

District 4, 5, 7
Certcode 1203-0

**CERTIFICATE OF HIGHWAY MILEAGE
YEAR ENDING FEBRUARY 10, 2019**

Fill out form, make and file copy with the Town Clerk, and mail ORIGINAL, before February 20, 2019 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 **BERLIN** in **WASHINGTON** 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	0.000				0.000
Class 2	13.760			13.76	0.000
Class 3	36.94			36.94	0.000
State Highway	25.800			25.800	0.000
Total	76.500			76.500	0.000
* Class 1 Lane	0.000			-	
* Class 4	7.48	0.01		7.49	0.000
* Legal Trail	4.09			4.09	

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

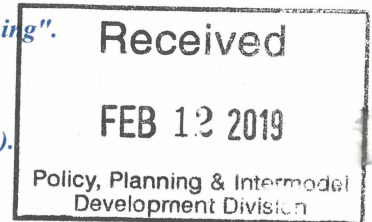
PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE.

1. **NEW HIGHWAYS:** Please attach Selectmen's "Certificate of Completion and Opening".
+0.01 mi CL4 TH-83 (+50' Berlin Mall Rd at VT-62 ROW)

2. **DISCONTINUED:** Please attach SIGNED copy of proceedings (minutes of meeting).

3. **RECLASSIFIED/REMEASURED:** Please attach SIGNED copy of proceedings (minutes of meeting).

4. **SCENIC HIGHWAYS:** Please attach a copy of order designating/discontinuing Scenic Highways.



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:

[Handwritten signature: Rosemary Mue]

Date Filed:

2-8-19

Please sign ORIGINAL and return it for Transportation signature.

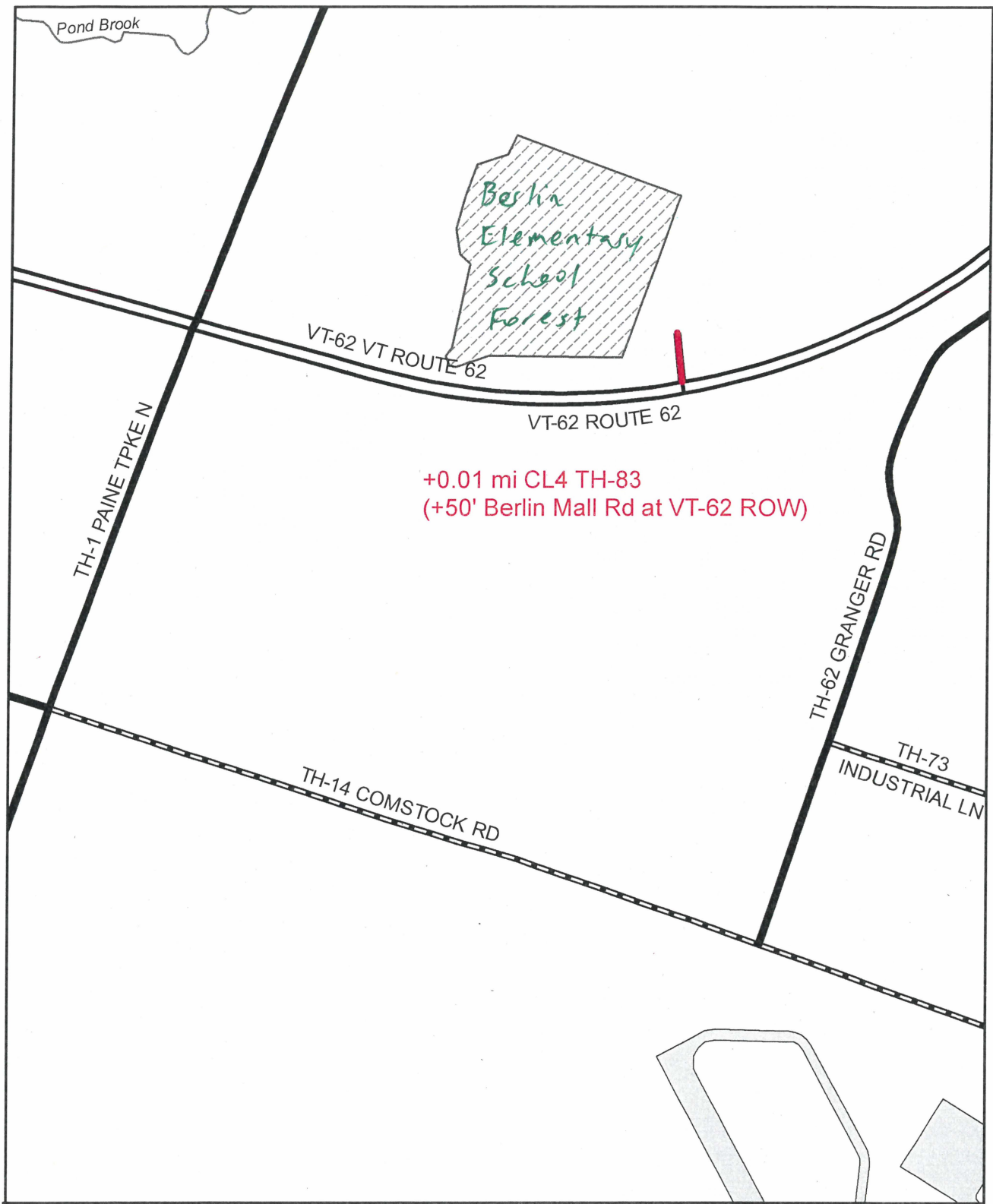
AGENCY OF TRANSPORTATION APPROVAL: Signed copy will be returned to T/C/V Clerk.

APPROVED:

[Handwritten signature]
Representative, Agency of Transportation

DATE:

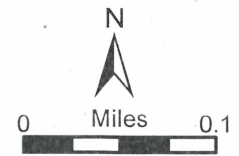
2/18/2019



Mileage Certificate Changes 2019

BERLIN
(1203-0)

Mapping Section
 Division of Policy and Planning
 Vermont Agency of Transportation -- March 20, 2019





State of Vermont
Division of Policy and Planning - Mapping Section

1 National Life Drive
Montpelier, VT 05633-5001
<http://vtrans.vermont.gov>

Agency of Transportation

Telephone: 802-828-3666
Fax: 802-828-2334
Email: Kerry.Alley@vermont.gov

February 1, 2019

Chair, Selectboard
Berlin
c/o Town Clerk
108 Shed Rd
Montpelier, VT 05602

To Town Clerk and Selectboard:

Thank you for sending your 2019 Certificate of Highway Mileage. It came to our attention that a change needed to be added to this Certificate, so I am sending you a new copy with that change pre-loaded onto it. Please have the Selectboard sign it, and have the Town Clerk sign and date it before returning the original to us. The enclosed Certificate will supercede the previous Certificate signed by the Town Clerk on 1/23/2019 which we received last week. This change is expected as per a phone conversation I had earlier this week with Town Administrator Dana Hadley, to whose Attention this correspondence is being sent.

Sincerely,

Kerry Alley

Kerry Alley
Mapping and GIS Specialist

Enclosure

District 4, 5, 7
Certcode 1203-0

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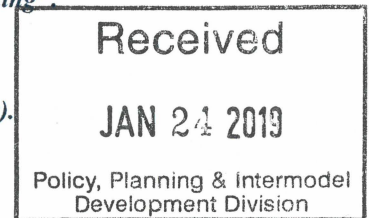
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IF THERE ARE NO CHANGES IN MILEAGE: Check box and sign below.

PART III - SIGNATURES - PLEASE SIGN.

Selectmen/ Aldermen/ Trustees Signatures:

[Handwritten signatures]

T/C/V Clerk Signature:

[Handwritten signature]

Date Filed:

1-23-2019

Please sign ORIGINAL and return it for Transportation signature.

AGENCY OF TRANSPORTATION APPROVAL: Signed copy will be returned to T/C/V Clerk.

APPROVED:

Representative, Agency of Transportation

DATE:

Vermont Statutes Annotated

19 V.S.A. § 305. Measurement and inspection

§ 305. Measurement and inspection

(a) After reasonable notice to the selectboard, a representative of the agency may measure and inspect the class 1, 2, and 3 town highways in each town to verify the accuracy of the records on file with the agency. Upon request, the selectboard or their designee shall be permitted to accompany the representative of the agency during the measurement and inspection. The agency shall notify the town when any highway, or portion of a highway, does not meet the standards for its assigned class. If the town fails, within one year, to restore the highway or portion of the highway to the accepted standard, or to reclassify, or to discontinue, or develop an acceptable schedule for restoring to the accepted standards, the agency for purposes of apportionment under section 306 of this title shall deduct the affected mileage from that assigned to the town for the particular class of the road in question.

(b) Annually, on or before February 10, the selectboard shall file with the town clerk a sworn statement of the description and measurements of all class 1, 2, 3, and 4 town highways and trails then in existence, including any special designation such as a throughway or scenic highway. When class 1, 2, 3, or 4 town highways, trails, or unidentified corridors are accepted, discontinued, or reclassified, a copy of the proceedings shall be filed in the town clerk's office and a copy shall be forwarded to the agency.

(c) All class 1, 2, 3, and 4 town highways and trails shall appear on the town highway maps by July 1, 2015.

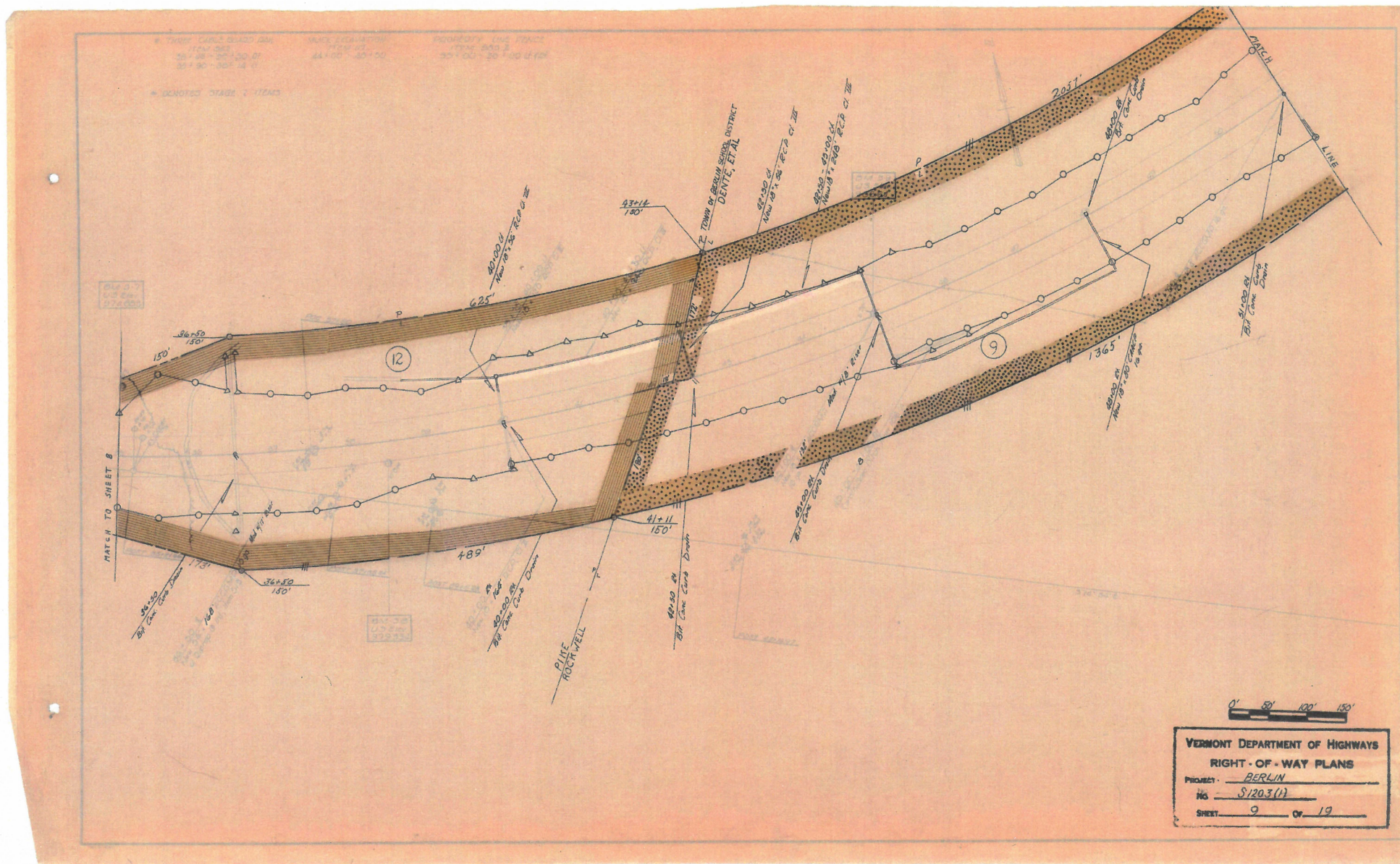
(d) At least 45 days prior to first including a town highway or trail that is not clearly observable by physical evidence of its use as a highway or trail and that is legally established prior to February 10, 2006 in the sworn statement required under subsection (b) of this section, the legislative body 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.

(f) The selectboard of any town who are aggrieved by a finding of the agency concerning the measurement, description, or classification of a town highway may appeal to the transportation board by filing a notice of appeal with the executive secretary of the transportation board.

(g) The agency shall provide each town with a map of all of the highways in that town together with the mileage of each class 1, 2, 3, and 4 highway, as well as each trail, and such other information as the agency deems appropriate.

Excerpt of 19 V.S.A. § 305 - *Measurement and inspection* from Vermont Statutes Online located at – <https://legislature.vermont.gov/statutes/section/19/003/00305>



Alley, Kerry

From: Croft, Johnathan
Sent: Thursday, March 29, 2018 11:01 AM
To: Alley, Kerry
Subject: FW: Berlin Mall/Dedication and Acceptance of Highway ROW
Attachments: Berlin Mall_Town of Berlin D&A Instrument as Executed.pdf; Ltr to Berlin TC Recording D&A Instrument.pdf

FYI on the acceptance of 50' of highway accessing the Berlin Mall off VT-62 in Berlin.

Johnathan

Johnathan Croft | Mapping Section Chief
Vermont Agency of Transportation
1 National Life Dr | Montpelier, VT 05633
802-828-2600 | johnathan.croft@vermont.gov



From: Melvin, Bruce
Sent: Tuesday, March 20, 2018 1:59 PM
To: Croft, Johnathan <Johnathan.Croft@vermont.gov>
Subject: FW: Berlin Mall/Dedication and Acceptance of Highway ROW

fyi

From: Blanchard, Jeff
Sent: Tuesday, March 20, 2018 12:56 PM
To: Melvin, Bruce <Bruce.Melvin@vermont.gov>; Clifford, Shauna <Shauna.Clifford@vermont.gov>; Perron, Dale <Dale.Perron@vermont.gov>; Driscoll, Kristin <Kristin.Driscoll@vermont.gov>; Bump, Chris <Chris.Bump@vermont.gov>; Redmond, Michelle <Michelle.Redmond@vermont.gov>; Holding, John <John.Holding@vermont.gov>; Blakslee, Michael <Michael.Blakslee@vermont.gov>
Subject: FW: Berlin Mall/Dedication and Acceptance of Highway ROW

All,
Attached is confirmation of the Berlin Mall having its entrance from VT62 accepted as a Town road.
While only 50' it does now make it a legal access onto VT62.

Thanks,
Jeff

From: White, Rob
Sent: Tuesday, March 20, 2018 10:31 AM
To: Blanchard, Jeff <Jeff.Blanchard@vermont.gov>; Dunleavy, John <John.Dunleavy@vermont.gov>
Subject: FW: Berlin Mall/Dedication and Acceptance of Highway ROW

FYI

From: Charles Storrow <chuck@leoninepublicaffairs.com>
Sent: Tuesday, March 20, 2018 10:04 AM
To: Town Admin <townadministrator@berlinvt.org>
Cc: White, Rob <Rob.White@vermont.gov>; Boomhower, Michele <Michele.Boomhower@vermont.gov>
Subject: Berlin Mall/Dedication and Acceptance of Highway ROW

Dear Dana,

Attached is a scan of the Dedication & Acceptance deed, as executed on behalf of our client Berlin Mall, LLC and the town of Berlin. Also attached is my cover letter to Rosemary Morse sending her the same for recording in the land records. When I get the deed back from Rosemary with the recording information noted on it I will send it on to you.

I suggest that the town report the addition of the subject segment of highway to the Agency of Transportation per 19 VSA sec. 305(b).

I really appreciate your help and consideration throughout this matter.

Please do not hesitate to contact me if you have any questions or comments.

Sincerely—Chuck Storrow

Charles Storrow, Partner
Storrow & Buckley, LLP
One Blanchard Court, Suite 101
Montpelier, VT 05602
(802) 552-4470 (Direct)
(802) 371-7863 (Mobile)
(802) 229-4900 (Office)
chuck@storrowandbuckley.com

DEDICATION AND ACCEPTANCE OF PUBLIC HIGHWAY RIGHT OF WAY

KNOW ALL PERSONS BY THESE PRESENTS THAT Berlin Mall, LLC, a Delaware Limited Liability Company with a place of business in Berlin, Vermont, in consideration of the mutual promises and covenants contained herein, does hereby **DEDICATE FOR PUBLIC USE, AND REMISE, RELEASE, AND FOREVER QUITCLAIM** unto the town of Berlin, a Vermont municipal corporation, a public highway right of way, described as follows, viz:

Being a right of way for public highway purposes in and along the access road leading from Vermont Route 62 to the Berlin Mall, so-called.

The right of way dedicated and conveyed herein shall begin at the boundary of the state of Vermont's right of way for Route 62 and proceed in a northwesterly direction in and along the existing access road for fifty (50) feet, and shall be sixty (60) feet wide, as centered on the existing centerline of said access road.

Said highway right of way is hereby accepted by the town of Berlin as a Class 4 town highway only, and as such the town of Berlin shall have no obligation to maintain it.

Berlin Mall, LLC, for itself and its successors and assigns, does hereby covenant that it shall maintain such right of way, at its sole expense, so that it is negotiable for ingress and egress under normal conditions all seasons of the year by standard manufactured pleasure cars and emergency vehicles, including maintaining sufficient surface and base, adequate drainage, and sufficient width capable to provide winter maintenance.

Reference is made to the plat entitled "Composite 'As Built' Map, Berlin Mall, located along Vermont Route 62, Paine Turnpike, Fisher Road, in the Town of Berlin, State of Vermont." Said composite plat plan was prepared by Wayne Lawrence, R.L.S., Barre, Vermont, during April 1987, Project No. 87029, and recorded on December 12, 2002 in Map Slides 02-17 through 02-25 in the Berlin Land Records.

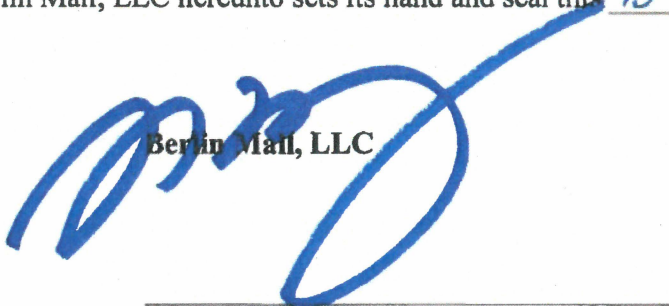
Reference is also made to Developers Diversified Realty Corporation's Limited Warranty Deed to Berlin Mall, LLC, dated August 4, 2010 and recorded in Book 120 at pages 30-38 of the Berlin Land Records.

Reference is hereby made to the aforesaid plat and Limited Warranty Deed, and the references and descriptions contained therein, in further aid of this description.

TO HAVE AND TO HOLD the said dedicated, remised, released and quitclaimed premises, with all the privileges and appurtenances thereof, to the said Grantee, **Town of Berlin**, to its own use and behoof forever. **AND FURTHERMORE Berlin Mall, LLC** does for itself and its successors and assigns, covenant with the said **Town of Berlin** that from and after the ensembling

of these presents the said **Berlin Mall, LLC**, will have and claim no right in or to the said quitclaimed premises.

IN WITNESS WHEREOF, Berlin Mall, LLC hereunto sets its hand and seal this 13th day of March, 2018.


Berlin Mall, LLC

By (Print Name): ROBERT HEIDENBERG
Duly Authorized Agent

STATE OF NEW JERSEY)
BERGEN COUNTY) SS.

At CLOSTER this 13th day of MARCH, 2018, ROBERT HEIDENBERG personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of Berlin Mall, LLC.

Before me, Cynthia Hanenberg
Notary Public

My commission expires: 2/11/23

CYNTHIA HANENBERG
Commission # 2389706
Notary Public, State of New Jersey
My Commission Expires
February 11, 2023

ACCEPTANCE OF HIGHWAY RIGHT OF WAY

KNOW ALL PERSONS BY THESE PRESENTS THAT the **Town of Berlin**, a Vermont municipal corporation, does **HEREBY ACCEPT** the dedication of the above described highway right of way as a Class 4 town highway. Such acceptance is conditioned on both: (a) their being no obligation on the part of the town of Berlin to maintain such highway right of way, and (b) Berlin Mall, LLC's covenant, for itself and its successors and assigns, that it shall maintain such

right of way, at its sole expense, so that it is negotiable for ingress and egress under normal conditions all seasons of the year by standard manufactured pleasure cars and emergency vehicles.

IN WITNESS WHEREOF, the town of Berlin hereunto sets its hand and seal this 19th day of MARCH, 2018.

Town of Berlin

Bradley Towne Bradley Towne
Print Name: Bradley Towne Print Name:
Member, Berlin Selectboard Member, Berlin Selectboard

Wayne Lambertson Wayne Lambertson
Print Name: Wayne Lambertson Print Name:
Member, Berlin Selectboard Member, Berlin Selectboard

Peter Kelley
Print Name: Peter Kelley
Member, Berlin Selectboard

STATE OF VERMONT)
WASHINGTON COUNTY) SS.

At Berlin this 19th day of March, 2018, Bradley Towne,
Wayne Lambertson, Peter Kelley, _____, and
_____, personally appeared and s/he acknowledged this instrument, by them
sealed and subscribed, to be their free act and deed and the free act and deed of the town of
Berlin.

Before me, Charles Storrow
Notary Public CHARLES STORROW

My commission expires: 2/10/2019

STORROW & BUCKLEY, LLP
ATTORNEYS AT LAW
1 Blanchard Court
Suite #101
Montpelier, VT 05602-3843

Ltr to Berlin TC Recording D&A
instrument.pdf

802-229-4900

Fax: 802-229-5110

Sender Email: chuck@storrowandbuckley.com

Web Page: www.storrowandbuckley.com

Charles F. Storrow
Clare A. Buckley

March 20, 2018

Rosemary Morse, Berlin
Town Clerk
108 Shedd Road
Berlin, VT 05602

RE: Berlin Mall, LLC/Town of Berlin

Dear Ms. Morse,

Please find enclosed a "Dedication and Acceptance of Public Highway" instrument for recording in the Berlin Land Records. I suggest that Berlin Mall, LLC, be indexed as the Grantor and the Town of Berlin as the Grantee.

Under 32 V.S.A. § 9606(d) a Property Transfer Tax Return is not required for recording this instrument.

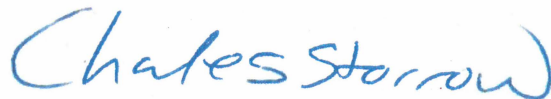
Also, please note that the same statute provides that the town is to notify the listers of the parties to this transaction, the amount of consideration (which is none) and the date of execution.

I enclose a check for \$40 in payment of the fee for recording this document.

Please return the enclosed to me with its recording information noted on it after you have recorded a copy of it. I enclose a stamped, self-addressed envelope for your convenience.

Thank you.

Sincerely,



Charles F. Storrow, Esq.

Rosemary Morse, Berlin

Town Clerk

3/20/2018

Page 2

Cc: Dana Hadley, Berlin Town Administrator (via email)

Rob White, VTrans, (via email)

Michele Boomhower, VTrans (via email)

Times Argus

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To print this article open the file menu and choose Print.

[Back](#)

Article published Aug 3, 2016

Berlin Mall renews access road request

By David Delcore

Staff writer

BERLIN — Owners of the Berlin Mall have renewed their request that the town take over the private drive that runs between Route 62 and the parking lot for central Vermont's largest shopping complex.

Hoping to finalize a settlement in an Act 250 appeal, Chuck Storrow, the attorney for Berlin Mall LLC, said transferring title of the access road to the town would satisfy the state's claim that it should have happened decades ago, and pave the way for plans to replace the aging sign located at the mall's main entrance.

Though Storrow previously suggested the town take over a few hundred feet of the road, he said the simplest solution would be for the mall to deed the entire length to the community. That, he said, would relieve the state's concern over a token transfer that might meet the letter, if not the spirit, of what some say was initially intended.

"It has to be meaningful," he said of the transfer, noting that rather than pick a point in the middle of the winding access road where town plows would lift their blades during a snowstorm, it made sense to turn over the entire segment.

According to Storrow, that would relieve the state's concern over ownership of the access road, which, he said, is currently at odds with a policy that does not allow private drives on limited access highways like Route 62.

Acting on the town's behalf, the mall is currently pursuing a town-center designation that contemplates significant additional development on the property and the conversion of the road that runs in front of the mall, as well as the entrances on both ends, into Berlin's equivalent of a downtown Main Street.

That desire was evident in several aspects of Monday's conceptual conversation.

"Long term, it would make sense for the town to take over the entire access, from Route 62 to Fisher Road," Storrow said at one point, stressing the mall owners aren't proposing anything that radical at this time.

However, Storrow said the mall's interest in developing three lots along the entrance off Route 62 is very much a

part of its plans and needed to be considered in advance of any transfer. The mall's owner, he said, would like to retain the right to realign the road at its expense if that is necessary to accommodate future development.

Storrow said Berlin Mall LLC would also like some assurance that curb cuts would be permitted on the access road for yet-to-be-identified projects.

"It's something out there in the future," he said.

Chairman Ture Nelson said the town's immediate concern is the condition of the road, and making sure it is up to standards the town has required in other circumstances before agreeing to take over maintenance of any private drives.

Nelson suggested an Aug. 15 site visit with Road Commissioner Tim Davis to evaluate the condition of the entrance, and identify any upgrades the town would require before agreeing to the proposed transfer. That could involve requiring the road to be repaved at the mall's expense.

Assuming the town and the mall can iron out the details, Nelson said he believed the board would seriously consider the request.

"I don't see any deal-breakers with this," he said.

In other business Monday night the board formally accepted the ambulance proposal provided by Barre Town Emergency Medical Services, and accepted the low bid to upgrade the security system at the police department.

BTEMS submitted the lone proposal to provide ambulance service to all but the Riverton portion of Berlin. The board accepted the proposed three-year contract, with a two-year extension, that could continue a 20-year relationship for another five years.

The board also accepted Round Hill Security's low bid of \$5,607 to replace the security system.

david.delcore @timesargus.com
