

District 3
Certcode 0111-0

**CERTIFICATE OF HIGHWAY MILEAGE
YEAR ENDING FEBRUARY 10, 2023**

Fill out form, make and file copy with the Town Clerk, and mail ORIGINAL, before February 20, 2023 to:
Vermont Agency of Transportation, Division of Policy, Planning and Intermodal Development, Mapping Section
One National Life Drive, Montpelier, VT 05633.

We, the members of the legislative body of Town of Middlebury in Addison County
on an oath state that the mileage of highways, according to Vermont Statutes Annotated, Title 19, Section 305,
added 1985, is as follows:

PART I - CHANGES TOTALS - Please fill in and calculate totals.

Town Highways	Previous Mileage	Added Mileage	Subtracted Mileage	Total	Scenic Highways
Class 1	3.907			3.907	0.000
Class 2	15.720			15.720	0.000
Class 3	46.45	-0.07 0.08		46.52 46.53	0.000
State Highway	16.784			16.784	1.386
Total	82.861			82.931 82.941	1.386
* Class 1 Lane	0.510			0.510	
* Class 4	2.89			2.89	
* Legal Trail	0.65			0.65	

DS
P0

Added mileage and totals entered by P. DeAndrea 3/13/2023 per correspondence 3/13/2023

* Mileage for Class 1 Lane, Class 4, and Legal Trail classifications are NOT included in total.

PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE.

- NEW HIGHWAYS:** Please attach Selectmen's "Certificate of Completion and Opening".
+0.08 mi CL3 TH-134 (Dorey Rd) new highway in 1994
- DISCONTINUED:** Please attach SIGNED copy of proceedings (minutes of meeting).
- RECLASSIFIED/REMEASURED:** Please attach SIGNED copy of proceedings (minutes of meeting).
~~Dorey Road is a Class 3 road not currently shown on state mapping (+0.07 mi.).~~
- SCENIC HIGHWAYS:** Please attach a copy of order designating/discontinuing Scenic Highways.

Description moved from # 3 to #2 for "New Highways" and mileage entered by P. DeAndrea per correspondence 3/13/2023

IF THERE ARE NO CHANGES IN MILEAGE: Check box and sign below. []

PART III - SIGNATURES - PLEASE SIGN

Selectmen/ Aldermen/ Trustees Signatures:

[Handwritten signatures]

T/C/V Clerk Signature:

Date Filed:

January 31, 2023

Please sign ORIGINAL and return it for Transportation signature.

AGENCY OF TRANSPORTATION APPROVAL:

Signed copy will be returned to T/C/V Clerk.

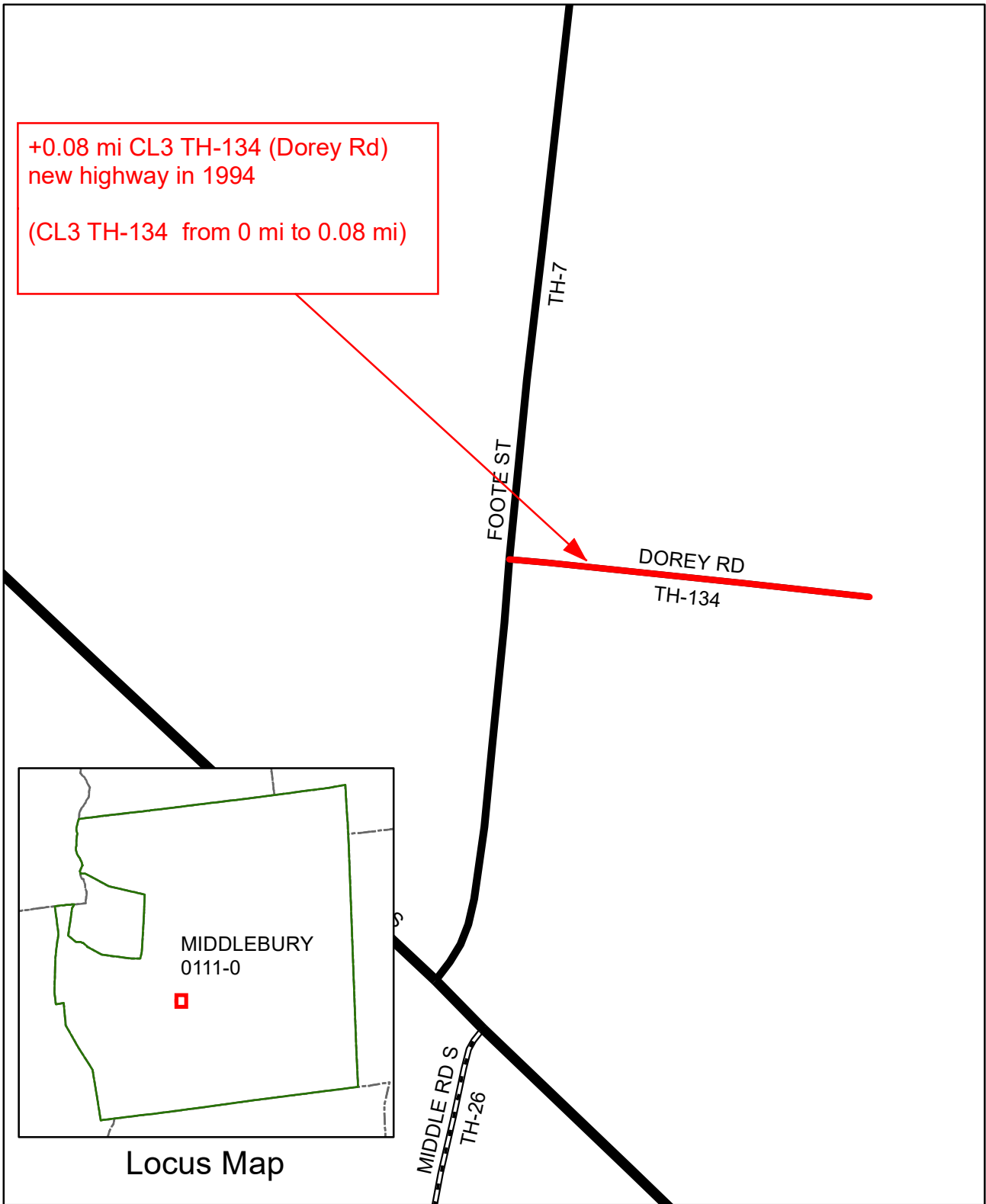
[Signature]
Johnathan Croft
8B1F350F309C4C9

4/28/2023

APPROVED:

Representative, Agency of Transportation

DATE:

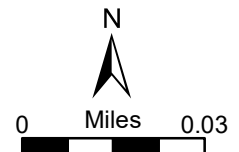


Mileage Certificate Changes 2023

MIDDLEBURY

(CTUA:0111-0)
(CERTCODE:0111-0)

Mapping Section
Division of Policy and Planning
Vermont Agency of Transportation -- March 13, 2023



From: [DeAndrea, Pam](#)
To: [Emmalee Cherington](#); [AOT - Mileage Certificates](#)
Cc: [Kathleen Ramsay](#)
Subject: RE: 2023 Mileage Certificates- Middlebury
Date: Monday, March 13, 2023 1:26:00 PM
Attachments: [image001.png](#)

Hi Emmalee,

Thank you. You do not have to re-submit, I can make the change on my end. We measure from the centerline of the intersecting road. I can make that update on the certificate before we sign it and send it back to you.

Best,

Pam

Pamela DeAndrea (she/her) | AOT GIS Professional III
Policy, Planning & Research Bureau – Mapping Section
Policy, Planning & Intermodal Development Division
Vermont Agency of Transportation
219 North Main Street | Barre, VT 05641
[802-793-7555 phone](tel:802-793-7555) | pam.deandrea@vermont.gov
<http://vtrans.vermont.gov>



From: Emmalee Cherington <echerington@townofmiddlebury.org>
Sent: Monday, March 13, 2023 12:53 PM
To: DeAndrea, Pam <Pam.DeAndrea@vermont.gov>; AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>
Cc: Kathleen Ramsay <KRamsay@townofmiddlebury.org>
Subject: RE: 2023 Mileage Certificates- Middlebury

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Pam-

I unfortunately haven't been able to find anything in our meeting minutes.

I believe the 0.07 miles was measured from edge of pavement (Foote St) to the end of Dorey Rd. I think it makes the most sense that it corresponds with the language in the deed. Would you prefer that I resubmit the application with that distance, or can you make the change on your end?

Let me know how you want to proceed.

Thanks-
Emmalee

Emmalee Cherington

DPW- Director of Planning

1020 Route 7 South

Middlebury, VT 05753

echerington@townofmiddlebury.org

802.388.4045 ext. 290



From: DeAndrea, Pam <Pam.DeAndrea@vermont.gov>

Sent: Monday, March 13, 2023 12:44 PM

To: AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>; Emmalee Cherington <echerington@townofmiddlebury.org>

Cc: Kathleen Ramsay <KRamsay@townofmiddlebury.org>

Subject: RE: 2023 Mileage Certificates- Middlebury

Hi Emmalee,

I am trying to wind down our mileage changes for Middlebury for Dorey Road and wondering if you ever found any old Selectboard minutes accepting the road as a Town Rd?

Also, I am looking at the Deed and noticed that the distance is 440.89 feet, which translates to 0.08 miles, not 0.07 miles as entered on the Mileage Certificate that was sent to us. Do you know where the 0.07 miles came from? I should probably change this to 0.08 miles to more accurately reflect the ROW survey described in the deed. When I measure the distance from the center of Foote Rd to the end of Dorey Rd using satellite imagery, I get 0.078 miles, which is closer to 0.08 miles than 0.07 miles.

Thank you and let me know if you agree with that.

Best,

Pam

Pamela DeAndrea (she/her) | AOT GIS Professional III

Policy, Planning & Research Bureau – Mapping Section

Policy, Planning & Intermodal Development Division

Vermont Agency of Transportation

219 North Main Street | Barre, VT 05641

802-793-7555 phone | pam.deandrea@vermont.gov

<http://vtrans.vermont.gov>



From: AOT - Mileage Certificates
Sent: Tuesday, February 21, 2023 12:52 PM
To: Emmalee Cherington <echerington@townofmiddlebury.org>; AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>
Cc: Kathleen Ramsay <KRamsay@townofmiddlebury.org>
Subject: RE: 2023 Mileage Certificates- Middlebury

Thank you Emmalee!

Pam

Pamela DeAndrea (she/her) | AOT GIS Professional III
Policy, Planning & Research Bureau – Mapping Section
Policy, Planning & Intermodal Development Division
Vermont Agency of Transportation
219 North Main Street | Barre, VT 05641
802-793-7555 phone | pam.deandrea@vermont.gov
<http://vtrans.vermont.gov>



From: Emmalee Cherington <echerington@townofmiddlebury.org>
Sent: Tuesday, February 21, 2023 10:25 AM
To: AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>
Cc: Kathleen Ramsay <KRamsay@townofmiddlebury.org>
Subject: RE: 2023 Mileage Certificates- Middlebury

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Pam-

I can keep digging. The process went on for years, unfortunately, so it is a challenge to find the exact meeting. Most of the Selectboard minutes reference this PC meeting in which it was determined that the road would become Town after being paved...but then that process itself took over 6 years. I went through three years of Selectboard Minutes, but just saw discussion about accepting the deed once paved, not any language regarding the original decision which appears to have been made at

the Planning Commission meeting. The other complication is that Foote St. was originally Schoolhouse Road and then got changed. Page 10-11 *Order: Note 5* speaks to the actual road being conveyed to the Town. I've reattached the follow-up conversations- which all refer back to this PC meeting.

Best-
Emmalee

Emmalee Cherington

DPW- Director of Planning
1020 Route 7 South
Middlebury, VT 05753
echerington@townofMiddlebury.org
802.388.4045 ext. 290



From: AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>
Sent: Tuesday, February 21, 2023 9:16 AM
To: Emmalee Cherington <echerington@townofmiddlebury.org>; AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>
Cc: Kathleen Ramsay <KRamsay@townofmiddlebury.org>
Subject: RE: 2023 Mileage Certificates- Middlebury

Hi Emmalee,

Thank you for this documentation. Though helpful, it does not contain what would be good to ensure Selectboard approval of a road added to Town roads for the Town and that the process was followed. I apologize, I should have been more clear the documented decision needs to be from the Selectboard. We have the deeds, which is great, but was wondering if you could access the Selectboard minutes where the decision to take on the road as a Town Rd. These minutes are from a Planning Commission meeting approving the development. Can you also let me know where within the Planning Commission minutes Dorey Rd is referenced? I was having difficulty connecting the minutes to the previous documents you sent.

I will also confer with my supervisor to see if we don't have Selectboard minutes or Notice of Public Hearing is not available, how we move forward.

Thank you,

Pam

Pamela DeAndrea (she/her) | AOT GIS Professional III
Policy, Planning & Research Bureau – Mapping Section
Policy, Planning & Intermodal Development Division
Vermont Agency of Transportation
219 North Main Street | Barre, VT 05641
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<http://vtrans.vermont.gov>



From: Emmalee Cherington <echerington@townofmiddlebury.org>
Sent: Friday, February 17, 2023 3:33 PM
To: AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>
Cc: Kathleen Ramsay <KRamsay@townofmiddlebury.org>
Subject: Re: 2023 Mileage Certificates- Middlebury

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Pam-

Could you let me know if the attached suffices for minutes of a publicly warned meeting? There were subsequent meetings that discussed the road, but this initiated the agreement, so most other meetings refer back to this. This conversation dates back quite a few years, so takes quite a bit of digging! Let me know if I need more supporting documentation.

Best-
Emmalee

Emmalee Cherington
DPW- Director of Planning
1020 Route 7 South
Middlebury, VT 05753
echerington@townofMiddlebury.org
802.388.4045 ext. 290



From: AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>

Sent: Thursday, February 2, 2023 10:14 AM

To: Emmalee Cherington <echerington@townofmiddlebury.org>; AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>

Cc: Kathleen Ramsay <KRamsay@townofmiddlebury.org>

Subject: RE: 2023 Mileage Certificates

Good Morning Emmalee,

Thank you so much for the 2023 Mileage Certificate for Middlebury and requested change along with documentation. In order to make sure we have all the legal documentation for the process to add the road back in the 90s, can you please provide the following to us as cited below in 19 V.S.A. §305 (d) & (e):

- Notice to public and landowner to on site visit and public hearing/selectboard meeting
- Minutes of the selectboard meeting/public hearing when decision to add road was made

(d) At least 45 days prior to first including a town highway or trail that is not clearly observable by physical evidence of its use as a highway or trail and that is legally established prior to February 10, 2006 in the sworn statement required under subsection (b) of this section, the legislative body of the municipality shall provide written notice and an opportunity to be heard at a duly warned meeting of the legislative body to persons owning lands through which a highway or trail passes or abuts.

(e) The Agency shall not accept any change in mileage until the records required to be filed in the town clerk's office by this section are received by the Agency. A request by a municipality to the Agency for a change in mileage shall include a description of the affected highway or trail, a copy of any surveys of the affected highway or trail, minutes of meetings at which the legislative body took action with respect to the changes, and a current town highway map with the requested deletions and additions sketched on it. A survey shall not be required for class 4 town highways that are legally established prior to February 10, 2006. All records filed with the Agency are subject to verification in accordance with subsection (a) of this section.

Thank you so much!

Pam

Pamela DeAndrea (she/her) | AOT GIS Professional III, Mapping Section
Vermont Agency of Transportation
219 North Main Street | Barre, VT 05641

802-793-7555 | pam.deandrea@vermont.gov



From: Emmalee Cherington <echerington@townofmiddlebury.org>
Sent: Wednesday, February 1, 2023 8:36 AM
To: AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>
Cc: Kathleen Ramsay <KRamsay@townofmiddlebury.org>
Subject: 2023 Mileage Certificates

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Kerry-

Please find the Town of Middlebury's Highway Certification attached.
This is my first time completing it, so if I missed something please let me know.

Thanks-
Emmalee

Emmalee Cherington

DPW- Director of Planning
1020 Route 7 South
Middlebury, VT 05753
echerington@townofMiddlebury.org
802.388.4045 ext. 290





TOWN OF MIDDLEBURY

94 Main Street, Middlebury, Vermont 05753

Tim Davignon
Standard Register Company
PO Box 4450
Route 7 South
Middlebury, VT 05753

July 7, 1994

Dear Tim:

Standard Register's agreement to extend and pave the so-called "Quesnel Road" has been received and the deed to the Town has been officially accepted and recorded, so you are authorized to proceed as approved.

A copy of the July 5th letter to you was sent to Ruth and Aurele Quesnel, and they apparently called the Town offices and were still concerned that Standard Register's driveway would come in at an angle, as was first proposed, rather than at a right angle or "T".

In our phone conversation today, we again confirmed that Standard Register will extend the "Quesnel" road 60 feet and construct a right angle or "T" driveway connection to your parking lot, as required by the Town for this project. Both the "Quesnel" road extension and the driveway will be constructed with a base and surface meeting Town Road Standards, and the entire length, from the parking lot to Schoolhouse Road (Foote St.) will be paved, also to Town Standards. You stated that Champlain Construction will do this work and they are familiar with Town Standards, and have worked successfully with our Director of Public Works, Bill Hageman, on a number of past projects. Bill Hageman has told me he has discussed the Town specifications and technical matters about the thickness of base, pavement etc. with you and Champlain. By a copy of this letter to the Quesnels and all parties, I hope this will resolve any questions or concerns.

You and Champlain Construction should arrange to meet with Bill Hageman prior to the start of construction to be clear about the layout, Town Specifications and his inspection requirements. I would also request that you or Champlain notify Reg Bishop of the schedule of construction and paving which would affect his access. Upon written acceptance by Bill Hageman that the project has been completed as approved, the Town will take over maintenance of the main road portion (the driveways would remain private).

Sincerely,


Fred S. Dunnington
Town Planner

CC. Betty Wheeler, Town Manager
Bill Hageman, Director of Public Works
Ruth and Aurele Quesnel
Larry Danyow, Champlain Construction
Reg Bishop, Green Mountain Tractor

MUNICIPAL BUILDING *388-4041
PUBLIC WORKS 388-4045
POLICE DEPARTMENT *388-3191
FAX NUMBER 388-4364
*TDD available



TOWN OF MIDDLEBURY

94 Main Street, Middlebury, Vermont 05753

July 5, 1994

Tim Davignon
Standard Register Company
PO Box 4450
Route 7 South
Middlebury, VT 05753

RE: New Exit Road

Dear Tim:

This will confirm our telephone conversation of Wednesday, June 22, 1994, in which you informed me that Standard Register is now ready to proceed with paving of the "Quesnel" road from Schoolhouse Road that was deeded to the Town of Middlebury including a 60' extension and connection to the Standard Register rear parking lot. You told me that the contract was awarded to Champlain Construction and that the paving would be done in accordance with Town specifications which you have discussed with Bill Hageman, Director of Public Works.

In reviewing the file there was a letter from Betty Wheeler, Town Manager to Ruth and Aurele Quesnel, dated December 15, 1992, in which the Town has the road deed but it had not been formally accepted as a Town Road until there was agreement to pave the road. Betty Wheeler has directed that, with your agreement, as indicated below, the Town will then file this deed and you will be authorized to proceed as agreed above.

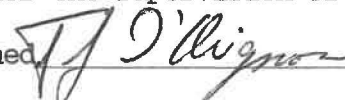
We are pleased that this matter is finally resolved and we look forward to the result. Please return a signed original copy of this letter to Betty Wheeler's office.

Sincerely,


Fred S. Dunnington
Town Planner

cc: Betty Wheeler, Town Manager
Bill Hageman, Director of Public Works
Ruth and Aurele Quesnel

AGREEMENT - Standard Register Company agrees to complete and pave the access road from the rear parking lot to Schoolhouse Road, in accordance with Town Standards and under the supervision of the Middlebury Director of Public Works.

Signed  Duly-Authorized Agent

MUNICIPAL BUILDING *388-4041
PUBLIC WORKS 388-4045
POLICE DEPARTMENT *388-3191
FAX NUMBER 388-4364
*TDD available



TOWN OF MIDDLEBURY

94 Main Street, Middlebury, Vermont 05753

April 15, 1993

Mark Sperry
Langrock, Sperry & Wool
15 South Pleasant Street
P.O. Box Drawer 351
Middlebury, Vermont 05753-0351

RE: Town of Middlebury - Bishop/Quesnel

Dear Mark:

Recently Karl indicated you had made a inquiry regarding the status of the deeding of the Quensel land to the Town. The Board has authorized me to sign on their behalf once we have received a statement from Standard Register that they will be responsible for the paving. Until then the Town does not want to inherit this responsibility by default.

It is my understanding that this is a budgeting issue with Standard Register and that once their corporate office authorized it, that we will see an agreement. In the meantime, no deeds have been filed with the Town Clerk.

Sincerely,

Betty Wheeler
Town Manager

/bj



TOWN OF MIDDLEBURY

94 Main Street, Middlebury, Vermont 05753

December 15, 1992

Ruth and Aurelle Guesnel
RD 3 Box 320
Middlebury VT 05753

Dear Mr. & Mrs. Guesnel:

It has come to my attention that there may be some misunderstanding regarding the filing of the deeds related to the road from your subdivision off School House Road. While I have been presented the deed, they have not been filed.

The Town's Road Standards require that the road be paved in order for the Town to take it over. It is my understanding that Standard Register has agreed to pave the road. I need that in some form of an agreement between you and Standard Register which can be legally enforceable. Once I receive that, I will file the deeds. In the meantime, you should consider that this road continues to be in your ownership.

Sincerely,

Betty Wheeler
Town Manager

BW/cn

cc: Roger Cousino
Fred Dunnington
Bill Hageman

MEMORANDUM

TO: Bill Hageman, Director of Public Works
FROM: Fred Dunnington, Town Planner *FD*
SUBJECT: Quesnel Subdivision Road - Standard Register Access off
Schoolhouse Road
DATE: December 1, 1992

My latest information is that Ruth and Aurelle Quesnel have not yet delivered the deed to this road, but are very nearly about to do so. The understanding is that, even though it does not meet Town standards for paving this road will be accepted by the Town with an agreement by Standard Register that it will pave the road and construct their access from their parking lot to a right angle entrance on the Quesnel Road. On this basis, the Selectmen have authorized the Town Manager to accept the deed.

Roger Cousino of Standard Register needs to know exactly the specifications for the paving and access which will be required so that he can put this in his budget for Standard Register to do next year.

Bill, I need you to contact Roger Cousino at Standard Register to review this and then confirm in writing what the specifications and the estimated costs will be. This should be in the form of a letter of agreement with Standard Register which, when executed by Roger Cousino and Betty Wheeler, would allow the Town to accept the Quesnel deed. Thanks.

cc: Betty Wheeler
Roger Cousino
Ruth Quesnel



TOWN OF MIDDLEBURY

94 Main Street, Middlebury, Vermont 05753

November 23, 1992

Karl Neuse
Neuse Smith Roper & Venman
One Cross Street
Middlebury, VT 05753-1445

RE: Town of Middlebury - Bishop/Quesnel

Dear Karl:

The Board has agreed to the acceptance of these deeds related to Bishop/Quesnel, but only after there is an agreement between Quesnel and Standard as to the paving. It is the Town's policy to accept only paved roads. The arrangement was that Standard Register was to do this in conjunction with their desire to build a road to connect into this deeded road. Without some proof of interest to pave, the Quesnels are responsible for paving.

I hope Fred has discussed this with you. Please let me know.

Sincerely,

Betty Wheeler
Betty Wheeler *BWB*
Town Manager

/jr

NEUSE, SMITH, ROPER & VENMAN, P.C.

ATTORNEYS AT LAW

ONE CROSS STREET

MIDDLEBURY, VERMONT 05753-1445

KARL W. NEUSE
ELEANOR W. SMITH
WILLIAM E. ROPER
DEBORAH B. VENMAN

AREA CODE 802
388-7966
388-9713 FAX

November 18, 1992

HAND DELIVERED

Ms. Betty Wheeler
Town Manager
Town of Middlebury
Municipal Building
Middlebury, VT 05753

RE: Town of Middlebury - Bishop - Quesnel

Dear Betty:

I assume you will have the Board of Selectmen accept the enclosed deeds and then attend to the recording of same in the Middlebury Land Records in the following order:

1. Partial Release of Proctor Bank to Reginald Bishop and Nancy Bishop, dated November 9, 1992.

2. Warranty Deed of Reginald Bishop and Nancy Bishop to Town of Middlebury, dated October 29, 1992.

3. Vermont Property Transfer Tax Return -- please make sure that you sign the back of the Return as Duly Authorized Agent for the Town of Middlebury as Buyer.

4. Discharge of Mortgage Deed of Aurele H. Quesnel & Son, Inc., to Farmers Production Credit Association of South Burlington, dated June 3, 1976, and recorded in Book 79 at Page 495 of the Middlebury Land Records, said Discharge being dated November 5, 1992.

5. Discharge of Mortgage Deed of Aurele H. Quesnel and Ruth F. Quesnel to Farmers Production Credit Association of South Burlington, dated July 8, 1983, and recorded in Book 102 at Page 281 of the Middlebury Land Records, said Discharge being dated November 5, 1992.

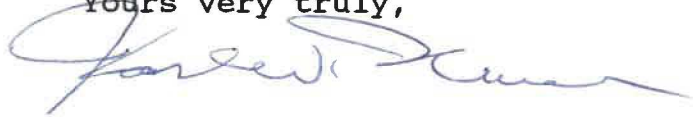
Ms. Betty Wheeler
Page 2
November 18, 1992

6. Warranty Deed of Aurele Quesnel and Ruth Quesnel to Town of Middlebury, dated October 29, 1992.

7. Vermont Property Transfer Tax Return -- please make sure that you sign the back of the Return as Duly Authorized Agent for the Town of Middlebury as Buyer.

If you have any questions, please feel free to call me.

Yours very truly,

A handwritten signature in blue ink, appearing to read 'Karl W. Neuse', with a long, sweeping underline.

Karl W. Neuse, Esq.

KWN/11
Enclosures

HWY - ~~Dunwoody~~
Dorcy

LANGROCK SPERRY & WOOL
ATTORNEYS AT LAW
A PARTNERSHIP
INCLUDING A PROFESSIONAL CORPORATION

MIDDLEBURY:
PETER F. LANGROCK
MARK L. SPERRY
ELLEN MERCER FALLON
WILLIAM B. MILLER, JR.
JAMES W. SWIFT
EMILY J. JOSELSON
JOHN F. EVERS
SUSAN M. MURRAY
JOHN L. KELLNER

MITCHELL L. PEARL
KEVIN E. BROWN
ANTHONY G. PATT

MIDDLEBURY:
15 S. PLEASANT STREET
P.O. DRAWER 351
MIDDLEBURY, VERMONT
05753-0351
802-388-6356
FAX 802-388-6149

BURLINGTON:
275 COLLEGE STREET
P.O. Box 721
BURLINGTON, VERMONT
05402-0721
802-864-0217
FAX 802-864-0137

BURLINGTON:
MICHAEL W. WOOL
CHRISTOPHER L. DAVIS
LIAM L. MURPHY
THOMAS Z. CARLSON
ALISON J. BELL

LAUREN S. KOLITCH

REPLY TO:
MIDDLEBURY OFFICE

21 October 1992

Town of Middlebury
Fred S. Dunnington, Town Planner
Municipal Building
Middlebury, VT 05753

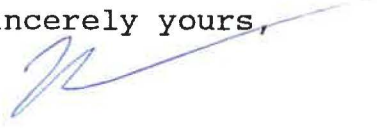
Re: Real Estate - Quesnel & Bishop to Town of Middlebury

Dear Fred:

Ruth Quesnel indicated to me that the proposed deed was fine except for one bearing change along School House Road. I have made the change and I am enclosing a revised first page which reflects the change in accordance with the Quesnel's survey, a copy of which is enclosed.

I have not yet heard from Reg Bishop in connection with his proposed deed to the Town.

Sincerely yours,



Mark L. Sperry

MLS/ema

Enclosure

cc: Aurele & Ruth Quesnel
Reginald & Nancy Bishop

NEUSE, SMITH, ROPER & VENMAN, P.C.

ATTORNEYS AT LAW

ONE CROSS STREET

MIDDLEBURY, VERMONT 05753-1445

KARL W. NEUSE
ELEANOR W. SMITH
WILLIAM E. ROPER
DEBORAH B. VENMAN

AREA CODE 802
388-7966
388-9713 FAX

October 14, 1992

Ms. Betty Wheeler, Town Manager
TOWN OF MIDDLEBURY
Municipal Offices
Middlebury, Vermont 05753

**Re: Standard Register - Quesnel - Bishop - Town Highway and
Municipal Utilities**

Dear Betty:

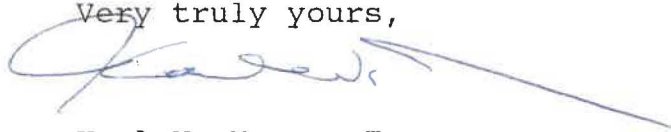
Please find enclosed copies of the revised deeds from the Bishops and the Quesnels to the Town. These reflect the changes, which you and I discussed and which were agreed to by Mark Sperry.

If you have any question about the language in the Quesnel deed in the last paragraph of the description, it is the understanding that the Town is accepting the public highway and public utilities in an "as is" condition, but this does not mean that any future extension of the road past the turn-off to Standard Register would not be subject to the requirements of the Town to bring up such extension to Town standards.

On the other hand, by the inclusion of the words "public highway" and "public utility" satisfied Mark Sperry that the Quesnels would have the future right to apply for permits to extend the Town highway and the Town utilities into their property should they decide at some point in the future to develop their property.

If you have any questions regarding the enclosed, please advise. My understanding is that Mark will forward the executed documents to you so that the Standard Register project may go forward at the earliest possible date.

Very truly yours,



Karl W. Neuse, Esq.

KWN:jmp
Enclosure

cc: Mark L. Sperry, Esq.

Hwy - ~~Deeds~~
Dory

Memorandum

TO: Board of Selectmen
FROM: Betty Wheeler, Town Manager
DATE: October 16, 1992
SUBJECT: Acceptance of Deeds - Quesnel/Bishop

Attached are deeds prepared by Mark Sperry, and reviewed by Karl Neuse, which would give the Town the road and utilities which were built according to Town standards in conjunction with the farm equipment dealership on School House Road. The Selectmen had indicated a willingness to accept these utilities once completed as part of the planning process several years ago. This should have been done sometime ago, but the Quesnel's did not, until recently, ask their attorney to prepare the deeds.

Since Standard Register wants to put in a new road from their parking lot to tie into this road, the Town has been pushing to make this happen. Once Standard Register builds their new parking lot exit, it will help to alleviate some congestion when shifts let out at the plant.

The action required is to authorize the manager to accept these deeds.

HWY - Dorsey Rd.

NEUSE, SMITH, ROPER & VENMAN, P.C.

ATTORNEYS AT LAW

ONE CROSS STREET

MIDDLEBURY, VERMONT 05753-1445



KARL W. NEUSE
ELEANOR W. SMITH
WILLIAM E. ROPER
DEBORAH B. VENMAN

October 9, 1992

Ms. Betty Wheeler, Town Manager
TOWN OF MIDDLEBURY
Municipal Offices
Middlebury, Vermont 05753

Re: Standard Register Exit Road
Bishop and Quesnel to Town of Middlebury

Dear Betty:

I reviewed our concerns regarding the Warranty Deed of Reginald Bishop and Nancy Bishop to the Town of Middlebury and the Warranty Deed of Aurele Quesnel and Ruth Quesnel to the Town of Middlebury with Mark Sperry this morning. He is in the process of revising the Quesnel deed by removing the paragraphs which appeared to grant certain road and utility rights to Quesnel, which were contrary to the policy of the Town.

In the revised deed, there will be a paragraph that the lands described in the deed will be used for a public highway and utility purposes. I find this language to be consistent with our policy. Hopefully, Mark Sperry will have his clients execute the documents and the Board of Selectmen will be able to approve them so that the project for Standard Register may proceed before the end of the paving season.

Very truly yours,

Karl W. Neuse, Esq.

KWN:jmp

cc: Mr. Fred Dunnington, Town Planner
Mark L. Sperry, Esq.



TOWN OF MIDDLEBURY

MUNICIPAL BUILDING, MIDDLEBURY, VERMONT 05753

October 1, 1991

Peter Quesnel
RD 3, Box 500
Middlebury, VT 05753

Dear Peter:

Recently, the Board of Selectmen's Public Works Committee was discussing the status of roads, water and sewer lines, in particular road and water and sewer mains constructed by Alltrack/Green Mountain Tractor as part of the "The Aurele and Ruth Quesnel Subdivision" approved by the Planning Commission on 9/16/87.

In reviewing this matter, it was noted that Order #5 of the Planning Commission approval required:

"The proposed road, water and sewer mains shall be conveyed to the Town no later than two years following their completion and there shall be no future development until they have been accepted by the Town."

The Committee members suggested that I write you about this. Previously I have had a telephone conversation with each of your parents, Ruth and Aurele Quesnel, about this to try to encourage them to have the deed prepared which would convey the road, water main and sewer main (and maintenance easements) to the Town. I think there has been some distraction regarding things which they wanted from Green Mountain Tractor or Standard Register, and I want to point out that those issues are really independent of the Planning Commission's Order. Besides the fact that the order is legally binding upon them, they would then be relieved of the taxes on that portion of land including the road which would be deeded to the Town, and relieved of the liability associated with anything which happened on the road or to the water and sewer mains.

I have tried to call you by telephone to explain this, but you are away at work during the day. The idea to contact you was based on the feeling of some of the members on the Public Works Committee that you might be able to give us some insight into this situation and help this matter to be resolved without going through the process of enforcement of the Planning Commissions Order. I'd appreciate it, if you could give me a call at 388-4041.

Sincerely,

Fred S. Dunnington
Town Planner

FSD:ejd

✓ cc: Betty Wheeler, Town Manager

MUNICIPAL BUILDING 388-4041
PUBLIC WORKS 388-4045
POLICE DEPARTMENT 388-4041

MEMORANDUM

TO: Betty Wheeler, Town Manager
cc: Bill Hageman, Director of Public Works
Tim D'Avignon, Standard Register

FROM: Fred S. Dunnington, Town Planner

SUBJECT: Standard Register Exit Road

DATE: April 10, 1991

*Were there any encissions
from being made to
the road?
What about the
bonding on the project?*

388-7911

In the fall of 1987 Ruth and Aurele Quesnel were granted approval to subdivide a parcel of land and extend Town water and sewer and construct a road abutting the Standard Register property on Schoolhouse Road. The lot was sold to All-Track (now Green Mountain Tractor). The entrance road was designed to be a future town road, but it would remain private while it was only being used by the farm equipment business. At the time it was thought that future subdivision or development of the Quesnel property would occur in a few months and then this would be brought up to Town standards (paved) and deeded to the Town.

The Planning Commission orders, dated 9/16/87 (copy enclosed) required that the proposed road, water and sewer mains be conveyed to the Town no later than two years following their completion regardless of whether there was any future development (see order #5). As it has turned out there has been no further development and the road remains unpaved and the water and sewer lines and road have yet to be deeded to the Town.

In the fall of 1989 I was contacted by Tim D'Avignon, Supervisory Plant Engineer for Standard Register. Standard Register was requesting approval to construct an exit from their parking lot to Schoolhouse Road. Standard Register has a total of nearly 240 full-time employees with over 135 on the largest shift. There is considerable traffic at shift turnover times and the purpose of this second parking lot exit was to relieve traffic congestion and improve safety since they presently have only one employee access on Route 7. The access/exit connection to Schoolhouse Road would enable those employees wishing to travel north, to utilize Foote Street and Seminary Street Extension, as an alternate route to avoid contributing to traffic congestion on Route 7.

Rather than constructing a new access road from the Standard Register parking lot to Schoolhouse Road, it was envisioned that an access could be made from the Standard Register parking lot to the new road which had been constructed abutting the Standard Register property line serving All-track and the future Quesnel development. All that would have been needed was approval from the Quesnels or conveyance by the Quesnels of their road to the Town and approval of the Town for the driveway connection by Standard Register.

On October 30, 1989 I spoke with Aurele Quesnel by telephone and he seemed agreeable to the request by Standard Register, but he felt that Green Mountain Tractor should have put the sewer across their driveway access (he thinks they never did) and also to bring power up the road. These improvements would make future lots sold by the Quesnel's more valuable. A second problem with having this become a Town road at this time was that it was not paved and Town policy

requires that such roads be paved prior to being accepted by the Town. I suggested to Mr. Quesnel that if we could get Standard Register to pave this road as part of their requirement to connect, thus bringing it to Town standard, would Aurele pay for having the deed prepared to convey this to the Town? Mr. Quesnel said "I guess so". I pointed out that the deed could say that the Quesnels or their successors or assigns would have the right to extend the utilities.

I reported back to Tim D'Avignon, that I thought we could get the Quesnels to deed their road to the Town and thereby approve the Standard Register access if Standard Register was willing to construct its access and pave the Quesnel road to a 24' width to meet Town standards. Mr. D'Avignon told me that he would have to have his proposal approved by corporate headquarters at Standard Register. Somewhat later I heard back that Standard Register was still interested in doing this but did not have the funds appropriated that year.

My file notes indicate that the next time this question came up was about a year later from an inquiry to Betty Wheeler in December of 1990. My notes indicate that I discussed the status of the situation with Betty Wheeler and also talked to Roger Cousino in January of 1991.

I considered writing a notice of violation to the Quesnels (which we still could do) but the cost of legal enforcement and my time, it seems to me, would be better spent on the drafting of the deed and the papers for laying out the highway, if it should come to that. In any case if Standard Register was willing to cover the legal costs, this would be the least burden on the Town.

On March 29, 1991 I received another call from Tim D'Avignon and I immediately called Quesnels to see about moving ahead. I spoke with Ruth Quesnel who indicated that they wanted Standard Register to either deed the Quesnels a strip of land on the south side of Standard Register (between them and Foster Motors) to provide an improved access to the Quesnels land directly from U.S. Route 7 or they wanted Standard Register to extend the Green Mountain Tractor access road into their land. She indicated that Standard Register had balked at these requests.

I commented to Mrs. Quesnel that I thought Standard Register was interested enough that we could probably arrange for them to pave the Quesnel road and probably pay for the legal work to draw the deed. These would be cost savings to the Quesnels or to perspective purchasers of the Quesnel land. In addition, when this was deeded to the Town the Quesnels would benefit because they would no longer be paying taxes on this land. (I have not mentioned the idea of laying out a public highway to the Quesnels) Unfortunately my efforts to show the advantages of Standard Register's offer did not move Mrs. Quesnel and she indicated some displeasure with Standard Register, feeling that they should have done more or perhaps could do more for the Quesnels! I reported back to Tim D'Avignon. He indicated that Standard Register is prepared to request the Selectmen approval for a direct driveway access to Schoolhouse Road and bypass the Quesnels. After discussing it further, he and I agreed it would be better from a traffic flow point of view and cheaper to have the Town lay out a public highway over the Quesnel road with Standard Register to pay all costs (legal, construction and paving). Given the requirement in the Planning Commission Orders, it would seem that no damages would be owed to the Quesnels for the "taking" of land that they were required to deed to the Town anyway and which would only enrich them by improving the value of their adjoining development

land.

I discussed the matter with Town Manger Betty Wheeler and we agreed that this should be referred to the Town Public Works Committee prior to requesting the Selectmen to proceed.

Recommendation

It is recommended that the Town enter into an agreement with Standard Register to reimburse the Town for its expenses for legal work and for the paving and related construction (which I assume would be put out to bid) and that the Board of Selectmen vote to institute the proceedings to lay out a public highway over the 60' strip of land between Standard Register and Green Mountain Tractor. The Selectmen should authorize these proceedings with the understanding that the Town Attorney would make one last attempt to have the Quesnels voluntarily sign a deed to the road land (and incidently the water and sewer extensions) and if they refused, then proceed to take whatever appropriate legal action against the Quesnels and to layout the public highway as would be needed.

I feel that the Quesnels are being unreasonable in their attempts to exact things from Standard Register. Standard Register's desire to relieve traffic congestion and improve traffic safety conditions is in the public interest and justifies the threat of emminent domain, especially since there would be no damages (in fact substantial benefits) to the value to the remaining Quesnel land.

I apologize for the length of this memo, but I will not be at the Public Works Committee meeting on Monday night, April 15th. I would suggest you call Tim D'Avignon at Standard Register at 388-7917, Ext. 254 so that he could attend the meeting to answer any questions and work out the details of the agreement with the Town. I do not have any cost estimates of this work, but I believe Mr. D'Avignon has had some contractors estimates.

Also attached are some maps. I would recommend that the new Standard Register driveway come into this future Town road at more of a right angle, and not right across from the Green Mountain drive entrance.

Planning Commission

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sewer will be extended from existing Town sewer adjacent to Rte. 7 along and within the right-of-way of School House Rd. and then extending along a lateral line adjacent to the proposed development road. The proposed layout of the water and sewer lines shall be subject to review by the Board of Selectmen.

7. Drainage from the proposed access road shall be handled within the proposed right-of-way and utility easements as shown on the plans. The Planning Commission finds that the proposed drainage will comply with the Subdivision Regulations and will not cause a burden upon existing Town road drainage facilities or be a nuisance to other properties.
8. The Planning Commission finds that the proposed subdivision will comply with the Zoning Ordinances, Subdivision Regulations, and Town Plan.

Order

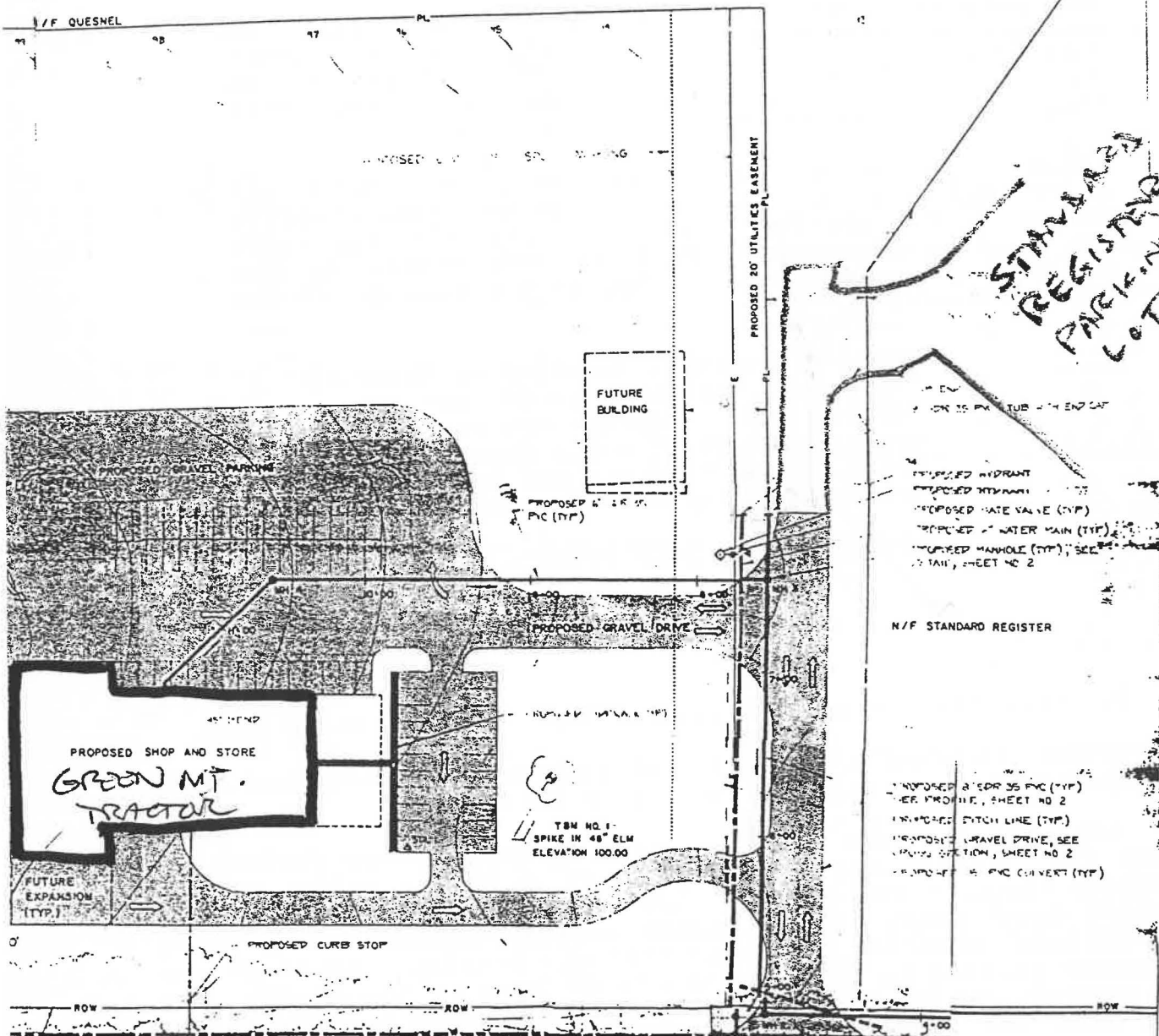
The application of Aurele and Ruth Quesnel, as described in the above Findings of Fact is hereby approved, subject to the following conditions:

1. Prior to the issuance of a subdivision permit, the applicant shall submit a mylar survey of the proposed subdivision in accordance with Art. VIII of the Subdivision Regulations. In addition, the applicant shall submit a record plan of the proposed road, water and sewer facilities as approved by the Board of Selectmen.
2. Prior to the occupancy of the proposed development on this lot, or on any other lot, the applicant shall have completed construction of the proposed water and sewer mains and the access road in accordance with the approved plans and shall have submitted satisfactory inspection reports of the same to the Town.
3. Prior to the issuance of a permit, the applicant shall submit a bond or letter of credit in an amount satisfactory to the Director of Public Works to secure completion of the proposed water, sewer, road and drainage facilities, and as-built plans and the preparation of deeds to convey these facilities to the Town, to preclude any expense to the Town.
4. Prior to the issuance of a permit, the applicant shall



TIM D'AMICO
388-7911
X254

STANDARD REGISTER
PARKING LOT



PROPOSED SHOP AND STORE
GREEN MT. TRACTOR

FUTURE BUILDING

PROPOSED GRAVEL DRIVE

TBM NO. 1
SPIKE IN 48" ELM
ELEVATION 100.00

N/F STANDARD REGISTER

- PROPOSED 12" DOR 35 PFC (TYP)
- SEE PROFILE, SHEET NO 2
- PROPOSED DITCH LINE (TYP)
- PROPOSED GRAVEL DRIVE, SEE PROFILE OPTION, SHEET NO 2
- PROPOSED 12" PFC CONVEY (TYP)

SITE PLAN
SCALE: 1" = 40'

EXISTING ROAD ROW
EXISTING 12" CAST IRON
WATER MAIN (TYP)

MANHOLE STATION (TYP)
15' CGRP
EXISTING FIELD ACCESS



GREEN MOUNTAIN
TRACTOR
PROPERTY

Schoolhouse Rd

(New Road Existing)

Proposed additional drive
in yellow

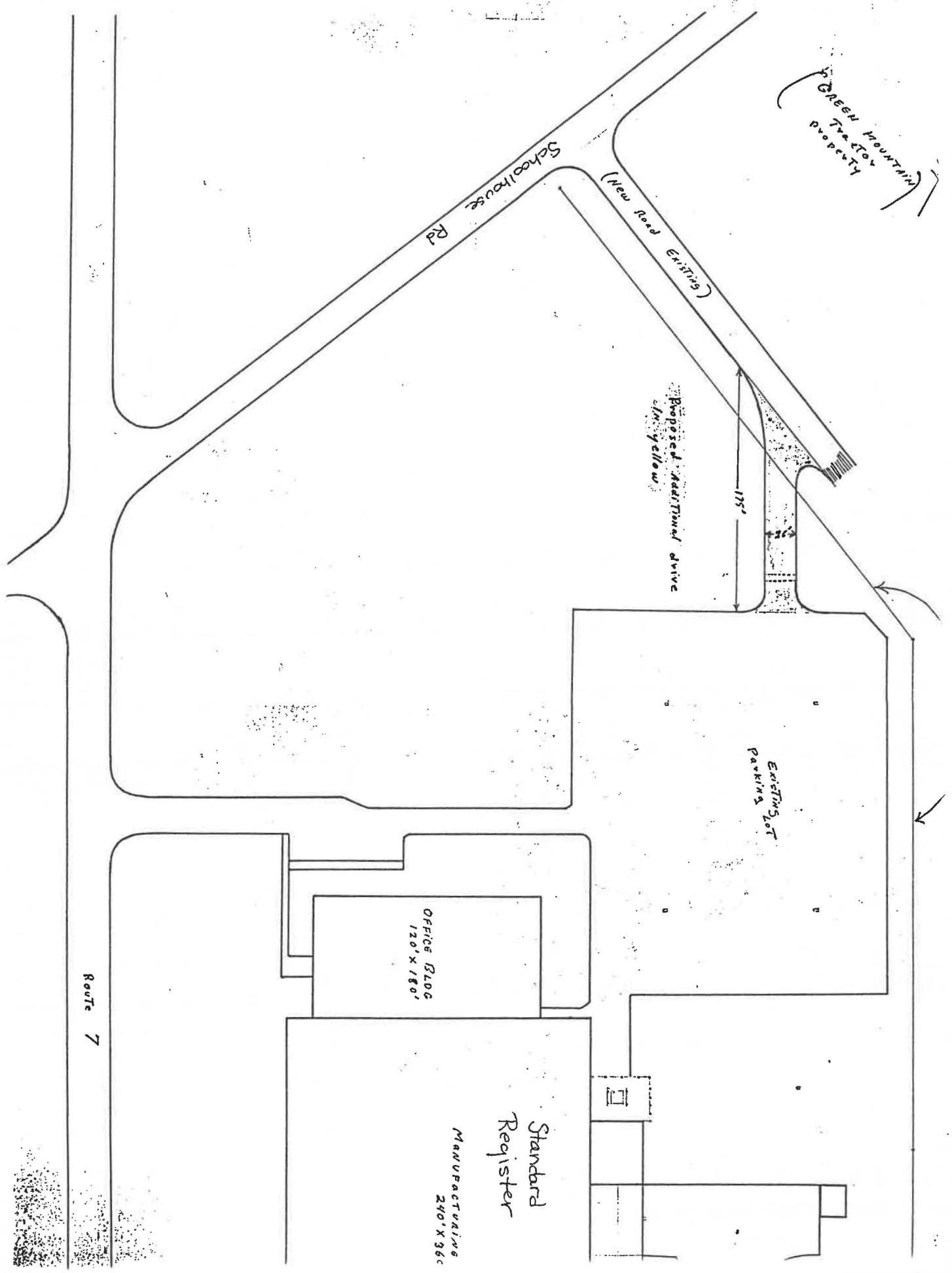
175'

EXISTING LOT
PARKING

OFFICE BLDG
120' X 180'

Standard
Register
MANUFACTURING
240' X 360'

Route 7



**TOWN OF MIDDLEBURY
PLANNING COMMISSION**

MINUTES OF
September 16, 1987

I. CALL TO ORDER

The September 16th meeting of the Middlebury Planning Commission was called to order at 7:45 p.m. in the Municipal Building Conference Room, Chairman Wells presiding. Other members present: Newton, Brakeley, Foster, Safford. Absent: Terk, Myhre. Also in attendance were Town Planner Dunnington, Town Manager Wheeler, Board Clerk McCarty, the applicants, a representative of the Board of Selectmen, and interested citizens.

II. APPROVAL OF MINUTES

Moved by Newton, seconded by Brakeley:
"To approve the minutes of meeting
of September 2, 1987."

Additions and corrections:

P. 1, line 1 - change "9th" to 2nd.

P. 2, para. 1, line 1 - between "the" and "review" add the words site plan; para. 3, line 3 - after the word "underpass" add a comma and delete and approved, in concept and; line 4 - insert a period after "State" and add The Selectmen also noted the need for; para. 4, line 5 - change the words "burn off" to store and permit even burning of; last complete para., line 2 - in the blank space add 25 Sept..

P. 4, item C., line 3 - change "northeasterly" to southeasterly; item C., para. 2, last line - change "Dunnington will check." to Dunnington said no.

P. 5, item 7. - delete "the existing storm sewer drainage system - not to".

P. 6, item 1. - change "approved" to constructed.

P. 7, item V. - after last sentence, add The appointees will be announced at the Sept. 16th Planning Commission meeting.

BOARD VOTED: 5 in favor 0 opposed
 2 absent (Terk,
 Myhre)

III. COMMUNICATIONS

Public - none

Planning Commission

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Staff

Chmn. Wells announced the two P.C. members who will serve as the P.C. representatives to the 5-Year Capital Improvements Plan committee: "Pete" Brakeley and Kevin Newton.

Dunnington reviewed the actions taken by the BZA at their 9/14 meeting.

The agenda for the next P.C. meeting was also outlined: two cases and review and discussion of the procedures for site plan review in ARR and subdivisions thereof.

The Board of Selectmen, at their 9/15 meeting, approved applying for funds for the Rte. 125 reconstruction (from College Hill to the ledges). It is possible right-of-way acquisition could begin by 1989.

-There was a public hearing on the traffic ordinance amendments proposed earlier.

-The Selectmen read over and discussed a letter from Marble Works, Inc., regarding access to the area from Main St. No action was taken.

-It was decided that compensation to the residents of the Seymour St. area will continue while the odor problems are being addressed.

-The open drainage ditch problem in Buttolph Acres which had been the subject of a complaint was tabled.

-The water and sewer lines layout for Green Mountain Tractor (Alltrack, Inc.) were approved.

Dunnington reported that the new part-time inspector, Steve Myers, who comes to us from Shelburne, begins work on 25 September.

It was noted that the Act 250 hearing regarding noise at the airport was held. Time permitting, this item can be further discussed at the end of tonight's meeting.

Dunnington noted receipt (from the Town of New Haven) of notice of a zone change request public hearing in that Town; a conversion of property from RA-10 to Highway Commercial.

IV. BUSINESS

A. Public Hearing - Dwire Subdivision - Rte. 116

Vernon Dwire presented his proposal to divide off a 1 $\frac{1}{2}$ -acre lot to be deeded to his son and daughter-in-law for a house which is already under construction. The property will use an existing driveway off Rte. 116.

The applicant requested permission to use the present water

line, which runs from the barn, for a period of 1 year. He had originally planned to jointly install and use a new 6" line with abutter C. Cram; however, Mr. Cram has decided to install a 1" private line. The applicant is now requesting permission to use his existing barn line until a family decision can be made regarding water supply. Following discussion, Board consensus was that this arrangement is acceptable so long as a specific time limit is designated and so long as only one water bill is maintained for the entire property.

Newton asked if the applicant is aware of the development rights and lot size requirements in the ARR and FOR/CON zones. Yes.

There were no other questions and no comments or questions from the public. The public hearing portion of this application was declared closed.

Findings of Fact

1. The applicants, Vernon and Shirley Dwire, own approximately 56 acres on Rte. 116. The easterly portion of the property is in the FOR/CON zone; the westerly portion of the property - adjacent to Rte. 116 - is in the ARR zone.
2. Existing buildings on the property include a dairy barn and a mobile home occupied by the applicant's son and daughter-in-law. The applicant has received a building permit to replace the mobile home with a single-family dwelling, which is presently under construction on the property.
3. The applicant proposes to subdivide a one-acre lot around the new house, as shown on a survey by Wayne D. Lawrence dated 7/28/87.
4. Access to the lot will be via a 25' right-of-way including the existing driveway, as shown on the survey. While there is a pre-existing farm entrance serving the farm, the applicant understands that Section 603 of the Zoning Ordinance limits the accesses serving dwellings or other developments such that this right-of-way and driveway will be the sole access from Rte. 116 for this frontage. The Planning Commission finds that the proposed access will not cause unsafe traffic conditions or unreasonable traffic congestion.
5. The property will be served by Town water. Presently, the water service runs from the Town main on Rte. 116

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to the barn and thence from the barn to the mobile home. The application shows that the existing water service between the barn and the mobile home will be disconnected. A new water line and service to the proposed lot will be constructed in accordance with Town standards within 12 months from this date.

6. The proposed lot will be served by an existing on-site sewage system which was recently constructed to serve the mobile home. This system complies with the current Town and State on-site sewage requirements. The lot has been laid out so that it encompasses the existing septic system, with adequate setbacks from the leachfield to the lot lines. Prior to occupancy of the house, it will be connected to the septic tank and leach field in accordance with Town regulations. The trailer home and its connections to the septic system will be removed with 1 month after occupancy of the house. The record plan shall show the location of the septic system and compliance with the setback requirements and isolation distances.
7. The Planning Commission concludes that the proposed subdivision will comply with the Zoning Ordinance, Subdivision Regulations, and other Town ordinances.

Order

The application by Vernon and Shirley Dwire, as described in the above Findings of Fact, is hereby approved subject to the following conditions:

1. Within 12 months, the applicant shall file a record plan for acceptance by the Planning Commission, in accordance with Art. VIII of the Subdivision Regulations. The record plan shall be on mylar and shall show the sewage system, water line(s), and appropriate easements as described in the above Findings.
2. The applicant shall comply with Town standards and requirements regarding the new water service. In the event a water line is constructed that will serve this property as well as other present or future lots, the applicant shall obtain the necessary approvals from the Dept. of Public Works and the Board of Selectmen and pay the requisite tap-on fees. In the meantime, the applicant and the purchaser of the proposed lot shall be jointly responsible for ownership and maintenance and payment of water bills for the existing line.

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3. In accordance with Section 405 of the Subdivision Regulations, and in view of the nature of this application, the Planning Commission finds that a recreation escrow fee of \$50.00 should be paid.
4. Future subdivision or development of the retained property shall be subject to the access limitations in Section 603 as described in the above Findings and the development density limits in Section 602, pertaining to the ARR zone as affected by this subdivision.
5. There shall be no changes to the subdivision without the prior approval of the Planning Officer. The Planning Commission reserves the right to adopt supplementary Findings and Orders in the event of any substantial change in the application or in the circumstances.

Moved by Newton, seconded by Foster:
"To accept the Findings of Fact and Order and approve the subdivision application of Vernon & Shirley Dwire, based on the Findings and contingent upon compliance with the Order."

BOARD VOTED: 5 in favor 0 opposed
 2 absent (Terk,
 Myhre)

B. Public Hearing - Marble Works/Addison Independent Subdivision

Charlie Kireker was present, and Angelo Lynn was in the audience, for the presentation of their proposal to subdivide off from the Marble Works property the Addison Independent building. Kireker presented three items which he requested be changed in the Findings of Fact.

Dunnington noted that he has received a copy of the Purchase & Sales Agreement, which outlines the parking assignment commitments and purchaser participation in the project Owner's Association.

Kireker then went on to outline the alterations and improvements which are planned for the building. He also reviewed their view of the conceptual shared use of parking spaces (in addition to 9 exclusively reserved spaces). Board members reviewed and discussed both their current and their proposed future parking needs, and how to handle these figures in the Findings and Order.

There were no further questions and no comments or questions from the public. The public hearing portion of the meeting was declared closed.

Findings of Fact

1. The applicant, Marble Works Partnership, owns approximately 14 acres (a.k.a. the Cartmell Complex) as shown on a survey by Tim Hecei dated 2/17/87 and recorded in the Town of Middlebury land records on 2/25/87.
2. The applicant proposes to subdivide a lot around the existing Addison Independent building. The purpose of the subdivision is to give the current tenant ownership of that property; there is no proposed increase in use or other development at this time. The proposed lot will comply with the VRC minimum lot area and setbacks.
3. The property is served by existing Town water and sewer mains. To the extent that any water or sewer service lines from the Town mains to this building may be located on property not to be conveyed, the applicant shall create suitable easements or agreements so that the owner of the proposed lot will be able to maintain the private water and sewer service connections and so that there will be no burden created upon the Town.
4. Access to the proposed lot will be by means of the existing street and road network to the Marble Works complex. The proposed lot will not have frontage on a Town road, but instead will be afforded access by means of a right-of-way agreement or easements which provide for adequate access to the proposed lot over the existing entrances.
5. A 3,600 sq. ft. building adjacent to the Addison Independent building (ref. Planning Commission approval of 6/19/74 and Act 250 permit #9A0017) will be removed by the applicant no later than Nov. 30, 1988. Also by that time, the applicant will construct a parking lot and related improvements abutting the Addison Independent building providing for the exclusive rights to nine (9) parking spaces adjacent to the building and a permanent easement for the use of 21 additional spaces adjacent to this lot, as shown on a "Schematic Site Plan of the Marble Works" by Brooks & Carey, Architects, dated 1 July 1987.
6. It is understood that there may be modification(s) to

the plans of the Marble Works project and to the provisions regarding the joint use of parking in the 21-space easement area, all of which will be subject to continuing jurisdiction of the Planning Commission to ensure adequate off-street parking and prevent unsafe traffic conditions and unreasonable traffic congestion. It should also be noted that under current patterns of usage, the occupants of the Addison Independent building (as Buyer) do not require 30 spaces of parking, but rather 24 spaces to satisfy the requirements of the Zoning Ordinance.

7. Future construction of the parking lot and related drainage and landscaping will be subject to Planning Commission Site Plan Review consistent with the future Planned Unit Development plans of the Marble Works project.
8. The Planning Commission finds that the proposed subdivision will comply with the Zoning Ordinance and Subdivision Regulations and with the Town Plan.

Order

The application of the Marble Works Partnership, as described in the above Findings of Fact is hereby approved, subject to the following conditions:

1. Prior to the closing on the proposed subdivision the applicant shall submit a record plan in accordance with Art. VIII of the Subdivision Regulations.
2. Prior to the issuance of the permit, the applicant shall submit copies of agreements or easements to provide for the water, sewer, access and parking, as described in the above Findings.
3. Prior to construction of the parking lot, the applicant shall submit a site plan showing the detailed layout, construction, and surface of the parking lot, including details of landscaping and drainage. The applicant shall remove the warehouse building and submit the proposed site plan for parking lot construction no later than 11/30/88.
4. There shall be no changes to the project without the prior approval of the Town Planner/Administrative Officer. The Planning Commission reserves the right to adopt supplementary Findings and Orders in the event of any substantial change in the application or in circumstances.

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Moved by Newton, seconded by Safford:

"To accept the Findings of Fact as amended and approve the subdivision application of Marble Works Partnership, based on the Findings and contingent upon compliance with the Order."

BOARD VOTED: 5 in favor 0 opposed
2 absent (Terk,
Myhre)

C. Public Hearing - Quesnel Subdivision - School House Road

Foster and Newton declared conflicts of interest and refrained from participation in discussion and voting on this issue.

Ruth Quesnel was present to review the proposal to subdivide off an approximately 10-acre lot, to be conveyed to Alltrack, Inc., (formerly Green Mountain Tractor). There is an agreement between buyer and seller for the development of an access road, on an 80' right-of-way (which includes a 60' roadway right-of-way and an additional 20' utility right-of-way) off School House Rd. Town water and sewer will be used, approval for which was granted by the Board of Selectmen on 9/15/87. The proposed lot meets all requirements of the Subdivision Regulations.

Dunnington noted that the points raised by Dir. of Public Works Gline regarding use of copper piping, the future paving of the road, and the centering of the road in the right-of-way have been answered.

Questions and comments from the public: V. Bergevin asked for the location of the lot in relation to Standard Register. (Dunnington located Standard Register, using the site plan sketch as a guide.) He also wanted to know how far the facility entrance would be from Rte. 7 (approx. 500 ft.). J. Cartmell also noted to the questioner the reasoning of the Selectmen regarding location of the road and the water and sewer lines within the rights-of-way.

There was also discussion of water tap-on fees, who pays, how future development should be (or is) assessed - both in general and as applies to this property owner and developer and to future development on this and other properties. After discussion, it was clarified that, as pertains to this property, no further tap-on fees will be paid to the Town, since the property owner is paying these fees up front. Any arrangement made between the property owner and future developers is an entirely private matter. Town Mgr. Wheeler elaborated on those streets for which tap-on fees are required. Cartmell felt that

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there should be some system to assess a portion of future expansion costs to a major user who might come in. Dunnington stated that the P.C. only has permission to act as per the ordinances in place; it would be up to the Selectmen to enact other systems (such as impact fees) to cover that eventuality.

There being no further questions or comments, the public hearing portion of this application was declared closed.

Findings of Fact

1. The applicants, Aurele and Ruth Quesnel, own approximately 45 acres on School House Rd. in the PHD zone.
2. The applicants propose to subdivide a lot of approximately 10 acres to be conveyed to Reginald Bishop and Russell Carpenter, d/b/a Alltrack, Inc., as shown on a site plan by Phelps Engineering, dated 9/1/87.
3. An access road has been designed as shown on the site plan to service the proposed lot and future development on property retained by the applicants. This provides for a single access to School House Rd. in compliance with Section 603 of the Zoning Ordinance. There will be no other access from School House Road.
4. The proposed access road shall be constructed to Town standards with regards to base, width, drainage and surface. This road has been laid out in a 60 ft wide right-of-way with adjoining utility easements so that it can be extended and become a Town road to serve other lots or development in the future.
5. The Planning Commission will review site plans of the proposed lot and future development on the retained property to ensure adequate traffic access, circulation, and parking. However, the Planning Commission finds that the conceptual road layout will not cause unsafe traffic conditions or unreasonable traffic congestion.
6. The proposed lot and future development will be served by Town water and sewer as shown on the site plan. A 6" water main shall be extended from the existing Town water main in School House Rd. This extension shall include a fire hydrant as shown on the plans. The

sewer will be extended from existing Town sewer adjacent to Rte. 7 along and within the right-of-way of School House Rd. and then extending along a lateral line adjacent to the proposed development road. The proposed layout of the water and sewer lines shall be subject to review by the Board of Selectmen.

7. Drainage from the proposed access road shall be handled within the proposed right-of-way and utility easements as shown on the plans. The Planning Commission finds that the proposed drainage will comply with the Subdivision Regulations and will not cause a burden upon existing Town road drainage facilities or be a nuisance to other properties.
8. The Planning Commission finds that the proposed subdivision will comply with the Zoning Ordinances, Subdivision Regulations, and Town Plan.

Order

The application of Aurele and Ruth Quesnel, as described in the above Findings of Fact is hereby approved, subject to the following conditions:

1. Prior to the issuance of a subdivision permit, the applicant shall submit a mylar survey of the proposed subdivision in accordance with Art. VIII of the Subdivision Regulations. In addition, the applicant shall submit a record plan of the proposed road, water and sewer facilities as approved by the Board of Selectmen.
2. Prior to the occupancy of the proposed development on this lot, or on any other lot, the applicant shall have completed construction of the proposed water and sewer mains and the access road in accordance with the approved plans and shall have submitted satisfactory inspection reports of the same to the Town.
3. Prior to the issuance of a permit, the applicant shall submit a bond or letter of credit in an amount satisfactory to the Director of Public Works to secure completion of the proposed water, sewer, road and drainage facilities, and as-built plans and the preparation of deeds to convey these facilities to the Town, to preclude and expense to the Town.
4. Prior to the issuance of a permit, the applicant shall

Planning Commission

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pay the applicable water tap-on fee for the frontage of their property along School House Road (730 ft. x \$1.50/ft. = \$1,095.). Prior to the extension of the lateral line to serve future development, the remaining \$1,000. water tap-on fee shall be paid.

5. The proposed road, water and sewer mains shall be conveyed to the Town no later than two (2) years following their completion and there shall be no future development served by these facilities until they have been accepted by the Town.
6. There shall be no changes to the plan without the prior approval of the Town Planner/Administrative Officer. The Planning Commission reserves the right to adopt supplementary Findings and Orders in the event of any substantial change in the plan or in the circumstances.

Moved by Safford, seconded by Brakeley:

"To accept the Findings of Fact as amended and to approve the subdivision application of Aurele & Ruth Quesnel, based on the Findings and contingent upon compliance with the Order."

BOARD VOTED: 3 in favor 0 opposed
 2 absent (Terk,
 Myhre)
 2 abstentions (Foster,
 Newton)

D. Site Plan Review - Alltrack, Inc. - School House Road

Newton declared a conflict of interest and refrained from participation in discussion or voting in this matter.

Lance Phelps, John Lass and Russ Carpenter were present to outline the proposal for construction of a retail sales, rental and repair facility for farm and lawn equipment on their property on School House Road. Phelps noted several changes to the plan which had been presented at the preliminary hearing: there is now no customer parking in front of the front line of the store; the entry location for the sewer service has been moved to come up the access road and then into the facility; the proposed future building has been moved past the driveway entrance to the main parking facility.

Dunnington noted that both the Dir. of Public Works and the Police Chief have requested that a minimum of 100' be cleared on

either side of the access road onto School House Rd. The placement of the sewer line along the existing hedgerow was reviewed; landscaping and the specialty-item display area were discussed. V. Bergevin (audience) asked about the maintenance of the amount of lawn and open space proposed. Carpenter outlined their plans for him. Bergevin also commented on the placement and amount of screening for this project (particularly the "dead" storage area), which Carpenter answered by outlining their plans in regard to space use.

Phelps reviewed the drainage for the lot, building and for the parking area after it is paved in the future. He noted that for the time being, the Dir. of Public Works is requiring paving of only the entry apron onto School House Rd.

Lass displayed elevation drawings and reviewed lighting, signage and lighting.

There were no further questions or comments from Board members or the public. The public hearing portion of this application was declared closed.

Findings of Fact

1. The applicants, Russell Carpenter and Reginald Bishop, d/b/a Alltrack, Inc., have a contract to purchase approximately 10 acres of land on School House Rd. in the PHD zone.
2. The applicants propose to construct an equipment sales and rental facility for farm and lawn tractors and related implements, as shown on a site plan by Phelps Engineering, dated 9/1/87, last revised 9/10/87 (two sheets). This project is subject to site plan review by the Planning Commission.
3. Access to the project will be from a single access road off School House Road. This access road has been approved in connection with the Quesnel commercial subdivision and has been designed with adequate width, base, surface, drainage, etc., so that it could be upgraded to become a Town road in the future.
4. The access road enters onto School House Rd. and will, with appropriate clearing of shrubbery as shown on the landscaping plans, have adequate sight distances.
5. Access to this project will be from two driveways, as shown on the plans. These driveways will also have

Planning Commission

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adequate sight distances. The plans show approximately 70 parking spaces and room for additional parking in conformity with Section 717 of the Zoning Ordinance. In addition, adequate space and maneuvering room has been provided for truck unloading and loading.

6. The display of equipment for sale or for rent shall conform with Section 604(D) of the Zoning Ordinance. Such displays shall be located within the lines indicated on the approved site plan.
7. The Planning Commission concludes that the site plan has been designed to adequately provide for traffic access, circulation and parking and that there will not be unsafe conditions or unreasonable traffic congestion.
8. The project will utilize Town water and sewer approved by the Board of Selectmen on 9/15/87. The Planning Commission finds that the proposed water and sewer will comply with Town standards and that the Town has adequate water and sewer capacity to serve this project.
9. Stormwater runoff from the project will be discharged overland and into established drainage courses, as shown on the site plan. The Planning Commission finds that the proposed runoff will not cause a nuisance to abutting properties and can be handled by the system of proposed culverts and by the existing road drainage system, without any undue burden upon the Town.
10. Landscaping shall be planted and maintained as shown on a landscaping plan by David Raphael dated 9/16/87. The Planning Commission finds that the proposed landscaping is adequate to comply with the Zoning Ordinance. Any outdoor lighting shall be properly directed and shielded so as not to cause a nuisance or undue glare on adjoining properties or public highways.
11. The Planning Commission finds that the project will comply with the Site Plan Review criteria and with other provisions of the Zoning Ordinance.

Order

The application of Russell Carpenter and Reginald Bishop (d/b/a

Moved by Foster, seconded by Safford:
"To continue the meeting past the
usual 10 p.m. adjournment hour."

BOARD VOTED: 4 in favor 1 opposed
2 absent (Terk,
Myhre)

Newton advised the Chairman that as an abutting landowner it might be considered a conflict of interest should he participate; also that there might be a possibility that the applicant might have concerns about his participation. Both Board members and the applicant indicated they had no objection to Newton's participation.

Charles Herrmann presented his proposal to construct a 40 x 28' single-story addition onto the existing stone building on his property. The present building is used as a retail store; the addition would provide additional display and storage space for items which are presently displayed outside during the day and must be brought in each night. A total of 39 parking spaces are available for use by this shop and by the adjacent Harvest Hill shop, on a gravel parking lot. The applicant stated that there will be no new water or sewer services required and no new employees will be added. The applicant has received a variance from the front yard setback requirements (per BZA meeting of 9/14/87).

Newton asked whether or not the Director of Public Works has looked at, or commented on, the driveway entrance off Rte. 7 (no).

Comments and questions from the audience:

Cartmell asked if the Board would please review the access. It was his feeling that the entrance should be widened and that the turnoff is not visible to cars coming from the north. Herrmann replied that he has had the same discussion with the State Highway Dept. and that the drive has been widened to 2-car width and the culvert extended.

There were no further comments or questions; the public hearing portion of this application was therefore declared closed.

Findings of Fact

1. The applicant, Charles Herrmann, owns approximately 7 acres on Rte. 7 South. The front portion of this property is in the PHD zone and is used for two retail stores (Wood Ware and Harvest Hill). Both projects

Planning Commission

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9/16/87

were the subject of prior Planning Commission approvals.

2. The applicant proposes to construct a 40 x 28' addition to the Wood Ware Shop, as shown on the site plan dated 8/12/87.
3. The purpose of the addition is to provide for additional retail display area. The Board of Zoning Adjustment granted a variance on 9/14/87 for the location of the proposed addition with the requirement that the outside displays be located in the addition so as to conform with Section 604(D) of the Zoning Ordinance.
4. The existing access to the project will be utilized. An expanded parking area, for 39 cars, is shown on the site plan (29 spaces are required by the ordinance). The Planning Commission finds that the traffic access, circulation and parking will be adequate and that there will not be unsafe traffic conditions or unreasonable traffic congestion.
5. There will be no changes to water or sewer as a result of this project.
6. Existing landscaping will be maintained. The Planning Commission finds this to be adequate for the proposed project.
7. There will be no substantial changes in lighting or drainage as a result of this project. Both lighting and drainage shall be managed so as not to cause a nuisance to abutting properties or to the public highway.
8. The Planning Commission finds that the project will comply with the Site Plan Review criteria and other provisions of the Zoning Ordinance.

Order

The application by Charles Herrmann, as described in the above Findings of Fact, is hereby approved, subject to the following conditions:

1. The project shall be constructed as shown on the site plan approved at this Planning Commission meeting.

- 2. Since there will be no disruption of any public road right-of-way and no new landscaping or screening involved, the requirement for a bond is hereby waived.
- 3. There shall be no changes to the project without the prior approval of the Administrative Officer. The Planning Commission reserves the right to adopt supplementary Findings and Orders in the event of any substantial change in the project or in the circumstances.

Moved by Brakeley, seconded by Foster:
 "To accept the Findings of Fact and approve the application of Charles Herrmann, based on the Findings and contingent upon compliance with the Order."

BOARD VOTED: 5 in favor 0 opposed
 2 absent (Terk, Myhre)

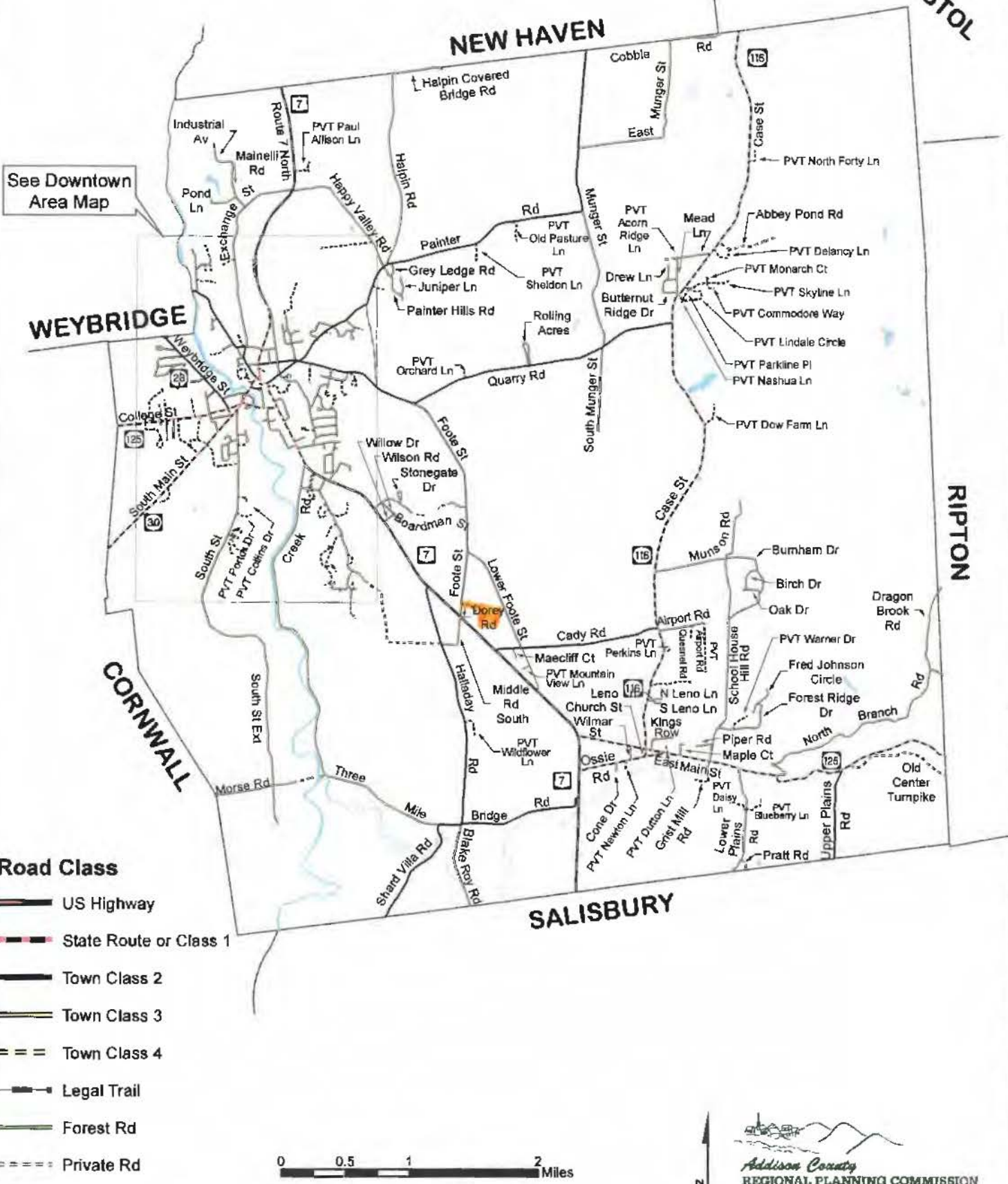
V. COMMISSION CONCERNS

Foster requested a report on the Act 250 airport hearing. Dunnington outlined the history of the process to date, then went on to state that clear evidence was established that there was a relationship between the noise complaints and the operations of Warplanes, Inc. A decision on that hearing has not yet been handed down. In light of complaints since that hearing, Act 250 was again approached re corrective action. Dunnington noted that even if this problem (noise) is resolved, other issues, such as safety, have not yet been addressed.

In connection with the condemnation proceedings which have been instituted by the State, Dunnington reported that the Town has proposed an agreement to the State to which no reply has yet been received.

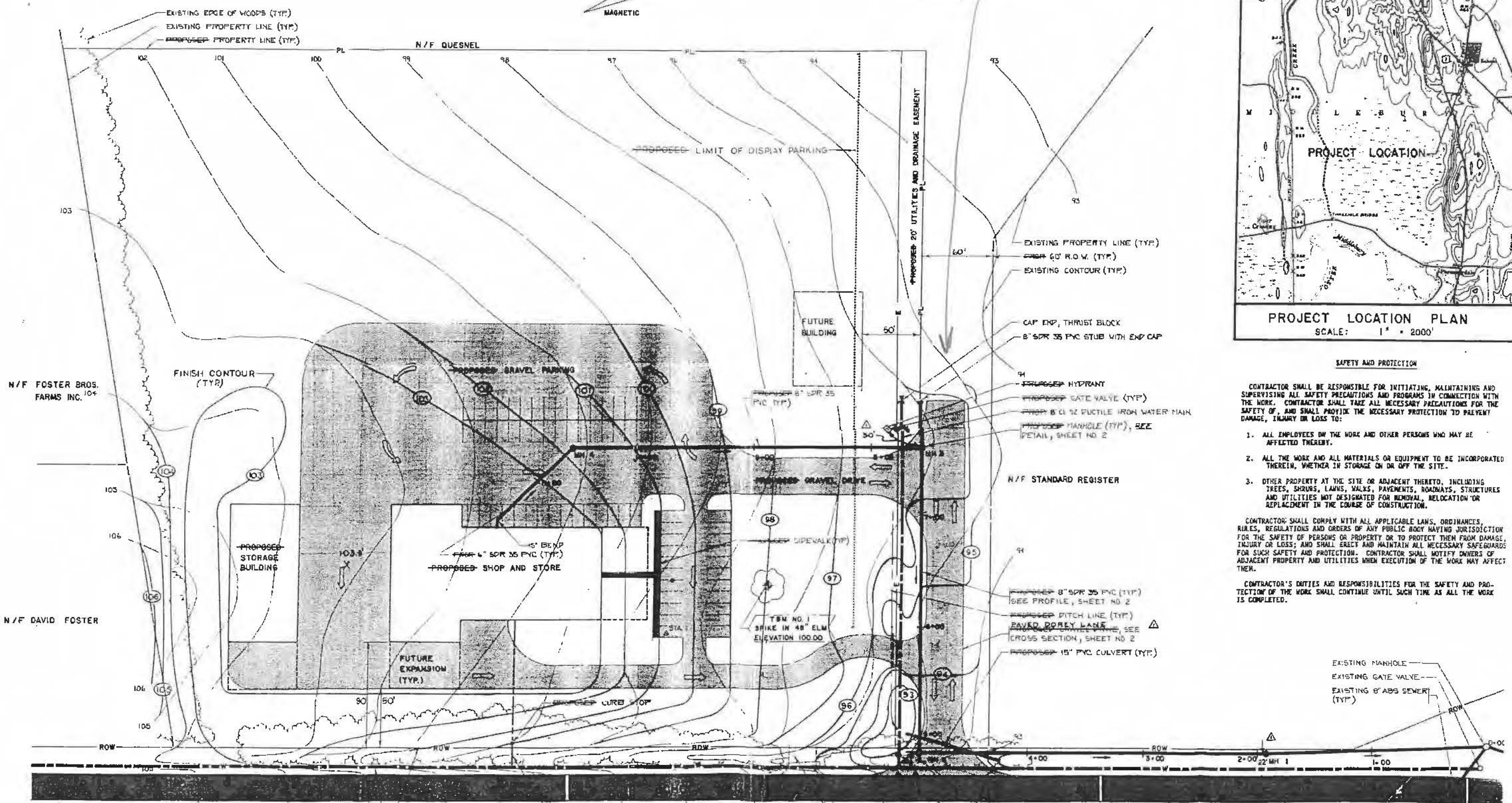
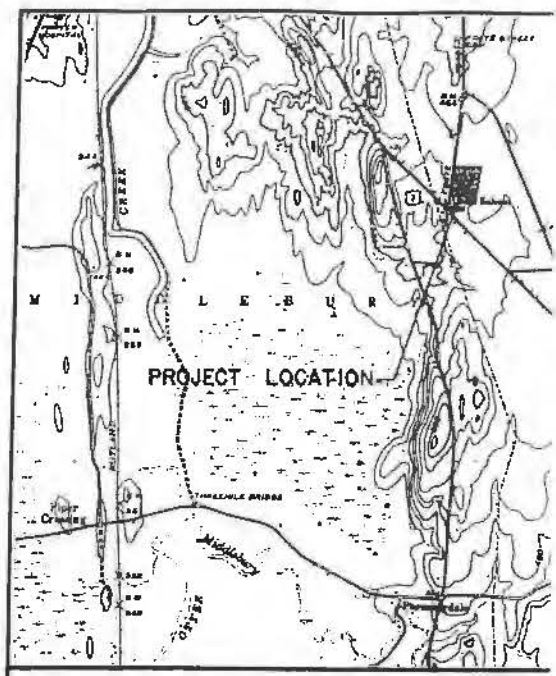
Newton suggested that a commendation should be forwarded to The Centre approving the landscaping work which has recently been done. He also suggested to Dunnington that it might be more feasible, when there are a number of cases to be ruled upon, an extra monthly meeting might be a better idea than an extended agenda. Other Board members concurred. Brakeley suggested that it might help ease crunches if all applicants were advised that a lead time of 1 month-6 weeks is required for applications and that any "last-minute" requests would be scheduled just like any other

Town of Middlebury Road Names



See Downtown Area Map

DOREY ROAD



PROJECT LOCATION PLAN
SCALE: 1" = 2000'

SAFETY AND PROTECTION

CONTRACTOR SHALL BE RESPONSIBLE FOR INITIATING, MAINTAINING AND SUPERVISING ALL SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THE WORK. CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS FOR THE SAFETY OF, AND SHALL PROVIDE THE NECESSARY PROTECTION TO PREVENT DAMAGE, INJURY OR LOSS TO:

1. ALL EMPLOYEES ON THE WORK AND OTHER PERSONS WHO MAY BE AFFECTED THEREBY.
2. ALL THE WORK AND ALL MATERIALS OR EQUIPMENT TO BE INCORPORATED THEREIN, WHETHER IN STORAGE ON OR OFF THE SITE.
3. OTHER PROPERTY AT THE SITE OR ADJACENT THERETO, INCLUDING TREES, SHRUBS, LAWNS, WALKS, PAVEMENTS, ROADWAYS, STRUCTURES AND UTILITIES NOT DESIGNATED FOR REMOVAL, RELOCATION OR REPLACEMENT IN THE COURSE OF CONSTRUCTION.

CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE LAWS, ORDINANCES, RULES, REGULATIONS AND ORDERS OF ANY PUBLIC BODY HAVING JURISDICTION FOR THE SAFETY OF PERSONS OR PROPERTY OR TO PROTECT THEM FROM DAMAGE, INJURY OR LOSS; AND SHALL ERECT AND MAINTAIN ALL NECESSARY SAFEGUARDS FOR SUCH SAFETY AND PROTECTION. CONTRACTOR SHALL NOTIFY OWNERS OF ADJACENT PROPERTY AND UTILITIES WHEN EXECUTION OF THE WORK MAY AFFECT THEM.

CONTRACTOR'S DUTIES AND RESPONSIBILITIES FOR THE SAFETY AND PROTECTION OF THE WORK SHALL CONTINUE UNTIL SUCH TIME AS ALL THE WORK IS COMPLETED.

NOTE:
TOPOGRAPHIC SURVEY DEVELOPED FROM TRANSIT AND STADIA METHODS. THIS IS NOT A BOUNDARY SURVEY ELEVATIONS BASED ON ASSUMED DATUM.

RECORD DRAWING

SITE PLAN
SCALE: 1" = 40'

	REVISIONS	PHELPS ENGINEERING, INC. 79 Court Street P.O. Box 367 Middleburg, VA 22645	REGINALD B. RUSSELL CAR. ALLTRACK



TOWN OF MIDDLEBURY

94 Main Street, Middlebury, Vermont 05753

July 5, 1994

Tim Davignon
Standard Register Company
PO Box 4450
Route 7 South
Middlebury, VT 05753

RE: New Exit Road


Dear Tim:

This will confirm our telephone conversation of Wednesday, June 22, 1994, in which you informed me that Standard Register is now ready to proceed with paving of the "Quesnel" road from Schoolhouse Road that was deeded to the Town of Middlebury including a 60' extension and connection to the Standard Register rear parking lot. You told me that the contract was awarded to Champlain Construction and that the paving would be done in accordance with Town specifications which you have discussed with Bill Hageman, Director of Public Works.

In reviewing the file there was a letter from Betty Wheeler, Town Manager to Ruth and Aurele Quesnel, dated December 15, 1992, in which the Town has the road deed but it had not been formally accepted as a Town Road until there was agreement to pave the road. Betty Wheeler has directed that, with your agreement, as indicated below, the Town will then file this deed and you will be authorized to proceed as agreed above.

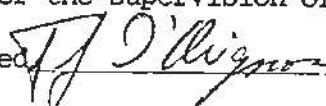
We are pleased that this matter is finally resolved and we look forward to the result. Please return a signed original copy of this letter to Betty Wheeler's office.

Sincerely,


Fred S. Dunnington
Town Planner

cc: Betty Wheeler, Town Manager
Bill Hageman, Director of Public Works
Ruth and Aurele Quesnel

AGREEMENT - Standard Register Company agrees to complete and pave the access road from the rear parking lot to Schoolhouse Road, in accordance with Town Standards and under the supervision of the Middlebury Director of Public Works.

Signed  Duly-Authorized Agent

MUNICIPAL BUILDING *388-4041
PUBLIC WORKS 388-4045
POLICE DEPARTMENT *388-3191
FAX NUMBER 388-4364
*TDD available



TOWN OF MIDDLEBURY

94 Main Street, Middlebury, Vermont 05753

Tim Davignon
Standard Register Company
PO Box 4450
Route 7 South
Middlebury, VT 05753

July 7, 1994

Dear Tim:

Standard Register's agreement to extend and pave the so-called "Quesnel Road" has been received and the deed to the Town has been officially accepted and recorded, so you are authorized to proceed as approved.

A copy of the July 5th letter to you was sent to Ruth and Aurele Quesnel, and they apparently called the Town offices and were still concerned that Standard Register's driveway would come in at an angle, as was first proposed, rather than at a right angle or "T".

In our phone conversation today, we again confirmed that Standard Register will extend the "Quesnel" road 60 feet and construct a right angle or "T" driveway connection to your parking lot, as required by the Town for this project. Both the "Quesnel" road extension and the driveway will be constructed with a base and surface meeting Town Road Standards, and the entire length, from the parking lot to Schoolhouse Road (Foote St.) will be paved, also to Town Standards. You stated that Champlain Construction will do this work and they are familiar with Town Standards, and have worked successfully with our Director of Public Works, Bill Hageman, on a number of past projects. Bill Hageman has told me he has discussed the Town specifications and technical matters about the thickness of base, pavement etc. with you and Champlain. By a copy of this letter to the Quesnels and all parties, I hope this will resolve any questions or concerns.

You and Champlain Construction should arrange to meet with Bill Hageman prior to the start of construction to be clear about the layout, Town Specifications and his inspection requirements. I would also request that you or Champlain notify Reg Bishop of the schedule of construction and paving which would affect his access. Upon written acceptance by Bill Hageman that the project has been completed as approved, the Town will take over maintenance of the main road portion (the driveways would remain private).

Sincerely,


Fred S. Dunnington
Town Planner

- CC. Betty Wheeler, Town Manager
- Bill Hageman, Director of Public Works
- Ruth and Aurele Quesnel
- Larry Danyow, Champlain Construction
- Reg Bishop, Green Mountain Tractor

MUNICIPAL BUILDING *388-4041
PUBLIC WORKS 388-4045
POLICE DEPARTMENT *388-3191
FAX NUMBER 388-4364
*TDD available

08251-000

Town Clerk's Office Middlebury, Vermont

18th day of July A. D. 19 94

8 o'clock 30 Minutes A M

Received and recorded in Vol. 152 Page 678

Attest [Signature] Town Clerk.

08251-000
-ACKNOWLEDGMENT-
return Rec'd.-Tax Paid-Board of Health Cert. Rec'd.-
Vt. Land Use & Development Plans Act Cert. Rec'd.
Return No. 94-122
Signed [Signature] Clerk
Date July 18 1994

WARRANTY DEED

North side of Dorey Road

KNOW ALL PEOPLE BY THESE PRESENTS, that we REGINALD BISHOP and NANCY BISHOP, husband and wife, of Middlebury, in the County of Addison and State of Vermont, Grantors, in the consideration of ONE OR MORE DOLLARS, paid to our full satisfaction by the TOWN OF MIDDLEBURY, a municipal corporation organized and existing under the laws of the State of Vermont, Grantee, by these presents, do freely GIVE, GRANT, SELL, CONVEY AND CONFIRM unto the said Grantee, TOWN OF MIDDLEBURY, and its successors and assigns forever, a certain easement in Middlebury, in the County of Addison and State of Vermont, described as follows, viz:

The perpetual right and easement for construction, reconstruction, repair, and maintenance of municipal sewer and water lines within the following described area:

Beginning at a point marked by an iron pipe set in the easterly edge of the right-of-way of School House Road. Said point marking the southwest corner of Grantors' property as described in a Quit Claim Deed from Carpenter-Bishop Partnership to Reginald Bishop recorded at Book 132, Page 204 of the Middlebury Land Records;

- Thence S 69° 11' E a distance of 320 feet;
- Thence N 21° 27' E a distance of 20.00 feet;
- Thence N 69° 11' W to the eastern edge of the School House Road right-of-way;
- Thence S 21° 27' W a distance of 20.00 feet to the point or place of beginning.

Also conveyed are all rights the Grantors may hold in any sewer or water mains lying under said easement, or under the 60 foot strip of land southerly thereof, and any right, title and interest the Grantors may have in and to the sewer main running from Route 7, along the eastern side of the School House Road right-of-way and connecting to the sewer main lying under or within the easement conveyed herein, or said 60 foot strip of land. By acceptance of this deed, Grantee accepts any sewer and water mains lying under said easement as municipal sewer and water mains.

TO HAVE AND TO HOLD said granted premises, with all the privileges and appurtenances thereof, to the said Grantee, TOWN OF MIDDLEBURY, its successors and assigns, to its own use and behoof forever,

And we, the said Grantors, REGINALD BISHOP and NANCY BISHOP, for ourselves and our heirs, executors and

administrators, do covenant with the said Grantee, TOWN OF MIDDLEBURY and its successors and assigns, that until the en sealing of these presents we are the sole owners of the premises and have good right and title to convey the same in manner aforesaid, and that they are FREE FROM EVERY ENCUMBRANCE, except as aforesaid.

And we hereby engage to WARRANT AND DEFEND the same against all lawful claims whatever, except as aforesaid.

IN WITNESS WHEREOF, we hereunto set our hands and seals this 29 day of October, 1992.

IN PRESENCE:

Etta M. Ames
Witness

Reginald Bishop
Reginald Bishop

Karen Weiner

Karen Weiner
Witness

Nancy Bishop
Nancy Bishop

Etta M. Ames

STATE OF VERMONT
COUNTY OF ADDISON, SS.

At Middlebury, this 29 day of October 1992, personally appeared REGINALD BISHOP and ^{he} they acknowledged this instrument by ^{him} ~~them~~ sealed and subscribed to be ^{his} ~~their~~ free act and deed.

Before me Etta M. Ames
Notary Public

My commission expires: 2/10/96

STATE OF VERMONT
COUNTY OF ADDISON, SS.

At Middlebury, this 29 day of October 1992, personally appeared NANCY BISHOP and ^{she} they acknowledged this instrument by ^{her} ~~them~~ sealed and subscribed to be ^{her} ~~their~~ free act and deed.

Before me Etta M. Ames
Notary Public

Five Gates
Forte St

15

WARRANTY DEED

KNOW ALL PEOPLE BY THESE PRESENTS that REGINALD E. BISHOP and NANCY L. BISHOP, husband and wife, of East Middlebury, County of Addison, State of Vermont, Grantors, in consideration of Ten or More Dollars paid to their full satisfaction by FIRST BORN ENTERPRISES, LLC, a Vermont limited liability company with principal place of business in Charlotte, County of Chittenden, State of Vermont, Grantee, by these presents do freely GIVE, GRANT, SELL, CONVEY AND CONFIRM unto the said Grantee, FIRST BORN ENTERPRISES, LLC, its successors and assigns, forever, certain lands and premises in the Town of Middlebury, County of Addison, and State of Vermont, described as follows, viz:

PARCEL ONE: Being all and the same land and premises conveyed to Reginald E. Bishop and Nancy L. Bishop by Quit Claim Deed of Reginald E. Bishop dated December 8, 1989 and recorded in Volume 132 at Page 384 of the Town of Middlebury Land Records.

Being all and the same land and premises conveyed to Reginald E. Bishop by Quit Claim Deed of Carpenter-Bishop Partnership and Russell C. Carpenter dated October 25, 1989 and recorded in Volume 132 at Page 204 of the Town of Middlebury Land Records.

Being all and the same lands and premises as described in a Warranty Deed of Aurele Quesnel and Ruth Quesnel to Carpenter-Bishop Partnership, dated November 5, 1987 and recorded in Book 122 at Page 557 of the Middlebury Land Records

Being a 9.45 acre parcel together with commercial building now located thereon as said parcel is depicted on a survey by Donald B. Burchard dated 26 September 1987 and entitled "Plan of Land to be conveyed to Bishop-Carpenter Partnership located in Middlebury, Vermont" and recorded as Map #829 in the Town of Middlebury Land Records.

Included in the conveyance is a right-of-way over a 60 foot wide strip of land running in an easterly direction from School House Road and south of the above-described parcel and north of lands now or formerly of the Standard Register, Inc. as said right-of-way is described in the Warranty Deed of Aurele Quesnel and Ruth Quesnel to Carpenter-Bishop Partnership dated November 5, 1987 and recorded in Volume 122 at Page 557 of the Town of Middlebury Land Records; and said right-of-way is subject to conditions and restrictions described therein.

ENGLISH
CARROLL & RITTER, P.C.
64 COURT STREET
MIDDLEBURY, VT. 05753
(802) 388-6711
FAX 388-2111

16

SUBJECT to Subdivision and Public Building Permit #EC-9-0512 and PB-9-0302 dated 23 October 1987 and recorded in Book 122 at Page 555 of the Middlebury Land Records.

PARCEL TWO: Being all and the same land and premises conveyed to Reginald E. Bishop and Nancy Bishop by Warranty Deed of Ruth Quesnel dated August 10, 1995 and recorded in Volume 156 at Page 491 of the Town of Middlebury Land Records.

Being a portion of the lands and premises described in a Warranty Deed of Fred Quesnel and Delvina Quesnel to Aurele H. Quesnel and Ruth Quesnel and Alphonse J. Quesnel and Gladys Quesnel dated 4 April 1945 and recorded in Book 48, at Page 387 of the Middlebury Land Records, and as described in a Quit Claim Deed of Alphonse Quesnel and Gladys Quesnel to Aurele Quesnel and Ruth Quesnel dated 30 October 1945 and recorded in Book 48, at Page 558 of the Middlebury Land Records, the parcel herein conveyed being a strip of land which is more particularly described as follows:

Being a parcel of land containing one half acre, more or less, located immediately contiguous and adjacent to the easterly line of lands (the "Grantees" Lands) described in a deed from Aurele H. Quesnel and Ruth Quesnel to the Carpenter-Bishop Partnership, dated 5 November 1987 and recorded at Book 122, Page 557 of the Middlebury Land Records (said lands being owned by the Grantees herein by reason of a conveyance from the Carpenter-Bishop Partnership to Reginald E. Bishop dated 25 October 1989 and recorded at Book 132, Page 204 of the Middlebury Land Records, and a subsequent conveyance from Reginald E. Bishop to Grantees herein dated 8 December 1989 and recorded at Book 132, Page 384 of the Middlebury Land Records.) The parcel herein conveyed is more particularly described as follows:

Beginning at the southeasterly corner of the Grantees' Lands;

Thence proceeding N 21° 27' E along the easterly boundary lines of the Grantees' lands 729.02 feet to an iron pipe marking a point in the southerly boundary now or formerly of Foster Brothers Farm, Inc., said point marking the northwesterly corner of the lands herein conveyed.

Thence proceeding S 77° 24' E in the southerly line of lands now or formerly of Foster Brothers Farm, Inc., 30 feet to a point.

Thence proceeding S 21° 27' W, 730 feet, more or less, to a point which bears S 69° 11' E approximately 30 feet from the point of beginning.

Thence proceeding N 69° 11' W to the point of beginning.

ENGLISH,
CARROLL & RITTER, P.C.
64 COURT STREET
MIDDLEBURY, VT. 05753
(802) 388-6711
FAX 388-2111

The land and premises are subject to Deferral of Permit #DE-9-1180 dated August 4, 1995 and recorded in Volume 156 at Page 489 of the Middlebury Land Records.

In order to comply with State of Vermont Environmental Protection Rules on the subdivision of lands and disposal of waste including sewage, the Grantees shall not construct or erect a structure or building on the parcel of land conveyed herein, the useful occupancy of which will require the installation of plumbing and sewage treatment facilities or convey this land without first complying with said State regulations. The Grantees by acceptance of this deed acknowledge that this lot may not qualify for approval for development under the appropriate environmental protection or health regulations and that the State may deny an application to develop the lot.

Reference is hereby made to the above referenced deed and its record and to the Town of Middlebury Land Records for a more particular description of the land and premises.

Subject to utility line easements and rights of way of record or in existence, and subject to applicable state and local permits and approvals.

TO HAVE AND TO HOLD said granted premises, with all the privileges and appurtenances thereof, to the said Grantee, FIRST BORN ENTERPRISES, LLC, its successors and assigns, to their own use and behoof forever; and the said Grantors, REGINALD E. BISHOP AND NANCY L. BISHOP, for themselves and their heirs and assigns, do covenant with the said Grantee, FIRST BORN ENTERPRISES, LLC, its successors and assigns, that until the ensembling of these presents, they are the sole owners of the premises and have good right and title to convey the same in manner aforesaid, that they are FREE FROM EVERY ENCUMBRANCE, except as aforesaid. And they do hereby engage to WARRANT AND DEFEND the same against all lawful claims whatever, except as aforesaid.

IN WITNESS WHEREOF, we have hereunto set our hands this 24th day of October, 2001.

IN PRESENCE OF:

Richard G. ...
Witness as to both

R Bishop
REGINALD E. BISHOP

Nancy L Bishop
NANCY L BISHOP

STATE OF VERMONT
COUNTY OF ADDISON, SS.

At Middlebury, in said County, this 24th day of October, 2001, personally appeared REGINALD E. BISHOP and NANCY L. BISHOP, and they acknowledged this instrument, by them subscribed, to be their free act and deed.

Before me, *Richard G. ...*
Notary Public
My Commission Expires: 2/10/03

Vermont Property Transfer Tax
32 V.S.A. Chap. 231
--ACKNOWLEDGMENT--
Return Rec'd.--Tax Paid--Board of Health Cert. Rec'd.--
Vt. Land Use & Development Plans Act Cert. Rec'd.
Return No. 01302
Signed *Jan ...* Clerk
Date 10-25-2001

Town Clerk's Office Middlebury, Vermont
25th day of October, 2001
11 o'clock 30 Minutes A M
Rec'd and recorded in Vol. 185 Page 15
Attest *Jan ...* Town Clerk

AFFIDAVIT

We, Reginald E. Bishop and Nancy L. Bishop, of East Middlebury, Vermont, first being duly sworn do depose and state as follows:

1. We are over the age of 18 years, of sound mind and are otherwise competent to make this Affidavit.

2. This Affidavit is made of our own knowledge, information and belief and insofar as it is upon information and belief, we believe this information to be true.

3. We purchased certain lands and premises located at 489 Foote Street in Middlebury, Vermont by Quitclaim Deed from Carpenter-Bishop Partnership dated October 25, 1989 and recorded in the Middlebury Land Records in Book 132, Page 204; and Quitclaim Deed from Reginald E. Bishop to Reginald E. and Nancy L. Bishop dated December 8, 1989 and recorded in the Middlebury Land Records in Book 132, Page 384 (the "Property").

4. The above-referenced Deed from Carpenter-Bishop Partnership conveyed a 60' wide right of way for access to School House Road, so-called, which right of way was conveyed subject to certain restrictions referenced therein.

5. During our ownership of the Property, we have complied with the terms and conditions of said restrictions, including but not limited to the construction of all improvements required to be performed by the grantee in the above referenced deed.

6. This Affidavit is made for the benefit of First Born Enterprises, LLC, its successors and assigns, to which we have conveyed the Property by Warranty Deed of even date herewith.

DATED at Middlebury, Vermont this 22nd day of October, 2001.

In Presence Of:

Richard E.M.
Witness as to both

Reginald E. Bishop
Reginald E. Bishop

Nancy L. Bishop
Nancy L. Bishop

STATE OF VERMONT
COUNTY OF ADDISON, SS.

At Middlebury, Vermont this 22nd day of October, 2001, personally appeared Reginald E. Bishop and Nancy L. Bishop, and they acknowledged that this instrument is true and accurate to the best of their knowledge and belief, by them executed, to be their free act and deed.

Before me, Richard E.M.
Notary Public
My Commission Expires: 2/10/03

Town Clerk's Office Middlebury, Vermont
25th day of October, 2001
11 o'clock 30 Minutes A. M
Rec'd and recorded in Vol. 185 Page 18
Attest [Signature] Town Clerk

[Signature]

Town Clerk's Office Middlebury, Vermont

18TH day of July A. D. 1994

8 o'clock 30 Minutes A M

Received and recorded in Vol. 152 Page 680

Attest [Signature] Town Clerk.

WARRANTY DEED

Vermont Property Transfer Tax
 32 V.S.A. Chap. 231
-ACKNOWLEDGMENT-
 Return Rec'd.-Tax Paid-Board of Health Cert. Rec'd.-
 Vt. Land Use & Development Plans Act Cert. Rec'd.
 Return No. 94-123
 Signed [Signature] Clerk
 Date July 18 1994

DOREY ROAD

KNOW ALL PEOPLE BY THESE PRESENTS, that we, AURELE QUESNEL and RUTH QUESNEL, husband and wife, of Middlebury, in the County of Addison and State of Vermont, Grantors, in the consideration of ONE OR MORE DOLLARS, paid to our full satisfaction by the TOWN OF MIDDLEBURY, a municipal corporation organized and existing under the laws of the State of Vermont, Grantee, by these presents, do freely GIVE, GRANT, SELL, CONVEY AND CONFIRM unto the said Grantees, TOWN OF MIDDLEBURY, and its successors and assigns forever, a certain piece of land in Middlebury, in the County of Addison and State of Vermont, described as follows, viz:

Being a PORTION of the lands and premises described in a Warranty Deed of Fred Quesnel and Delvina Quesnel to Aurele H. Quesnel and Ruth Quesnel and Alphonse J. Quesnel and Gladys Quesnel dated 4 April 1945 and recorded in Book 48, at Page 387 of the Middlebury Land Records, and as described in a Quit Claim Deed of Alphonse Quesnel and Gladys Quesnel to Aurele Quesnel and Ruth Quesnel dated 30 October 1945 and recorded in Book 48, at Page 558 of the Middlebury Land Records, the parcel herein conveyed being a strip of land which is more particularly described as follows:

Beginning at a point marked by an ~~iron pipe~~ now Foote St set in the easterly edge of the right-of-way of School House Road, said point marking the northwest corner of the parcel herein conveyed and the southwest corner of the parcel conveyed to Bishop-Carpenter Partnership by the Grantors by deed dated 5 November 1987 and recorded at Book 122, Page 557 of the Middlebury Land Records.

Thence S 20° 49' W a distance of 60.00 feet to an iron pipe marking the northwest corner of the property of Standard Register, Inc., and being the southwest corner of the lands herein conveyed;

Thence S 69° 11' E a distance of 440.89 feet to an iron pipe marking a corner of the property of Standard Register, Inc. and being the southeast corner of the lands herein conveyed;

Thence N 21° 27' E a distance of 60.00 feet to the southern boundary of said lands heretofore conveyed to Bishop-Carpenter Partnership, being the northeast corner of the lands herein conveyed;

Thence N 69° 11' W a distance of 440.89 feet to the point or place of beginning.

Included in this conveyance are any and all rights the Grantors have to any sewer and water lines which lie within the property herein conveyed. Also included in this conveyance are any right, title and interest the Grantors may have in and to the

sewer main running from Route 7, along the eastern side of the School House Road right-of-way and connecting to the sewer main lying under or adjacent to the property conveyed herein.

Grantors convey said land as is for public highway and public utility purposes, and by acceptance of this deed Grantee accepts said lands for public highway and public utility purposes.

TO HAVE AND TO HOLD said granted premises, with all the privileges and appurtenances thereof, to the said Grantee, TOWN OF MIDDLEBURY, its successors and assigns, to its own use and behoof forever,

And we, the said Grantors, AURELE QUESNEL and RUTH QUESNEL, for ourselves and our heirs, executors and administrators, do covenant with the said Grantee, TOWN OF MIDDLEBURY, its successors and assigns, that until the ensealing of these presents we are the sole owners of the premises and have good right and title to convey the same in manner aforesaid, and that they are FREE FROM EVERY ENCUMBRANCE, except as aforesaid.

And we hereby engage to WARRANT AND DEFEND the same against all lawful claims whatever, except as aforesaid.

IN WITNESS WHEREOF, we hereunto set our hands and seals this 29 day of October 1992.

IN PRESENCE:

Elta M. Alins
Witness

Aurele H. Quesnel
Aurele Quesnel

Kathleen Werner
Witness

Ruth Quesnel
Ruth Quesnel

STATE OF VERMONT
COUNTY OF ADDISON, SS.

At Middlebury, this 29 day of October 1992, personally appeared AURELE QUESNEL and RUTH QUESNEL and they acknowledged this instrument by them sealed and subscribed to be their free act and deed.

Before me Elta M. Alins
Notary Public

My commission expires: 2/10/96