a written Fugitive Dust Control Plan (FDCP) to the Development Review Board (DRB) for review and approval through conditional use review. No operations shall commence until the FDCP is approved. The DRB may retain a qualified environmental consultant at the applicant's expense to review the Plan.

B. The FDCP shall include, at minimum:

- A site map identifying all dust-generating activity areas, access roads, stockpile locations, and property boundaries;
- A description of dust suppression methods and equipment for each activity area, including water sources, application rates, and equipment specifications;
- Identification of sensitive receptors within 1,000 feet of the extraction area (residences, schools, water bodies);
- Wind and weather conditions under which operations must be modified or suspended;
- A complaint response procedure; and
- The name and qualifications of the individual responsible for FDCP implementation.

C. The FDCP shall be kept on-site during all operations and provided to the Zoning Administrator upon request.

Section __.04 — Visible Dust Standard (Tier 2)

A. No visible dust from earth extraction operations shall cross a property line or reach a public road or right-of-way. This standard applies at all times during active operations.

B. Dust suppression measures shall be activated before visible dust is generated, not in response to it. Operators shall not wait for visible dust to appear before applying suppression.

Reference: Vermont Air Pollution Control Regulation 5-211 — Prohibition of Visible Air Contaminants; VAPCR 5-231(4) — Reasonable precautions to prevent particulate matter from becoming airborne.

Section __.05 — Required Dust Suppression Measures (Tier 2)

Operators shall implement the following dust suppression measures at a minimum:

A. Extraction Face and Drilling

- Water injection through drill bits or surface water spraying shall be applied continuously during all drilling operations;
- Water misting or suppression shall be applied at the active extraction face during and after blasting and mechanical excavation.

B. Crushing and Screening Equipment

- Water spray nozzles or misting systems shall be installed and operated at all crushers, screening equipment, and conveyor transfer points;
- Equipment enclosures or shrouds shall be used where feasible to contain dust at the point of generation.

C. Haul Roads

- All internal unpaved haul roads shall be treated with water or an approved dust suppressant at a frequency sufficient to prevent visible dust;
- A maximum vehicle speed of 10 miles per hour shall be posted and enforced on all unpaved internal roads;
- A graveled or paved apron of not less than 50 feet shall be maintained at the public road access point.

D. Stockpile Management

- Stockpiles exceeding 500 cubic yards shall be covered with tarps, treated with a dust-binding agent, or stabilized with surface crusting material;
- Stockpiles shall be set back a minimum of 100 feet from any property line.

E. Wind Conditions

- During sustained wind events exceeding 20 miles per hour, the operator shall increase the frequency of water applications or suspend dust-generating operations until wind conditions subside.

Section __.06 — Blasting Operations (Tier 2)

A. Prior to any blasting operation, the operator shall provide written notification to all abutting landowners and the Zoning Administrator at least forty-eight (48) hours in advance.

B. Blasting shall be permitted only between 8:00 a.m. and 4:00 p.m. on weekdays excluding state and federal holidays.

C. Water misting equipment shall be activated in the blast zone prior to and immediately following each detonation to suppress blast dust.

Section __.07 — Windbreaks and Buffers (Tier 2)

A. A vegetated buffer, earthen berm, or retained natural vegetation of not less than 25 feet in depth shall be maintained along all property lines abutting a residential use, public road, or public right-of-way. The buffer shall be maintained in healthy condition throughout the life of the operation.

B. Once extraction operations have permanently ceased, the property owner may remove the vegetative buffer with prior written approval from the Zoning Administrator. Native vegetation shall be retained and or used.

Section __.08 — Truck Exit Measures (Tier 2)

The operator shall install and maintain a rumble strip, wheel wash station, or equivalent measure at each site exit to prevent mud and dust from being carried onto public roads. Public road access points shall be inspected daily and cleaned as needed.

Section __.09 — Monitoring and Recordkeeping (Tier 2)

A. The operator shall conduct a quarterly self-inspection of all dust control measures and maintain a written inspection log documenting the date of inspection, conditions observed, and any corrective actions taken.

B. A log of all dust-related complaints shall be maintained, together with the operator's response and corrective actions. Logs shall be retained for a minimum of five (5) years and provided to the Zoning Administrator upon request.

Section __.10 — Enforcement (Tier 2)

- A. Upon a verified violation of any provision of this section, the Zoning Administrator shall issue a written notice of violation specifying the nature of the violation and requiring corrective action within forty-eight (48) hours.
- B. Failure to achieve compliance within the time specified may result in:
 - Suspension of earth extraction operations pending correction;
 - Civil fines as provided by this bylaw; and/or
 - Referral to the Development Review Board for permit revocation proceedings.

Tier 3 — Any Project | More than 10,000 Cubic Yards

Section __.01 — Purpose (Tier 3)

These regulations apply to any earth extraction project generating more than 10,000 cubic yards of material, regardless of whether extracted material is sold or used off-site. These regulations establish strict performance standards for the control of airborne dust. The town finds that uncontrolled dust from large-scale rock quarrying and earth extraction poses a direct risk to public health, diminishes quality of life for neighboring residents, and may harm aquatic and terrestrial ecosystems. These provisions are adopted consistent with Vermont Air Pollution Control Regulations VAPCR 5-211 and 5-231(4) and are grounded in current industry best practices for fugitive dust management.

Section __.02 — Applicability (Tier 3)

These provisions apply to all earth extraction operations generating more than 10,000 cubic yards, including rock quarrying, ledge blasting, aggregate crushing, screening, material handling, and related activities requiring a permit under this bylaw.

Section __.03 — Fugitive Dust Control Plan (FDCP) — Required Prior to Approval (Tier 3)

A. No earth extraction permit shall be issued until a Fugitive Dust Control Plan (FDCP) has been reviewed and approved by the Development Review Board (DRB) through conditional use review. The DRB may retain a qualified environmental consultant at the applicant’s expense to review the Plan.

B. The FDCP shall include all of the following:

- A scaled site plan identifying all dust-generating areas, haul roads, stockpile locations, buffers, and sensitive receptors within 1,500 feet;
- A complete inventory of dust-generating activities and equipment with manufacturer specifications;
- A detailed description of suppression methods, water sources, application rates, and equipment at each dust generation point;
- A weather monitoring protocol specifying operational limits for wind speed, temperature, and drought conditions;
- A complaint response and public notification procedure;
- A monitoring and recordkeeping schedule; and
- Emergency shutdown procedures for uncontrolled dust events.

C. The FDCP shall be updated annually and resubmitted to the Zoning Administrator. Material changes to extraction areas or equipment shall require an amended FDCP prior to implementation.

D. The approved FDCP shall be posted on-site in a weatherproof enclosure at the main site access point.

Section __.04 — Zero Visible Dust Standard (Tier 3)

A. No visible dust from any earth extraction operation shall be permitted to become airborne beyond the active work area. For purposes of this section, the active work area is defined as within 50 feet of the equipment or activity generating the dust.

B. Dust suppression measures shall be continuously active during all dust-generating operations. Operations shall be suspended immediately if suppression systems are inoperative.

C. If visible dust is observed reaching the site boundary or public road by any town official or verified complaint, the operator shall immediately suspend the dust-generating operation and shall not resume until corrective measures have been implemented and verified.

Reference: VAPCR 5-211 — Prohibition of Visible Air Contaminants; VAPCR 5-231(4); EPA Fugitive Dust Control Best Practices (2022).

Section __.05 — Required Dust Suppression Measures (Tier 3)

All of the following measures are required. Operators may not substitute or omit measures without prior written approval from the Zoning Administrator.

A. Extraction Face, Drilling, and Blasting

- Water injection through drill bits shall be used continuously during all drilling operations;
- Automated water misting or atomized mist cannon systems shall be deployed at the active extraction face during all mechanical excavation;
- Pre-blast misting shall be activated for a minimum of 10 minutes before detonation; post-blast misting shall continue for a minimum of 15 minutes following detonation.

B. Crushing, Screening, and Processing Equipment

- All crushers, screening equipment, and conveyor transfer points shall be equipped with integrated water spray or atomized misting systems operated continuously during processing;
- Equipment enclosures with dust-tight seals shall be installed on all screening equipment;
- Operators shall consider local exhaust ventilation (LEV) systems at primary crushing stations where feasible.

C. Haul Roads and Vehicle Traffic

- All internal haul roads shall be paved, treated with calcium chloride, or treated with a polymer-based dust suppressant certified by the U.S. EPA;
- A maximum vehicle speed of 10 miles per hour shall be posted and enforced on all unpaved internal roads;
- A wheel wash station shall be installed and maintained at each public road access point. All vehicles shall pass through the wheel wash before exiting the site;
- Public road access points shall be swept or washed at the end of each operating day.

D. Stockpile Management

- All material stockpiles shall be covered with tarps or treated with an EPA-certified dust-binding or crusting agent within 24 hours of formation;
- Stockpiles shall be set back a minimum of 150 feet from all property lines;
- Active stockpile loading and unloading shall be conducted with misting systems in operation.

E. Weather and Wind Conditions

- Operations shall be suspended when sustained wind speeds exceed 15 miles per hour at the site, unless automated misting systems can demonstrably prevent off-site dust migration;
- A wind monitoring instrument shall be maintained at the site and readings logged during all operational hours.

Section __.06 — Blasting Operations (Tier 3)

A. The operator shall provide written notification to all abutting landowners and the Zoning Administrator at least seventy-two (72) hours prior to any blasting operation.

B. Blasting is permitted only between 9:00 a.m. and 3:00 p.m. on weekdays, excluding state and federal holidays. No blasting shall occur when wind speed exceeds 15 mph or during temperature inversions that may concentrate dust at ground level.

C. Pre-blast water misting shall be activated a minimum of 10 minutes before detonation. Post-blast suppression shall be maintained for a minimum of 15 minutes following each detonation.

D. Blast design shall be documented by a licensed blaster and retained in the site file for inspection.

Section __.07 — Buffers and Windbreaks (Tier 3)

A. A vegetated buffer, earthen berm, or retained natural vegetation of not less than 50 feet in depth shall be maintained along all property lines.

B. Where the extraction site abuts a residential use, school, childcare facility, or public water supply watershed, the buffer depth shall be increased to not less than 100 feet.

C. Vegetated buffers shall consist of native tree and shrub species of sufficient density to function as a wind barrier. Buffer plantings shall be replaced within one (1) growing season if they die or are removed.

Section __.08 — Monitoring, Recordkeeping, and Reporting (Tier 3)

A. The operator shall conduct a monthly visual inspection of all dust control measures. Inspection results shall be recorded on a standardized form approved by the Zoning Administrator, documenting conditions, suppression system status, and any corrective actions.

B. A dust complaint log shall be maintained and shall include the date and time of complaint, nature of complaint, weather conditions at time of complaint, and the operator's response and corrective actions.

C. The operator shall submit an Annual Dust Control Report to the Zoning Administrator by March 1 of each year summarizing: operations conducted in the prior year, dust suppression measures used, complaints received and resolved, and any changes proposed to the FDCP.

D. All records shall be retained for a minimum of seven (7) years and shall be open to public inspection upon request.

Section __.09 — Financial Assurance (Tier 3)

As a condition of permit issuance, the operator shall provide a performance bond, escrow account, or irrevocable letter of credit in an amount determined by the DRB to be sufficient to cover the cost of remediating off-site dust impacts and restoring any affected buffers or vegetated areas.

Section __.10 — Enforcement and Penalties (Tier 3)

A. Upon a first verified violation, the Zoning Administrator shall issue a written notice of violation and order immediate corrective action. Operations shall be suspended until compliance is demonstrated.

B. A second violation within any twelve (12) month period shall result in:

- Mandatory suspension of operations for a minimum of five (5) business days;
- A civil penalty as set forth in this bylaw; and
- Automatic referral to the DRB for a permit compliance hearing.

C. A third or subsequent violation shall be grounds for permit revocation and forfeiture of any performance bond.

D. The town may engage an independent air quality monitor at the operator’s expense following a second or subsequent violation to assess ongoing compliance.

Regulatory References

Reference	Description
VAPCR 5-211	Vermont Air Pollution Control Regulation — Prohibition of Visible Air Contaminants.
VAPCR 5-231(4)	Vermont Air Pollution Control Regulation — Requires all reasonable precautions to prevent particulate matter from becoming airborne at quarries and gravel pits.
Vermont DEC Air Quality	Vermont Department of Environmental Conservation, Air Quality & Climate Division. dec.vermont.gov
EPA Fugitive Dust Control Best Practices (2022)	U.S. EPA guidance on fugitive dust control plan elements, hierarchy of control methods, and monitoring. epa.gov
40 CFR Part 60 Subpart OOO	Federal air regulation for nonmetallic mineral processing operations.
MSHA (30 CFR Part 56)	Mine Safety and Health Administration standards for surface metal and nonmetal mines.
Vermont Planning Act (24 V.S.A. §4414)	Grants municipalities authority to regulate uses of land and structures, including performance standards for operations generating dust.
Morristown/Morrisville Zoning and Subdivision Bylaws (2023) §485	Current bylaw provision governing Extraction of Earth Resources via the Special Industry Use.

Definitions

The following definitions apply to Option E and should be incorporated into the bylaw’s definitions section:

Earth Extraction Operation:	Any activity involving the removal, excavation, quarrying, blasting, crushing, screening, or stockpiling of rock, ledge, soil, gravel, or other earth material.
Fugitive Dust:	Particulate matter that becomes airborne from earth extraction operations and is not emitted through a stack or duct. Includes dust from drilling, blasting, crushing, vehicle traffic, stockpiles, and wind erosion.
Active Work Area:	The immediate area within which extraction equipment is operating at any given time, typically defined as within 50 feet of the operating equipment.

Sensitive Receptor:	A residence, school, childcare facility, hospital, public water supply intake, or other location where dust exposure poses an elevated risk to human health or the environment.
Dust Control Plan / FDCP:	A written plan describing all dust-generating activities and the measures to be taken to prevent, reduce, and monitor airborne dust emissions from the site.
Visible Dust:	Any emission of particulate matter that is detectable to the unaided human eye under normal daylight conditions.
Off-Site Sale or Use (Option E):	The transfer, sale, conveyance, or delivery of extracted earth material to any party other than the landowner of the extraction site, or the use of extracted material at a location other than the extraction site.
Residential Extraction Project (Option E):	An earth extraction operation conducted in connection with residential site preparation where extracted material is not sold or conveyed off-site.
Commercial Extraction Operation (Option E):	Any earth extraction activity conducted for commercial purposes, including quarrying or aggregate production, or extraction of material primarily for sale, exchange, or off-site use.

Peer Municipality Earth Extraction Bylaw References

The following provides direct links to the earth extraction sections of the zoning regulations for the five peer Vermont municipalities reviewed in Table 2. All five towns fall within ± 500 population points of Morristown (2024 ACS estimate: 5,722). Population figures reflect 2024 American Community Survey estimates.

These links were verified as of April 2026. Municipal bylaw documents are periodically updated; contact the relevant town's planning department to confirm the most current version is in effect.

Northfield | Pop. 5,920 (2024 ACS) | Washington County

Current Regulations:	Northfield Zoning Regulations
Date Adopted:	2024 (most recent update)
Relevant Section:	Section 5.10 — Sand and Gravel Extraction
Key Provisions:	Section 5.10 covers sand pits, gravel pits, and removal of topsoil. Any new or expanded commercial operation is subject to the standards and conditions in this section. Key provisions include: required submission of study plans, contours, water supply mapping within 5,000 feet, blasting plans, and equipment locations; phased removal to limit exposed earth; fencing of steep slopes; DRB-prescribed operating hours and haul routes; machinery equipped with satisfactory dust and noise control devices; erosion control consistent with Vermont DEC; site rehabilitation plan with final contours; DRB permit review every 5 years.
Note:	The 2024 zoning regulations are available on the town's official website and through the Vermont ACCD bylaws portal. The earth extraction section is Section 5.10.

Zoning Regulations (PDF):	https://www.northfield-vt.gov/_files/ugd/13fb68_5b2984d25a9a45f4b616b9940381110e.pdf
Northfield Zoning Department:	https://www.northfield-vt.gov/zoning

Waterbury | Pop. 5,405 (2024 ACS) | Washington County

Current Regulations:	Waterbury Zoning Regulations
Date Adopted:	2023 (current); Phase 1 amendment 2024

Relevant Section:	Section 303 — Conditional Uses; Earth extraction definition (SOIL/SAND/GRAVEL/MINERAL EXTRACTION)
Key Provisions:	Waterbury defines earth extraction as removal of sod, loam, sand, gravel, clay, or quarried stone not incidental to construction. Extraction of more than 1,000 cubic yards transported off-site triggers conditional use review. The Board may require dust, fume, gas, smoke, odor, noise, and vibration control devices as permit conditions. Permits are subject to DRB review every three years. Topsoil replacement and cover crop required at conclusion of operations. Abutters must be notified by certified mail.
Note:	The current (2023) Waterbury Zoning Regulations are the primary reference for the earth extraction provisions reviewed. A Phase 1 Downtown area amendment was adopted in 2024 but does not affect the earth extraction section.

Zoning Regulations (PDF):	https://www.waterburyvt.com/fileadmin/files/Zoning_Planning/Waterbury_ZR_Searchable.pdf
Waterbury Planning & Zoning:	https://www.waterburyvt.com/departments/zoning

Stowe | Pop. 5,285 (2024 ACS) | Lamoille County

Current Regulations:	Town of Stowe Zoning Regulations
Date Adopted:	Adopted January 10, 2024 (most current)
Relevant Section:	Section 4.14 — Removal of Earth Products; Earth Resources section
Key Provisions:	Stowe permits surplus material removal from bona fide construction without a permit. DRB may grant a permit for removal or processing of earth, sand, gravel, clay, stone, or minerals subject to: a plan of the proposed operation; proper drainage during and after completion; a 20-foot setback from property lines; topsoil replacement and cover crop at conclusion; and a Vermont DEC permit for any work in streambeds. A separate Earth Resources section allows extraction permits if demonstrated not to harm the environment, upon approval of a site rehabilitation plan.
Note:	Stowe is Morristown's immediate neighbor in Lamoille County. The January 2024 regulations are the most current version. The earth extraction section is relatively minimal compared to other peer towns.

Zoning Regulations (PDF):	https://www.stowevt.gov/files/assets/town/v/1/planningzoning/documents/stowe_zoning_2024_with_clerks_certificate.pdf
Stowe Planning & Zoning:	https://www.stowevt.gov/Departments/Planning-Zoning

Fairfax | Pop. 5,226 (2024 ACS) | Franklin County

Current Regulations:	Fairfax Development Regulations
Date Adopted:	Adopted May 20, 2024; Effective June 10, 2024
Relevant Section:	Section 4.04 — Earth Resource Extraction
Key Provisions:	Fairfax limits commercial earth resource extraction to the Rural District only (prohibited in all other districts). Applications must be prepared by a Vermont licensed engineer and include: depth of excavation; existing and proposed grades; proximity to roads and adjacent properties; average monthly and annual extraction volumes; hours of operation and seasons of use; and expected duration of operation. Extraction includes commercial extraction of minerals (solids, liquids, gases) and preparation activities such as crushing and washing. Farm, nursery, and cemetery operations are exempt.

Note:	The 2024 Fairfax Development Regulations are the most current version. Section 4.04 is the earth extraction provision. Fairfax is notable for requiring applications be prepared by a Vermont licensed engineer.
--------------	--

Zoning Regulations (PDF):	https://cms2.revize.com/revize/fairfax/Documents/Ordinances%20&%20Regulations/Ordinances/Fairfax%20Development%20Regs_2024.pdf
Fairfax Planning & Zoning:	https://fairfax-vt.gov/departments/planning___zoning/index.php

Jericho | Pop. 5,114 (2024 ACS) | Chittenden County

Current Regulations:	Jericho Land Use and Development Regulations
Date Adopted:	Adopted January 20, 2022; Effective February 10, 2022
Relevant Section:	Section 4.7.18 — Earth Resource Extraction
Key Provisions:	Jericho has the lowest permit trigger of any peer town: removal of more than 16 cubic yards in any 12-month period (except incidental to building construction on the same lot) requires conditional use approval. Required submission materials include: names and addresses of all abutters; existing and proposed grades; cover vegetation plans; depth to water table; and a timetable for completion. Approval criteria include: safe drainage; prevention of wind and water erosion to neighboring properties; 100-foot soil disturbance setback from boundaries; water table protection (minimum 1 foot undisturbed material above seasonal high water); and a detailed restoration plan (slopes ≤1:3, boulder removal, 4-inch loam cover, grassed to prevent erosion). A performance bond is required and not released until vegetation is established. The DRB may impose conditions on permit duration, hours, transportation routes, and amount or type of material moved.
Note:	The 2022 Land Use and Development Regulations are the current version. Section 4.7.18 is the earth extraction provision. Jericho’s 16 cy trigger is far lower than any other peer town and reflects Chittenden County’s denser development context.

Zoning Regulations (PDF):	https://www.jerichovt.org/304/Land-Use-Development-Zoning-Regulations
Jericho Planning Commission:	https://jerichovt.org/planning-commission

Tier-Specific Definitions

The following definitions apply to this option and shall be incorporated into the bylaw’s definitions section:

Residential Extraction Project:	An earth extraction operation conducted in connection with residential site preparation, including but not limited to construction of a dwelling, driveway, accessory structure, or on-site utility installation, where extracted material is not sold or conveyed off-site.
Commercial Extraction Operation:	Any earth extraction activity conducted for commercial purposes, including quarrying, aggregate production, or the extraction of material primarily for sale, exchange, or off-site use by a party other than the landowner.
Off-Site Sale or Use:	The transfer, sale, conveyance, or delivery of extracted earth material to any party other than the landowner of the extraction site, or the use of extracted material at a location other than the extraction site.

Morrisville/Morristown

Act 250 Permit #5L0059-4

Summary Report and Communications Timeline

Condition #13 — Sewer Service Market Area Growth Controls & Conservation Subdivision Compliance

Prepared: April 2026

1. Background and Context

This report summarises a multi-year regulatory proceeding involving the Village of Morrisville's municipal wastewater treatment facility upgrade and the conditions attached to its Act 250 land-use permit. The central issue is Condition #13 of Permit #5L0059-4, which imposed ongoing District Commission oversight of new sewer connections as a growth-management tool, and the Village's sustained effort to demonstrate that local zoning bylaw reforms have made that condition unnecessary.

1.1 The Act 250 Permit — #5L0059-4

On January 22, 2008, the Village of Morrisville filed an Act 250 application to upgrade its municipal wastewater treatment facility on South River Street in Morristown. The project involved:

- Conversion from extended aeration to a sequential batch reactor treatment system
- Replacement of gas chlorine disinfection with an ultraviolet system
- Construction of 6 new structures adjacent to the existing plant
- Hydraulic capacity increase of 125,000 gpd, raising total capacity to 550,000 gpd
- No corresponding increase in permitted pollutant loading

The District 5 Environmental Commission held a public hearing on March 5, 2008, completed deliberations on April 14, 2008, and issued Land Use Permit #5L0059-4 on April 25, 2008.

1.2 Condition #13 — What It Required

Condition #13 required that all new connections to the Village treatment system within the Sewer Service Market Area (SSMA) be submitted to the District Commission as permit modifications. The condition was motivated by two Act 250 findings:

- **Criterion 9(A) — Impact of Growth:** The Town's 10-year growth rate of 7.1% (versus the Village's near-zero rate) signalled that expanded sewer infrastructure could accelerate sprawl and greenfield development outside the Village core.
- **Criterion 9(B) — Primary Agricultural Soils:** Approximately 1,519 acres of potentially qualifying primary agricultural soils existed within the SSMA. Expanded sewer service could enable their incremental conversion without independent Act 250 review.

The permit stated that Condition #13 *'will be dissolved upon adoption of suitably enhanced zoning and subdivision bylaws that will address issues identified under the conclusions for criteria 9(A) and 9(B).'*' This dissolution clause drove all subsequent communications.

1.3 The Sewer Service Market Area (SSMA)

The SSMA encompasses approximately 2,500 acres, of which about 1,000 acres were served by existing sewer lines at permit issuance. Most of the SSMA is contiguous to the Village; two segments north of Vermont Route 15 are non-contiguous. The SSMA boundary was amended in 2011 to add the Sugarwoods Parcel and Demars Road subdivision areas.

2. Key Regulatory Issues

2.1 Criterion 9(A) — Growth Impact

The District Commission was concerned that the expanded sewer plant would primarily serve growth in the Town rather than the Village. The Village's primary response was the **May 2011 downtown (CB/§205) zoning update**, which made residential use permitted-as-of-right at significantly higher densities. The theoretical maximum buildout rose from 93 existing units to a potential 1,082 dwelling units in the CB district.

2.2 Criterion 9(B) — Primary Agricultural Soils

The 2006 legislative revision to Criterion 9(B) strengthened the standard to 'will not result in any reduction in the agricultural potential.' This required an equally absolute local protection regime. The Village's response evolved through multiple rounds of Commission feedback, ultimately producing a revised Conservation Subdivision bylaw (§510) that:

- Mandates permanent preservation of all prime and statewide-importance agricultural soils in dedicated open space
- Requires prime ag areas to be clearly depicted on all subdivision plans
- Restricts uses within prime ag areas to agriculture and forestry only
- Prohibits all structures and wastewater facilities on prime ag soils
- Lowers the mandatory Conservation Subdivision review threshold from 4 to 2 new parcels

2.3 Conservation Subdivision Bylaw (§510) — Evolution

The December 7, 2016 Commission letter identified specific bylaw deficiencies, and the January 30, 2017 response addressed each:

- **§510(1)(a)**: 'encourage' deleted — protection made mandatory
- **§510(2)(b)**: 'all' added before 'agricultural soils listed as Prime or Statewide'
- **§510(6)(e),(f),(j),(n)**: Recreation, structures, and trails explicitly prohibited within the prime ag area

3. Key Parties and Their Roles

Party	Representative	Role
Village of Morrisville / Morrisville Water & Light	Craig Myotte, Manager	Permit applicant and holder; primary party seeking Condition #13 dissolution; sewer system operator
Town of Morristown	Selectboard; Todd Thomas (ZA/Planner)	Co-signatory to bylaw changes; zoning authority outside Village boundary; coordinated all bylaw amendments
Morrisville/Morristown Planning Commission / Council	Paul Griswold (2017); Bill Henchey (2011)	Legislative body for zoning bylaw amendments; co-signatory to dissolution request
District 5 Environmental Commission (NRB)	Karl H. Johnson (2008); Susan Baird (2016)	Regulatory body that issued Permit #5L0059-4; retains jurisdiction over Condition #13
Lamoille County Planning Commission	Bill Rossmassler III	Regional planning body; party to original hearing; raised growth impact and sewer ordinance concerns
Conservation Commission (Morristown)	Steve Rae	Advisory body; input on prime ag zoning bylaw; flagged Airport Business District prime ag gap

4. Communications Timeline

All identifiable communications and documents in chronological order.

Date	Party / Author	Document / Communication	Significance
Jan. 22, 2008	Village of Morrisville	Act 250 permit application filed (5L0059-4)	Triggers full Act 250 review; plant to expand capacity by 125,000 gpd
Mar. 5, 2008	District 5 Env. Commission	Public hearing convened	Evidence received on Criteria 1(B), 1(D), 1(F), 9(A), 9(B), 9(H), and 10
Apr. 14, 2008	District 5 Env. Commission	Deliberations completed	Findings of Fact finalised; Order prepared

Date	Party / Author	Document / Communication	Significance
Apr. 25, 2008	District 5 Env. Commission	Permit #5L0059-4 issued with Condition #13	Condition #13 requires all new SSMA sewer connections as permit modifications; dissolves upon adoption of enhanced zoning bylaws addressing Criteria 9(A) & 9(B)
Sept. 1–2, 2010	Bill Rossmassler (LCPC)	Email chain: Act 250 letter forwarded to Planning Commission	LCPC flags concerns with sewer ordinance language and District Commission implications
May 2, 2011	Town / Village	Downtown CB zoning update adopted	Residential made as-of-right in CB district; buildout raised to potential 1,082 units; addresses Criterion 9(A)
Jun. 7, 2011	Planning Commission	Meeting: Prime ag soil bylaw discussion	Vote 4-0 to strike unlawful fee-waiver from prime ag bylaw; include in next zoning update
Jun. 21, 2011	Planning Commission	Meeting: Village boundary letter & prime ag zoning	Discussion of prime ag bylaw and Sugarwoods parcel boundary issues
Jun. 28, 2011	Todd Thomas (ZA/Planner)	Email: Selectboard/Trustee joint meeting recap & July schedule	Confirms joint legislative approval process; schedules Trustee meeting to address SSMA review
Jul. 5, 2011	Steve Rae (Conservation Commission)	Memo: Prime Ag Zoning recommendation	Conservation Commission recommends prime ag zoning; flags Airport Business District gap
Jul. 11, 2011	Craig Myotte (MW&L;)	Letter to Ed Stanak: First request to remove Condition #13	First formal dissolution request; cites downtown zoning and prime ag bylaw as satisfying Criteria 9(A) & 9(B)
Jul. 11, 2011	Todd Thomas (ZA/Planner)	Email: Act 250 letter forwarded to Planning Commission	Solicits co-signatures from Selectboard, Village Trustees, and Planning Commission chairs
Aug. 3, 2011	William Henchey (PC Chair)	Letter to landowners: Public hearing notice for SSMA expansion	Notice of hearing on expansion of SSMA to include Sugarwoods Parcel and Demars Road
Aug. 9, 2011	Planning Commission	Public hearing: SSMA expansion & §346.4 waiver repeal	Formal hearing; Planning Commission Reporting Form submitted for bylaw amendments
Jun. 10, 2016	District 5 Env. Commission	Review letter issued to Morristown	Initiates formal review of Condition #13 compliance; raises specific bylaw language questions
Aug. 29, 2016	Village / Town	Submittals in response to Jun. 10 review letter	Village provides bylaw change documentation; Commission holds deliberative session
Dec. 7, 2016	District 5 Env. Commission	Response letter to Todd Thomas (ZA)	Acknowledges ANR Atlas maps match NRCS maps; raises specific §510 concerns: 'encourage' vs. mandatory; requests clarification on subsections (e),(f),(j),(n) re prime ag soils
Jan. 17, 2017	Planning Council	Meeting: Discussion of MW&L; Act 250 permit relief letter	Approval of Act 250 relief letter listed as agenda item #1
Jan. 30, 2017	Myotte / Trustees / Selectboard / Planning Council	Letter to District Commission with revised §510 bylaw	Addresses all Commission concerns: 'encourage' deleted; 'all' added to §510(2)(b); structures/trails prohibited on prime ag area; major subdivision threshold lowered 4→2 lots
Feb. 7, 2017	Planning Council	Planning Council meeting: approve relief letter	Formal approval of Jan. 30 letter to District Commission
Mar. 21, 2026	Kaaren Meyer (fwd. John Meyer)	Emails forwarded to Tyler Machia: 2010–2011 Act 250 history	Archival forwarding of Condition #13 history emails — suggests matter still actively referenced in 2026

5. Current Status and Outstanding Issues

As of the documents included in this file:

- The Village submitted a comprehensive response via the January 30, 2017 letter with a revised §510 bylaw.
- The Village, Selectboard, and Planning Council expressed confidence the revised bylaw fully satisfies Criteria 9(A) and 9(B), and formally requested dissolution of Condition #13.
- No formal Commission response to the January 30, 2017 submission is included in this document package. It is unclear whether the Commission has issued a final dissolution order.

- The March 2026 email forwards suggest the matter may still be actively referenced in current municipal planning discussions.

5.1 Key Unresolved Questions

- Has the District 5 Commission formally accepted the January 30, 2017 bylaw revisions and dissolved Condition #13?
- Has the revised Conservation Subdivision bylaw (§510) been formally adopted through the required public hearing process?
- Has the Airport Business District (ABD) prime ag soil gap flagged by the Conservation Commission been separately addressed?
- Have amendment applications been filed for sewer line extensions made during the 2008–present interim period under Condition #13?

This summary is based solely on documents contained in the provided PDF file and does not constitute legal advice.

**STATE OF VERMONT
NATURAL RESOURCES BOARD
DISTRICT ENVIRONMENTAL COMMISSION #5**

RE: Village of Morrisville
PO Box 460
Morrisville Vermont 05661

Application #5L0059-4
**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
AND ORDER**
10 V.S.A., §§ 6001 - 6093

I. INTRODUCTION

On January 22, 2008, the Village of Morrisville filed an application for an Act 250 permit for a project generally described as construction of improvements to upgrade the municipal wastewater treatment facility and to increase its capacity by 125,000 gallons per day. The project site is located on South River Street in the Town of Morristown. The tract of land consists of 5.6 acres with 5.6 acres involved in the project area. The applicant's legal interest is ownership in fee simple described in a deed recorded in the land records of the Town of Morristown, Vermont.

II. JURISDICTION

Jurisdiction attaches to this project pursuant to the provisions of Natural Resources Board Rule 2(C)(6).

III. PARTY STATUS

A. Party Status Determinations

Parties to this application who attended the hearing are:

1. The Applicant by Craig Myotte, Joe Duncan, Jim Fontaine and others
2. The Town of Morristown Planning Commission by Bill Henchey, Lauren Traister, Richard Dudd and John Meyer
3. The Lamoille Regional Planning Commission by Bill Rossmassler

The following persons were admitted as provisional parties, as indicated, pursuant to 10 V.S.A. §6085(c)(1)(E):

4. Leon Whitcomb under criterion 1(B)
5. Dana Wildes under criterion 1(B)

B. Final Party Status Determinations

Pursuant to 10 V.S.A. §6085(c)(6) and Board Rule 14(I), the District Commission made preliminary determinations concerning party status at the commencement of the

hearing on this application. Prior to the completion of deliberations, the District Commission re-examined the preliminary party status determinations and found that the admitted parties did not qualify under the relevant criteria as stated and therefore party status is denied for Leon Whitcomb and Dana Wildes.

IV. PROCEDURAL HISTORY

After being filed on January 22, 2008, the application was found administratively incomplete under Natural Resources Board Rule 10(D), as discussed in a memorandum dated January 29, 2008 from the District Coordinator. The applicant then filed supplemental submittals on February 11, 2008 (Exhibits 16-25) and the District Commission circulated notice of a hearing on February 15, 2008. The hearing was convened on March 5, 2008. A status of review memorandum was issued on March 12, 2008 summarizing outstanding issues identified at the hearing. The applicant filed final submittals on March 31, 2008 (Exhibits 30-33). The Commission completed deliberations on April 14, 2008.

VI. FINDINGS OF FACT

Under Act 250, projects are reviewed based on the 10 criteria of 10 V.S.A., Section 6086(a) (1)-(10). Before granting a permit, the District Commission must find that the project complies with these criteria and is not detrimental to the public health, safety or general welfare.

Decisions must be stated in the form of Findings of Fact and Conclusions of Law. The facts we have relied upon are contained in the documents on file identified as Exhibits 1 through 33, and the evidence received at the hearing.

WAIVING ISSUANCE OF WRITTEN FINDINGS:

Prior to taking evidence with regard to the ten Criteria of 10 V.S.A., Section 6086(a), the Commission and all parties agreed that the applicant through submission of the application material has met the burden of proof with respect to the following criteria:

- | | |
|---------------------------------------|---------------------------------------|
| 1 - Air Pollution | 8 - Aesthetics |
| 1(A) - Headwaters | 8(a) - Wildlife |
| 1(C) - Water Conservation | 9(C) - Forest and Secondary Ag. Soils |
| 1(E) - Streams | 9(D) - Earth Resources |
| 1(G) - Wetlands | 9(E) - Extraction of Earth Resources |
| 2 - Water Supply | 9(F) - Energy Conservation |
| 3 - Impact on Existing Water Supplies | 9(G) - Private Utilities |
| 4 - Erosion | 9(J) - Public Utilities |
| 5 - Transportation Services | 9(K) - Public Investments |
| 6 - Educational Services | 9(L) - Rural Growth Areas |
| 7 - Municipal Services | |

Therefore, the application shall serve as the Findings of Fact on these criteria.

The following written Findings of Fact pertain to Criteria 1(B), 1(D), 1(F), 9(A), 9(B), 9(H) and 10.

In making the following findings, the Commission has summarized the statutory language of the 10 criteria of 10 V.S.A., Section 6086(a):

GENERAL FINDINGS

1. Land Use Permit 5L0059 was issued in 1974 and authorized the construction and operation of a municipal wastewater treatment facility, using an extended aeration treatment system, with a capacity of 425,000 gpd. The project also included an associated sewer collection system.
2. The existing treatment facility has an uncommitted reserve capacity of 23,500 gpd. Facility flows in 2006 averaged 391,000 gpd, or 91% of the permitted plant capacity. (Exhibit 16)
3. Mechanical failures at the facility due to aging equipment necessitate an upgrade of the facility. The upgrade will include conversion to a sequential batch reactor treatment system. The disinfection system at the plant will be converted from gas chlorine to an ultraviolet system. (Exhibit 2)
4. The plant upgrade will result in additional plant hydraulic capacity of 125,000 gpd. This increase will not result in any corresponding increases in the facility's permitted pollutant loading (ie biochemical oxygen demand, total suspended solids and phosphorous) (Exhibits 2 and 14)
5. The plant upgrade will involve the construction of 6 new structures adjacent to the existing buildings. Access to the site will be by means of reconstructed South River Street. Project layout is shown on Exhibit 13.
6. Commencement of construction is anticipated during the summer of 2008 and will extend over an 18 month period. (Exhibit 1)

SECTION 6086 (a)(1)(B) WASTE DISPOSAL:

7. The treatment facility will continue use of its existing discharge point into the Lamoille River. (Exhibits 2, 13 and 16)
8. There are no stormwater impaired watersheds in the Lamoille River basin and no segments included on the biennial EPA 303d list. (Exhibit 6)
9. The Department of Environmental Conservation has issued amended Discharge Permit 3-1155 acknowledging the change in treatment technology and the hydraulic increase. The Department's permit establishes a waste management zone extending from the plant's outfall on the Lamoille River for 0.7 miles

downstream. The Department's permit has an expiration date of September 30, 2008. (Exhibit 16)

10. Pursuant to Natural Resources Board Rule 19, the District Commission accepts the Department's amended Discharge Permit as presumption of compliance under criterion 1(B).
11. A Stormwater Discharge Permit is not required for the project. (Exhibit 2)

Therefore, the Commission concludes that this project will meet applicable Department of Environmental Conservation Regulations and will not result in the injection of waste materials or harmful or toxic substances into groundwater or wells.

SECTION 6086(a)(1)(D) FLOODWAYS:

12. The 100 year flood elevation on the project site is 591.5'. All new structures at the site will have finished floor elevations greater than 591.5'. (Exhibit)
13. In response to inquiry from the Department of Environmental Conservation (Exhibit 26), the applicant provided supplemental details to verify the floodway boundary on the site. (Exhibits 27 and 29)

The Commission concludes that this project will be located in a floodway. However, the Commission concludes that the project will not restrict or divert the flow of flood waters nor significantly increase the peak discharge of a river or stream.

SECTION 6086(a)(1)(F) SHORELINES:

14. The project site is located adjacent to the shoreline of the Lamoille River. (Exhibits 13 and 16)
15. The applicant proposes no construction on the shoreline. Clearing limits for the project will range from 25' to 90' from the edge of the shoreline. (Exhibits 13, 16 and 27)

Therefore, the Commission concludes that the shoreline associated with the project will be maintained in its natural condition, that the project will allow continued access to the shoreline, that the project will retain or provide vegetation which will screen the project from the waters, and that the bank will be stabilized from erosion, as necessary, with vegetation cover.

SECTION 6086(a)(9)(A) IMPACT OF GROWTH:

16. As found above in the General Findings, the existing treatment plant has an uncommitted reserve capacity of 23,500 gpd. The proposed plant expansion will provide 125,000 gpd of additional capacity. (Exhibit 16)*
17. Current flows to the treatment facility are by means of an existing sewer collection system. This system is depicted on Figure A of Exhibit 22. Most of the sewer system is located within the limits of the Village of Morrisville. Line extensions reach to a commercial area in the Town north of the Village along the Vermont Route 100/Brooklyn Street corridor.
18. The expanded capacity of the treatment plant will allow service to be provided to additional areas of the Town. These areas have been defined as the "Sewer Service Market Area" (SSMA). During the District Commission proceedings, revisions to the SSMA were proposed and a future "Town Sewer Service Area" was discussed. (See Exhibit 31) The applicant's final position was that the originally proposed SSMA, as depicted on Exhibit 11 ("Exhibit E" in the applicant's prefiled submittals) is the material and controlling service area for purposes of review of this application. (Exhibit 30)
19. The proposed SSMA encompasses approximately 2,500 acres, of which some 1,000 acres is covered with existing sewer lines. (Exhibit 16) The total "developed area" within the SSMA is 1,400 acres. The applicant did not provide a definition for its use of the term "developed". (Exhibit 22)
20. The SSMA, as depicted on Exhibit 11, shows that most of the SSMA is contiguous to the limits of the Village of Morrisville. Two segments of the SSMA north of Vermont Route 15 are not contiguous to the Village.
21. The existing zoning districts are shown overlaid on the proposed SSMA on Exhibit 32. (See Exhibit 30)
22. Several pre-existing residential, commercial and industrial developments currently served by on-site wastewater systems have been included in the proposed SSMA and will be able to connect to the municipal sewer system as an environmentally favorable wastewater treatment alternative. (Exhibit 16)
23. The plan for the Town of Morristown, adopted on March 13, 2008, states with respect to the SSMA:

The Village service area for the wastewater treatment plant corresponds to the Village boundaries, and all development is required to connect to the system if they are within 200 feet of a sewer main. Town and Village

* The current application is for an upgrade from a 425,000 gpd extended aeration plant to a 550,000 gpd sequential batch reactor (Exhibit 1). The applicant has an objective to further increase plant capacity to 650,000 gpd (See Exhibit 33 at page 23)

officials approved a Sewer Service Market Area that comprises the 2006 TSSA and Study Area as depicted on the Utilities and Facilities Map included in the map section of the Town Plan. Town and Village officials plan to further refine the Sewer Service Market Area following adoption of the Town Plan. This work will be done in conjunction with zoning revisions that result from the Town Plan. A draft schedule has been developed to complete this work before the new facilities are completed. (Exhibit 33 at page 24)

24. The draft schedule for the proposed zoning bylaw revisions is an attachment to Exhibit 30. The schedule outlines a process between April 1 and October 21 intended to change district boundaries, review allowable uses and related topics
25. The municipal decision making bodies acknowledge a need to develop zoning that will allow for compact, mixed-use, high-density development and that encourages the traditional center pattern within the SSMA. The proposed SSMA includes approximately 8% of the Town's land mass. (Exhibit 16)
26. The municipal decision making bodies acknowledge that the SSMA may need to be modified to match revised zoning bylaws and, if so, an amendment application will be filed with the District Commission to reflect the revised SSMA. (Exhibit 16)
27. The proposed treatment plant upgrade is intended to encourage growth within a concentrated area through in-fill development, such as conversion of single family units to multi-family units and the construction of new units in the mixed use zoning districts, as well as increases in business, commercial and light industrial uses. (Exhibit 16)
28. The last decade has shown a slow rate of growth in the Village of Morrisville. The Village population of 2,009 in 2009 is an increase of only 25 persons, or 1.2% since 1990. By comparison, the Town of Morristown's 10 year growth rate was 7.1%. (Exhibit 16)
29. Historically, the Town's population growth has been absorbed outside the Village and in the rural residential areas. While this trend is expected to continue, the newly adopted Town plan includes policies and recommendations to direct concentrated growth to the Village/Town core (See findings below under criterion 10).
30. Connections to the municipal sewer system will only be allowed for users located within the SSMA. (Exhibit 16)

CONCLUSIONS

Under criterion 9(A), District Commissions are required to consider "the growth in population experienced by the town and region and whether or not the proposed

development would significantly affect their existing and potential financial capacity to reasonably accommodate both the total growth and the rate of growth otherwise expected for the town and region and the total growth and rate of growth which would result from the development if approved". Applicants have the responsibility of meeting the evidentiary burden of production under this criterion.

As found above in finding 28, the Town has experienced a higher growth rate than has the Village. The expansion of the wastewater treatment plant will provide the infrastructure to serve additional connections in the Town. The SSMA consists of parcels situated in the Town. While, arguably, many of those parcels are developable even without connection to the municipal sewerage system, nevertheless, connection to the system will provide both the means for less difficult development (ie no need to construct and maintain on-site disposal systems) and a possible higher density of development. In this context, the project could assist in fostering the growth rate in the Town and, perhaps, accelerate that rate. As demonstrated at the District Commission hearing, the Village and Town decision making bodies are aware of the need to revise zoning and subdivision bylaws in order to anticipate and guide future growth. Finding 24 above notes the proposed schedule for consideration of zoning bylaw revisions. The Lamoille County Planning Commission also recognized both the potential positive and adverse growth impacts of the treatment plant expansion and the new SSMA and urged the development of an implementation plan that sets priorities for sewer service infrastructure extensions such that "in fill" of the Village area is encouraged and less efficient development is not. (See Exhibit 28 cited below under criterion 10 findings).

The District Commission urges the Village and Town to broaden the scope of the proposed zoning bylaw revisions, and to consider comparable subdivision bylaw revisions, in order to incorporate and address the growth impacts outlined above. The District Commission observes that extensions of the municipal sewer collection line system will likely constitute "material changes" under Natural Resources Board Rule 2(C)(6) and thus require the filing of amendment applications pursuant to Rule 34. Relatedly, the apparent intention to further expand treatment plant capacity by another 100,000 gpd (See footnote on page 5) will likewise require amendment application review. These amendment application reviews will be forums to assess progress in the adoption of enhanced bylaws to address growth impacts. The District Commission reserves the right to then attach relevant permit conditions to prevent undue burdens under criterion 9(A), if necessary.

Therefore, the Commission concludes that the municipality will be able to accommodate the total growth and rate of growth that will result from this project.

SECTION 6086(a)(9)(B) PRIMARY AGRICULTURAL SOILS:

31. The treatment plant site, and other lands to be involved in construction of improvements for access and drainage infrastructure, total 5.6 acres. (Exhibits 1 and 27)
32. As detailed on Exhibit 10, the proposed construction of improvements will impact only 0.47 acres of soil types which could qualify as primary agricultural soils.

Given the location and very small amount of such soils, the District Commission finds that these soils do not qualify under the definition set out in 10 V.S.A. 6001(15).

33. As found above, the proposed expanded capacity in the treatment plant will support extended sewer service into areas of the Town designated as the SSMA. The total land mass in the SSMA is 2,500 acres. The applicant represented that 1,400 acres of the SSMA are existing "developed" areas. (Exhibits 22 and 30)
34. The applicant provided an assessment of soil types within the SSMA for evaluation under criterion 9(B). Based upon NRCS mapping and soil fact sheets, approximately 1,322 acres of soils may qualify as primary agricultural soils pursuant to 10 V.S.A. 6001(15) (Exhibits 21-24) The applicant later revised the estimate of primary agricultural soils within the SSMA to 1,519 acres. (Exhibit 30)
35. The locations of the parcels within the SSMA which contain primary agricultural soils are depicted on the two sheets which are Exhibit 25.
36. The applicant's soils' analysis discusses primary agricultural soils in the context of two categories: "converted" and "unconverted" soils. (Exhibit 21)
37. "Converted" soils are described as "those soils that have limitations and are not capable of supporting or contributing to an economic or commercial agricultural operation". Orthophotos and 911 data were utilized to identify limitations such as roads, buildings, golf courses, schools and downtown districts. (Exhibit 30)
38. The applicant estimates that 963 acres of potentially primary agricultural soils have been "converted" (Exhibit 30)
39. "Unconverted" soils are described as "those soils that do not have limitations and are capable of supporting or contributing to an economic or commercial operation". (Exhibit 30)
40. Approximately 556 acres of potentially primary agricultural soils are "unconverted". (Exhibit 30)
41. Exhibit 25 consists of two sheets which depict the locations of the "converted" and the "unconverted" soils.
42. The designated SSMA has the potential for indirect impacts on primary agricultural soils. These same areas of soils can be converted without connections to the municipal sewer because the soils are suitable for on-site disposal systems. (Exhibit 30)
43. The Village plans to adopt a sewer allocation policy that will not grant final sewer allocation to a property within the SSMA until the applicant has documented permit approval from Act 250, the Department of Environmental Conservation

and the Town. The applicant will rely on the existing Act 250 and town Development Review Board processes to manage indirect impacts on prime agricultural soils within the SSMA. (Exhibit 30)

CONCLUSIONS

Review of project impacts on "primary agricultural soils" is required under criterion 9(B) if the proposed project will affect soils meeting the definition set out in 10 V.S.A. 6001(15). The record in this matter demonstrates that the proposed project will not directly impact "primary agricultural soils" at the treatment plant site and on other lands to be involved in construction of improvements.

The Environmental Board held that secondary growth impacts from projects are subject to review under the criteria of Act 250, dependent on the category of project and the facts specific to the proposal. Board precedents were particularly focused on secondary growth impacts from infrastructure projects [See eg Town of Stowe 100035-9 EB (May 22, 1998) and master plan proposals [See eg Okemo Mountain, Inc. 2S0351-30 (2nd Revision)-EB (April 29, 2002)]. The project before the District Commission is an infrastructure project similar to the Town of Stowe precedent. The present application also includes aspects of master planning in the context of the SSMA.

In the Town of Stowe decision the Board concluded that the evidence of the case supported consideration of the potential or actual cumulative impacts from secondary development. In the Stowe application, the secondary growth issue focused on increased nonpoint source pollution from stormwater runoff under criterion 1(E) that would result from developments and subdivisions that would connect to the expanded sewerage infrastructure (See Stowe at pages 40 and 48-50). The end result of the Stowe decision, on remand to the District Commission, was a process to be undertaken by the Town to amend its zoning regulations in order to incorporate new regulatory provisions for effective review of stormwater runoff [See condition 10 in Land Use Permit 100035-9 (Reconsideration) and related findings]

Precedents exist for the evaluation of secondary growth impacts under criterion 9(B). The review and permitting of the circumferential highway proposal in Chittenden County included the review of the highway's direct and indirect impacts on primary agricultural soils. In that case, the concern was for the incremental conversion of the agricultural soils due to secondary growth that would be supported by the highway infrastructure. Permit conditions were attached to alleviate the loss of primary agricultural soils due to secondary development on the adjoining lands by means of a planning process to be undertaken. [See Agency of Transportation Memorandum of Decision Interim Findings of Fact 4C0718 (April 4, 1988 and Condition 5 in Land Use Permit 4C0718 (Revised) (April 21, 1989)]. A second Chittenden County project, the Town of Milton sewerage system expansion, similarly was subject to the mitigation of secondary growth impacts under criterion 9(B) by means of a planning process intended to result in revisions to zoning and subdivision bylaws (Land Use Permit and Findings of Fact 4C0046-7 (November 6, 2003).

The evidence before the District Commission requires a conclusion that the gradual expansion of sewer service into the SSMA could result in incremental and cumulative reduction in the potential of primary agricultural soils. The affected primary agricultural soils are approximately 1,519 acres in area, as found above in finding #34. The District Commission appreciates the applicant's effort to attempt a further analysis of the actual current uses of the 1,519 acres of soils situated on the multiple parcels of land within the SSMA. However, at this time, the record does not support any firm conclusions on how the applicant's categorizations of "converted" and "unconverted" soils mesh with the statutory definition of "primary agricultural soils" set out in 10 V.S.A. 6001(15). In this light, the District Commission believes it only prudent to assess secondary impacts under criterion 9(B) in the context of 1,519 acres of qualifying soils.

Criterion 9(B) was amended by the legislature in 2006 and the revisions brought about broad changes in the criterion: 1) the standard of review for project impacts on primary agricultural soils shifted from "will not significantly reduce" to "will not result in any reduction in" the agricultural potential of the soils; 2) the subcriteria of 9(B) were revised with particular regard to designated growth centers and 3) the ability to suitably mitigate the loss of primary agricultural soils was articulated in detail. These are the statutory provisions which the District Commission is charged to administer in the evaluation of project impacts.

As discussed above in our conclusions under criterion 9(A), the municipal bodies are committed to revisions of zoning bylaws and the District Commission encouraged the inclusion of enhancements to the content of proposed revisions outlined in the schedule attached to Exhibit 30. The District Commission further discussed in its criterion 9(A) conclusions certain "material changes" that will require the filing of amendment applications for future review. However, the filing and review of those amendment applications, and progress to revise the zoning and subdivision bylaws, may not be timely or adequate enough to ensure appropriate reviews of impacts on primary agricultural soils as the municipal sewerage system may be extended in the interim period into the SSMA. The potential for the reduction of primary agricultural soils is a likely outcome and must be addressed in this decision if a land use permit is to be issued in the present matter.

The District Commission concludes that it will follow the paths established in the above referenced Stowe, Agency of Transportation and Milton decisions by setting in motion a process resulting in the adoption of revised zoning and subdivision bylaws that will effectively evaluate and address impacts on primary agricultural soils on parcels within the SSMA which will utilize the expanded treatment plant capacity. The District Commission's interest is in bylaws that will ensure reviews of developments and subdivisions that will not otherwise independently trigger jurisdiction under the provisions of 10 V.S.A. Chapter 151 for land use permits under Act 250.

In the interim period until appropriately revised zoning and subdivision bylaws are adopted, the District Commission concludes it is necessary and reasonable by permit condition to retain jurisdiction over all sewerline extensions into the

SSMA by the applicant or any private person. Amendment applications will be required for the review of the impacts of such extensions under criterion 9(B).*

The Commission has concerns about setting in motion what may appear to be a cumbersome process by requiring these amendment applications but except for such a permit condition, positive conclusions under criterion 9(B) and issuance of a land use permit in the present matter would not be feasible. The requirement for amendment applications will not apply to connections of existing commercial development and residential projects to existing sewerage infrastructure. The District Commission's focus is on extended service in the SSMA to undeveloped parcels containing primary agricultural soils. The reviews of the amendment applications will be as for any project under criterion 9(B) and its subcriteria.

It is the intention of the District Commission that the permit condition discussed above will dissolve at such time as it is provided with, and signs off on, enhanced zoning and subdivision bylaws for the SSMA.

As stated in the criterion 9(A) conclusions above, the District Commission will utilize the anticipated amendment application reviews as forums to assess progress in the adoption of enhanced bylaws to address the reduction in the agricultural potential of primary agricultural soils by connections of parcels in the SSMA.

Therefore, the Commission concludes that the project will not significantly reduce the agricultural potential of any primary agricultural soils.

SECTION 6086(a)(9)(H) COSTS OF SCATTERED DEVELOPMENT:

44. The treatment plant site is located in the Village of Morrisville. (Exhibit 22)
45. All of the portions of the SSMA are contiguous to the Village of Morrisville except for two segments located northerly of Vermont Route 15 and a related segment southerly of Vermont Route 15 and located off (Needles Eye Road). (Exhibit 11)
46. The District Commission incorporates by reference findings stated above under criterion 9(A).

CONCLUSIONS

Criterion 9(H) requires scrutiny of developments or subdivisions not physically contiguous to an "existing settlement", such as a village. The statutory provisions state that reviews are to evaluate whether any additional costs for public services or facilities will outweigh the tax revenue and other benefits to result from the developments or subdivisions. The District Commission notes its conclusions stated above under criterion 9(A). The project now under review is for municipal infrastructure which is a

* These sewerline extensions will also likely be subject to jurisdiction as "material changes" pursuant to Natural Resources Board Rule 2(C)(6), to Land Use Permit 5W0078.

public facility. The record in this matter supports positive conclusions under criterion 9(H) in light of the anticipated enhanced zoning and subdivision bylaws that will encourage "in fill" and related efficient land use.

SECTION 6086(a)(10) CONFORMANCE WITH THE LOCAL OR REGIONAL PLAN:

47. The Commission incorporates by reference findings stated above under all other criteria.

Local Plan

48. The Town of Morristown duly adopted a plan on March 13, 2008. (Exhibit 33)
49. The Town plan states goals and policies for "Community Facilities, Utilities and Service". A relevant policy reads:

Wherever practicable, public facilities should be located in the core-downtown area to ensure the continued vitality of the downtown and avoid contributing to sprawl. Encouragement and support should be given to community projects that enhance the vitality of downtown.

50. The Town plan states goals and policies for "Housing". Relevant policies read:

- *Morristown supports infill projects including utilization of second stories in the downtown district.*
- *Clustered residential development consistent with physical capacity of land including soils, slope, and conservation of 'green space' is encouraged.*
- *Morristown encourages land use patterns which are inherently more affordable by nature of cost efficiencies associated with construction (e.g. shorter access roads, smaller lots, proximity to utilities).*
- *Safeguard permitting processes to allow for quality housing for middle and lower income groups without sacrificing water quality and land conservation or creating suburban sprawl.*
- *Morristown supports mixed use zoning districts where commercial, residential, and other uses may coexist in close proximity.*

51. The Town plan states goals and policies for "Productive Resources". Relevant policies read:

- *Morristown supports efforts to preserve Morristown's rural, scenic, and tranquil character, to protect its farm and agricultural land, its open space, and forestland.*

- *Morristown supports efforts to encourage "infill" development and projects that strengthen the vitality of the downtown, rather than expansion into outlying areas.*
 - *Further fragmentation of productive agricultural and forestland is to be avoided; continued access to productive lands will be ensured.*
 - *Development within agricultural areas will be sited to avoid taking agricultural soils permanently out of production. Non-agricultural structures should not be placed in open fields and meadows; such structures and related infrastructure will be set against field edges and follow tree lines where feasible to minimize disturbance and visual impacts and to maximize open productive space.*
 - *Morristown supports the efforts of the Morristown Conservation Commission in the purchase of development rights and other conservation measures provided the land protected meets the objectives of this plan.*
 - *Where development does occur in agricultural area, Morristown supports clustering of residential lots to help keep productive lands open.*
52. The Town plan provides also analyses under several topics such as "Housing", "Economic Development" and "Productive Resources". Recommendations are stated for these topic areas.
53. The plan states the following recommendations for "Housing":
- *The Planning Commission should amend the zoning bylaws to help make housing possible downtown. Changes to allow more flexibility for parking and mixed use rules have been identified as needing investigation.*
 - *The Planning Commission should allow for residential uses within the commercial districts to enable a mixed use village setting to develop in these areas.*
54. The plan states the following recommendations for "Productive Resources":
- *The Planning Commission should investigate creating a broader range of zoning categories and district densities that could better reflect the character and function of different areas of town.*
 - *The land use plan should establish areas in town where agriculture is the primary land use. In this way, conflicting land uses such as residential development will be identified and minimized.*

Regional Plan

55. The Lamoille County Planning Commission duly adopted a plan on November 28, 2006.
56. The Lamoille County Planning Commission provided positions on the project proposal. One position expressed concern for potential adverse stormwater effects from the project site itself on Lake Lamoille and from the impervious development sites to be enabled by the sewerage infrastructure. Phosphorous discharges into the Lamoille watershed was the overarching concern. (Exhibit 28)
57. The second area of concern raised by the Lamoille County Planning Commission was that expansion of the sewer service area boundaries could encourage less efficient development and that, perhaps, an implementation plan to prioritize sewer service infrastructure extensions should be pursued. Priorities could include infill of the existing village service area, sites with failed septic systems, sites that may increase potential for additional livable wage jobs and sites that may increase the potential for affordable housing. (Exhibit 28)

The project conforms with the town and regional plans.

V. SUMMARY CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, it is the conclusion of this District Environmental Commission that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application, and of Land Use Permit 5L0059-4, will not cause or result in a detriment to public health, safety or general welfare under the criteria described in 10 V.S.A., Section 6086(a).

VI.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, Land Use Permit #5L0059-4 is hereby issued.

Dated at Barre, Vermont, this 25th day of April, 2008.

By /s/ Karl H. Johnson
Karl H. Johnson, Chair
District #5 Environmental Commission

Commissioners participating in this decision:

Burt McIntire
Brad Towne

Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220. The appellant must attach to the Notice of Appeal the entry fee of \$225.00, payable to the State of Vermont.

The Notice of Appeal must include all information required by Rule 5(b)(3) of the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the VRECP.

For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. As of February 14, 2005 the address for the Environmental Court is: Environmental Court, 2418 Airport Rd., Suite 1, Barre, VT 05641-8701. (Tel. # 802-828-1660)

A motion to alter may be filed with the district commission within 15 days of this decision, pursuant to Board Rule 31(A). A motion for reconsideration of denial of permit may be filed with the district commission within six months of this decision, pursuant to Board Rule 31(B). If a motion for reconsideration is accepted as complete by the district commission within the six month period, then the applicant may file a motion with the Environmental Court seeking to have the case remanded to the district commission, pursuant to the Vermont Rules for Environmental Court Proceedings.

U:\5L0059-3\5L0059-4 Findings of fact.wpd



NATURAL RESOURCES BOARD
District 5 Environmental Commission
5 Perry Street, Suite 60
Barre, Vermont 05641-4267

December 7, 2016

Todd Thomas, AICP
Zoning Administrator/Planner
Town of Morristown
43 Portland Street
Morrisville, Vermont 05661
via email: tthomas@morristownvt.org

Re: Land Use Permit 5L0059-4, Village of Morrisville Wastewater System Expansion
Condition 13 Compliance

Dear Mr. Thomas:

The District 5 Environmental Commission met in a deliberative session to discuss the content of the August 29, 2016 submittals, which were filed in response to the Commission's review letter, issued on June 10, 2016.

Based on the submittals, the Commission acknowledges confirmation that the ANR Atlas soils maps relied upon by the Village of Morrisville are the NRCS soils maps relied upon by the Agency of Agriculture. The Commission further acknowledges that the definition of "major subdivision" is contained in Section 710.2 as "any proposed subdivision resulting in 2 or more new parcels." Additionally, it is acknowledged that Section 510(6) h. now precludes the installation of wastewater systems on soils mapped as Prime or Statewide agricultural soils.

Criterion 9(B) contains the following mandatory language: *A permit will be granted for the development of subdivision of primary agricultural soils only when it is demonstrated by the applicant that the subdivision or development will not result in any reduction in the agricultural potential for the agricultural soils.* (Emphasis added)

However, the Commission noted that Section 510 (1) a. would "encourage" the permanent preservation of public open space with agricultural land, which implies that the overarching purpose in this section may not be mandatory. Further, under (2) b., the hand-written notation would seem to better reflect the bylaw's stated purpose to "permanently protect" the town's natural resources. The Commission requests the Permittee's view regarding the foregoing.

Relatedly, under 510 (6) e., f., j., and n., would it be necessary to clarify that a reduction in the agricultural potential of agricultural soils is not allowed, as stated in the last sentence in h.? This would be a significant issue to clarify as these sub sections would seem to indicate that there are a



“combination of acceptable uses” in dedicated open space (which includes primary agricultural soils) such as construction of a boat launch, community building, walkways, bike paths, etc. Please provide a position.

Finally, the Commission is unclear as to how to interpret the Section of (6)f. Disturbed Areas within Open Space, which states: “not more than one-half of dedicated open space shall be disturbed or altered from its present condition.” The Permittee is requested to provide clarification, as this section would seem to contradict the language in (6)a, which states that [the entirety] of the open space shall be “permanently protected”, as well as several other representations regarding the protection of agricultural soils within open space.

Please don't hesitate to contact this office with any questions.

Sincerely,



Susan Baird, District Coordinator

cc: Town of Morristown Selectboard
Town of Morristown Planning Commission
Village of Morrisville Trustees
Lamoille County Planning Commission
Agency of Agriculture, Attn: Lauren Masseria



January 30, 2017

State of Vermont District Commission 5
5 Perry Street, Suite 60
Barre, VT 05641-4267
Attn: Susan Baird

Re: Morrisville sewer plant upgrade: requested relief from condition 13 of permit 5L0059-4

Dear District Commission,

Thank you very much for your letter dated 7 December 2016. We very much appreciate your letter's specific feedback regarding the conservation subdivision bylaw. We firmly believe that this response letter will fully satisfy all the concerns raised by the District Commission in its December letter regarding the permanent protection of soils labeled at Prime or of Statewide Significance by the Agency of Natural Resources on its "Natural Resource Atlas" (referred to hereafter in this letter simply as "prime ag" soils). As such, we anticipate and appreciate the District granting the request for relief from condition 13 of Permit #5L0059-4.

Morrisville, which is also run by a volunteer Board, fully understands how changes to the composition of the District Commission delayed the response to Village's prior permit relief request letters. We hope that the new Commission members recognize that the Village has worked diligently to satisfy the Commission's concerns in the ongoing request for the requested sewer plant permit relief. New Commission members should understand that the Village and the District Commission have been trading these permit relief letters since at least July of 2011. We truly hope this new submittal satisfies the Commission so we can resolve this longstanding issue and make the as-revised conservation subdivision bylaw the law of the land for local development.

It was made clear by the Commission's December 7th letter that further clarifications and safeguards needed to be made to Morristown's conservation subdivision bylaw to ensure the permanent protection of prime ag soils. The Village is fully committed to making any clarifications or zoning changes needed in order to satisfy the Commission. The enclosed revised version of the conservation subdivision bylaw, with the revisions explained within the following paragraphs, will ensure that there will be absolutely no reduction in the potential for agricultural soils in Morristown as part of any conservation subdivision.

In its December 7th letter, the Commission also notes that in §510 (1) of the conservation bylaw, the word "encourage" could mean that the permanent protection of prime ag soils may not be mandatory. We understand this concern and have deleted the word "encourage" as a result. Our conservation subdivision bylaw will not allow for any reduction in the agricultural potential of prime ag soils. Any subdivision proposal that looks to disturb prime ag soils in anyway is contrary to the purposes of the conservation subdivision bylaw and will not receive a local permit. The word "all" added to §510 (2)b emphasizes this requirement.

The Commission also asked for clarification in its letter that §510 (6)e., f., j. & n. would not allow any reduction in the agricultural potential of prime ag soils. As can be seen in the revised

conservation subdivision bylaw included beneath this letter, the requested clarifications in these sections have been made. The revised bylaw, utilizing track changes functionality, clearly delineates that the only accepted uses of prime ag soils within a conservation subdivision in both Morristown and Morrisville will be for agriculture and forestry. Other uses allowed in the dedicated open space by the conservation subdivision bylaw, such as hiking trails, recreation fields and boat launches cannot take place in the depicted "prime ag area" on the subdivision plan. This revised bylaw requires this depicted "prime ag area" to be shown on all subdivision plans to ensure that there is no question as to where these important soils lie and to further ensure that there will be no reduction in the agricultural potential of these prime ag soils.

When Permit 5L0059-4 was issued on July 2 of 2008, it included language that stated that condition 13 *"will be dissolved upon adoption of suitably enhanced zoning and subdivision bylaws that will address issues identified under the conclusions for criteria 9(A) and 9(B)."* The Morrisville Village Trustees, the Morristown Selectboard and the Morristown/Morrisville Planning Council believe that this letter resolves any remaining questions regarding if Criteria 9(B) has been satisfied. We appreciate the time the District Commission has put into the permitting of Morrisville's expanded sewer plant and we thank the Commission in advance for amending Permit 5L0059-4 by dissolving condition 13.

Sincerely,

Craig Myotte, Manager
Morrisville Water & Light

Additional Signatories:

Village of Morrisville Trustees

Chairman Wally Reeves

Town of Morristown Selectboard

Chairman Bob Beeman

Morrisville/Morristown Planning Council

Chairman Paul Griswold

*Copied: Town of Morristown Selectboard
Village of Morrisville Trustees
Morrisville/Morristown Planning Council*