

# Town of East Montpelier

# ZONING PERMIT

## NOTICE

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

Date Issued: July 15, 2019  
Effective Date: July 30, 2019  
Location: SW Corner of Codding Rd/US Rte. 2  
Owner: Town of East Montpelier  
For: Installation of Dry Hydrant

Application # 19-031

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

July 15, 2019

Town of East Montpelier  
Attn: C. Bruce Johnson  
PO Box 157  
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #19-031

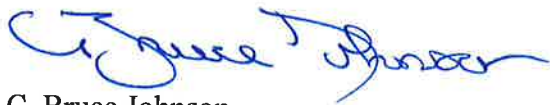
Dear Mr. Johnson:

Please find enclosed the written decision of the East Montpelier Development Review Board approving the dry hydrant project contained in your zoning application #19-031 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 #19-031 for the installation of a dry hydrant as depicted in application #19-031 at the unclaimed parcel located at the southwest corner of the Codling Road/US Rte. 2 intersection.

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:      Town of East Montpelier  
                                 Lot at SW Corner of the Codling Road/US Rte. 2 Intersection  
                                 Parcel # None              Tax Map # 12-01-25.000

East Montpelier Zoning Application #19-031

**INTRODUCTION & PROCEDURAL HISTORY**

1. On June 13, 2019, Bruce Johnson, East Montpelier Town & Zoning Administrator, on behalf of the Town of East Montpelier, submitted an application with the Town of East Montpelier for Development Review Board conditional use approval to install a dry hydrant on an unclaimed parcel at the southwest corner of the Codling Road/US Rte. 2 intersection.
2. The property in question lies in the Residential/Commercial District – Zone C and is subject to DRB regulation under Section 9.5 (D)(5) of the East Montpelier Land Use & Development Regulations due to its location in the Special Flood Hazard Area and the River Corridor.
3. A public notice was duly published in the Times Argus on June 15, 2019 for a hearing, which was conducted on July 2, 2019.
4. Applicant representative Bruce Johnson and neighboring landowners Edward Deegan & Keri-Ann Black-Deegan appeared and participated in the July 2, 2019 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the July 2, 2019 hearing were Kappel, Cueto, Hill, Justis, Dworkin, Watson, Cutler, and Weyant.

**FINDINGS OF FACT**

1. Applicant Town of East Montpelier proposes to install, in association with the East Montpelier Volunteer Fire Department, a dry hydrant for fire protection utilizing the Winooski River from a 1.4-acre lot located at the southwest corner of the Codling Road/US Rte. 2 intersection. Ownership of the lot in question is unknown. The Town of East Montpelier is staking a claim to ownership.
2. The property is located in Zone C – the Residential/Commercial District. The parcel abuts the Winooski River and is fully within the both the regulatory special flood hazard area and river corridor area. The part of the parcel near the river is in the regulatory floodway. The project will affect all three regulatory areas.
3. The VT DEC River Corridor and Floodplain Protection Program has issued a determination that the project can meet the requirements of Article 9 (Flood Hazard Area Regulations) of the East Montpelier Land Use & Development Regulations so long as

there is no net fill and the project follows the dictates of the June 14, 2019 letter from Ned Swanberg, Central Vermont Floodplain Manager. Applicant Town of East Montpelier agrees to follow the construction expectations contained in the letter.

4. This project falls under the potential jurisdiction of a number of other state and federal regulatory divisions, including the Army Corps of Engineers, VT DEC wetlands, VT DEC rivers program, and the VT Agency of Transportation. There are still outstanding concerns regarding permits for wetland issues.

## CONCLUSIONS

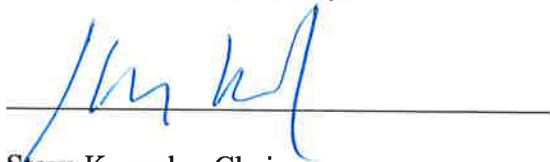
The standards for the issuance of a conditional use permit are set forth in Section 5.5 of the East Montpelier Land Use & Development Regulations. It is found that the five general standards in Section 5.5 (C) have been reviewed, and the proposed use will not adversely affect any of them. It is further 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 #19-031 to allow as presented the dry hydrant installation on the Codling Road lot (Tax Map #12-01-25.000).

**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 15<sup>th</sup> day of July, 2019.



Steve Kappel -- 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 # 19-031  
Zoning District C  
Overlays WR, SFHA, RC

**ZONING PERMIT APPLICATION**

**TOWN OF EAST MONTPELIER**

PO Box 157, East Montpelier, VT 05651

Date Received: 6/13/2019  
Parcel # None  
Tax Map # 12-01-25.000

- \*\*\*\*\*
- A. 1. Name of Landowner Unknown -- Town of East Montpelier, Claimant Phone No. 223-3313  
2. Address of Landowner PO Box 157, East Montpelier, VT 05651  
3. Applicant (other than owner) Town of East Montpelier Phone No. 223-3313  
4. Address of Applicant PO Box 157, East Montpelier, VT 05651  
5. Location of Property Southwest corner of Codling Road/US Rte. 2 intersection

**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 type="checkbox"/> Change use           | <input type="checkbox"/> Industrial                                       | <input type="checkbox"/> Other                         |

Describe work to be performed. The East Montpelier Fire Department would like to install a dry hydrant utilizing the Winooski River on the parcel. The access point will be on Codling Road just beyond the 50 Codling Road driveway (house across street). A landing will need to be constructed at Codling Road to allow access down to a constructed, at ground level, drive. Fire trucks will drive forward toward the river; connect to the dry hydrant mid-truck; and back out to Codling Road. This is a public project dependent on river access.

**C. Lot description:**

- |   |  |
|---|--|
| 1. acreage <u>1.4</u> acres   | 4. depth side yards <u>n/a</u> Ft. <u>n/a</u> Ft.<br>(building to lot lines) |
| 2. road frontage <u>570</u> Ft.                                     |  |
| 3. depth front yard <u>n/a</u> Ft.<br>(Road centerline to building) | 5. depth rear yard <u>n/a</u> Ft.<br>(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.

Claimant Landowner C. Bruce Johnson for Town Date 6/13/2019  
Applicant C. Bruce Johnson for Town Date 6/13/2019

\*\*\*\*\*

Zoning Permit Fee: \$0 Cash ☐ Check ☐ Date          Rec'd by           
DRB Hearing Fee: \$0 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) 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](http://publicservice.vermont.gov/energy_efficiency/rbes)  
Commercial Building Energy Standards: [http://publicservice.vermont.gov/energy\\_efficiency/cbes](http://publicservice.vermont.gov/energy_efficiency/cbes)

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**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 # 19-031 Date Issued 07/15/19 Effective Date 07/30/19

**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

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

1. Public Notice Date 15 JUNE 2019

2. Date(s) of Hearing 2 JULY 2019

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: JULY 15, 2019

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.





**Vermont Department of Environmental Conservation**

Watershed Management Division

1 National Life Drive, Main 2

Montpelier, VT 05620-3522

*Agency of Natural Resources*

phone 802-828-1535

fax 802-828-1544

C. Bruce Johnson  
Town and Zoning Administrator  
Town of East Montpelier  
electronic transmission

6/14/19

Hello Bruce,

Thank you for sending (6/5/19) the application materials related to the proposed dry hydrant installation at (51) Codling Road. The proposed design includes the installation of a dry hydrant with an access road and a guardrail at the end.

I am attaching a map, [Atlas 51 Codling Rd Dry Hydrant Site.jpg](#), identifying the location within three hazard areas: the River Corridor, Special Flood Hazard Area and Floodway of the Winooski River.

All development in the hazard areas requires review and compliance with the flood hazard area standards in Article 9 of the East Montpelier Land Use & Development Regulations. Section 9.5 (D)(5) requires Conditional Use Review by the Development Review Board for public projects which are functionally dependent on access to a stream.

The project may meet the hazard area standards if carefully conditioned and designed to meet criteria related to the Floodway and avoid new net fill.

On the attached map: [hydrant site w contours.jpg](#) I have georectified the initial sketch up plans for the installation and added the hazard area data and one-foot contours from lidar.

Within the Floodway (9.6), public utilities may be placed underground where a licensed professional engineer certifies that there will be no change in grade and the utility will be adequately protected from scour.

However, any fill or access road extending into the Floodway will require a hydraulic analysis by PE to confirm no rise in the Base Flood Elevation.

**9.6 (A)**

- (1) Development or any encroachments, above grade and less than one foot above the base flood elevation, within the regulatory floodway as determined in Section 9.3 (B), is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood, and will not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

The optimum solution is to only place the pipe underground and certify that there will be no change in grade. Otherwise the applicants will need to certify no-rise in accordance with 9.6 (A)(1).

Within the Special Flood Hazard Area, new fill is prohibited except as necessary to elevate existing buildings. 9.5 (C) (3).

To approach the river the proposal includes an access road approximately 24' wide and 140' long with 375 cubic yards of gravel and road base material.

The project may be able to eliminate or minimize fill by constructing the project at grade to create no net fill and no loss of floodwater storage volume. Any new road construction materials would offset by the removal of an equal amount of existing material such that the final project retains existing grades.

To the extent that the slope down from the road needs to be moderated – the volume of materials placed to establish a sloped ramp could be offset by the removal of a volume of material at the same or lower elevations below the Base Flood Elevation. This removed volume would be hydraulically connected to the river and would not create a disconnected ponded condition. VT DEC has technical guidance on the design of such compensatory flood storage that may allow the project to meet the standard in the bylaw.

The proposed location is also within the mapped River Corridor of the Winooski. The River Corridor identifies the area required by the channel to achieve and maintain the lowest gradient and least erosive planform.

On Tuesday 6/11, Gretchen Alexander, the VT DEC River Scientist, and I made a site visit. At the proposed site for the project the River Corridor is already constrained extensively by the location of the Rt 2 bridge and Codling Road. Given existing and likely future armoring needed to protect the roads Gretchen Alexander found that the project would not create a new encroachment or extend the river management boundary. As such the “proposed development will not obstruct the establishment and maintenance of a geomorphically stable river or stream channel.” 9.5 (F) (1).

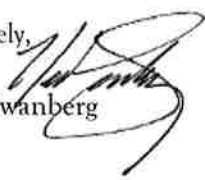
To the extent that the final project design can be conditioned to avoid net fill in the Floodway and Special Flood Hazard Area the project it can meet the criteria in Article 9.

As always, other State, Federal or local permits may be required for this project. Peter Kopsco, the VT DEC Permit Specialist for the region is available to help the applicant identify any other State Environmental Permits that may be necessary. These comments are offered in support of the Town of East Montpelier under 9.7 B (1) and 24 VSA §4424. Where the City has additional or more stringent standards those standards will control.

Please let me know if you have any questions.

Sincerely,

Ned Swanberg



Ned Swanberg, Central Vermont Floodplain Manager, CFM  
DEC River Corridor and Floodplain Protection Program  
[ned.swanberg@vermont.gov](mailto:ned.swanberg@vermont.gov) 802.490.6160  
[www.floodready.vermont.gov](http://www.floodready.vermont.gov)





# Town of East Montpelier -- 0 Codling Road

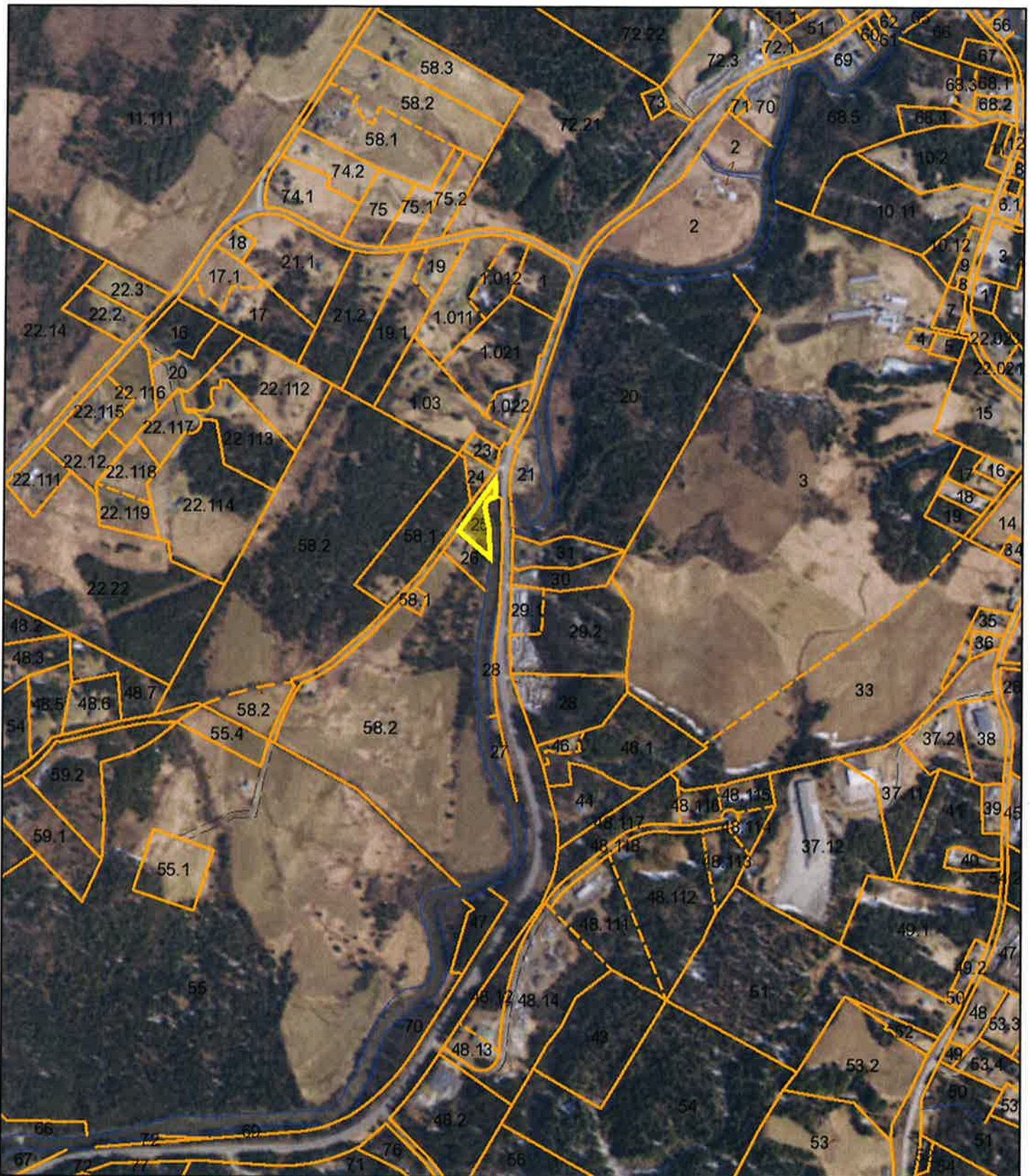
East Montpelier, VT



June 14, 2019

1 inch = 1075 Feet

[www.cai-tech.com](http://www.cai-tech.com)



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# Codling Road Dry Hydrant Lot

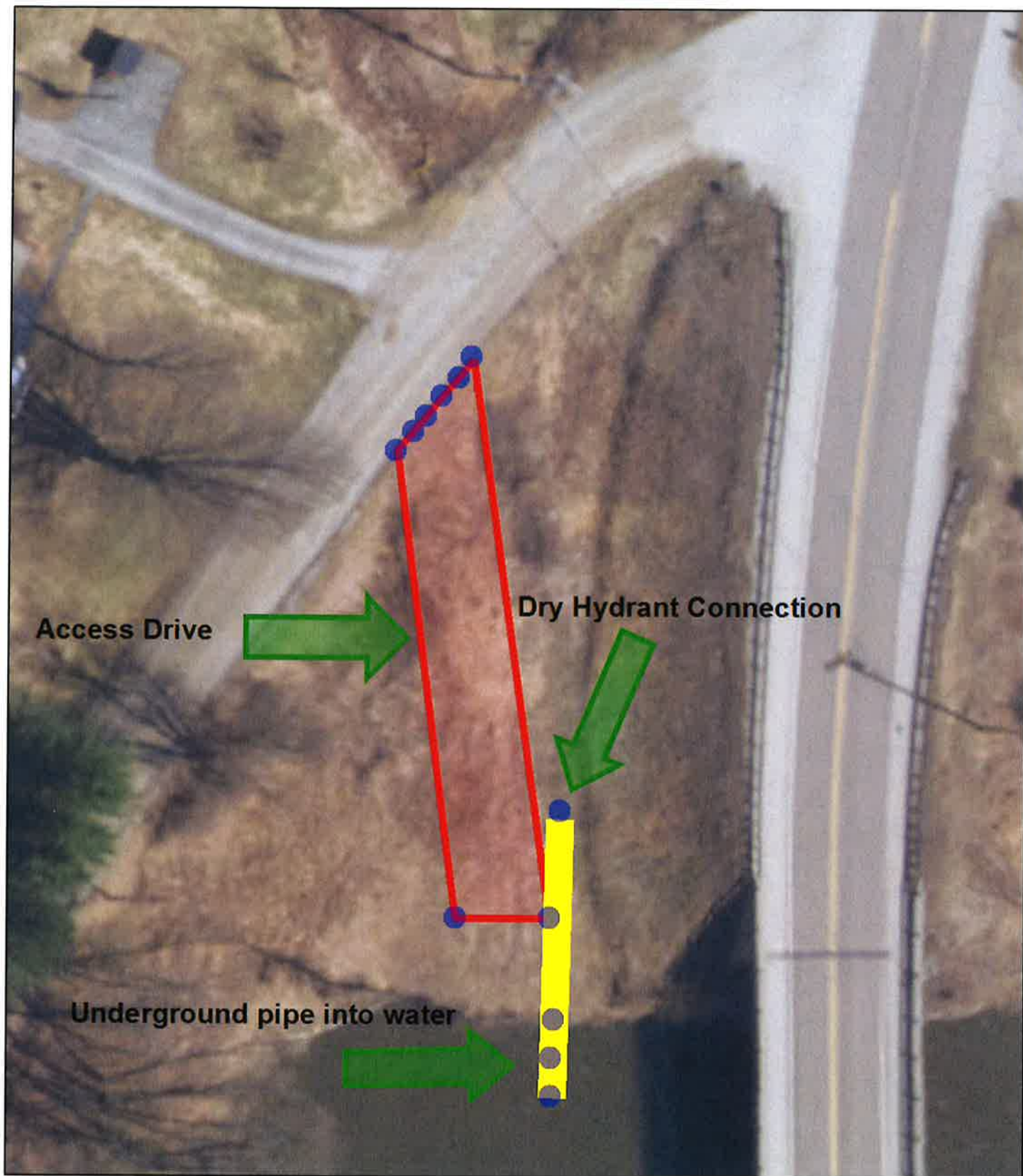
East Montpelier, VT



June 5, 2019

1 inch = 33 Feet

[www.cai-tech.com](http://www.cai-tech.com)



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