



**TOWN OF MORRISTOWN PLANNING COMMISSION
MEETING NOTICE & AGENDA
COMMUNITY MEETING ROOM
43 Portland St. Morrisville, VT 05661
5:00 PM Tuesday, May 12, 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 4/28/26.

IV. NEW BUSINESS

1. Background memo on the history of the conservations subdivision language in Section 510 Morristown.
 - a. : Conversation on pathways to amend the subdivision regulations.
2. Review earth extraction language.
3. Review Zonign Report.

V. FUTURE PLANNING AGENDA TOPICS

VI. OLD BUSINESS

VII. CORRESPONDENCE/NOTICES

VIII. ADJOURN



**PLANNING COMMISSION MEETING MINUTES
OF APRIL 28, 2026**

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

Absent: Joshua Goldstein

ADMINISTRATION and STAFF: Tyler Machia, Zoning and Planning Administrator

PARTICIPANTS/GUESTS: Jerry Throne, Martin Green, Kristen Fogdall, Ron Stancliff, Hilary Warner,

CALL TO ORDER

John Meyer called the Planning Commission to order at 5:00 PM at the Tegu Building.

AGENDA CHANGES/ADDITIONS

approval of Tyler's report scheduled for public hearing on May 26th.

APPROVE PRIOR MEETING MINUTES

1. Approve Minutes from 4/14/26

Motion made by Wally Reeve to approve the minutes of 4/14/26 with amendments. Motion seconded by Etienne Hancock. Motion carried (4/0) .

NEW BUSINESS

1. Review feedback from community survey.

Tyler presented the findings from the community survey created and analyzed by the intern Gabriella Coutts. The survey was available on Front Porch Forum and the town's website. One hundred responses were received. Key findings included low satisfaction with the current town plan and limited awareness, with 56% of respondents not having read the plan. The survey revealed opportunities for improved outreach, particularly through Front Porch Forum and more consistent communication methods such as periodic updates on the planning commission's work. The survey identified several priority areas for the town plan update. These include 1. the environment, 2. transportation, 3. schools, and 4. small business development. Tyler congratulated the intern's work and noted that she would be present when the survey was presented to the Selectboard.

2. Review and approve changes to the 2026 Zoning and Subdivision bylaws based on Selectboard feedback.

Tyler reported on his presentation of the 2026 zoning bylaws to the Selectboard. The Selectboard acknowledged the work of past and present members of the Planning Commission and was impressed by the quality and amount of work involved in completing the bylaws. The discussion covered proposed changes to zoning bylaw language regarding subdivision plats and private streets, with specific modifications suggested by the Selectboard to clarify approval processes and alignment with the Morrystown Road policy. Tyler reported although there was no strong opposition to maintaining the current system, one member of the Selectboard suggested removing the zoning administrator's ability to extend filing deadlines for plat approvals beyond the existing 180-day requirement. Tyler clarified that while the zoning administrator has discretionary power to extend deadlines, significant changes to projects after approval could potentially require re-approval, although rare and case-dependent. The commission discussed this and determined they agreed to add alignment with the Morrystown road policy. While several members wanted to keep the existing language, they ultimately

decided to remove it.

Motion made by Jame Meyer to approve the 4/28/26 draft of the Zoning Bylaws. Motion seconded by Wally Reeve. Motion carried (4/0).

3. Approver the Municipal Bylaw report and set a date and time for our Public Hearing on the proposed 2026 Zoning Bylaws.

Tyler brought the Municipal Bylaw report to the Commission for review and approval. Tyler explained that while the current submission met minimum requirements, there were some areas for improvement. The group discussed specific requirements from 24 VSA 4412, particularly regarding density for affordable housing and heights of renewable energy structures. After addressing these concerns, the group unanimously approved the motion to approve the municipal planning bylaw report.

Motion made by Wally Reeve to approve the Municipal Planning Bylaw Report. Motion seconded by John Meyer. Motion carried (4/0).

4. Review tiered approach to earth extraction and dust control.

Discussion began on reviewing a proposed tiered regulatory approach for gravel extraction operations. Tyler introduced the tiered system (Tier 1, 2, and 3) that was developed using AI analysis of New England region best practices, excluding Act 250-regulated activities. The group discussed ensuring that Tier 3 regulations would be at least as restrictive as the current Section 485 rules. The team agreed to move current bylaw requirements into Tier 3 as a first step toward creating a working draft document for further review and feedback.

The discussion then addressed dust suppression methods for aggregate operations, with Jerry Throne emphasizing the need for more stringent controls, particularly for hazardous materials like crystalline silica and asbestos. The discussions centered on testing requirements for hazardous materials and public health considerations. The group discussed federal regulations and state requirements, with concerns raised about enforcement capabilities given the limited resources of a single enforcement officer. There was a question about the extent the town could regulate public health concerns. Wally suggested that materials be tested by the developer prior to going to the DRB, and the state then enact their regulations. It was decided to seek legal advice from the town lawyer on whether developers should be required to test for hazardous materials, and to what extent health concerns can be considered in zoning regulations.

5. Background memo on the history of the conservations subdivision language in Section 510 Morristown.

This item will be discussed at the next Planning Commission meeting.

OLD BUSINESS

None

FUTURE PLANNING AGENDA TOPICS

Tyler will revise the table introduced for earth extraction and dust control, and schedule the revised earth extraction framework for a future meeting after receiving legal feedback, to gather public feedback and further discussion.

CORRESPONDENCE/NOTICES

None

ADJOURN

Motion made by Etienne Hancock to adjourn. Motion seconded by Jamie Meyer. Motion carried. (4/0)

Meeting adjourned at 6:51pm

Submitted and filed this 4/29/26.

Bonnie McDermott, Scribe

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

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 Morrystown'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 Morrystown 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*



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



**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

Village of Morrisville
Water & Light Department

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(802) 888-3348
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MANAGER
Craig Myotte

TRUSTEES
Wallace Reeve, Chairman
Peter Bourne
Chris Audy
Brad Limoge
Dana Wildes

February 21, 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 Morristoryn'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 Morristoryn as part of any conservation subdivision.

**Morrisville Sewer Plant Upgrade:
Requested Relief from Condition 13 of Permit 5L0059-4**

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 on the following page:

**Morrisville Sewer Plant Upgrade:
Requested Relief from Condition 13 of Permit 5L0059-4**

Village of Morrisville Trustees



Chairman Wally Reeve

Town of Morristown Selectboard



Chairman Bob Beeman

Morristown Planning Council



Chairman Paul Griswold

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

Section 510. Planned Unit Development/Conservation Subdivision (Major Subdivision required)

1. **Overarching Purposes.** The overarching purposes for Planned Unit Developments (PUDs) / Conservation Subdivisions are as follows:

- a. ~~To encourage~~ The permanent preservation of public open space with agricultural land, forestry land, flood zones, wildlife habitat and other natural resources including aquifers, water bodies and wetlands included therein;
- b. To allow for greater flexibility and creativity in the design of residential developments;
- c. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- d. To minimize the total amount of disturbance on the site and retain natural drainage patterns;
- e. To further the goals and policies of the Morrisville/Morristown Town Plan;
- f. To facilitate the construction and maintenance of housing, streets, utilities and public service in a more economic and efficient manner; and
- g. To facilitate the construction and maintenance of public trails and associated amenities to enhance the pedestrian experience.

2. **Site Specific Purposes.** The site specific purposes for Conservation Subdivisions are to permanently protect the following Natural Resources as shown on the Agency of Natural Resources Natural Resource Atlas in dedicated open space via the following list of prioritized priorities:

- a. To protect the public water supplies (Groundwater SPA);
- b. To protect all agricultural soils listed as Prime or as Statewide;
- c. To protect Wetlands;
- d. To protect Rare Threatened Endangered Species;
- e. To protect Deer Wintering Areas;
- f. To protect Significant Natural Communities;
- g. To protect Habitat Blocks;
- h. To protect Vernal Pools; and
- i. To protect steep slopes greater than 25%;

3. **Applicability.** The Conservation Subdivision process is required for all Major subdivisions in all residential zones.

4. **Sketch Plan Review.** Prior to submitting a preliminary plat application, the applicant shall host a Sketch Plan review site walk with the Zoning Administrator on the proposed development site. At the development site, the Zoning Administrator shall familiarize himself with the land and inform the applicant about the Conservation Subdivision design process. The Zoning Administrator shall bring a survey of the property (or a tax map if a survey is not found in the Land Records) and a printout of the Vermont Agency of Natural Resource's Natural Resource Atlas with the following map layers turned on: Contours, Rare Threatened Endangered Species,

Clarifications that prime ag soils will not be developed

Significant Natural Community, Deer Wintering Areas, Habitat Blocks, Vernal Pool Confirmed, Wetlands, Soils Prime Agricultural, Groundwater SPA, Parcels, Slope.

During the Sketch Plan Review meeting the following shall be determined:

- a. **Natural Resource Identification.** Natural Resource Identification shall be accomplished for the land in question by using the aforementioned layers of the Agency of Natural Resource's Natural Resource Atlas mapping system.
- b. **House Lot Calculation.** The maximum allowable number of house lots in a Conservation Subdivision shall be determined by using the acreage of the subject land and dividing this resultant number by the Minimum Lot Size in the zone in which the subject land is located. This calculated number of lots shall determine the total number of reduced size house lots possible in a Conservation Subdivision. This house lot number may need to be amended when a survey of the subject land is completed during the Preliminary Plat Review process.
- c. **Five-Step Design Process.** The applicant shall work through the following five-step design process when laying out a Conservation Subdivision on the subject land: **Step 1.** Identify the natural resource areas, **Step 2.** Identify the potential development areas outside of the natural resource areas. **Step 3.** Within the potential development areas, identify potential house sites. **Step 4.** Lay out roads, driveways and utility corridors for the propose house lots. **Step 5.** Draw in the Lot Lines.

5. ~~Preliminary Plat Review~~ Dimensional Requirements of Conservation Subdivisions. The applicant shall submit a formal subdivision plan that will be reviewed by the Zoning Administrator that incorporates the design given genesis by the Sketch Plan Review process, as well as the following requirements:

house keeping

- a. **Preliminary Plat Information:** The plan detail requirements found in §770 & §780 of the Bylaws regarding Preliminary Plat submittals.
- b. **Reduction of Dimensional Requirements for Conservation Subdivisions.** The following reduced dimensional requirements apply for Conservation Subdivisions when a minimum of 50% on the subject property is to be permanently protected as open space:
 1. Lot frontage shall not be less than 25 feet;
 2. Setbacks shall not be less than one-half of the required setbacks specified by the zone in which the subdivision is proposed;
 3. The DRB may waive minimum side setback requirements for multi-unit developments that utilize party-walls to encourage more compact development when doing so furthers the Purposes of this Bylaw;
 4. The Development Review Board may allow the reduction of the minimum Lot size to no less than one-quarter of the required lot size specified by the zone in which the subdivision is proposed provided that the Board deems that doing so furthers the Purposes of the Bylaw;
 5. The total footprint of the development may be reduced by up to 50% (i.e. a ten acre lot that would normally yield 5 two-acre lots could become a conservation subdivision with the same five lots on 2.5 development acres with another 2.5 acres of open space); and

housekeeping

- 6. ~~Only lots on the street to be created by the Conservation Subdivision are to benefit from the reduced area, setback and frontage requirements. No reductions of frontage, setbacks and area shall be allowed on any lot that fronts on an existing Street not created via a Conservation Subdivision.~~

6. Open Space Requirements.

Clarifies no development of prime ag soils and requires they be shown on the subdivision plan

- a. A minimum of 50% on the subject property shall be permanently protected as open space and shown on the Final Plat and said open space shall be placed on a separate parcel from the building lots or within a permanent easement on adjoining land.
- b. All of the soils listed as Prime or of Statewide Importance on the Agency of Natural Resources "Natural Resource Atlas" shall be permanently protected within the open space. The section of the dedicated open space that contains the prime ag spoils shall be clearly depicted on the site plan. The subdivision plan shall be noted that only agriculture and forestry is allowed in the depicted "prime ag area."
- c. The open space lot must abut at least half of the proposed house lots and the open space shall be contiguous. Open space may still be considered abutting and/or contiguous if a roadway separates it. The Development Review Board may waive this requirement during Final Plat Approval when it is determined that allowing the proposed open space design will better promote the purpose and intent of this Bylaw.

"but" changed to "and"

- d. The open space shall include a majority of the Natural Resource Areas identified during Sketch Plan Review and all of the prime ag area.

Clarifies that only ag & forestry uses are allowed in protected prime ag area.

- e. Acceptable uses of the dedicated open space include: ~~recreation, walking trails, bike paths, view vistas, parklands, agriculture and forestry.~~ Additional uses of the dedicated open space may include recreation fields, walking trails, bike paths, view vistas and parklands, but these additional uses will not be allowed in the portion of the dedicated open spaces shown on the subdivision plan as the depicted "prime ag area."—or a combination of these uses. The Board may allow open space uses not specified in this section if it finds the proposal consistent with the purpose and intent of this Bylaw during the §750 Final Plat Approval process provided that doing so will not result in any reduction in the agricultural potential for the designated agricultural soils.

Clarifies that no prime ag soil disturbance allowed

- f. Disturbed Areas within Open Space: These aforementioned "acceptable uses of the open space" in §6e shall not disturb~~not~~ more than one-half of dedicated open space shall be ~~disturbed or altered~~ from its present condition. At the discretion of the Board, already disturbed areas may be considered as contributing towards this requirement when a reclamation plan is in place – the regrading and replanting of a gravel pit as an example. No disturbance of the ag soils will be allowed under this section except for agricultural or forestry uses.

no drainage facilities in prime ag area

- g. Open space shall not include land set aside for the road's right-of-way.
- h. Dedicated open space may be used for a communal sewerage disposal system serving the subdivision. However, mounded communal wastewater systems and individual septic systems shall not be allowed in the open space. Furthermore, there shall be no wastewater facilities located on ag soils designated as Prime or of Statewide Importance;

- i. Engineered drainage systems such as retention, detention and infiltration ponds, shall not be allowed within the open space.
- j. Storage of equipment and placement of structures, except structures built for the residents of the development such as a boat launch or community building, shall not be allowed in the open space. No structures shall be allowed in the section of dedicated open space that is depicted on the subdivision plan as the “prime ag area.”
- k. The ownership of the Open Space shall be conveyed to the Town, the Town’s Conservation Commission, or a nonprofit organization or land trust whose principal mission is the conservation and protection of open space, or to a corporation or trust owned jointly or in common by the owners of lots within the proposed Conservation Subdivision. If conveyed to a trust or the subdivision’s homeowners association, maintenance of such open space and facilities shall be permanently legally guaranteed, with said guarantee providing for mandatory assessments for open space maintenance expenses being levied against each lot as part of the homeowner’s association. Any proposed open space, unless conveyed to the Town of Morristown or its Conservation Commission, shall be subject to a recorded conservation restriction, providing that such land shall be perpetually maintained as open space and be preserved exclusively for the purposes set forth herein
- l. A maintenance easement shall be granted to the Town if the open space is to be retained in private ownership or to be owned by the homeowner’s association. Said easement over such land shall ensure its perpetual maintenance and provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to provide maintenance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.
- m. The protected open space must be clearly delineated on the ground with permanent markers or monumentation before any zoning permits are issued for new house construction within the subdivision. The use of boulders unearthed during construction or other reasonable measures shall be used to delineate the open space and ensure it is not encroached upon by construction equipment or later by abutting lot owners.
- n. Walkways, hiking trails or bicycle paths shall be provided where feasible to link the house lots with the dedicated open space. Said trails shall not be located in the “prime ag area” of the dedicated open space. At a minimum, at least half of the proposed house lots shall be connected by said walkways, hiking trails or bicycle paths.

no structures allowed on prime ag soils

no trails shall cut through prime ag soils

ARTICLE VII: SUBDIVISION APPLICATION AND APPROVAL PROCEDURE

Section 710. Application of Regulations.

- 710.1 No conveyance or lease of a subdivision or any part thereof may be made, nor any grading, clearing, construction or other improvement for such subdivision may be commenced, nor any permit for erection of a structure in such proposed subdivision may be granted, unless the subdivider shall secure approval from the Development Review Board of the proposed subdivision under these rules.
- 710.2 For the purposes of these regulations, the term Minor Subdivision shall be defined as any proposed subdivision resulting in 3 parcels or less, including the original parcel. Minor subdivisions can be either in the form of conventional subdivisions or in the form of Planned Unit Development / Conservation Subdivisions. The form of the minor subdivision is the choice of the landowner. The term Major Subdivision shall be defined as any proposed subdivision resulting in 4 or more new parcels. All Major Subdivisions must go through the §510 Planned Unit Development / Conservation Subdivision process.

Change from
4 lots to 2 lots

Section 720: Pre-application.

- 720.1 **Sketch Plan.** The applicant, prior to submitting an application for subdivision, shall submit to the Zoning administrator, a "Sketch Plan" of the proposed subdivision which shall show the proposed layout of streets, lots and other features sketched roughly on a print of a survey of the property.
- 720.2 **Attendance at Meeting.** The subdivider, or his/her duly authorized representative, shall meet with the Zoning Administrator to discuss the requirements of these Regulations, the difference between a Minor and Major subdivision and any applicable zoning bylaws, for street improvements, drainage, sewage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information.
- 720.3 **Conformance to Other Plans & Regulations.** The Zoning Administrator shall review the Sketch Plan to determine whether or not it conforms to, or would be in conflict with any effective municipal plan; zoning bylaw; ; official map; existing private and public development, facilities and services; other applicable bylaws, ordinances or regulations; and for any special problems that may be encountered. Findings of conformance or conflict by the Zoning Administrator shall not be binding on the public bodies responsible for administration of such programs, but are intended as an aid to the applicant at this stage.
- 720.4 **Sketch Plan Approval.** The Zoning Administrator shall determine whether the Sketch Plan meets the purposes of these Subdivision Regulations and may reject the application or make specific written recommendations for changes. Any subdivided lot must meet the minimum lot size without including any development road or public road right of way in the lot acreage. Determination of compliance at this or any other preliminary stage of review will not bind the Development Review Board in making determinations at later stages. The Sketch



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

June 10, 2016

Todd Thomas, AICP
Morristown Planning Director, Zoning Administrator, Health Officer
Town of Morristown
43 Portland Street
Morristown, Vermont 05661

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

Dear Mr. Thomas:

The District 5 Environmental Commission met in a deliberative session in order to discuss the content of the Village's October 7, 2015 submittals in response to condition 13 in the land use permit. The Commission acknowledges that there has been a considerable length of time to provide a response. Over the past several months, there have been changes to the composition of the Commission, and new members then have needed to review the record in this matter prior to convening deliberations. The purpose of this letter is to provide the Commission's reaction to the content of the compliance submittals.

Soils Maps: The Commission requests that the Village seek a position from the Agency of Agriculture as to whether the soils maps available on the ANR Atlas and relied upon in the Conservation Subdivision Bylaw, are comparable to the NRCS soils maps, which are relied upon by the Agency and the Act 250 statute.

Definition of Major Subdivision: Where would the definition of "major subdivision" be found?

Open Space Requirements: Section 6(g) states that "dedicated open space may be used for commercial sewerage disposal system serving the subdivision." How would this section be applied if the dedicated "open space" were comprised of primary or statewide agricultural soils?

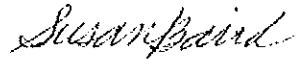
Section 6(a) states that "a minimum of 50% on the subject property shall be permanently protected as open space..." This Commission interprets this section to mean that approximately 50% of the soils on the tract may be developed, or otherwise have their agricultural potential reduced. While the Commission has not reached any firm conclusions yet on the adequacy of this standard for the reduction of the potential of the soils, the Commission noted that the bylaw allows a more liberal reduction standard than the standard set forth in 10 V.S.A. 6086(a)(9)(B). The Commission also noted that the new subdivision bylaw does not track with the terms of first three subcriteria in Criterion 9(B). Lastly, Act 250 reviews of impacts on "primary agricultural soils" require "suitable



mitigation” of any (emphasis added) reductions in soil potential per subcriteria (iv) of Criterion 9(B). Taking note that the provisions of 24 V.S.A. 4414(30(c) and 4418(20(D) afford a municipality the ability to adopt Act 250 criteria into zoning/subdivision reviews, the Commission requests that the permittee provide a view as to why mitigation measures, either on-site or off-site, were not included in the Conservation Subdivision Bylaw.

In closing, the Commission will expedite its consideration and response to the permittee’s reply to the comments provided in this letter. Please don’t hesitate to call with any questions.

Sincerely,



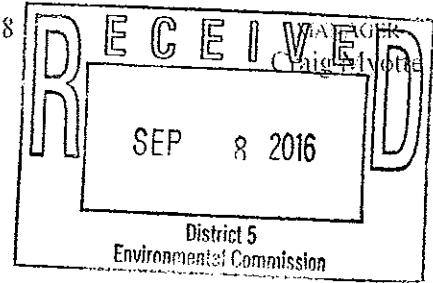
Susan Baird, District Coordinator

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



Village of Morrisville
Water & Light Department

857 Elmore Street
Morrisville, Vermont 05661-8408
(802) 888-3348
Fax: (802) 888-5911
www.mwlv.com



August 29, 2016

TRUSTEES
Wallace Reeve, Chairman
Peter Bourne
Chris Audy
Brad Limoge
Dana Wildes

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

Re: Morrisville Sewer Plant Upgrade: Requested Relief From Condition 13 of Permit 5L0059-4

Dear District Commission,

Thank you for your letter dated 10 June 2016 in response to a request for relief from condition 13 of Permit #5L0059-4. It was clear in your letter that further clarifications and safeguards had to be made to Morristown's conservation subdivision bylaw to protect soils labeled as Prime or of Statewide Significance by the Agency of Natural Resources (ANR) on its "Natural Resource Atlas."

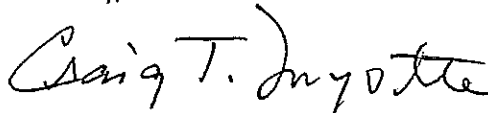
These clarifications and additional safeguards are as follows:

- First, your letter asks me to clarify if the mapping shown on ANR's Natural Resource Atlas is the same for prime ag soils as what is shown on the NRCS soils maps. Susan and I learned from Erik Engstrom of ANR that the ag soil layers in the Natural Resource Atlas mapping come directly from the NRCS soils maps. They are in effect one in the same.
- Per §510(2)b & §510(6)b of the enclosed proposed zoning change, I have clarified for the Commission that **100% of the aforementioned prime or statewide soils are prohibited from being developed by Morristown's Conservation Subdivision Bylaw. All such soils shall be permanently protected and available for future agricultural use** as part of any conservation subdivision approval. Your letter from June 10th seemed to interpret that half of these ag soils on any development site could be converted. That was never the intent of the bylaw language and I apologize for this confusion. Morristown's conservation subdivision bylaw requires that only half of any proposed subdivision tract may be developed, with the other half of the land becoming permanently protected open space. But, importantly, **within that development area there can be no soils of prime or statewide significance.** All such soils shall be permanently protected within the open space. And because there will not be any conversion of these soils allowed, there is no need to require on or off-site mitigation.
- §510(6)h of the enclosed proposed zoning change strictly disallows any prime or statewide soils from being used for wastewater purposes. When I wrote Morristown's conservation subdivision bylaw, I had not foreseen the possibility that ag soils could be used for wastewater until that possibility was brought forth in the Commission's June 10th letter. The proposed amendment will foreclose on any opportunity to spoil these important soils in this way. I am grateful the Commission ferreted out this loophole for me.
- Per §710.2 of the enclosed proposed zoning change, I will be lowering the threshold of a major subdivision to two new house lots. That means that any subdivision that creates more than one house lot shall be under the rules of the conservation subdivision bylaw, which brings with it the complete

permanent protection of prime and statewide ag soils. I do not know of a stricter set of rules for what constitutes a major subdivision elsewhere in Vermont, where 100% of prime and statewide ag soils will be permanently protected when more than one house lot is proposed. As such, I believe Morristown's conservation subdivision bylaw blazes a new trail towards protecting Vermont's agriculture future and certainly satisfies the requirement for enhanced zoning and subdivision bylaws per criteria 9(B).

Permit 5L0059-4 states 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 the above bullet points succinctly answer any remaining questions from the Commission's June 10th letter regarding Criteria 9(B) being satisfied. We appreciate all the time the District Commission has put into the permitting of Morrisville's expanded sewer plant and we thank you 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 Wallace Reeve

Town of Morristown Selectboard


Chairman Bob Beeman

Morrisville/Morristown Planning Council


Planning Director Todd Thomas

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

malfunctioning, flooding or have standing water 72 hours after a Water Quality storm event.

503. **Additional Conditions.** The Development Review Board may impose appropriate conditions and safeguards with respect to the following:

- 503.1 Adequacy of traffic access and circulation
- 503.2 Provision of parking
- 503.3 Landscaping and screening per §639.3
- 503.4 To protect the utilization of renewable energy resources

Section 510. Planned Unit Development/Conservation Subdivision (Major Subdivision required)

1. **Overarching Purposes.** The overarching purposes for Planned Unit Developments (PUDs) / Conservation Subdivisions are as follows:
 - a. To encourage the permanent preservation of public open space with agricultural land, forestry land, flood zones, wildlife habitat and other natural resources including aquifers, water bodies and wetlands included therein;
 - b. To allow for greater flexibility and creativity in the design of residential developments;
 - c. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
 - d. To minimize the total amount of disturbance on the site and retain natural drainage patterns;
 - e. To further the goals and policies of the Morrisville/Morristown Town Plan;
 - f. To facilitate the construction and maintenance of housing, streets, utilities and public service in a more economic and efficient manner; and
 - g. To facilitate the construction and maintenance of public trails and associated amenities to enhance the pedestrian experience.

2. **Site Specific Purposes.** The site specific purposes for Conservation Subdivisions are to permanently protect the following Natural Resources as shown on the Agency of Natural Resources Natural Resource Atlas in dedicated open space via the following list of prioritized priorities:
 - a. To protect the public water supplies (Groundwater SPA);
 - b. To protect all agricultural soils listed as Prime or as Statewide;
 - c. To protect Wetlands;
 - d. To protect Rare Threatened Endangered Species;
 - e. To protect Deer Wintering Areas;
 - f. To protect Significant Natural Communities;
 - g. To protect Habitat Blocks;
 - h. To protect Vernal Pools; and
 - i. To protect steep slopes greater than 25%;

Clarifies that prime and statewide ag soils shall not be developed

3. **Applicability.** The Conservation Subdivision process is required for all Major subdivisions in all residential zones.

4. **Sketch Plan Review.** Prior to submitting a preliminary plat application, the applicant shall host a Sketch Plan review site walk with the Zoning Administrator on the proposed development site. At the development site, the Zoning Administrator shall familiarize himself with the land and inform the applicant about the Conservation Subdivision design process. The Zoning Administrator shall bring a survey of the property (or a tax map if a survey is not found in the Land Records) and a printout of the Vermont Agency of Natural Resource's Natural Resource Atlas with the following map layers turned on: Contours, Rare Threatened Endangered Species, Significant Natural Community, Deer Wintering Areas, Habitat Blocks, Vernal Pool Confirmed, Wetlands, Soils Prime Agricultural, Groundwater SPA, Parcels, Slope.
 During the Sketch Plan Review meeting the following shall be determined:
 - a. **Natural Resource Identification.** Natural Resource Identification shall be accomplished for the land in question by using the aforementioned layers of the Agency of Natural Resource's Natural Resource Atlas mapping system.
 - b. **House Lot Calculation.** The maximum allowable number of house lots in a Conservation Subdivision shall be determined by using the acreage of the subject land and dividing this resultant number by the Minimum Lot Size in the zone in which the subject land is located. This calculated number of lots shall determine the total number of reduced size house lots possible in a Conservation Subdivision. This house lot number may need to be amended when a survey of the subject land is completed during the Preliminary Plat Review process.
 - c. **Five-Step Design Process.** The applicant shall work through the following five-step design process when laying out a Conservation Subdivision on the subject land: **Step 1.** Identify the natural resource areas, **Step 2.** Identify the potential development areas outside of the natural resource areas. **Step 3.** Within the potential development areas, identify potential house sites. **Step 4.** Lay out roads, driveways and utility corridors for the propose house lots. **Step 5.** Draw in the Lot Lines.

5. **Preliminary Plat Review.** The applicant shall submit a formal subdivision plan that will be reviewed by the Zoning Administrator that incorporates the design given genesis by the Sketch Plan Review process, as well as the following requirements:
 - a. **Preliminary Plat Information:** The plan detail requirements found in §770 & §780 of the Bylaws regarding Preliminary Plat submittals.
 - b. **Reduction of Dimensional Requirements for Conservation Subdivisions.** The following reduced dimensional requirements apply for Conservation Subdivisions when a minimum of 50% on the subject property is to be permanently protected as open space:
 1. Lot frontage shall not be less than 25 feet;
 2. Setbacks shall not be less than one-half of the required setbacks specified by the zone in which the subdivision is proposed;

3. The DRB may waive minimum side setback requirements for multi-unit developments that utilize party-walls to encourage more compact development when doing so furthers the Purposes of this Bylaw;
4. The Development Review Board may allow the reduction of the minimum Lot size to no less than one-quarter of the required lot size specified by the zone in which the subdivision is proposed provided that the Board deems that doing so furthers the Purposes of the Bylaw;
5. The total footprint of the development may be reduced by up to 50% (i.e. a ten acre lot that would normally yield 5 two-acre lots could become a conservation subdivision with the same five lots on 2.5 development acres with another 2.5 acres of open space); and
6. Only lots on the street to be created by the Conservation Subdivision are to benefit from the reduced area, setback and frontage requirements. No reductions of frontage, setbacks and area shall be allowed on any lot that fronts on an existing Street not created via a Conservation Subdivision.

6. Open Space Requirements.

- a. A minimum of 50% on the subject property shall be permanently protected as open space and shown on the Final Plat and said open space shall be placed on a separate parcel from the building lots or within a permanent easement on adjoining land.
- b. All of the soils listed as prime or of Statewide Importance on the Agency of Natural Resources "Natural Resource Atlas" shall be permanently protected within the open space. → *clarifies that these soils shall not be developed and be protected*
- c. The open space lot must abut at least half of the proposed house lots and the open space shall be contiguous. Open space may still be considered abutting and/or contiguous if a roadway separates it. The Development Review Board may waive this requirement during Final Plat Approval when it is determined that allowing the proposed open space design will better promote the purpose and intent of this Bylaw.
- d. The open space shall include a majority of the Natural Resource Areas identified during Sketch Plan Review.
- e. Acceptable uses of the dedicated open space include: recreation, walking trails, bike paths, view vistas, parklands, agriculture, forestry or a combination of these uses. The Board may allow open space uses not specified in this section if it finds the proposal consistent with the purpose and intent of this Bylaw during the §750 Final Plat Approval process.
- f. Disturbed Areas within Open Space: not more than one-half of dedicated open space shall be disturbed or altered from its present condition. At the discretion of the Board, already disturbed areas may be considered as contributing towards this requirement when a reclamation plan is in place – the regrading and replanting of a gravel pit as an example.
- g. Open space shall not include land set aside for the road's right-of-way.
- h. Dedicated open space may be used for a communal sewerage disposal system serving the subdivision. However, mounded communal wastewater systems and individual septic systems shall not be allowed in the open space. Furthermore, there shall be no wastewater facilities located on ag soils designated as Prime or of Statewide Importance;

→ *clarifies that these soils shall not be used for wastewater.*

- i. Engineered drainage systems such as retention, detention and infiltration ponds, shall not be allowed within the open space.
- j. Storage of equipment and placement of structures, except structures built for the residents of the development such as a boat launch or community building, shall not be allowed in the open space.
- k. The ownership of the Open Space shall be conveyed to the Town, the Town's Conservation Commission, or a nonprofit organization or land trust whose principal mission is the conservation and protection of open space, or to a corporation or trust owned jointly or in common by the owners of lots within the proposed Conservation Subdivision. If conveyed to a trust or the subdivision's homeowners association, maintenance of such open space and facilities shall be permanently legally guaranteed, with said guarantee providing for mandatory assessments for open space maintenance expenses being levied against each lot as part of the homeowner's association. Any proposed open space, unless conveyed to the Town of Morristown or its Conservation Commission, shall be subject to a recorded conservation restriction, providing that such land shall be perpetually maintained as open space and be preserved exclusively for the purposes set forth herein
- l. A maintenance easement shall be granted to the Town if the open space is to be retained in private ownership or to be owned by the homeowner's association. Said easement over such land shall ensure its perpetual maintenance and provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to provide maintenance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.
- m. The protected open space must be clearly delineated on the ground with permanent markers or monumentation before any zoning permits are issued for new house construction within the subdivision. The use of boulders unearthed during construction or other reasonable measures shall be used to delineate the open space and ensure it is not encroached upon by construction equipment or later by abutting lot owners.
- n. Walkways, hiking trails or bicycle paths shall be provided where feasible to link the house lots with the dedicated open space. At a minimum, at least half of the proposed house lots shall be connected by said walkways, hiking trails or bicycle paths.

ARTICLE VII: SUBDIVISION APPLICATION AND APPROVAL PROCEDURE

Section 710. Application of Regulations.

- 710.1 No conveyance or lease of a subdivision or any part thereof may be made, nor any grading, clearing, construction or other improvement for such subdivision may be commenced, nor any permit for erection of a structure in such proposed subdivision may be granted, unless the subdivider shall secure approval from the Development Review Board of the proposed subdivision under these rules.
- 710.2 For the purposes of these regulations, the term Minor Subdivision shall be defined as any proposed subdivision resulting in 3 parcels or less, including the original parcel. Minor subdivisions can be either in the form of conventional subdivisions or in the form of Planned Unit Development / Conservation Subdivisions. The form of the minor subdivision is the choice of the landowner. The term Major Subdivision shall be defined as any proposed subdivision resulting in ~~4~~ 2 or more new parcels. All Major Subdivisions must go through the §510 Planned Unit Development / Conservation Subdivision process.

Change from
4 lots to 2 lots

Section 720: Pre-application.

- 720.1 **Sketch Plan.** The applicant, prior to submitting an application for subdivision, shall submit to the Zoning administrator, a "Sketch Plan" of the proposed subdivision which shall show the proposed layout of streets, lots and other features sketched roughly on a print of a survey of the property.
- 720.2 **Attendance at Meeting.** The subdivider, or his/her duly authorized representative, shall meet with the Zoning Administrator to discuss the requirements of these Regulations, the difference between a Minor and Major subdivision and any applicable zoning bylaws, for street improvements, drainage, sewage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information.
- 720.3 **Conformance to Other Plans & Regulations.** The Zoning Administrator shall review the Sketch Plan to determine whether or not it conforms to, or would be in conflict with any effective municipal plan; zoning bylaw; ; official map; existing private and public development, facilities and services; other applicable bylaws, ordinances or regulations; and for any special problems that may be encountered. Findings of conformance or conflict by the Zoning Administrator shall not be binding on the public bodies responsible for administration of such programs, but are intended as an aid to the applicant at this stage.
- 720.4 **Sketch Plan Approval.** The Zoning Administrator shall determine whether the Sketch Plan meets the purposes of these Subdivision Regulations and may reject the application or make specific written recommendations for changes. Any subdivided lot must meet the minimum lot size without including any development road or public road right of way in the lot acreage. Determination of compliance at this or any other preliminary stage of review will not bind the Development Review Board in making determinations at later stages. The Sketch

Baird, Susan

From: Engstrom, Erik
Sent: Friday, September 16, 2016 8:01 AM
To: Baird, Susan; Masseria, Lauren
Subject: RE: ANR Atlas and Soils

For what it's worth,

We connect directly to the Vermont Center for Geographic Information's database for soils information which is updated as soon as the NRCS provides them with the data.

If you have further questions about its currency/availability/updates, you can contact VCGI, and/or reference the metadata for the soils information: [Soils Metadata](#)

Just to be a little more thorough ;-)

From: Baird, Susan
Sent: Wednesday, September 14, 2016 5:00 PM
To: Masseria, Lauren <Lauren.Masseria@vermont.gov>; Engstrom, Erik <Erik.Engstrom@vermont.gov>
Subject: RE: ANR Atlas and Soils

Hi Lauren and Erik:

Appreciate the quick turn-around; yes to Lauren, the foregoing will be sufficient for the Commission. Thanks to you both.

Regards, Susan

From: Masseria, Lauren
Sent: Wednesday, September 14, 2016 4:31 PM
To: Engstrom, Erik <Erik.Engstrom@vermont.gov>
Cc: Baird, Susan <Susan.Baird@vermont.gov>
Subject: RE: ANR Atlas and Soils

Thank you Erik!

Susan, is the email sufficient, or would you like a more formal letter from Erik for the record?

Lauren Masseria
Act 250 Coordinator | Agency of Agriculture, Food, and Markets
802-505-5413 | 116 State Street, Montpelier VT 05602
lauren.masseria@vermont.gov | www.agriculture.vermont.gov

From: Engstrom, Erik
Sent: Wednesday, September 14, 2016 4:23 PM
To: Masseria, Lauren <Lauren.Masseria@vermont.gov>
Cc: Baird, Susan <Susan.Baird@vermont.gov>
Subject: RE: ANR Atlas and Soils

That's correct.

We even host the soil data fact sheets. NRCS sends us these as needed.



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

September 12, 2017

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:

Land Use Permit 5L0059-4 was issued in April 25, 2008, and specifically authorized construction of improvements to upgrade the municipal wastewater treatment facility and to increase its capacity by 125,000 gallons per day. The permit included condition 13, which stated:

Amendment applications shall be filed for the review of sewerline extensions in the SSMA for purposes of providing service to new commercial development and residential uses, as discussed in more detail under the conclusions for criterion 9(B) in the attached Findings of Fact. This condition 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) in the attached Findings of Fact.

The town and village undertook revisions to the zoning and subdivision bylaws in an effort to meet the condition. The zoning and subdivision bylaws were formally adopted by the Morrisville Village Trustees and the Morristown Selectboard on June 19, 2017 and June 26, 2017 respectively.

In the months preceding the formal adoption of the bylaws, the District Commission reviewed several drafts and made recommendations with respect to suitable enhancements, particularly under Criterion 9(B). Upon a review of the 2017 adopted bylaws, the District Commission concluded that the bylaws sufficiently address the issues raised in Land Use Permit 5L0059-4 Findings of Fact. Therefore, the Commission determined that permit condition 13 is satisfied and hereby dissolved.

The Commission would make a clarification regarding the foregoing: the dissolution of Condition 13 is specific to projects within the SSMA proposed on agricultural soils that would not otherwise trigger Act 250 jurisdiction. Developments proposed on ten or more acres, or the creation of ten or more lots within a five-year period, would be subject to Act 250 jurisdiction and review by the District Commission, as would any material changes to a permitted project.

Sincerely,

A handwritten signature in blue ink that reads "Susan Baird".

Susan Baird, District Coordinator



CERTIFICATE OF SERVICE

I hereby certify that I sent a copy of the foregoing **LETTER FROM DISTRICT COORDINATOR SUSAN BAIRD TO TODD THOMAS REGARDING 5L0059-4 (VILLAGE OF MORRISVILLE)** by U.S. Mail, postage prepaid, on this 12th day of September, 2017, to the following individuals without email addresses and by electronic mail, to the following with email addresses:

Note: Any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify our office of any email address changes.

Todd Thomas, AICP
Zoning Administrator/Planner
PO Box 748
Morrisville VT 05661
tthomas@morristownvt.org

Morristown Select Board
PO Box 748
Morrisville VT 05661
ecallen@morristownvt.org

Agency of Agriculture Food and Markets
116 State Street Drawer 20
Montpelier VT 05620
ANR.act250@vermont.gov
Lauren.masseria@vermont.gov

Lamoille County Planning Commission
PO Box 1637
Morrisville VT 05661
seth@lpcvt.org
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Elizabeth Lord, Esq.
Office of Planning & Legal Affairs
1 National Life Drive, Davis 2
Montpelier VT 05620-3901
elizabeth.lord@state.vt.us
anr.act250@state.vt.us

BY /s/ Lori Grenier
Lori Grenier
Nat. Res. Board Tech.

Act 250 Permit #5L0059-4

Summary Report and Communications Timeline

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

Prepared: April 2026 | Updated with full document record

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 (SBR) treatment system
- Replacement of gas chlorine disinfection with an ultraviolet (UV) system
- Construction of 6 new structures adjacent to the existing plant buildings
- Hydraulic capacity increase of 125,000 gpd, raising total permitted capacity to 550,000 gpd
- No corresponding increase in permitted pollutant loading (BOD, TSS, phosphorous)
- Access via reconstructed South River Street; project site totals 5.6 acres

The existing treatment plant (Land Use Permit 5L0059, issued 1974) had an uncommitted reserve capacity of only 23,500 gpd at the time of application, with 2006 flows averaging 391,000 gpd (91% of permitted capacity). Mechanical failures due to aging equipment necessitated the upgrade. 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 (signed by Chair Karl H. Johnson, Commissioners Burt McIntire and Brad Towne).

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 1.2% growth rate since 1990) 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 2006 legislative revision to Criterion 9(B) strengthened the standard from 'will not significantly reduce' to 'will not result in any reduction in' the agricultural potential.

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. The total 'developed area' within the SSMA is approximately 1,400 acres. Most of the SSMA is contiguous to the Village of Morrisville

; 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. The SSMA includes approximately 8% of the Town's total land mass.

Connections to the municipal sewer system are only permitted for users within the SSMA. The Village planned to adopt a sewer allocation policy requiring documented Act 250 and DEC permit approval before granting final sewer allocation to any property within the SSMA.

1.4 Findings of Fact — Application #5L0059-4 (April 2008)

The Commission's Findings of Fact and Conclusions of Law (Application #5L0059-4) addressed all ten Act 250 criteria. Key determinations included:

- Criteria 1(Air Pollution), 1(A), 1(C), 1(E), 1(G), 2, 3, 4, 5, 6, 7, 8, 8(a), 9(C), 9(D), 9(E), 9(F), 9(G), 9(J), 9(K), 9(L): Met by submission; application serves as Findings of Fact.
- Criterion 1(B) — Waste Disposal: Project will meet applicable DEC regulations; no injection of harmful substances into groundwater. DEC Discharge Permit 3-1155 (amended) accepted as presumption of compliance.
- Criterion 1(D) — Floodways: Project located in floodway but will not restrict flood flow or significantly increase peak discharge. All new structures have finished floor elevations above 591.5'.
- Criterion 1(F) — Shorelines: Site adjacent to Lamoille River shoreline; clearing limits 25'–90' from edge. Shoreline maintained in natural condition with vegetative screening and erosion stabilization.
- Criterion 9(A) — Impact of Growth: Commission concludes the municipality can accommodate total growth from this project, subject to zoning bylaw revisions and Condition #13 amendment application process.
- Criterion 9(B) — Primary Agricultural Soils: Direct construction impacts only 0.47 acres of potential primary ag soils at the treatment plant site (not qualifying under 10 V.S.A. §6001(15) given small area and location). Secondary growth impacts on 1,519 acres of qualifying soils within SSMA addressed through Condition #13.
- Criterion 9(H) — Scattered Development: Project is municipal infrastructure; positive conclusions supported by anticipated enhanced zoning bylaws encouraging infill and efficient land use.
- Criterion 10 — Local/Regional Plan Conformance: Project conforms with both Town of Morristown plan (adopted March 13, 2008) and Lamoille County Regional Plan (adopted November 28, 2006).

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 SSMA consists of parcels in the Town, many of which are developable even without municipal sewer connections, but sewer service would enable higher-density development and eliminate the need for on-site disposal systems. The Lamoille County Planning

Commission urged development of an implementation plan prioritizing sewer service extensions toward infill rather than less-efficient greenfield development.

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 (June 2016, December 2016) and associated submittals (August 2016, January 2017, February 2017), 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 all uses within the depicted prime ag area to agriculture and forestry only
- Prohibits all structures, walkways/trails, wastewater facilities and recreational uses on prime ag soils
- Lowers the mandatory Conservation Subdivision review threshold from 4 to 2 new parcels

A key technical confirmation was provided via a September 2016 email exchange (Erik Engstrom, VCGI / Lauren Masseria, Agency of Agriculture): the ag soil layers in ANR's Natural Resource Atlas map directly from NRCS soils data, updated as NRCS provides new data to VCGI. The Commission accepted this confirmation.

2.3 Conservation Subdivision Bylaw (§510) — Evolution

The bylaw's evolution across the document record can be summarised as follows:

- Original (November 2014 Morristown/Morrisville Zoning and Subdivision Bylaws): §510 included 'encourage' language in overarching purposes (§510(1)(a)); §510(6)(b) required 'all' prime/statewide ag soils in open space; §510(6)(e) allowed recreation, trails, parklands, etc. in all open space; §510(6)(f) allowed disturbance of up to half of dedicated open space; §510(6)(h) allowed communal sewage disposal systems in open space (with limits); §710.2 defined major subdivision as 4+ new lots.
- August 2016 revision (submitted with August 29 compliance letter): 100% of prime/statewide ag soils prohibited from development and permanently protected; §510(6)(h) strictly disallows prime/statewide soils for wastewater; major subdivision threshold lowered to 2 new lots.
- January/February 2017 revision (submitted with January 30 and February 21 letters): 'encourage' deleted from §510(1)(a) — protection made mandatory; 'all' added to §510(2)(b); §510(6)(e) revised so additional uses (recreation, fields, trails, parklands) are explicitly prohibited within depicted prime ag area — only ag and forestry permitted there; §510(6)(f) revised so disturbed areas clause cannot apply to prime ag soils; §510(6)(j) adds no structures in prime ag area; §510(6)(n) trails shall not be located in prime ag area.

2.4 Soils Mapping Confirmation

The June 10, 2016 Commission review letter asked the Village to seek confirmation from the Agency of Agriculture that the ANR Atlas soils maps and the NRCS soils maps are equivalent. This was confirmed by Craig Myotte in the August 29, 2016 submittal (citing information from Erik Engstrom, ANR) and further documented in the September 2016 email chain between Erik Engstrom (VCGI), Lauren Masseria (Agency of Agriculture/Act 250 Coordinator), and Susan Baird (District Coordinator). The Commission's December 7, 2016 letter formally acknowledged this confirmation.

3. Key Parties and Their Roles

Party	Representative(s)	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 Chair); Susan Baird, District Coordinator (2016–2017)	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 2008 hearing; raised growth impact and sewer ordinance concerns
Conservation Commission (Morristown)	Steve Rae	Advisory body; recommended prime ag zoning; flagged Airport Business District prime ag gap (2011)
Agency of Agriculture / NRCS	Lauren Masseria (Act 250 Coordinator); Erik Engstrom (VCGI soils data)	Confirmed ANR Atlas ag soil layers derive directly from NRCS soils maps (Sept. 2016 email chain)

4. Communications Timeline

All identifiable communications and documents in chronological order, incorporating the full document record including Application #5L0059-4 (Findings of Fact), the June 2016 and December 2016 District Commission letters, the August 2016 and August 2016 compliance submittals, the January 2017 and February 2017 Village response letters (with revised §510 bylaw), and the September 2016 ANR Atlas/soils email chain.

Date	Party / Author	Document / Communication	Significance
Jan. 22, 2008	Village of Morrisville	Act 250 application filed (#5L0059-4)	Application to upgrade municipal wastewater plant; increase hydraulic capacity by 125,000 gpd to 550,000 gpd total; convert to sequential batch reactor; UV disinfection

Date	Party / Author	Document / Communication	Significance
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. Parties: Village (Myotte, Duncan, Fontaine), Town Planning Commission (Henchey, Traister, Dudd, Meyer), LCPC (Rossmassler). Provisional parties Leon Whitcomb and Dana Wildes ultimately denied party status.
Apr. 14, 2008	District 5 Env. Commission	Deliberations completed	Findings of Fact finalized; Order prepared
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). Signed by Chair Karl H. Johnson with commissioners Burt McIntire and Brad Towne.
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 in prime ag coverage
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 areas

Date	Party / Author	Document / Communication	Significance
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 (Susan Baird)	Review letter issued to Morristown (Todd Thomas)	Initiates formal review of Condition #13 compliance. Raises four specific concerns: (1) whether ANR Atlas soils maps match NRCS maps; (2) definition and location of 'major subdivision'; (3) how §6(g) open space sewage disposal applies to ag soils; (4) whether 50% open space standard is adequate under Criterion 9(B). Notes §510 does not track first three subcriteria of 9(B). Requests permittee views on mitigation measures.
Aug. 29, 2016	Village of Morrisville (Craig Myotte) / Town of Morristown	Submittals in response to Jun. 10 review letter	Village provides bylaw change documentation. Confirms ANR Atlas ag soil layers come directly from NRCS soils maps. Clarifies that 100% of prime/statewide ag soils are prohibited from development; all shall be permanently protected. §510(6)(h) amended to strictly disallow prime/statewide soils from wastewater use. §710.2 threshold for major subdivision lowered from 4 lots to 2 new lots. Commission holds deliberative session Sep. 2016. Signed by Myotte, Chairman Wallace Reeve (Trustees), Chairman Bob Beeman (Selectboard), Planning Director Todd Thomas.
Dec. 7, 2016	District 5 Env. Commission (Susan Baird)	Response letter to Todd Thomas (ZA)	Acknowledges ANR Atlas maps match NRCS maps; confirms definition of 'major subdivision' is in §710.2 as 2+ new parcels; acknowledges §510(6)(h) precludes wastewater systems on prime/statewide soils. Raises remaining concerns: (1) §510(1)(a) word 'encourage' may make prime ag protection non-mandatory — requests permittee view; (2) §510(2)(b) handwritten notation should better reflect permanent protection; (3) whether §510(6)(e),(f),(j),(n) need to clarify that reducing agricultural potential of ag soils is not allowed; (4) interprets §510(6)(f) disturbed areas clause as potentially contradicting §510(6)(a) permanent protection language. Requests position and clarification. cc: Selectboard, Planning Commission, Village Trustees, Lamoille County Planning Commission,

Date	Party / Author	Document / Communication	Significance
			Agency of Agriculture (Lauren Masseria).
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	Craig Myotte / Village Trustees / Town Selectboard / Morrisville/Morristown Planning Council	Letter to District Commission with revised §510 bylaw (Jan. 30 response)	Addresses all Commission concerns from Dec. 7, 2016 letter: (1) 'encourage' deleted from §510(1)(a) — protection made mandatory; (2) 'all' added before 'agricultural soils listed as Prime or Statewide' in §510(2)(b); (3) §510(6)(e),(f),(j),(n) revised to explicitly prohibit structures, recreation, and trails within depicted prime ag area; (4) major subdivision threshold lowered 4→2 lots. Revised bylaw clearly delineates prime ag area on all subdivision plans; only agriculture and forestry permitted in prime ag area. Formally requests dissolution of Condition #13. Signed by Craig Myotte (MW&L Manager), Chairman Wally Reeve (Village Trustees), Chairman Bob Beeman (Morristown Selectboard), Chairman Paul Griswold (Morrisville/Morristown Planning Council).
Feb. 7, 2017	Planning Council	Planning Council meeting: approve relief letter	Formal approval of Jan. 30 letter to District Commission
Feb. 21, 2017	Craig Myotte / Village Trustees / Town Selectboard / Morristown Planning Council	Second letter to District Commission (Morrisville Water & Light letterhead)	Substantially identical to Jan. 30 letter. Reiterates all bylaw revisions and requests dissolution of Condition #13. Signed by Craig Myotte, Chairman Wally Reeve (Trustees), Chairman Bob Beeman (Selectboard), Chairman Paul Griswold (Planning Council). Notes correspondence on this matter has continued since at least July 2011.
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 — indicates matter still actively referenced in municipal planning discussions as of 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 (and a substantially identical February 21, 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 / February 21, 2017 submissions is included in this document package. It is unclear whether the Commission has issued a final dissolution order.
- The March 2026 email forwards (Kaaren Meyer to Tyler Machia) suggest the matter may still be actively referenced in current municipal planning discussions.

5.1 Summary of Bylaw Changes Addressing Commission Concerns

Bylaw Section	Commission Concern	Village Response / Revision
§510(1)(a)	Word 'encourage' may make prime ag protection non-mandatory	Word 'encourage' deleted; preservation of open space with ag land made mandatory
§510(2)(b)	'All' prime/statewide ag soils must be protected	'all' added before 'agricultural soils listed as Prime or Statewide'
§510(6)(e)	Recreation, trails etc. potentially permitted on prime ag soils	Additional uses (trails, recreation, parklands, fields) explicitly prohibited within depicted prime ag area; only ag and forestry permitted there
§510(6)(f)	Disturbed areas clause could allow disturbance of prime ag soils	Clause clarified: disturbed area allowances cannot apply to prime ag soils; no disturbance of ag soils except for ag/forestry uses
§510(6)(h)	Communal sewage disposal potentially allowed on prime ag soils	Explicitly prohibits wastewater facilities on soils designated as Prime or Statewide Importance
§510(6)(j)	Equipment storage/structures potentially on prime ag soils	No structures allowed in section of dedicated open space depicted as prime ag area
§510(6)(n)	Walkways/trails potentially crossing prime ag soils	Trails shall not be located in the 'prime ag area' of the dedicated open space
§710.2	Major subdivision threshold (4 new lots) too high	Major Subdivision redefined as 2 or more new parcels — triggers Conservation Subdivision review earlier

6. Items for consideration

- Should the commission reach out to the act 250 commission to see if condition 13 is still in effect?
- If it is still in effect, can the regulation be modified while satisfying the requirements for 5L0059-4?
- Should the commission consider two sets of subdivision regulations, one for the SSMA and one for the rest of the town?

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 — Six-column comparison: Option E Tiers 1, 2, and 3 | Current §485 Language | How Tier 3 Incorporates §485.
- 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.

What Changed in This Version

Table 1 has been expanded to six columns. Columns 1–4 remain unchanged (Feature, Tier 1, Tier 2, Tier 3). Column 5 now shows the actual current §485 language for each regulatory dimension. Column 6 notes how Tier 3 incorporates (or does not incorporate) that §485 language, with section references. Last column shading: green = fully incorporated; amber = partially incorporated; red = not incorporated (new language in Tier 3).

The §485.7 slope fencing requirement has also been added to Tier 3 as Section __.05(G). All §485 provisions are now incorporated into Tier 3.

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

This table compares the three tiers of Option E with Morristown’s current §485 Special Industry Use provision across all regulatory dimensions. Column 5 shows the actual §485 language for each feature. Column 6 notes how Tier 3 incorporates that language. Last column shading: green = fully incorporated; amber = partially incorporated; red = not incorporated (new language); gray = N/A.

Last column shading: Green = §485 language fully incorporated into Tier 3 | Amber = partially incorporated | Red = not incorporated (new language in Tier 3) | Gray = N/A (no equivalent in §485)

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)	Current §485 Language (Morristown Zoning Bylaws 2023)	How Tier 3 Incorporates §485
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) requires DRB approval after a site rehabilitation plan is approved at a public hearing. No volume-based thresholds. Extension of a non-conforming operation by DRB only (§485.8).	NOT INCORPORATED. Option E’s volume-based tier triggers (1,000 / 5,000 / 10,000 cy) are new language with no equivalent in §485. §485.8 (non-conforming extension by DRB only) is incorporated in Tier 3 Section __.10(F).
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; posted on-site in weatherproof enclosure	No dust control plan of any kind required. §485.10 allows the DRB to attach additional conditions as it may find necessary for public safety and general welfare, which could include a plan requirement, but none is mandated.	NOT INCORPORATED. The FDCP requirement is entirely new language in Tier 3. No equivalent plan requirement exists in §485.
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; operations suspended immediately if systems inoperative	§485.6: All power-activated sorting machinery or equipment shall be equipped with satisfactory dust elimination devices. No visible dust performance standard or property line prohibition.	NOT INCORPORATED. Tier 3’s visible dust performance standard is new language. The “satisfactory dust elimination devices” requirement in §485.6 is incorporated in Tier 3 Section __.08(B) but addresses machinery only, not a site-wide dust standard.
Water Suppression	Required; method at operator discretion	Required at all active extraction and processing points: drilling, crushing,	Automated misting systems required at extraction face; pre/post-blast misting (10 min before, 15	No water suppression requirement. §485.6 requires “satisfactory dust elimination devices” on power-activated machinery but specifies no suppression methods.	NOT INCORPORATED. Water suppression methods are new language in Tier 3. §485.6’s equipment device requirement is incorporated in Section __.08(B) but water-specific suppression is not present in §485.

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)	Current §485 Language (Morristown Zoning Bylaws 2023)	How Tier 3 Incorporates §485
		screening, conveyors, haul roads, stockpiles	min after); all processing equipment continuously suppressed (Section __.05A–B)		
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 (Section __.05C)	§485.6: No power-activated sorting machinery within 300 ft of any street or property line. No haul road treatment, speed limit, access apron, or wheel wash requirement.	NOT INCORPORATED. All haul road dust treatment provisions are new language in Tier 3. The 300-ft machinery setback in §485.6 is incorporated in Section __.08(B) but does not address 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; 150 ft setback; misting during loading and unloading (Section __.05D)	§485.5: No stockpiling of materials within 200 ft of any street or other property line. §485.6: No stockpiles greater than 50 ft high. No cover, wetting, or stabilization requirement.	PARTIALLY INCORPORATED. §485.5 (200 ft stockpile setback from streets/property lines) and §485.6 (50 ft height limit) are incorporated in Tier 3 Section __.08(A–B). The cover, wetting, misting, and dust-binding requirements are new language not present in §485.
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; misting at blast zone before and after detonation	72 hr abutter + ZA written notice; 9:00 am–3:00 pm weekdays; no blasting >15 mph wind or during inversions; licensed blaster documentation; pre/post misting (Section __.06)	§485.5: No blasting within 200 ft of any street or other property line. No abutter notification requirement, no time-of-day restrictions, no weather limits, no licensed blaster requirement, and no blast dust misting provision.	PARTIALLY INCORPORATED. §485.5 (no blasting within 200 ft of any street or property line) is incorporated in Tier 3 Section __.08(A). All blasting dust mitigation provisions — abutter notice, time restrictions, weather limits, licensed blaster, pre/post misting — are new language not present in §485.
Buffer / Windbreak	None required	25 ft vegetated buffer along residential and road frontages; native species; 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 (Section __.09)	§485.5: No excavation, blasting, or stockpiling within 200 ft of any street or property line. §485.6: No power-activated machinery within 300 ft. These are safety setbacks, not vegetated buffers or windbreaks.	NOT INCORPORATED. Tier 3's vegetated buffer and windbreak requirements are entirely new language. The setback provisions in §485.5 and §485.6 serve a safety function and are incorporated in Section __.08, but they do not require vegetation or windbreak plantings.
Monitoring & Recordkeeping	Complaint log; 3-year retention	Quarterly self-inspection log; complaint log; 5-year retention	Monthly inspection on ZA-approved form; complaint log with weather data; Annual Dust Control Report to ZA by March 1; 7-year	No monitoring or recordkeeping requirements of any kind. §485.10 allows DRB to attach conditions but mandates nothing. No inspection log, complaint log, annual report, or retention period is required.	NOT INCORPORATED. All monitoring and recordkeeping provisions are new language in Tier 3. §485 contains no equivalent requirements.

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)	Current §485 Language (Morristown Zoning Bylaws 2023)	How Tier 3 Incorporates §485
			retention; open to public (Section __.10)		
Enforcement	NOV + order to cease operations	NOV within 48 hrs; cease operations; civil fines; DRB revocation referral	1st: NOV + cease; 2nd: 5-day suspension + civil fine + DRB hearing; 3rd: revocation + bond forfeiture; independent monitor at operator's expense (Section __.10A–D)	§485.8: Extension of an existing non-conforming operation shall only be permitted by the DRB. §485.10: The DRB may attach any additional conditions as it may find necessary for the safety and general welfare of the public. No tiered penalty structure, no NOV procedure, no civil fine schedule.	PARTIALLY INCORPORATED. §485.10 (DRB may attach additional conditions) is incorporated in Tier 3 Section __.10(E). §485.8 (non-conforming extension by DRB only) is incorporated in Section __.10(F). The tiered NOV procedure, suspension periods, civil fine schedule, and independent monitor provision are new language.
Financial Assurance	None	None	Performance bond, escrow account, or irrevocable letter of credit required before permit issued; covers cost of dust impact remediation and buffer/vegetation restoration (Section __.09)	§485.1: Before approval of any new or proposed extension of a soil, sand, or gravel operation, a performance bond shall be secured from the applicant sufficient to ensure the abandoned site is left in a safe, attractive, and useful condition. Bond covers redevelopment as a park, lake, recreation area, or other usable open space.	INCORPORATED. §485.1 performance bond requirement is the basis for Tier 3 Section __.09. Tier 3 expands the bond's scope to also cover dust impact remediation and buffer/vegetation restoration, in addition to site reclamation.
Site Reclamation	Not addressed	Not addressed	§485 language directly incorporated in Section __.07: removal to improve land contours; no pits or steep slopes unless provision to refill; graded smooth; cut slopes and spoil banks not permitted to remain; 4" topsoil, fertilized, mulched, seeded under ZA supervision; topsoil stripping for off-site sale prohibited	§485.2: Removal to improve land contours; no pits or steep slopes unless provision to refill. §485.3: Sites graded smooth and left in neat condition; cut slopes/spoil banks not permitted; 4" topsoil, fertilized, mulched, seeded to ZA satisfaction. §485.9: Stripping of topsoil for sale or use on other premises prohibited.	INCORPORATED. §485.2, §485.3, and §485.9 are directly incorporated verbatim into Tier 3 Section __.07 (labeled "Existing §485 Language").
Drainage	Not addressed	Not addressed	§485 language directly incorporated in Section __.05(F): all surface drainage affected by excavation controlled by owner to prevent erosion debris from filling drainage	§485.4: All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All drainage control provisions require ZA approval.	INCORPORATED. §485.4 drainage language is directly incorporated into Tier 3 Section __.05(F).

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)	Current §485 Language (Morristown Zoning Bylaws 2023)	How Tier 3 Incorporates §485
			courses, streets, or private property		
Equipment Setbacks	Not addressed	Not addressed	§485 language directly incorporated in Section __.08: no excavation, blasting, or stockpiling within 200 ft of any street or property line; no power-activated sorting machinery within 300 ft; all such machinery must have satisfactory dust elimination devices	§485.5: No excavation, blasting or stockpiling of materials within 200 ft of any street or other property line. §485.6: No power-activated sorting machinery or equipment within 300 ft of any street or other property line; all such machinery shall be equipped with satisfactory dust elimination devices.	INCORPORATED. §485.5 and §485.6 setback and equipment requirements are directly incorporated verbatim into Tier 3 Section __.08 (labeled “Existing §485 Language”).
Slopes	Not addressed	Not addressed	§485 language incorporated in two sections: Section __.07(A): no pits or steep slopes unless provision to refill (§485.2); Section __.05(G): all excavation slopes in excess of 1:2 shall be adequately fenced as determined by the ZA (§485.7)	§485.2: The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pit. §485.7: All excavation slopes in excess of 1:2 shall be adequately fenced as determined by the Zoning Administrator.	INCORPORATED. §485.2 (no pits/steep slopes unless provision to refill) is incorporated in Tier 3 Section __.07(A). §485.7 (slopes >1:2 must be adequately fenced) is incorporated in Tier 3 Section __.05(G).
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	§485 applies to all commercial extraction for sale (rock, soil, sand, gravel) not incidental to development on the same parcel, operating as a Special Industry Use in applicable zoning districts. No scale-based differentiation.	N/A. Option E adds a tiered scale-based structure that §485 does not have. §485 continues to govern the permit framework (Special Industry Use); Option E adds the performance standards layered on top.

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

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-Specific Definitions

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.

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 1,000 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 of violation requiring immediate corrective action; and/or
- Upon failure to achieve compliance, order the suspension of dust-generating operations until compliance is restored.

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.

F. Drainage

- All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property.

G. Slope Fencing (Existing §485.7 Language)

- All excavation slopes in excess of 1:2 shall be adequately fenced as determined by the Zoning Administrator.

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 — Site Reclamation (Tier 3) (Existing §485 Language)

- A. The removal of all material shall be conducted so as to result in the improvement of the land, giving due regard to the contours in the vicinity, such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pits.
- B. The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall have 4" of topsoil, fertilized, mulched and seeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Zoning Administrator.
- D. Stripping of topsoil for sale or for use on other premises, shall be prohibited.

Section __.08 — Equipment Setbacks (Tier 3) (Existing §485 Language)

- A. No excavation, blasting or stock piling of materials shall be located within two hundred feet of any street or other property line.
- B. No power-activated sorting machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.

Section __.09 — 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 __.10 — 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 __.11 — 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 __.12 — 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.
- E. The DRB may attach any additional conditions as it may find necessary for the safety and general welfare of the public.

F. Extension of an existing non-conforming operation shall only be permitted by the DRB.

Town of Morristown, Vermont

2026 Zoning Permit Activity

Permits Issued	Units Permitted
29	16

■ Shaded rows (2026-22 through 2026-29) are new since the April 9, 2026 list. 8 new permits added; 3 additional unit(s).

Permit #	Type	Units
2026-01	Major Subdivision (5-Lot PUD)	—
2026-02	Zoning Permit Amendment	—
2026-03	Change in Use – Professional Office	—
2026-04	Zoning Permit – Tiny House Office	—
2026-05	Zoning Permit – Home Addition	—
2026-06	Zoning Permit – New Single Family Home	1
2026-07	Conditional Use – New Restaurant	—
2026-08	Zoning Permit – Site Plan Modification	—
2026-09	Zoning Permit – New Porch	—
2026-10	Site Plan Review	—
2026-11	Sketch Plan – Subdivision / Gravel Pit / Water Bottling	—
2026-12	Boundary Line Adjustment	—
2026-13	Boundary Line Adjustment	—
2026-14	Zoning Permit – Single Family Home	1
2026-15	Zoning Permit – Single Family Home	1
2026-16	Boundary Line Adjustment	—
2026-17	Zoning Permit – 9-Unit Residential Building	9
2026-18	Zoning Permit – 2 New Storage Unit Buildings	—
2026-19	Conditional Use – Recreational Facility (Gym)	—
2026-20	Boundary Line Adjustment	—
2026-21	Zoning Permit – New Single Family Home	1
2026-22	Permit Amendment	—
2026-23	Zoning Permit – New Shed	—
2026-24	Zoning Permit – New Single Family Home	1
2026-25	Zoning Permit – Single Family Home	1
2026-26	Zoning Permit – Single Family Home	1
2026-27	Zoning Permit – New Garage	—
2026-28	Conditional Use – Expanding a Nonconforming Use	—
2026-29	Change in Use	—
Total		16

Changes from April 9, 2026 List	
Added	8 new permits (2026-22 through 2026-29): Permit Amendment (2026-22); New Shed (2026-23); New Single Family Home (2026-24); Single Family Home (2026-25); Single Family Home (2026-26); New Garage (2026-27); Conditional Use – Expanding a Nonconforming Use (2026-28); Change in Use (2026-29).
Units	Total units increased from 13 to 16 (+3 unit(s) from permits 2026-24, 2026-25, and 2026-26).
Totals	Permit count increased from 21 to 29.