

Town of East Montpelier

ZONING PERMIT

NOTICE

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

Date Issued: May 18, 2018

Effective Date: June 2, 2018

Location: 4233 US Rte. 2

Owner: Morris Properties LLC

For: Addition of Motor Vehicle Sales

& Service Use to Existing Residential Use

Application # 18-005

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

May 18, 2018

Morris Properties LLC
Attn: Jim Morris
413 Barclay Road
Barre, VT 05641

Re: East Montpelier Zoning Application #18-005

Dear Mr. Morris:

Please find enclosed the written decision of the East Montpelier Development Review Board approving as presented your request to add a limited commercial motor vehicle sales & service use to the existing residential use of the 4233 US Rte. 2 property as described in application #18-005. 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 #18-005 for the addition of the limited commercial motor vehicle sales & service use to the property located at 4233 US Rte. 2. Please understand that this new use is not a general motor vehicle sales & service use as authorized for the 4243 US Rte. 2 parcel in Zoning Permit #11-052, but is limited to the site plan description contained in application #18-005.

Please 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

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

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

May 18, 2018

Kelly & David Fournier
PO Box 236
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #18-005

Dear Ms. & Mr. Fournier:

Please find enclosed the written decision of the East Montpelier Development Review Board approving as presented the Morris Properties LLC request to add a limited commercial motor vehicle sales & service use to the existing residential use of the 4233 US Rte. 2 property as described in application #18-005. As neighboring property owners who participated in the DRB hearing process, you may 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 #18-005 for the addition of the limited commercial motor vehicle sales & service use to the property located at 4233 US Rte. 2. This new use is not a general motor vehicle sales & service use as authorized for the 4243 US Rte. 2 parcel in Zoning Permit #11-052, but is limited to the site plan description contained in application #18-005.

Please 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: Morris Properties, LLC
 4233 US Rte. 2
 Parcel # 10-077.100 Tax Map # 09-00-93.210

East Montpelier Zoning Application #18-005

INTRODUCTION & PROCEDURAL HISTORY

1. On March 14, 2018, Morris Properties LLC submitted an application with the Town of East Montpelier for conditional use approval to add a motor vehicle sales and service use to its residential property located at 4233 US Rte. 2.
2. The property in question is located in the Commercial District – Zone A, where motor vehicle sales and service is a permitted activity. Since the property currently has a single family residential use, the application is seeking an East Montpelier Land Use & Development Regulations Section 4.11 mixed use approval for the combination of a grandfathered residential use coupled with the requested motor vehicle facility use. Mixed uses require condition use review by the Development Review Board.
3. A public notice was duly published in the Times Argus on March 17, 2018 for a hearing, which was conducted on April 3, 2018. The hearing was continued to May 1, 2018 with a second public notice published in the Times Argus on April 14, 2018.
4. Owner representative Kris Jurentkuff, neighbor Kelly Fournier, and Zoning Administrator Bruce Johnson appeared and participated in the April 3, 2018 hearing. Owner representatives Jim Morris and Craig Chase, neighbor David Fournier, and Zoning Administrator Bruce Johnson appeared and participated in the May 1, 2018 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the May 1, 2018 hearing were Curtis, Welch, Lane, Watson, Dworkin, Lange, Cueto, and Kappel.

FINDINGS OF FACT

1. Applicant requests to add a limited motor vehicle sales and service use to the 4233 US Rte. 2 property. Currently there is an active residential use, including a house and outbuildings, on the parcel. As part of the added commercial use Applicant intends to

alter the access drive to the adjacent motor vehicle sales and service facility, install 50 linear feet along US Rte. 2 of vehicle display area, remove 3 softwood trees, and add one pole-mounted light.

2. This application is inextricably linked to Permit Application 18-004. The requested commercial use and improvements of 4233 US Rte. 2 are designed to benefit the motor vehicle sales & service facility on 4243 US Rte. 2. Permit Application 18-004 is the subject of site plan review proceedings running concurrently with Permit Application 18-005's conditional use review.
3. The property is located in Zone A – the Commercial District, where motor vehicle sales and service is a permitted activity. Residential use in Zone A is a listed conditional use, but is a long-standing, grandfathered use on this parcel. Section 4.11 mixed uses can be a combination of permitted and conditional uses. In 2011, the DRB approved a motor vehicle sales and service use of the abutting 4243 US Rte. 2 property as part of East Montpelier Zoning Permit 11-052. This application is for a very limited extension of that approved use.
4. Both the regulatory special flood hazard area and river corridor area affect this parcel. The section of the parcel designated for the motor vehicle sales and service use is outside of both regulatory zones.
5. The proposed improvements, coupled with the work on the adjacent 4243 US Rte. 2 parcel, are designed to improve access to the 4243 US Rte. 2 facility and abutting parcels by splitting off the access point to the facility at a point nearer to US Rte. 2 to lessen the effect of the facility on the shared drive off of US Rte. 2.
6. The proposed down facing pole-mounted light will provide lighting for the new display area. The trees to be removed are located within the proposed display area.
7. The 4233 US Rte. 2 parcel utilizes a shared drive for access off of US Rte. 2. On April 3, 2018, the Vermont Agency of Transportation issued a Letter of Intent to authorize the access improvements required for the project.

CONCLUSIONS

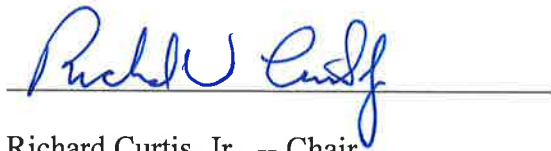
The standards for the issuance of a conditional use permit are set forth in Section 5.5 of the East Montpelier Land Use & Development Regulations. It is found that the five general standards in Section 5.5 (C) have been reviewed, and the proposed use will not adversely affect any of them. It is further found that the specific standards in Section 5.5 (E) are not applicable to the project. As part of conditional use review Section 5.4 (C) site plan standards have been evaluated and incorporated into this decision.

DECISION

By unanimous vote, the DRB approves Conditional Use Permit #18-005 to allow as presented the requested mixed commercial and residential use of the 4233 US Rte. 2 property.

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 17th day of May, 2018.

A handwritten signature in blue ink, reading "Richard W. Curtis, Jr.", is written over a horizontal line.

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 # 18-005

ZONING PERMIT APPLICATION

Date Received: 3/14/18

Zoning District A

TOWN OF EAST MONTPELIER

Parcel # 10-077.100

Overlays WR/FHA/RC

PO Box 157, East Montpelier, VT 05651

Tax Map # 09-00-93.210

- A.**
- Name of Landowner MORRIS PROPERTIES, LLC Phone No. 839-0100
 - Address of Landowner 413 BARCLAY RD, BARRE, VT 05641
 - Applicant (other than owner) Phone No.
 - Address of Applicant.....
 - Location of Property 4233 ROUTE 2

B: Application is made (check appropriate boxes):

- | | | |
|--|---|--|
| To: | For: | For: |
| <input checked="" type="checkbox"/> Construct | <input type="checkbox"/> One <input type="checkbox"/> Two-family dwelling | <input 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 checked="" type="checkbox"/> Commercial / Business | <input type="checkbox"/> Ground water withdrawal |
| <input type="checkbox"/> Remove | <input type="checkbox"/> Light Industrial | <input type="checkbox"/> Landfilling |
| <input checked="" type="checkbox"/> Change use | <input type="checkbox"/> Industrial | <input checked="" type="checkbox"/> Other |

Describe work to be performed CONSTRUCT VEHICLE DISPLAY PARKING FOR USE BY ADJACENT AUTO SERVICE FACILITY OWNED BY SAME LANDOWNER. - SEE COVER SHEET

- C. Lot description:**
- acreage 1.58
 - road frontage 228' Ft. SEE SITE PLAN
 - depth front yard 254' Ft.
 - depth side yards 19.8 Ft. 43.0 Ft. (building to lot lines)
 - depth rear yard N/A 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.

Landowner [Signature] Date 3/14/18
Applicant [Signature] Date

Zoning Permit Fee: \$ 75 Cash _____ Check 803 Date 3/14/18 Rec'd by D.S.
DRB Hearing Fee: \$ 150 Cash _____ Check ↓ Date ↓ Rec'd by D.S.

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) 505-5367 to speak to Peter Kopsco, our region's 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/energy_efficiency/rbes
Commercial Building Energy Standards: http://publicservice.vermont.gov/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 # 18-005 Date Issued 05/18/18 Effective Date 06/02/18

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.

4. Permittee is required to submit a Certificate of Compliance form to the Zoning Administrator in accordance with East Montpelier Land Use & Development Regulations Section 7.4:
 Yes (form included with permit) No


.....
Zoning Administrator

F. Action by Development Review Board:

1. Public Notice Date 3-17-18 4-14-18
2. Date(s) of Hearing 4-3-18 - 5-1-18
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: 05/18/18

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.



Surveyors & Septic Designers, Inc

March 13, 2018

Bruce Johnson, Zoning Administrator
Town of East Montpelier
40 Kelton Road
PO Box 157
East Montpelier, VT 05651

301 North Main Street, Suite 1
Barre, Vt. 05641
Phone 802-479-9636
Fax 802-479-4017

email: cdchase@chasesurveyors.com
billchase@chasesurveyors.com
kjurentkuff@chasesurveyors.com

Hand Delivered

Re: Site Plan Review applications – Jim & Ashley Morris and Morris Properties, LLC, Route 2 east

Dear Bruce,

Please find attached two applications for Site Plan Review of site improvements proposed by Jim & Ashley Morris and Morris Properties, LLC at their adjacent parcels located at 4233 and 4243 Route 2 (Tax map parcels 09-93.21 and 09-93.222). As you may suspect, Jim and Ashley are the principals of Morris Properties, LLC.

Because these two properties are inextricably linked by the 60' right-of-way that provides access to Route 2 for both properties as well as the properties of Neddo and Bailey to the north, we are presenting these proposals as one project. As you've noted, separate ownership dictates separate applications, therefore we've attempted to separate the improvements as best we can by parcel for your convenience.

Parcel 09-093.222 – Jim & Ashley Morris

The improvements proposed to this parcel are as follows:

- Relocation of a small portion of the drive serving the existing automotive service facility to more quickly separate its traffic from the adjacent residential lot of Neddo to the north.
- Conversion of 2500 SF of existing gravel drive and parking areas to lawn.
- Installation of 125' LF of 6' high white vinyl stockade fence in two sections.
- Reconfiguration of the previously approved parking layout.
- Installation of three pole-mounted lights along the front of the existing vehicle display area.
- Installation of three surface-mounted lights along the proposed fence.

All of these improvements are detailed on the attached Site Plan.

The fence is proposed to separate the rear "working" areas of the facility from the public patron and vehicle display area and improve the appearance of the facility as a whole.

The proposed lighting is for improved safety and vehicle display. The pole-mounted lights will be 20' high and topped with high efficiency L.E.D. lighting. The surface-mount lights will also be L.E.D. and be placed at the top of the proposed fence to provide patrons and employees more secure access to their vehicles during the winter evening hours. All lights will be of the sharp-cutoff, down-shielded type to prevent light spillage onto Route 2 or adjacent properties, and will be controlled by photocells. Cut sheets will be provided at the hearings.

Parcel 09-093.21 – Morris Properties, LLC

The improvements proposed for this parcel are as follows:

- Removal of three existing small softwood trees.
- Relocation of the balance of the drive serving the adjacent automotive service facility and installation of an additional 50 LF of vehicle display area along Route 2.
- Installation of one pole-mounted light to match those to be installed on the adjacent property as noted above.

The drive relocation and display area expansion on both lots propose a combined increase in impervious surface of 5200 SF. This is balanced by 2500' SF of existing gravel area to be reclaimed to lawn, yielding a net increase in impervious surface of 2700 SF. This area, as with the existing drive area, drains over low-gradient vegetated lawn to the west. The existing ground contour will be matched by the finished grade, thereby leaving the existing drainage pattern unchanged. Given the sandy soil in this vicinity, no significant increase in discharge from this site is anticipated. No State discharge permit is required as the site is still below the 1 acre regulatory threshold.

Please note that this parcel is already developed with a single-family residence. It appears that this use is long standing - though I'm unsure exactly when it was established – and would be a conditional use under the current Development Regulations. Expanding the commercial use through installation of the display area on this parcel will make it a "dual use" property, without an actual conditional use approval for the residential use. Based on our earlier conversation, it appears that this has not been an issue for the Board in the past when one of the dual uses was pre-existing. I hope that to be the case here.

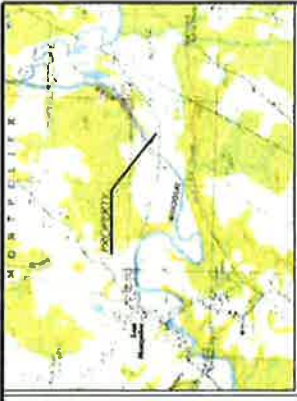
The Morris' intend to explore the costs involved with paving all or portions of the reconfigured drive and display areas. It's unclear if a permit would be required to simply pave an existing gravel lot, but if so, Jim and Ashley would like to solicit the Board's approval to do so at this time. The paving would only be undertaken if the costs are not prohibitive.

I believe this pretty well sums up the proposed improvements for both parcels and look forward to a Hearing in early April. Thank you.

Sincerely,



Kris Jarentkuff
Project Manager

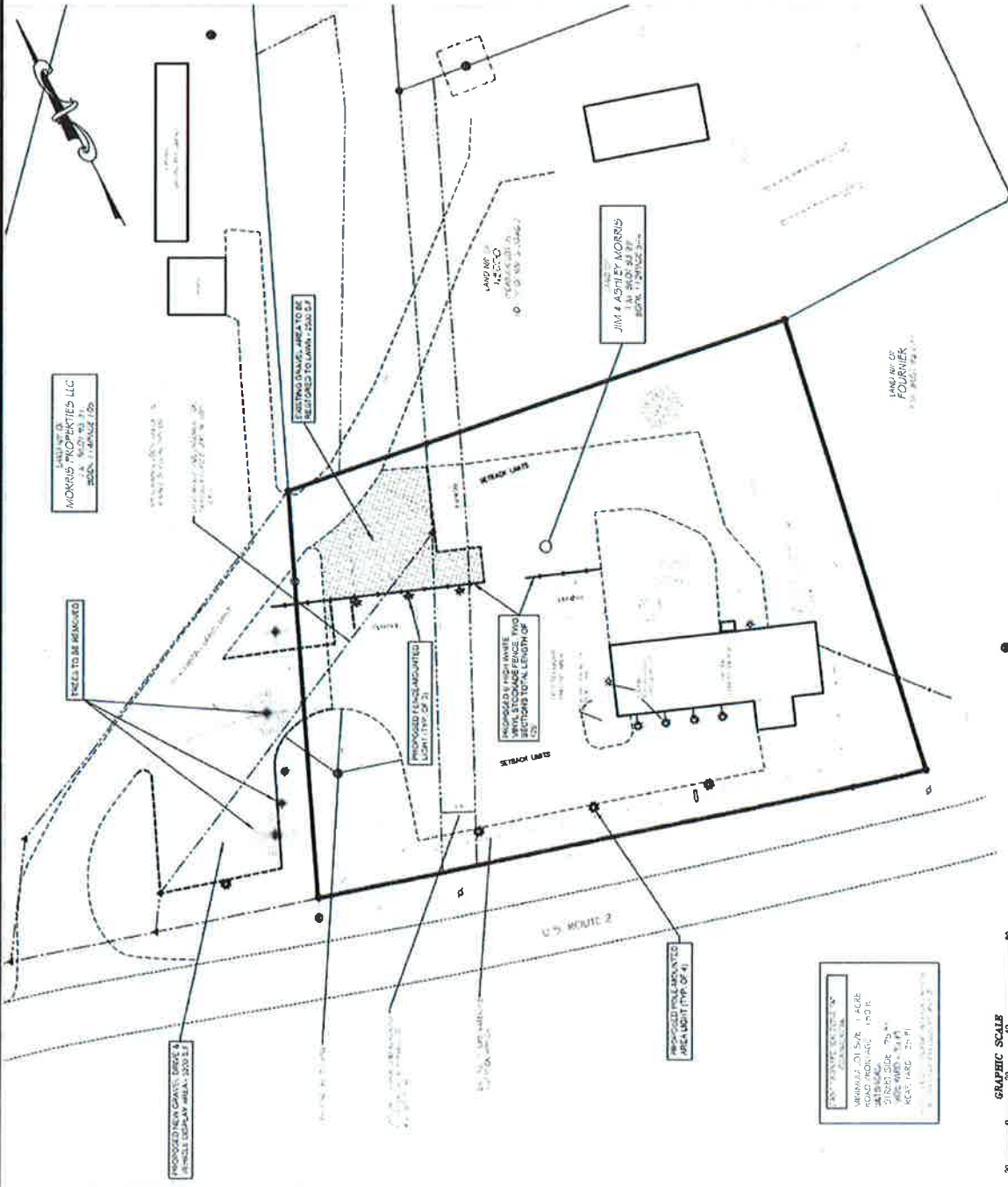


LOCATION MAP
NOT TO SCALE

- LEGEND:**
- PROPOSED HIGHWAY
 - PROPOSED HIGHWAY RIGHT-OF-WAY
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 10' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 20' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 30' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 40' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 50' BUFFER
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 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 80' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 90' BUFFER
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 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 120' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 130' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 140' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 150' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 160' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 170' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 180' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 190' BUFFER
 - PROPOSED HIGHWAY RIGHT-OF-WAY WITH 200' BUFFER

NOTES:

1. THE PROPERTY IS LOCATED ON AN UNPLATTED SUBDIVISION AND IS OWNED BY MORRIS PROPERTIES, LLC.
2. THE PROPERTY IS LOCATED ON AN UNPLATTED SUBDIVISION AND IS OWNED BY MORRIS PROPERTIES, LLC.
3. THE PROPERTY IS LOCATED ON AN UNPLATTED SUBDIVISION AND IS OWNED BY MORRIS PROPERTIES, LLC.
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9. THE PROPERTY IS LOCATED ON AN UNPLATTED SUBDIVISION AND IS OWNED BY MORRIS PROPERTIES, LLC.
10. THE PROPERTY IS LOCATED ON AN UNPLATTED SUBDIVISION AND IS OWNED BY MORRIS PROPERTIES, LLC.



MORRIS PROPERTIES, LLC
142 CLAY ST.
MORRIS, VT 05641

PROPOSED HIGHWAY RIGHT-OF-WAY WITH 100' BUFFER

LAND NO. 142 CLAY ST.

JIM & ASHLEY MORRIS
142 CLAY ST.
MORRIS, VT 05641

LAND NO. 142 CLAY ST.

TRAILS TO BE REMOVED

PROPOSED HIGHWAY RIGHT-OF-WAY WITH 200' BUFFER

PROPOSED HIGHWAY RIGHT-OF-WAY WITH 100' BUFFER

PROPOSED HIGHWAY RIGHT-OF-WAY WITH 100' BUFFER

PROPOSED HIGHWAY RIGHT-OF-WAY WITH 100' BUFFER

PROPOSED HIGHWAY RIGHT-OF-WAY WITH 100' BUFFER	1" = 20'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 200' BUFFER	1" = 40'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 300' BUFFER	1" = 60'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 400' BUFFER	1" = 80'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 500' BUFFER	1" = 100'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 600' BUFFER	1" = 120'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 700' BUFFER	1" = 140'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 800' BUFFER	1" = 160'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 900' BUFFER	1" = 180'
PROPOSED HIGHWAY RIGHT-OF-WAY WITH 1000' BUFFER	1" = 200'



OWENSMITH, CARL
MORRIS PROPERTIES, LLC
ADDRESS: 413 BARCLAY RD
TAX PARCEL # 009 01 93 2 1
DEED: VOLUME 111 PAGE 135

CHASE & CHASE
SURVEYORS & SEPTIC DESIGNERS, INC.
301 N. MAIN ST. BARRE, VT. 05641
(802) 477-2855

Morris -- 4233 & 4243 US Rte. 2



March 14, 2018

1:4,514

007

CODE

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