

**CERTIFICATE OF HIGHWAY MILEAGE
YEAR ENDING FEBRUARY 10, 2010**

Fill out form, make and file copy with the Town Clerk, and mail ORIGINAL, before February 20, 2010 to:
Vermont Agency of Transportation, Division of Planning, Outreach and Community Affairs, One National Life
Drive, Montpelier, VT 05633.

We, the members of the legislative body of **CAVENDISH** in **WINDSOR** 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			0.00	0.000
Class 1 Lane	0.000			0.00	
Class 2	11.850			11.850	0.000
Class 3	42.90			42.90	0.000
State Highway	11.822			11.822	7.652
Class 4	3.93	0.23 0.18		4.11 4.16	0.000
Legal Trail	0.00			0.00	
Total	66.572			66.572 66.802	7.652

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

PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE. Adjustments by S. Moulton 5/4/10

1. **NEW HIGHWAYS:** Please attach Selectmen's "Certificate of Completion and Opening".

NONE

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

NONE

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

CLASS IV - OLD COUNTY ROAD SEGMENT TH#16A 0.18
 CLASS IV - CHAPMAN STREET TH#51 0.05 — change not accepted
0.23 mi

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

NO CHANGE

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

PART III - SIGNATURES - PLEASE SIGN.

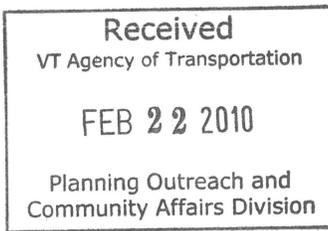
Selectmen/ Aldermen/ Trustees Signatures: *James Ballantine, Jr. [Signature]*
Daniel W. Churchill [Signature]
Edward R. [Signature]
George [Signature]

T/C/V Clerk Signature: *Jane A. Riley [Signature]* Date Filed: 2/19/10

Please sign ORIGINAL and return it for Transportation signature.

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

APPROVED: *[Signature]* DATE: 6/9/2010
 Representative, Agency of Transportation
Johnathan Croft



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 – <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=19&Chapter=003&Section=00305>

12/29/2009

Public Hearing, Monday, February 8th, 2010
Select Board, Town of Cavendish

Present: Jim Ballantine (Chairman), George Timko, Dan Churchill, Ed Garrow, Peter Gregg, Rich Svec (Town Manager), Diane McNamara (Recording Secretary), Duncan Love (LPCTV), Donna Allen (Vermont Journal) and citizens as listed on the attendance sheet attached.

1. Call the meeting to order

Jim Ballantine, Chairman, called the meeting to order at 6:30 pm.

2. Public Hearing to receive comment regarding roads identified by the Cavendish Ancient Roads Committee as needing a determination as to whether or not the Town of Cavendish maintains ownership of said roads and to determine whether the Town of Cavendish shall include these roads on the Town of Cavendish Inventory of Town Highways and Town Highway Map.

The Public Hearing opened with the introduction of the Select Board members, Town Manager and citizens present. Rich Svec provided an overview of the Ancient Roads Committee's research and findings. He explained that, in the end, the committee referred three roads to the Cavendish Selectmen. The roads were discussed one at a time.

Chapman Street, aka Stone Church Lane: Keith Frye, whose property abuts Chapman Street, stated that based on a conversation with Matt Birmingham 10 years ago, his understanding was that it was alright for him to add fill and seed the area over. Beverly Owens said that she used to enjoy walking this road but stopped doing so as she thought it was private property and didn't realize it was a town right of way. George Timko commented that fill was brought in and there are trees planted in the right of way and he didn't believe that was in compliance with the agreement. Keith said that the town brought in the fill about 10 years ago. Jim Ballantine said that it was his recollection and understanding that it has been a town road all along and that the Selectmen don't want to give it up. Rich explained that the town has no plans at this time to use this as an active through road and only wishes to continue to classify it as a Class IV, non-maintained road. ***Dan Churchill moved to continue to keep Chapman Street, aka Stone Church Way as a Class IV town road and have it included in the Town Highway Inventory and marked upon the Annual Certificate of Mileage to be filed with the Vermont Agency of Transportation and the Cavendish Town Highway Map. George Timko seconded the motion. Four voted in favor. Peter Gregg voted against the motion.***

Swift Road: Rich read aloud the section of the CARC's report to the Select Board pertaining to the so-called Swift Road. (See attached). Wayne Stowell, a spokesman for the group of affected "in-holdings" property owners, distributed the attached letter and map to the Selectmen and read the letter aloud. Rich Svec asked Wayne if he had any proof to offer that the road was accepted.

Wayne Stowell replied that he has not been able to find such proof. Wayne said that it is his belief that the road referenced in Volume 4 as being discontinued in 1832 is actually the road leading from the Perly Brown Road to Route 103 but that it is not the Swift Road.

Tim Morton read aloud the third paragraph of a letter from Mike Fraysier of the Vermont Department of Forests, Parks and Recreation to the Cavendish Selectboard. (See attached). Peter Gregg asked what the up and down sides of the town's involvement in this situation would be. Rich said that the town could put itself right in the middle of a fray between property owners and State of Vermont with little reason for the Town's involvement. The State's position is that the owners should still have "legal access" to their properties - it is the interpretation of legal access that seems to be at issue. Tim Morton recommended that the property owners should seek legal assistance to present their arguments to the State. Peter Rosenfeld, one of the affected property owners, stated that his perspective is that there is only one outfit that objects to putting the Swift Road back on the map and that is the Vermont Agency of Natural Resources. He said that he believes that this is because the state wants to connect their two properties and wants to obtain the land at a bargain price and cutting off access serves to devalue the properties. Tim Morton said that the State is required to pay no more than appraised value. He doesn't believe this property would receive priority ranking for purchase. The interpretation of legal access at the time the last such appraisal was done ended up devaluing the land. Peter Rosenfeld stated that he has paid taxes for 50 years on his land and has never made any requests of the town. He would like to make a request now that the Town find that the Swift Road was never discontinued and make it a town road. He doesn't think that the Agency of Natural Resources would fight against the town. He said that, if the ANR does, he can find some money for the town to defend itself. Ed Garrow said that he is in favor of the preservation of state forest land but he does see that there is some doubt here and would not like to see the Selectmen make a snap decision. Rich read aloud page 138 of Volume 4 as deciphered by Norm Green. Rich asked Tim Morton if there is any official state policy pertaining to the State's acquisition of properties which surround existing land owners? Tim Morton said that the ANR's attorney would need to be consulted on that. ***George Timko moved/Peter Gregg seconded a motion to include the "Swift Road" in the roads inventory as an unidentified corridor. (An unidentified corridor can be changed to road status at a later date but will allow the Town to continue claim to it until such time as its full status is determined.) Four voted in favor. Jim Ballantine opposed.***

Jim Ballantine, Chairman called a brief recess.

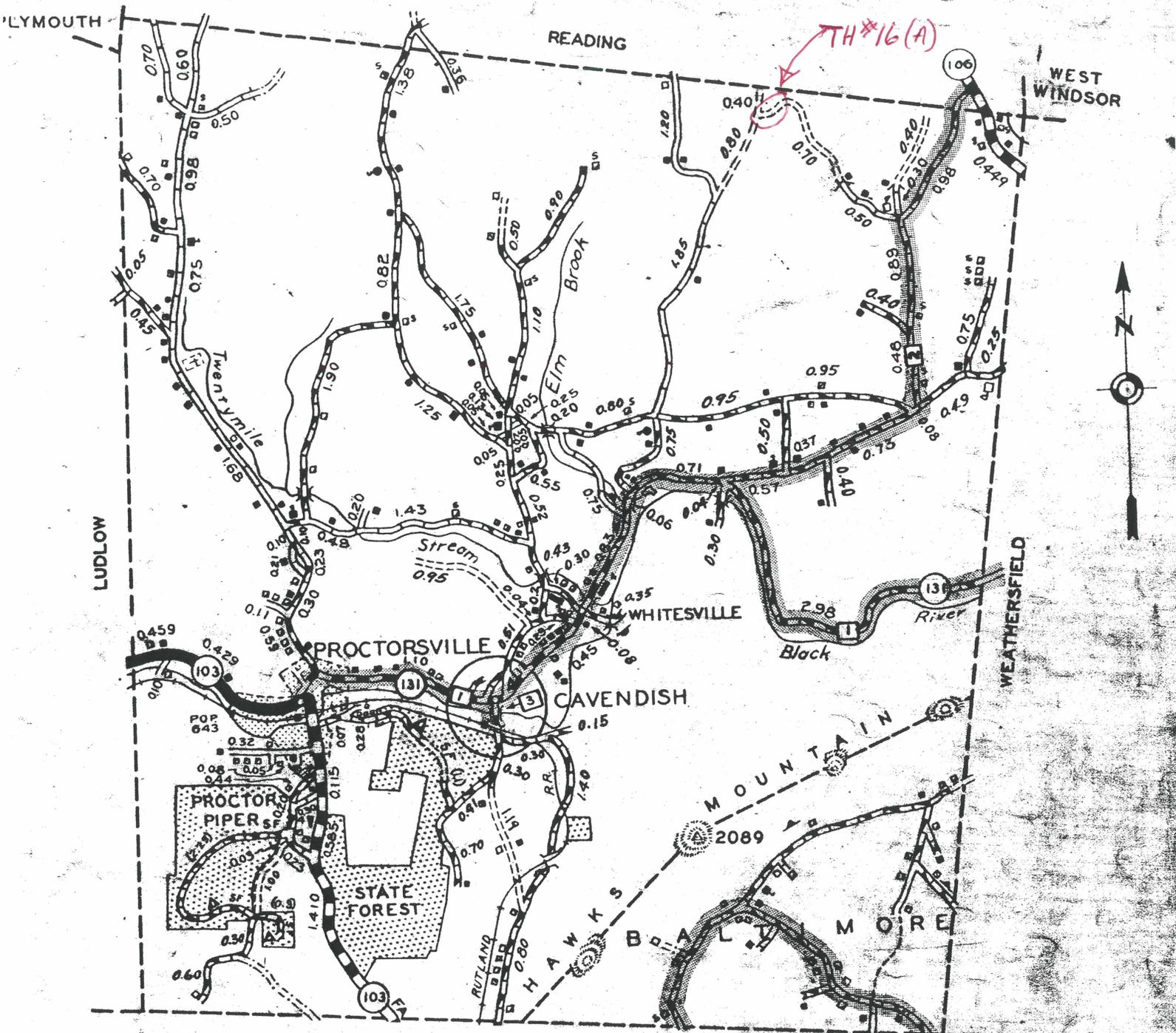
Old County Road: Rich said that there is physical evidence that the road exists. The records for the time period when the Knapp Pond development took place are not well organized. All the research conducted did not show any evidence that the road was thrown up or even that the matter was considered. The ancient

roads committee was unable to find anything indicative of this road having been discontinued. Rich referred to correspondence from the State with the previous owner, Robert Beebe. Representing the State of Vermont Tim Morton was present but indicated that his department could not find any information pertaining to a discontinuance by the Town or the Town having transferred any road rights. The State is not in favor or opposed because it's a grey area. Peter Gregg moved that the Town of Cavendish continue claim to the first half of the road to the back corner of Lot 24 and discontinue it from that point to Chaos Turnpike and that be added back onto the town's inventory of roads. Peter Gregg withdrew his motion. ***Ed Garrow moved to claim this section of the Old County Road as an old Class IV Town road and to re-include same on the town's inventory of town highways and its highway map. George Timko seconded. All voted in favor.***

George Timko made a motion to close the Public Hearing on Ancient Roads. Dan Churchill seconded the motion. All voted in favor.

Approved: James Ballantine, Jr.

Date: Feb. 19, 2010



CHESTER

CAVENDISH

SPRINGFIELD

LEGEND

SCALE: 1 INCH = 1 MILE

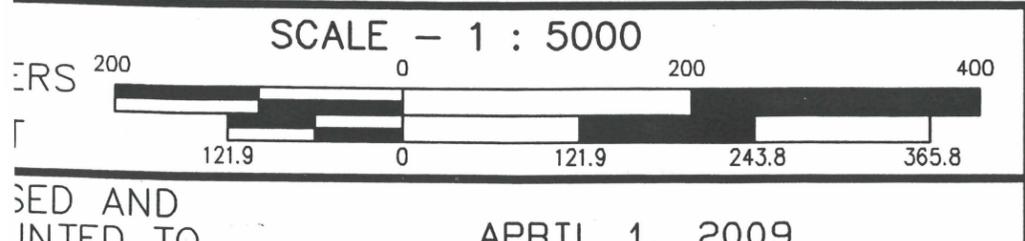
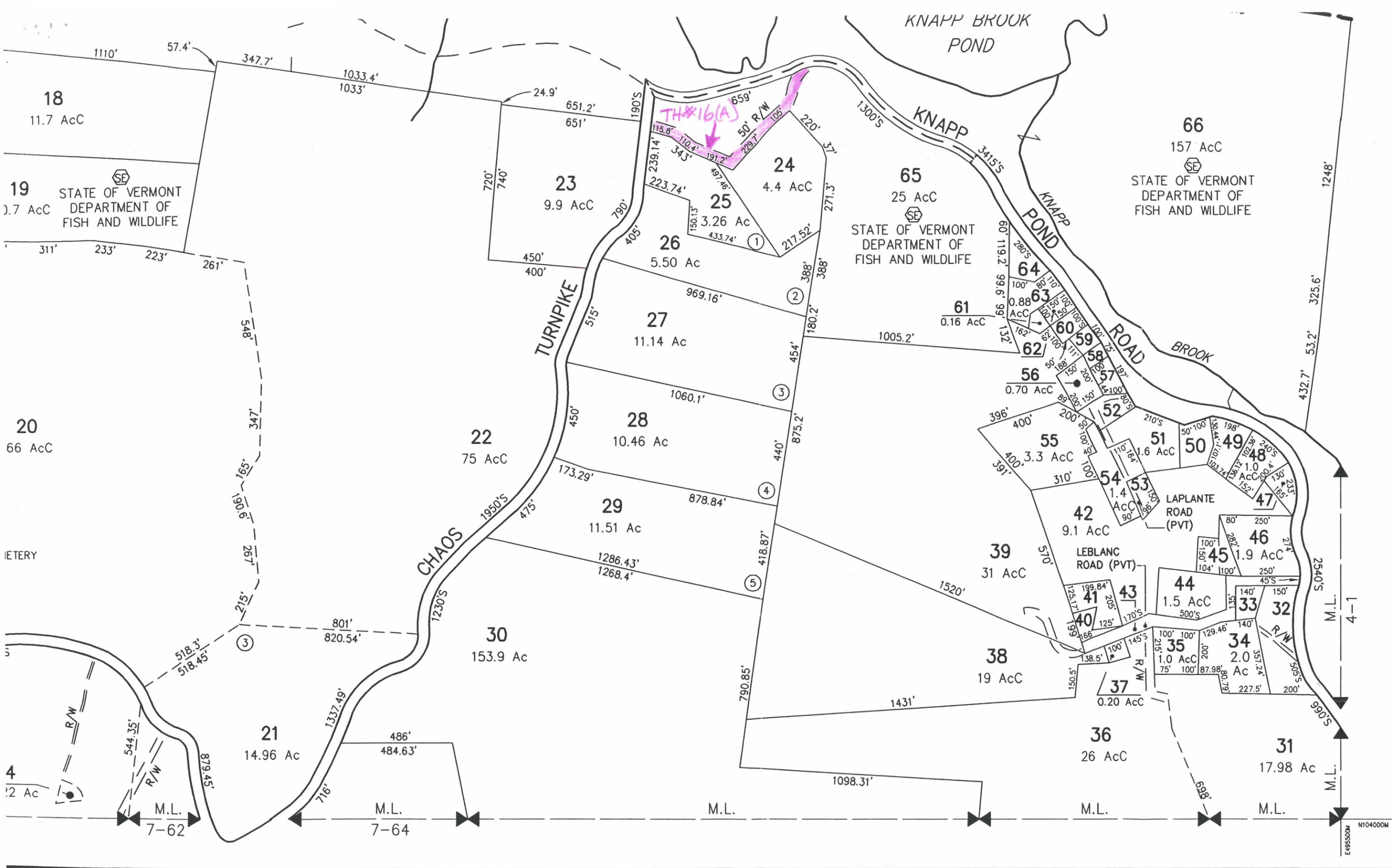
- U.S. NUMBERED ROUTE
- STATE HIGHWAY
- NUMBERED STATE AID HWY.
- STATE AID HWY. WITH SELECTED TOWN NO.
- FEDERAL AID HIGHWAY
- TOWN HIGHWAY
- FARM UNIT
- DWELLING (OTHER THAN FARM)
- SCHOOL
- BUSINESS
- PAVED ROAD - 1947 -
- SURFACE TREATED ROAD
- GRAVEL ROAD
- GRADED & DRAINED ROAD
- UNIMPROVED ROAD
- PRIMITIVE ROAD
- UNTRAVELED ROAD
- PRIVATE ROAD
- STATE FOREST HWY.
- CHURCH
- CAMP
- S SUMMER HOME
- CEMETERY
- TRAIL

TOWN HIGHWAY	49.88 MILES
STATE AID HWY. NO. 1	7.27
STATE AID HWY. NO. 2	4.10
STATE AID HWY. NO. 3	0.25
STATE AID HWY. NO.	
TOTAL STATE AID	11.62
STATE HIGHWAY NO. 106	0.449
STATE HIGHWAY NO. 103	3.990
STATE HIGHWAY NO.	
TOTAL STATE HWY.	4.439
TOTAL ALL SYSTEMS	65.939 MILES

NOTE: VACANT CULTURAL FEATURES SHOWN IN OUTLINE FORM.

PRIVATE ROAD STATE FOREST HWY.

MILEAGE TOTALS INCLUDE PROCTORSVILLE VILLAGE



TOWN OF
CAVENDISH
 VERMONT

MAP INDEX

1	2	3	4
5	6	7	8
9	2021	11	12
13	14	15	

LOCAL MAP NO.
3
 STATE MAP NO.
144104

NOTICE OF PUBLIC HEARING

TOWN OF CAVENDISH

Residents and legal voters of the Town of Cavendish and other interested parties are hereby notified that, at 6:30 PM on Monday, February 8, 2010, the Cavendish Board of Selectmen will hold a public hearing at the meeting room of the Cavendish Town Office. The purpose of this hearing is to receive public comment regarding roads identified by the Cavendish Ancient Roads Committee as needing a determination as to whether or not the Town of Cavendish maintains ownership of said roads and to determine whether the Town of Cavendish shall include these roads on the Town of Cavendish Inventory of Town Highways and Town Highway Map. This activity is in compliance with the procedures specified in 19 VSA §305 and relates to Vermont's Act 178. Any unidentified corridor in the Town of Cavendish which is not included in the official inventory and map of Cavendish Town Highways will be subject to discontinuance per 19 VSA §302(6) (g) on July 1, 2015.

The three roads which will be the subject of this public hearing are as follows:

1. "Chapman Street," aka Stone Church Lane, located in the Cavendish village area, lying between Main St. (VT Route 131) and High Street
2. The so-called "Swift Road" which appears to have been located between what is now the Perley Brown Road and Route 103
3. A portion of an old road near the Knapp Ponds which was bypassed during the State of Vermont development of the Knapp Ponds Area. This section of road runs between the currently existing Knapp Pond Road and the Chaos Turnpike.

Persons having an interest in said roads should make their comments known to the Board of Selectmen in writing by the hearing date and /or by personal appearance at the hearing.

If any additional information is needed, contact the Cavendish Town Office at P.O. Box 126, 37 High Street, Cavendish, VT 05142-0126; telephone (802) 226-7291 or fax (802) 226-7290.



State of Vermont
Division of Planning, Outreach and Community Affairs
Mapping Unit

1 National Life Drive
Montpelier, VT 05633-5001
<http://www.aot.state.vt.us>

Telephone: 802-828-2600
Fax: 802-828-2334
Email: johnathan.croft@state.vt.us

Agency of Transportation

May 20, 2010

James Ballantine, Jr., Selectboard Chair
Town of Cavendish, c/o Town Clerk
PO Box 126
Cavendish, VT 05142

Dear Mr. Ballantine,

The VTrans Mapping Unit has not accepted all the additions of class 4 town highways as submitted on Cavendish's 2010 Certificate of Highway Mileage. The addition of 0.05 miles of class 4 town highway for Chapman Street was not accepted, due to the lack of documentation to override a 1972 letter from the Cavendish Selectboard.

VTrans sent a letter on March 10, 2010 to the Town of Cavendish requesting documentation regarding the establishment of these highways and no documents have been received to date. The Vermont Supreme Court decision, *Austin v. Town of Middlesex*, 2009 VT 102 (Oct. 27, 2009) has reaffirmed the need for documentation showing the legal establishment of town highways. A copy of this decision can be found at the following link –

<http://info.libraries.vermont.gov/supct/current/eo2008-428.html>

The addition of 0.18 miles of Old County Road was accepted and this section of class 4 town highway will be added to the map.

The changes that were listed on the 2010 Certificate of Highway Mileage that were not accepted may be re-submitted on the 2011 Certificate for review and the potential inclusion on the 2011 Town Highway Map.

Please feel free to contact me with any questions or comments related to this letter, or mapping in general.

Sincerely,

A handwritten signature in black ink, appearing to read "Johnathan Croft".

Johnathan Croft
AOT GIS Database Administrator
VTrans Mapping Unit

JFC/jfc

Enclosures

**CERTIFICATE OF HIGHWAY MILEAGE
YEAR ENDING FEBRUARY 10, 2010**

Fill out form, make and file copy with the Town Clerk, and mail ORIGINAL, before February 20, 2010 to:
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We, the members of the legislative body of **CAVENDISH** in **WINDSOR** County
on an oath state that the mileage of highways, according to Vermont Statutes Annotated, Title 19, Section 305,
added 1985, is as follows:

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

PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE. Adjustments by S. Moulton 5/4/10

1. **NEW HIGHWAYS:** Please attach Selectmen's "Certificate of Completion and Opening".

NONE

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

NONE

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CLASS IV - OLD COUNTY ROAD SEGMENT TH#16A 0.18
 CLASS IV - CHAPMAN STREET TH#51 0.05 — change not accepted
0.23 mi

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

NO CHANGE

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

PART III - SIGNATURES - PLEASE SIGN.

Selectmen/ Aldermen/ Trustees Signatures: James Ballantine, Jr. John S. Dow
Daniel W. Churchill
Edward R. Dawson George J. ...

T/C/V Clerk Signature: Jane A. Riley Date Filed: 2/19/10

Please sign ORIGINAL and return it for Transportation signature.

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

APPROVED: _____ DATE: _____
 Representative, Agency of Transportation



State of Vermont
Division of Planning, Outreach and Community Affairs
Mapping Unit
1 National Life Drive
Montpelier, VT 05633-5001
<http://www.aot.state.vt.us>

Agency of Transportation

Telephone: 802-828-2600
Fax: 802-828-2334
Email: johnathan.croft@state.vt.us

March 10, 2010

James Ballantine, Jr., Selectboard Chair
Town of Cavendish, c/o Town Clerk
PO Box 126
Cavendish, VT 05142

Dear Mr. Ballantine,

The VTrans Mapping Unit has received and reviewed Cavendish's 2010 Certificate of Highway Mileage, and a question has arisen regarding the addition of Chapman Street (TH-51). According to our records, this highway was taken off the town highway system in 1972 and has been considered private from that point. I have enclosed a copy of the letter from the Town of Cavendish dated 1972.

The documentation included with the 2010 Mileage Certificate does not substantiate enough to override the Town's 1972 letter.

Highways and trails may have established in several ways, including the formal layout process as defined in the statutes at the time or through "dedication and acceptance," where the landowner dedicates the land to town and the selectboard accepts the right of way for the highway or trail. We request any documents that provide evidence that the trail was legally established and remains a public right of way. This documentation may include copies of original surveys, deeds, selectboard minutes, road calls, highway maintenance records, or other direct references to the establishment of the highways or trails.

I have included a copy of the Ancient Road Practicum that provides details on the documentation requirements that were defined in Act 178 of 2006 and can be found in 19 V.S.A § 305(e). This information includes a description of the affected highway or trail, copies of any surveys, minutes of the meetings at which the legislative body took action with respect to the changes, and a current town highway map with the deletions and additions sketched on it.

The VTrans Mapping Unit is able to make the other change submitted on the Certificate for the Old County Road segment.

I request additional documentation and any other detail regarding the legal establishment of Chapman Street, also known as Stone Church Lane in Cavendish.

The VTrans Mapping Unit will make the necessary changes once the documentation has been supplied. Please feel free to contact me with any questions or comments related to the Mileage Certificate, or mapping in general.

Thank you.

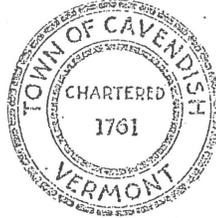
Sincerely,

A handwritten signature in black ink, appearing to read 'Johnathan Croft', with a long horizontal flourish extending to the right.

Johnathan Croft
AOT GIS Database Administrator
VTrans Mapping Unit

JFC/jfc

Enclosures



March 13, 1972

HIGHWAY CERTIFICATIONS

Town Highway #⁶³~~64~~ has been maintained by the Town of Cavendish for the last 50 years.

+ 0.03

Town Highway # 17 has been maintained by the Town of Cavendish for at least the last forty (40) years.

+ 0.10

Town Highway # 65 became part of the Town of Cavendish Highway system on August 13, 1971.

to R.O. - w.c.
Cert. of Compl.

Town Highway # 66 has not yet become a part of the Town of Cavendish Highway system as the developers have had trouble with Act 250 and until it is straightened out the town has held up taking the road into the system.

Town Highway # 51 is to be taken off the system as it has not been maintained by the town for twenty (20) years. It is a privately owned road.

- 0.05

Our mileage certificates have been sent into your office last month.

Yours truly,

Frederick H. Holbrook, Jr.

Glenn T. Wyman

John W. Stearns
Selectmen, Town of Cavendish, Vermont

FHHJR/nd
GTW/nd
JWS/nd

From VTrans files (2010)

1972

OFFICES OF
TOWN MANAGER
SELECTMEN

OFFICES OF
TOWN CLERK
TOWN TREASURER



March 13, 1972

HIGHWAY CERTIFICATIONS

Town Highway # ⁶³~~64~~ has been maintained by the Town of Cavendish for the last 50 years. + 0.03

Town Highway # 17 has been maintained by the Town of Cavendish for at least the last forty (40) years. + 0.10

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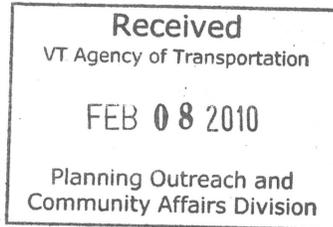
John W. Stearns
Selectmen, Town of Cavendish, Vermont

FHHJR/nd
GTW/nd
JWS/nd

State of Vermont
Department of Forests, Parks and Recreation
103 South Main Street, 10 South
Waterbury, VT 05671-0601
www.vtfpr.org

[fax] 802-244-1481
[tdd] 800-253-0191

Agency of Natural Resources



(802) 241-3682
mike.fraysier@state.vt.us

February 3, 2010

Cavendish Selectboard
P.O. Box 126
37 High St.
Cavendish, VT 05671-0601

Dear Selectboard Members,

The Agency understands the Town of Cavendish will be holding a hearing on February 8 to consider adding three so-called "ancient roads" to the official Town highway map. Agency staff will be in attendance at this meeting. This letter provides a summary of our comments on this proposal.

Two of the roads proposed for inclusion on the Town highway map could potentially impact Agency lands located within the Town (Proctor Piper State Forest and Knapp Pond Wildlife Management Area). Specifically, "Old County Road" crosses a portion of Knapp Pond WMA and "Swift Road" lies partially within Proctor Piper State Forest. The Agency's comments are related to these two roads only. We have no comments or concerns regarding the remaining road that is being considered as a part of this proposal.

Generally, unless there are some compelling natural resource values at stake, the Agency does not oppose proposals by municipalities to add new sections of roads to the Town highway map, *provided* that sufficient documentation is provided as required by Act 178 that shows these roads were legally established and laid out and were never discontinued. A recent State Supreme Court Case (*Austin v. Town of Middlesex, October 27, 2009*) has reinforced the need for towns to provide sufficient documentation in this regard.

Regarding the Swift Road, our records indicate this road was legally discontinued. Unless evidence is provided to the contrary that demonstrates the Town has taken action to legally re-establish this road, then the Agency cannot support adding this road to the Town highway map.

Due to a lack of clear evidence either way, the Agency does not offer a position regarding the Old County Road at this time. Since State ownership extends to the far side of the road, public access to this part of the Wildlife Management Area is already assured, regardless of whether this becomes a Class IV road. If the Agency of Transportation finds that the documentation

provided for this road is sufficient for it to be added to the Town highway map, we can support that. In the absence of such documentation, the Agency would not support its inclusion on the Town highway map.

Thank you for providing the opportunity to review this proposal. Please let me know if you have any questions at this time.

Sincerely,



Mike Fraysier

Cc: Jason Gibbs, FPR Commissioner

Meghan Purvee

Thomas Decker

Tim Morton

Kim Royar

AOT PLANNING ✓