

# Town of East Montpelier

# ZONING PERMIT

# NOTICE

[To Be Displayed on the Property in Full View of the Public Right-of-Way]

Date Issued: October 6, 2017

Effective Date: October 21, 2017

Location: 0 US Rte. 2; Parcel # 10-074.500

Owner: East Montpelier Acres LLC

For: 2 - Lot Subdivision

Lot 3A-1 of 33.84 acres & Lot 3A-2 of 2.18 acres

Application # 17-042

Approved by: **C. Bruce Johnson, ZA**

Do not start project or commence use prior to the Effective Date. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any state or local appeal process. This application is available for inspection at the Town Office. This poster must be displayed on the property in full public view for 15 days.

**APPEALS TO DRB:** A notice of appeal, including the \$150 fee, must be filed with the East Montpelier Town Clerk or Zoning Administrator at the Town Office by the listed Effective Date.

**WARNING:** State permits may be required for this project. Contact the state Permit Specialist, at (802) 505-5367, before beginning any construction.

# TOWN of EAST MONTPELIER

P.O. Box 157  
East Montpelier, VT  
05651-0157

C. Bruce Johnson, ZA  
eastmontadmin@comcast.net  
(802) 223-3313 ext. 204

October 6, 2017

East Montpelier Acres LLC  
c/o Jason Cote-Wong  
3998 US Rte. 2  
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #17-042

Dear Mr. Cote-Wong:

Please find enclosed the written decision of the East Montpelier Development Review Board approving your subdivision application #17-042 as presented. You have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

Based on the above-referenced DRB approval I have issued East Montpelier Zoning Permit #17-042 for a 2-lot subdivision of the East Montpelier Acres LLC property on US Rte. 2. You have 180 days to duly file and record a mylar copy of the approved subdivision plat with the East Montpelier Town Clerk as required by the East Montpelier Land Use & Development Regulations Section 6.6 coupled with 24 V.S.A. §4463(b). The mylar must be certified by me, the zoning administrator, as a true copy of the approved subdivision plat prior to recording.

Please remember that land development on the two lots will require additional permitting, both at the local and state level. Further, when you've developed the private drive and associated access points for the individual lots, we'll have to determine whether a road name is necessary and issue appropriate E-911 addresses. Feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson  
East Montpelier Zoning Administrator

**TOWN OF EAST MONTPELIER  
DEVELOPMENT REVIEW BOARD**

**FINDINGS & DECISION**

In the matter of:       East Montpelier Acres LLC  
                                  0 US Rte. 2  
                                  Parcel # 10-074.500   Tax Map # 09-00-90.120

East Montpelier Zoning Application #17-042

**INTRODUCTION & PROCEDURAL HISTORY**

1. On September 13, 2017, Jason Cote-Wong, on behalf of East Montpelier Acres LLC, filed an application with the Town of East Montpelier to subdivide the East Montpelier Acres LLC undeveloped property located on the north side of US Rte. 2 across the road from Delair's Carpet Barn. The proposal is to split the parcel into two lots: Lot 3A-1 of 33.84 acres; and, Lot 3A-2 of 2.18 acres.
2. The property in question is located in the Commercial District – Zone A, where the minimum lot size is 1 acre and subdivisions require approval from the Development Review Board. New residential dwellings require conditional use review in Zone A.
3. Applicant appeared before the DRB on August 2, 2017 for an East Montpelier Land Use & Development Regulations Section 6.3 sketch plan review of the proposed subdivision, although with three lots instead of the current proposal's two. The DRB declared the proposal to be a minor subdivision for purposes of regulatory review under LUDR Section 6. The DRB also declared its willingness to combine both subdivision review and conditional use review for residential use at the same time. Applicant chose not to present the conditional use issue as part of this application.
4. A public notice was duly published in the Times Argus on September 16, 2017 for a hearing, which was conducted on October 2, 2017.
5. Representatives for the applicant, Jason Cote-Wong and Kris Jurentkuff, and Zoning Administrator Bruce Johnson appeared and participated in the October 2, 2017 hearing. There was no additional public comment.
6. The Board members who voted on this issue at the October 2, 2017 hearing were Curtis, Dworkin, Lane, Kappel, Cueto, Welch, Watson, and Hill.

## **FINDINGS OF FACT**

1. East Montpelier Acres LLC is the owner of an undeveloped 36-acre parcel in East Montpelier. The parcel has public road frontage along US Rte. 2. The lot is situated behind and to the northeast of two developed properties with street addresses of 3947 and 4023 US Rte. 2. The proposal is to split the parcel into two lots: Lot 3A-1 of 33.84 acres; and, Lot 3A-2 of 2.18 acres.
2. The property is located in Zone A – the Commercial District, where a conforming lot requires 1 acre and 150 feet of road frontage. Both lots meet the minimum lot size. Lot 3A-1 has 302 feet of US Rte. 2 frontage and is served by a short 50-foot-wide access easement over the 4023 US Rte. 2 parcel. Lot 3A-2 is served by the same short easement over the 4023 parcel coupled with a long 50-foot-wide easement over Lot 3A-1. The long shared drive will have bump-outs and turn-around areas adequate for emergency vehicles.
3. Access to the two lots will be from a private drive with an already-existing curb cut on US Rte. 2 at the east end of the 4023 US Rte. 2 residential property. The VT Agency of Transportation has preliminarily approved the expanded use of the curb cut with the understanding that the second, more westerly curb cut at 4023 US Rte. 2 will be eliminated.
4. The entire 36-acre parcel is heavily encumbered by regulations dealing with prime agriculture land, wetlands, deeryards, river corridor protection, and stormwater discharge. The property is subject to Act 250 jurisdiction.
5. Each lot will be served by individual wells and septic systems. Water & wastewater system designs are in place, but the permit process has not yet commenced.
6. There will be deed language, restrictive covenants, a shared maintenance agreement, and a homeowners association to deal with easements and other issues related to the common drive and various state regulatory concerns.

## **CONCLUSIONS**

The standards for the issuance of a subdivision permit are set forth in Sections 6.7 through 6.10 of the East Montpelier Land Use & Development Regulations. It is found that the standards in Sections 6.7, 6.8, & 6.9 have been reviewed, and the proposed subdivision meets all applicable requirements. It is further found that Section 6.10 does not apply to this project.

## DECISION

By unanimous vote, the DRB approves Zoning Permit #17-042 to allow the subdivision of East Montpelier Acres LLC Parcel #10-074.500 as presented.

This subdivision approval is subject to the East Montpelier Land Use & Development Regulations Section 6.6 plat recording requirements which, among other directives, mandate the filing of a mylar copy of the approved subdivision plat in the East Montpelier land records within 180 days of the date of subdivision approval.

**Warning:** State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to the state Permit Specialist before beginning any construction.

Dated this 6<sup>th</sup> day of October, 2017.



Richard Curtis, Jr. -- Chair  
East Montpelier Development Review Board

**Notice:** The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the East Montpelier Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Permit # 17-042

**ZONING PERMIT APPLICATION**

Date Received: 9/13/17

Zoning District A

**TOWN OF EAST MONTPELIER**

Parcel # 10-074-500

Overlays WR, FHA, ICC

PO Box 157, East Montpelier, VT 05651

Tax Map # 09-00-90.120

\*\*\*\*\*

- A. 1. Name of Landowner East Montpelier Acres, LLC Phone No. 279-9959  
 2. Address of Landowner c/o Jason Cote, 3998 US Route 2, E. Montpelier, VT 05651  
 3. Applicant (other than owner)..... Phone No.....  
 4. Address of Applicant.....  
 5. Location of Property US Route 2 East

**B: Application is made (check appropriate boxes):**

- |                                     |   |   |
|-------------------------------------|---|---|
| To:                                 | For:  | For:  |
| <input type="checkbox"/> Construct  | <input type="checkbox"/> One <input type="checkbox"/> Two-family dwelling | <input checked="" type="checkbox"/> Subdivision of land |
| <input type="checkbox"/> Repair     | <input type="checkbox"/> Multi-family dwelling                            | <input type="checkbox"/> Boundary adjustment            |
| <input type="checkbox"/> Alter      | <input type="checkbox"/> Accessory Structure                              | <input type="checkbox"/> Extraction of earth resources  |
| <input type="checkbox"/> Extend     | <input type="checkbox"/> Commercial / Business                            | <input type="checkbox"/> Ground water withdrawal        |
| <input type="checkbox"/> Remove     | <input type="checkbox"/> Light Industrial                                 | <input type="checkbox"/> Landfilling                    |
| <input type="checkbox"/> Change use | <input type="checkbox"/> Industrial                                       | <input type="checkbox"/> Other                          |

Describe work to be performed To subdivide the existing 36+/- acres undeveloped parcel into two residential lots: Lot 3-A1 of 33.84 acres for the construction of the single-family residence and an accessory dwelling, and Lot 3-A2 of 2.18 acres for the construction of a single-family dwelling. Both lots will be served by a shared drive and on-site sewer and water systems.

**C. Lot description:**

- |  |  |
|--|--|
| 1. acreage <u>36+/-</u>  | 4. depth side yards <u>120'</u> (min) Ft. .... Ft. (building to lot lines) |
| 2. road frontage <u>302'</u> Ft.   |  |
| 3. depth front yard <u>81'</u> (min) ..... Ft. (Road centerline to building) | 5. depth rear yard <u>123'</u> (min) ..... Ft. (building to lot line)      |

**Important** - Submit site location map which describes the property on which the proposed land development is to occur. The map should indicate the length in feet of each boundary, the location and dimensions in feet of the development within the property, the distance from that development to all adjacent property lines and the distance to the public road centerline. Each parcel created by land development should be clearly described.

**READ BELOW CAREFULLY AND SEE SECTION D ON PAGE 2 OF APPLICATION:**

In accordance with 24 V.S.A. §4446, no development or subdivision of land may begin in the Town of East Montpelier until all applicable municipal land use permits and approvals have been issued. The undersigned requests a zoning permit as described above, understanding that the permit will be voided and penalties imposed, if the land development is not completed as described. The permit will be voided if development is not substantially commenced within one year from date of issue. The undersigned hereby applies on the basis of the representations contained herein, and to the best of his/her knowledge believes them to be true. The undersigned acknowledges the Section D notices on page 2 of this application.

Jason Landowner [Signature] Date 9/13/17  
Applicant ..... Date .....

\*\*\*\*\*

Zoning Permit Fee: \$ 250 Cash \_\_\_\_\_ Check #19599 Date 9/13/17 Rec'd by D.S.  
DRB Hearing Fee: \$ \_\_\_\_\_ Cash \_\_\_\_\_ Check \_\_\_\_\_ Date \_\_\_\_\_ Rec'd by \_\_\_\_\_

Make checks payable to the "Town of East Montpelier"

**D. Warning:** State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 476-0195 to speak to the state Permit Specialist before beginning any construction.

**Notice:** Your project may be subject to the state's residential or commercial energy code. For more information contact the Energy Code Assistance Center at 855-887-0673 or see the following web pages: Residential Building Energy Standards: [http://publicservice.vermont.gov/topics/energy\\_efficiency/rbes](http://publicservice.vermont.gov/topics/energy_efficiency/rbes) Commercial Building Energy Standards: [http://publicservice.vermont.gov/topics/energy\\_efficiency/cbes](http://publicservice.vermont.gov/topics/energy_efficiency/cbes)

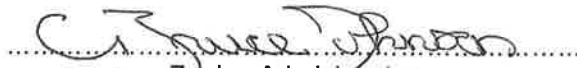
**E. Action by Zoning Administrator:**

1.  Granted     Denied    Date ..... Reason.....
2. Appealed to Development Review Board ..... By .....  
Date

**Notice:** Appeal from a decision or act of the Zoning Administrator must be made in writing to the Development Review Board &/or Town Clerk within 15 days of the decision or act. The appeal fee is \$150.00.

3. Final Action: Permit # 17-042 Date Issued 10/06/17 Effective Date 10/21/17

**DO NOT start this project prior to the effective date, as the statutes require a 15-day appeal period. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any appeal process.**

  
Zoning Administrator

**F. Action by Development Review Board:**

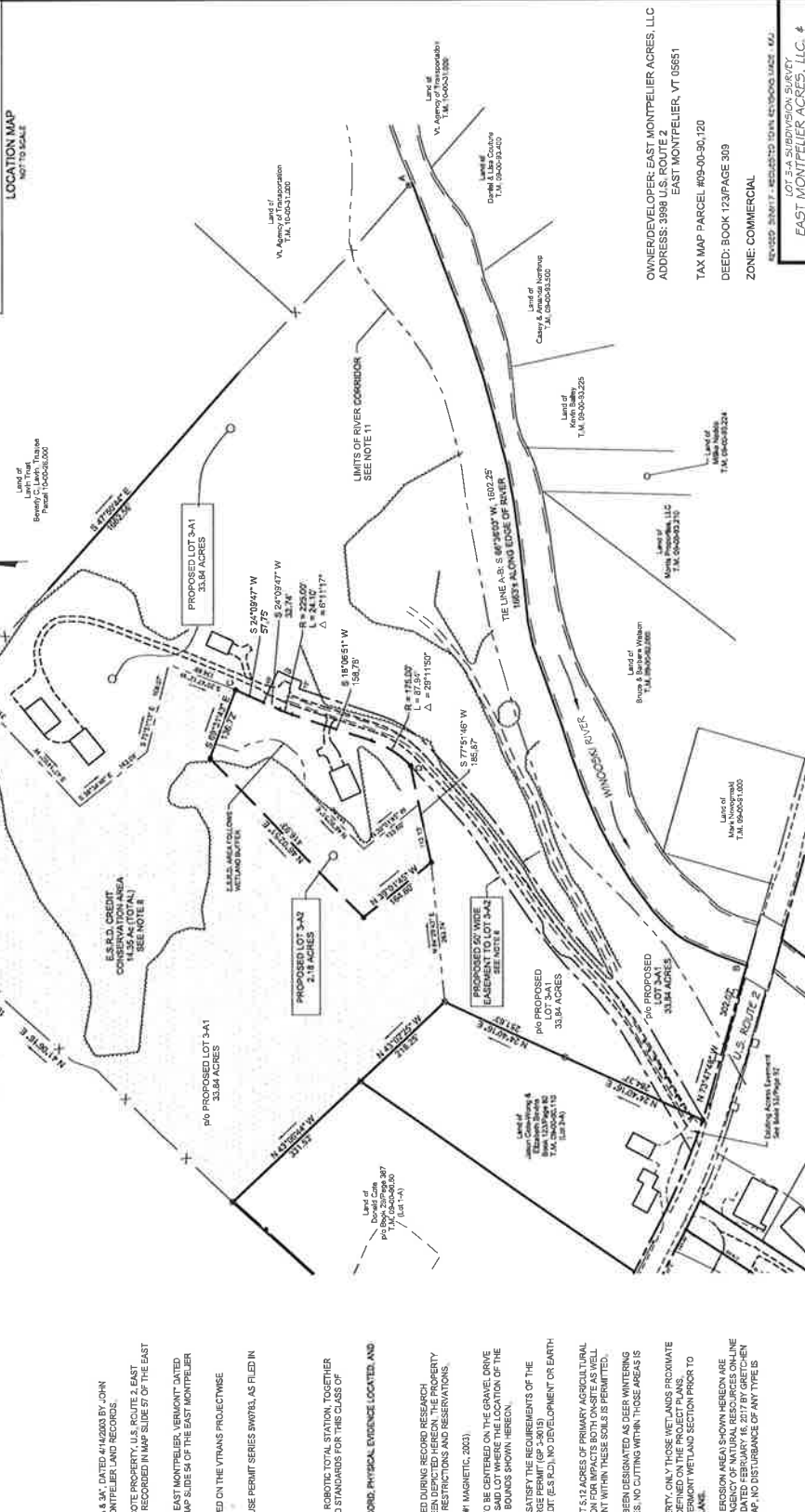
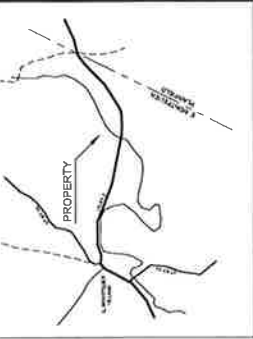
1. Public Notice Date 9.16.17
2. Date(s) of Hearing 10.3.17
3.  Granted     Without conditions     With conditions (See written decision for conditions)
4.  Denied (See written decision for reasoning)

  
Chairman, Development Review Board

The DRB's written decision was issued on: 10/06/2017

The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
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OWNER/DEVELOPER: EAST MONTPELIER ACRES, LLC  
 ADDRESS: 3980 US ROUTE 202  
 EAST MONTPELIER, VT 05651  
 TAX MAP PARCEL #09-00-90,120  
 DEED: BOOK 123/PAGE 309  
 ZONE: COMMERCIAL

LOT 3-A SUBDIVISION SURVEY  
 EAST MONTPELIER ACRES, LLC, &  
 DONALD & BARBARA COTE  
 CHASE & CHASE  
 SURVEYORS & SEPTIC DESIGNERS INC.  
 801 N. MAIN ST. - BARRE, VT. 05641  
 (802)-479-9636

- LEGEND:**
- EXISTING FEATURES
    - ROAD RIGHT-OF-WAY LINE
    - BOUNDARY OF PROPERTY LINE
    - BOUNDARY OF EASEMENT
    - BOUNDARY OF SHEDS
    - TRAIL OR BRIDGE
    - WIRE FENCE
    - IRON NAIL (ROUND OR FLAT)
    - WOODEN NAIL (ROUND OR FLAT)
    - CONCRETE NAIL (ROUND OR FLAT)
    - UNIDENTIFIED NAIL
    - UTILITY POLE
    - TRAIL LINE
    - RIVER CORRIDOR
  - PROPOSED IMPROVEMENTS
    - PROPOSED RIGHT-OF-WAY LINE
    - PROPOSED BOUNDARY OF PROPERTY LINE
    - PROPOSED BOUNDARY OF EASEMENT
    - PROPOSED TRAIL OR BRIDGE
    - PROPOSED TRAIL LINE
    - LIMIT OF E.S.R.D. CONSERVATION AREA

**REFERENCES:**

1. A PLAN ENTITLED "DONALD COTE PROPERTY, LOTS 1A, 2A & 3A," DATED 4/14/2004 BY JOHN THEFORD AS RECORDED IN MAP SLIDE 92 OF THE EAST MONTPELIER LAND RECORDS.
2. A PLAN ENTITLED "TOTAL STATION SURVEY OF DONALD COTE PROPERTY, U.S. ROUTE 2, EAST MONTPELIER, VT," DATED MAY 1999 BY JOHN THEFORD, AS RECORDED IN MAP SLIDE 57 OF THE EAST MONTPELIER LAND RECORDS.
3. A PLAN ENTITLED "FRANKS L. DELAR, PLAINFIELD ROAD, EAST MONTPELIER, VERMONT," DATED 11/11/2003 BY WAYNE D. LAWRENCE, AS RECORDED IN MAP SLIDE 54 OF THE EAST MONTPELIER LAND RECORDS.
4. PLANS OF VTIRAMS PROJECT BFR 09-31038C, AS ARCHIVED ON THE VTIRAMS PROJECTIVE WEBSITE.
5. VARIOUS PLANS INCLUDED AS PART OF VERMONT LAND USE PERMIT SERIES SW0763, AS FILED IN THE ACT 250 DISTRICT'S OFFICE, BARRE, VERMONT.

**SURVEYORS NOTES:**

1. THIS SURVEY WAS CONDUCTED BY USE OF A TRIMBLE 58 ROBOTIC TOTAL STATION, TOGETHER WITH A STEEL TAPE, WITH AN ACCURACY WITHIN ACCEPTED STANDARDS FOR THIS CLASS OF SURVEY.
2. THIS SURVEY IS BASED ON DEEDS AND SURVEYS OF RECORD, PHYSICAL EVIDENCE LOCATED, AND INFORMATION PROVIDED BY OWNERS AND ADJUTERS.
3. ENCROACHMENTS, IF ANY, ARE AS SHOWN HEREIN.
4. ONLY EASEMENTS AND/OR RIGHTS-OF-WAY ENCOUNTERED DURING RECORD RESEARCH NECESSARY TO DETERMINE PARCEL BOUNDARIES HAVE BEEN DEPICTED HEREIN. THE PROPERTY MAY BE SUBJECT TO OTHER EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS AND RESERVATIONS.
5. BEARINGS SHOWN HEREIN ARE BASED ON REFERENCE #1 MAGNETIC (2003).
6. THE PROPOSED 50' WIDE RIGHT-OF-WAY TO LOT 3A-1S TO BE CENTERED ON THE GRAVEL DRIVE AS SHOWN ON THE ATTACHED MAP. THE RIGHT-OF-WAY SHALL BE CONTROLLED BY THE METES AND BOUNDS SHOWN HEREIN.
7. THE SHARDED AREA IN THAT AREA TO BE CONSIDERED TO SATISFY THE REQUIREMENTS OF THE STATE OF VERMONT OPERATIONAL STORMWATER DISCHARGE PERMIT (OP 2-8015) ENVIRONMENTALLY SENSITIVE RURAL DEVELOPMENT CREDIT (E.S.R.D.), NO DEVELOPMENT OR EARTH DISTURBANCE WITHIN THIS AREA IS ALLOWED.
8. WHOLLY WITHIN THE E.S.R.D. CONSERVATION AREA EXIST 5.12 ACRES OF PRIMARY AGRICULTURAL SOILS THAT HAVE BEEN DESIGNATED AS ON-SITE MITIGATION FOR IMPACTS BOTH ON-SITE AS WELL AS ON OTHER LANDS OF THE DEVELOPER. NO DEVELOPMENT WITHIN THESE SOILS IS PERMITTED.
9. ALL WOODED AREAS WITHIN THE PARENT LOT 3A-A HAVE BEEN DESIGNATED AS DEER WINTERING AREAS BY THE VERMONT AGENCY OF NATURAL RESOURCES. NO CUTTING WITHIN THOSE AREAS IS PERMITTED WITHOUT APPROVAL OF THE AGENCY.
10. CLASS II AND CLASS III WETLANDS EXIST ON THE PROPERTY. ONLY THOSE WETLANDS PROXIMATE TO THE AREA OF PROPOSED DEVELOPMENT HAVE BEEN DETERMINED ON THE PROJECT PLANS AND SHOWN AS SHARDED AREAS. THE UNSHARDED WETLANDS SECTION PRIOR TO DISTURBING ANY AREA IS TO BE SHOWN ON SAID PLANS.
11. THE LIMITS OF THE WETLANDS RIVER CORRIDOR (RURAL RESERVATION AREA) SHOWN HEREIN ARE BASED ON THE DATA LAYER AVAILABLE ON THE VERMONT AGENCY OF NATURAL RESOURCES ONLINE ATLAS AS MODIFIED BY THE LETTER OF DETERMINATION DATED FEBRUARY 16, 2017 BY GRETCHEN ALEXANDER, AGRICULTURAL SCIENTIST, AND THE ATTACHED IMP, NO DISTURBANCE OF ANY TYPE IS PERMITTED WITHIN THIS CORRIDOR.

