

Minutes of February 23, 2010

Warren Selectboard
Warren Municipal Building
7:00 PM

Members Present: Andrew Cunningham, Ken Frey, Matt Groom.

Members Absent: Kirstin Reilly

Others Present: Caitrin Noel, Mike Ketchel, Miron Malboeuf, Margo Wade, Anson Montgomery, Alex Maclay TV 44/45, Barry Simpson, Cindi Jones, Chris Kathan, Raymond Weston.

7:05 PM – Meeting Called to Order by Mr. Cunningham.

7:06 PM– Planning Commission 7:06 PM Check in – Mr. Malboeuf presented to the board a proposed telecommunication facilities bylaw amendment for the Town Plan. The amendment is for Verizon to install a tower in the Warren church Steeple. The proposed location was based up in Sugarbush but would be in the Sugarbush Residential Area that does not allow towers in this zoning area. They also had to stay well clear of the bear habitat. So the Planning Commission is recommending a zoning boundary adjustment to allow broadband since Warren is very limited in cell coverage. Verizon also hired their own consultant to update the telecommunications so that it would be state compatible as they did not want to add the extra work on to the Town of Warren. The antenna would be located in the steeple of the church and other companies could add a spur onto it and they would have to bump the church out a little bit in the back to accommodate the electrical panel. The church in return gets their electrical service upgraded to 3 phase and also gets some income from Verizon. The Planning Commission has had their 30 day public comment period and now it passes on to the Selectboard for their 30 day hearing comment period. This is just an administrative amendment and does not require voter approval to the zoning ordinance. The Warren Selectboards public hearing on this amendment is scheduled for April 13, 2010 at 7:00 PM.

7:20 PM – Approval of Minutes for February 9, 2010 – Motion by Mr. Groom to approve the Minutes of February 9, 2010, second by Mr. Frey. All in Favor: VOTE: 3-0.

7:24 PM – Approval of Liquor License for The Warren Store – Motion by Mr. Groom to approve the liquor license for the Warren Store, second by Mr. Frey. All in Favor: VOTE: 3-0.

Approval of Liquor License for Hiram House “Pitcher Inn” – Motion by Mr. Groom to approve the liquor license for Hiram House “Pitcher Inn”, second by Mr. Frey. All in Favor: VOTE: 3-0.

Approval of Tobacco License for the Warren Store – Motion by Mr. Groom to approve the Tobacco License for the Warren Store, second by Mr. Frey. All in Favor: VOTE: 3-0.

Approval of Tobacco License for The Pitcher Inn, - Motion by Mr. Groom to approve the Tobacco License for The Pitcher Inn, second by Mr. Frey. All in Favor: VOTE: 3-0.

7:25 PM – Department of Public Works – Barry Simpson – Mr. Simpson reported that the EECGB grant for the Energy Efficiency Retrofits has been completed and submitted. The town had a 10% match

towards the \$50,000 which was \$7,780. He felt that it was a strong application and now the Town just has to wait and see.

He also reported that he had modified the Department of Public Works Report as it was inadvertently omitted from the Town Report. Ms. Jones stated that she had already given the DPW report to Ms. Goss to copy and include in the remaining town reports and that there would be copies provided at town meeting. She also stated that she had informed the board and Mr. Messner (moderator) and it would be mentioned at Town Meeting. Mr. Cunningham and he board commented that they were very pleased with how the DPW position was going and that they were supportive of the job that Mr. Simpson was doing.

7:35 PM – Conservation Commission – Ms. Wade and Ms. Noel, presented to the selectboard a copy of the license agreement relating to the Grant of Trail Access Easement that represents an initial baseline of the proposed path on the Kingsbury Farm Parcel. They also presented a map and pictures of the location of where the proposed path would be constructed. The document does state that the Mad River Path Association would take over the management. Currently the Town's attorney has looked at the document and it is now being looked at by the Foodbank, and the Mad River Path Association has not commented on the document.

Mr. Frey inquired if there would be access behind Mac's Convenience Store in the future as the Path section stops at the property line. Mr. Cunningham commented that he has not been able to contact the owner of Mac's to discuss this possibility and share the license agreement by other parties. The license agreement protects the landowner, as the Town assumes all liability.

Mr. Cunningham inquired about the Knotweed schedule as the Town is looking into renting a mower for a 2 week time period and that the knotweed would have to be cut back before that time. Usually the town mows right before July 4. Ms. Wade explained that the process is cutting back the knotweed for about 3-5 years and then killing it with herbicide such as roundup where it is applied directly down the shoots of the plant. They would not use this type of herbicide around waterways.

8:00 PM – Motion by Mr. Cunningham to go into executive session to discuss personnel and invite Ms. Jones, Mr. Kathan, and Mr. Weston, second by Mr. Groom. All in Favor: VOTE: 3-0.

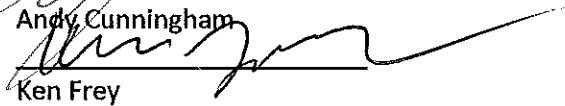
9:00 PM – Motion by Mr. Groom to come out of executive session, second by Mr. Frey. All in Favor: VOTE: 4-0.

9:05 PM – Motion by Mr. Groom to adjourn, second by Mr. Frey. All in Favor: VOTE: 3-0.

Minutes Respectfully Submitted by,
Cindi Jones
Warren Town Administrator

The Warren Selectboard:


Andy Cunningham


Ken Frey



AGENDA
WARREN SELECT BOARD
TUESDAY, FEBRUARY 23, 2010
7:00 PM

7:00 PM – PLANNING COMMISSION CHECK IN ✓

7:30 PM – CONSERVATION COMMISSION CHECK IN.

7:45 PM – APPROVAL OF MINUTES FROM FEBRUARY 9, 2010 ✓

7:48 PM – OTHER BUSINESS

- ✓ Liquor License Renewal - Warren Store - Tabacco
- ✓ Liquor License Renewal - Pitcher Inn - Tabacco
- ✓ Liquor License Renewal - Sugar Lodge, Inc

Matt Groom

Kirstin Reilly

INITIAL BASELINE DOCUMENTATION REPORT

MAD RIVER PATH ASSOCIATION

TO

TOWN OF WARREN

As of November 24, 2009

License Agreement Relating to Grant of Trail Access Easement

Dated March 30, 2009

Prepared by volunteers of the Mad River Path Association

P.O. Box 683

Waitsfield, VT 05673

Tel: 802-864-5794

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Overview

A. Introduction and Purposes: Describes the purpose of the report, date and recording information of the easements, name of person who performed the initial documentation visit and date of the visit.

B. Description of the Trail and Current Use: Length of trail on property and complete trail description, information on landowner; name, physical and mailing address, telephone numbers, current use of the easement area, current use of the surrounding property where relevant, directions.

C. Summary of the Grantor's Reserved Rights and Restricted Uses: Any use, development, or other rights reserved by Grantor.

D. Summary of Grantee's Reserved Rights: Access to the property, maintenance rights, and rights pertaining to relocation of the Trail and adjacent easement area reserved by Grantee.

E. Path Location

F. Miscellaneous Provisions

G. Legal Documents and References: List of deeds conveying property to current owner, title opinion, any relevant management plans, appraisal info, etc.

H. Photos: Of the Easement Area and other conservation values protected corresponding to photo point map included in BDR.

I. Maps: 1) Easement area and location of the Trail; 2) photo-point map.

J. Submittal and Acknowledgment

A. Introduction and Purposes

The purpose of this report is to provide baseline documentation of a trail access easement granted to the Town of Warren by Grant of Trail Access Easement of the Vermont Foodbank dated March 30, 2009 and recorded March 31, 2009 in Book 199, pages 563-542 of the Warren Land Records and in Book 133, pages 399-405 of the Waitsfield Land Records (the "Grant"). This Baseline Documentation Report is provided to satisfy the provisions of Section F of License Agreement from the Town of Warren to Mad River Path Association ("MRPA") dated _____, 2009 (the "License"). ✓

The purpose of the easement: The primary purpose of the Grant is to establish, maintain and provide for general public use and enjoyment a permanent and perpetual trail system (known as the "Mad River Path") in a manner that enhances the outdoor experience and non-motorized transportation network in the Mad River Valley and to further the purposes of the Grant of Development Rights and Conservation Restrictions conveyed by the Vermont Foodbank to the Vermont Land Trust, Inc., et al dated March 30, 2009 and recorded March 31, 2009 in Book 199, pages 525-535 of the Warren Land Records and in Book 133, pages 388-398 of the Waitsfield Land Records (the "Conservation Grant").

The documentation visit took place on November 24, 2009; photos were taken on this date as well. The visit was conducted by Tara Hamilton, volunteer board member of MRPA.

B. Description of the Trail and Current Use

Current Use: The property up until recently had been hayed routinely and this was the main activity on the parcel; in the summer of 2009, the Vermont Foodbank began preparing the soil for more intensive agricultural productions. While occasionally used by walkers, the Path as envisioned has not been mowed or otherwise constructed at the time of this writing. A small bridge is envisioned to cross the man-made waterway that bisects the property, but this has not yet been constructed at the time of this writing.

Comment [TH1]: (Note: VFB has submitted permits for this bridge. We may want to check in with them and adjust this last sentence accordingly.)

Trail Description:

The Easement Area crosses the parcel generally in a north-south direction and travels along and through the western edge of the parcel through the riparian buffer on the eastern side of the Mad River. It is interrupted in its north-south traverse by the Mac's Store parcel; north of this parcel the easement area continues along the western side of the subject property, crossing the town boundary and crossing into the Town of Waitsfield and continuing along the western edge of the subject property in the Town of Waitsfield on the eastern side of the Mad River.

The Easement Area possesses the following attributes:

- it allows for connectivity to other similar recreational path easements;
- it is adjacent to conserved and town-owned parcels of land;
- it is on land that is conserved;
- it provides educational opportunities for the public; and
- it provides public access to the Mad River for recreational uses including boating, swimming and fishing

Current Use of Surrounding Property: The Trail Access Easement Area is located on property now owned by the Vermont Foodbank, and is envisioned to be actively farmed to provide local, primarily organic food for the Foodbank's clients, as well as the local community. On the western

side of the Mad River is a parcel currently owned by Summit Ventures (Sugarbush Resort); a section of the Mad River Path traverses this parcel as well.

Parcel Information: Warren parcel ID #: 100-000-400

Landowner
The Vermont Foodbank
PO Box 254
South Barre, VT 05670
802 477-4131

Directions:

Access to the Trail Access Easement Area is by parking at the farmstead and walking toward the river, or park on the south side of the Kingsbury Bridge in the designated public parking area, walk north across the bridge and left/west onto the path (once it is constructed).

C. Summary of Vermont Foodbank's Reserved Rights and Restricted Uses

Please note: Reference is hereby made to the Grant of Trail Access Easement of the Vermont Foodbank to the Town of Warren dated March 30, 2009 and recorded March 31, 2009 in Book 199, pages 563-542 of the Warren Land Records and in Book 133, pages 399-405 of the Waitsfield Land Records and to the Grant of Development Rights and Conservation Restrictions conveyed by the Vermont Foodbank to the Vermont Land Trust, Inc., et al dated March 30, 2009 and recorded March 31, 2009 in Book 199, pages 525-535 of the Warren Land Records and in Book 133, pages 388-398 of the Waitsfield Land Records for details relating to reserved rights and restricted uses. This summary is not meant to repeat all of the provisions outlined in those documents.

The use of motorized vehicles within the Easement Area is prohibited except as necessary for a medical emergency, maintenance of the Easement Area, and for farm and logging equipment, machinery and vehicles that are reasonably necessary to carry out the agricultural and forestry activities outlined in Section G of the Grant. Motor driven equipment may be permitted for persons who are mobility-impaired.

The Vermont Foodbank is permitted to mow and remove crops within the Easement Area, but will not engage in other agricultural activities within the Easement Area. The agricultural activities must not materially interfere with the recreational use of the Easement Area.

The Vermont Foodbank may cross or use the Easement Area for skidding and/or transporting timber and other wood products, agricultural products from the Easement Area and adjacent lands owned by the Vermont Foodbank. Vermont Foodbank must provide the Town of Warren not fewer than 20 days prior written notice before using the Easement Area for these purposes. There are several other provisions regarding this right in the Easement.

No structures, landscaping or other improvements are permitted to be placed within the Easement Area that prevent or interfere with the use the Path for the purposes stated in the Grant.

Vermont Foodbank cannot erect fences, barriers or signs that impede access to or use of the Path.

D. Summary of the Town of Warren's Rights and Responsibilities

The Town of Warren has the right, but not the obligation, at its expense, to construct, reconstruct, repair, manage, use, maintain, replace, level, and/or monitor the Path, within the Easement Area, performing such clearing of trees and vegetation as is reasonably necessary.

The Town of Warren will not cut or remove any additional vegetation, except for dead, dying or diseased vegetation that poses a risk to Path users or to the condition of the Path.

The Town of Warren will not use herbicides, pesticides, growth inhibitors or other toxic substances within the Easement Area.

The Town of Warren has the right to construct bridges, culverts, and erosion control structures necessary to maintain a clear, dry passage through the Easement Area. **The Town of Warren** must obtain the prior written approval of **Vermont Foodbank** for any such construction plans.

The Town of Warren, with **Vermont Foodbank's** prior written consent, may erect and maintain fencing and barriers within the Easement Area to prevent access to the Path by motor vehicles and/or to discourage pets from straying from the Path onto **Vermont Foodbank's** or other adjacent landowners' properties.

The Town of Warren, with the prior written consent of **Vermont Foodbank**, can erect reasonable signs, blazing or other markings within the Easement Area to inform the public of the Path location or other Path features.

The Town of Warren must obtain and comply with all permits required for the use of the Easement Area for the purposes set forth in the Grant.

The Town of Warren must neatly stack or pile slash or debris collected during Path construction or maintenance activities within the Easement Area or within ten feet of the Easement Area, but outside of the Riparian Buffer Zone as shown in the attached map.

The Town of Warren can use the area within 10 feet of the Easement Area (except any portion located in the Riparian Buffer Zone) as necessary for the clearing and preparation of the Path.

The Town of Warren has the right to limit or restrict public use and access to the Easement Area as necessary and appropriate for the safety of the Path users.

E. Path Location

The location of the Path was not decided when the Grant was conveyed but the location of the Easement Area was depicted on the Plan attached to the Grant. The location of the path is to be within the designated Easement Area, along the eastern edge of the riparian buffer, as depicted in the attached map, with the precise location of the Path to be decided by mutual agreement of the **Vermont Foodbank** and the Town of Warren in a manner consistent with the purposes of the Grant.

Relocation: The location of the Path or the Easement Area may be altered from time to time by mutual consent of the **Vermont Foodbank** and the Town of Warren so long as the relocation allows connection to any existing or future trail system on either side of the **Vermont Foodbank's** property and provides a safe, high-quality trail consistent with the purposes of the Grant.

F. Miscellaneous Provisions

Written Approvals:

Construction and maintenance: The Town of Warren should obtain prior written approval from Vermont Foodbank for the Path location pursuant to Section II (C) of the Grant and shall obtain prior written approval for certain construction activities permitted by Section II (D) of the Grant.

Fencing: The Town of Warren shall obtain the prior written consent of Vermont Foodbank before commencing construction or installation of any fencing, barriers, or signs pursuant to Section II (E) of the Grant.

Agricultural activities: Vermont Foodbank must provide not fewer than 20 days prior written notice to the Town of Warren before commencement of the use of the Easement Area for agricultural and logging activities if such use is reasonably likely to result in the closure of the Path for more than eight (8) hours.

Relocation: Notice of a request for trail relocation must be given to the other by each party (Vermont Foodbank and the Town of Warren) so that 60 days are provided to ensure uninterrupted use of the Path. Any relocation of the Path within the Easement Area, or the Easement Area shall, at the request of either party, be evidenced by recording of a document in the Warren Land Records, and if applicable in the Waitsfield Land Records, and depicted on a revised plan recorded therewith.

Camping and Fires: Overnight camping and fires are prohibited within the Easement Area.

Motorized Use: Both parties agree that there will be no use of the Easement Area by motorized vehicles except for medical emergencies or for maintenance of the Easement Area as permitted in Section II (D) , and for agricultural and logging activities expressly permitted in the Grant.

Management of Trail: The Town of Warren may assign any or all of its rights and obligations under the Grant to an entity or individual (the "Manager") provided that Manager is qualified and has the capacity to perform the Path management functions and Town first provides notice to the Grantors of the name, address and other means of contacting the Manager. The Grant acknowledged that Mad River Path Association was, in fact, a qualified Manager. At the time of preparation of the BDR (November 2009), the Town has assigned certain rights and obligations under the Grant to the Mad River Path Association pursuant to License Agreement, dated _____, 2009 and the Vermont Foodbank was notified of the means of contacting the MRPA by letter dated _____, 2009.

Compliance with the Grant: The Town of Warren is to consult with the Vermont Foodbank from time to time, at Vermont Foodbank's request, about the Easement Area and the Path and Town of Warren shall take reasonable steps to correct any problems caused by the public use of the Path and to minimize any adverse impact on the Vermont Foodbank's use and enjoyment of the Easement Area and any adjoining property of the Vermont Foodbank. The Town of Warren, or its manager, shall take steps to periodically inspect the Easement Area to ensure compliance with the

Grant. Each party is to contact the other party via certified mail, return receipt requested, in the event of noncompliance, and can demand corrective action sufficient to abate such non-compliance.

Conveyance of Easement: The Town of Warren may transfer the Grant only to a State agency, municipality, or qualified organization, as defined in Title 10 V.S.A., Section 6301a, in accordance with the laws of the State of Vermont and the regulations established by the Internal Revenue Service governing such transfers.

Extinguishment of Grant: In the event the Grant is extinguished by eminent domain or other legal proceedings, the Town of Warren is entitled to any proceeds that pertain to the extinguishment of its rights and interests in the Grant.

G. Legal Documents and References

Warranty Deed - Vermont Land Trust, Inc. to Vermont Foodbank dated March 30, 2009 and recorded March 31, 2009 in Book 199, pages 521-522 of the Warren Land Records and in Book 133, pages 384-385 of the Waitsfield Land Records.

Grant of Development Rights and Conservation Restrictions conveyed by Vermont Foodbank to Vermont Land Trust, Inc., the Vermont Agency of Agriculture, Food and Markets, the Vermont Housing and Conservation Board, and the United States of America dated March 30, 2009 and recorded March 31, 2009 at Book 199, pages 525-535 of the Warren Land Records and at Book 133, pages 388-398 of the Waitsfield Land Records.

Grant of Trail Access Easement from Vermont Foodbank to the Town of Warren dated March 30, 2009 and recorded in the Town of Warren Land Records on March 31, 2009 at Book 199, pages 536-542 and in the Town of Waitsfield Land Records on March 31, 2009 at Book 133, pages 399-405.

License Agreement between the Town of Warren and the Mad River Path Association dated _____, 2009.

H. Photos

See next page for photos of the Easement Area and other conservation values protected corresponding to the attached photo point map.

I. Maps

The following maps are included with this Baseline Documentation Report: 1) Easement Area and location of the Trail, and 2) a photo-point map.

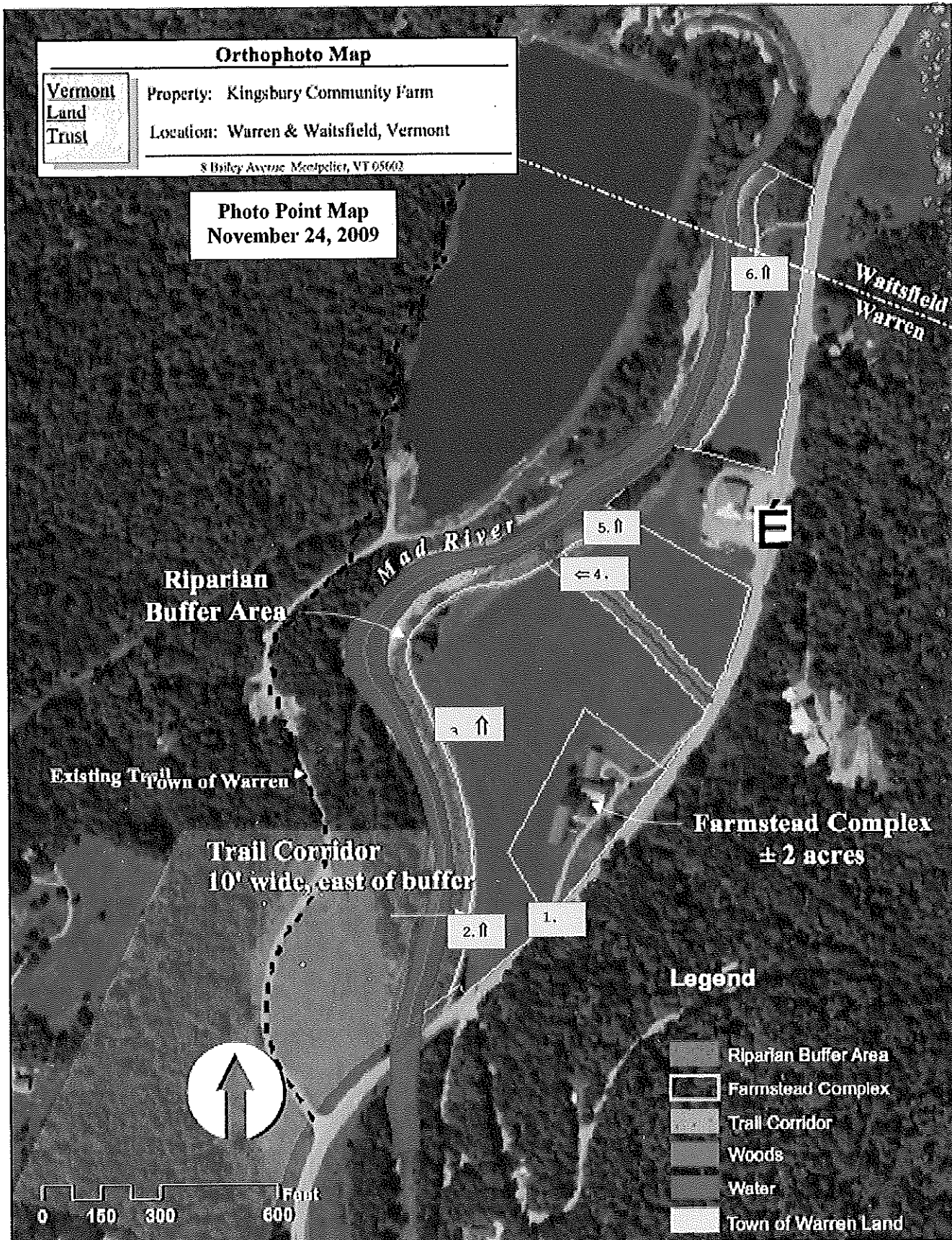
J. Submittal and Acknowledgment

Respectfully submitted on this _____ day of February, 2010 by:

Mad River Path Association

The Town of Warren acknowledges receipt of the foregoing initial Baseline Documentation Report on this _____ day of February, 2010 in satisfaction of the the obligation of MRPA to provide said Report as set forth in Section F of the License Agreement.

TOWN OF WARREN:



Orthophoto Map

Vermont
Land
Trust

Property: Kingsbury Community Farm

Location: Warren & Waitsfield, Vermont

8 Bailey Avenue Montpelier, VT 05602

Photo Point Map
November 24, 2009

Riparian
Buffer Area

Mad River

Waitsfield
Warren

Existing Trail
Town of Warren

Trail Corridor
10' wide, east of buffer

Farmstead Complex
± 2 acres

Legend

- Riparian Buffer Area
- Farmstead Complex
- Trail Corridor
- Woods
- Water
- Town of Warren Land

0 150 300 600 Feet

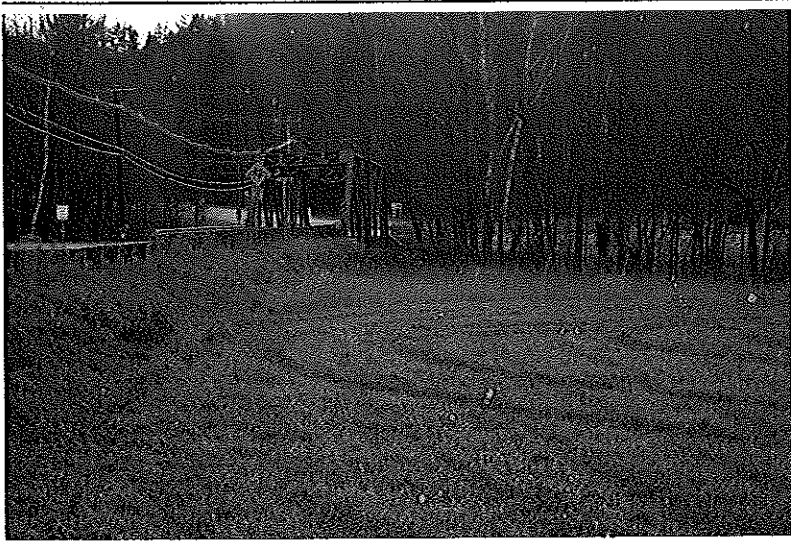


Photo 1

Direction: Looking south.

Description: Route 100, southern end of Path on Kingsbury Community Farm.

Date: November 24, 2009



Photo 2

Direction: Looking north.

Description: River on left, barn on right, Path to go along buffer.

Date: November 24, 2009



Photo 3

Direction: Looking north.

Description: River on left, farm fields on right, Path to be between.

Date: November 24, 2009



Photo 4

Direction: Looking north.

Description: River on left, fields on right, Mac's Store off to right; Path to follow buffer.

Date: November 24, 2009

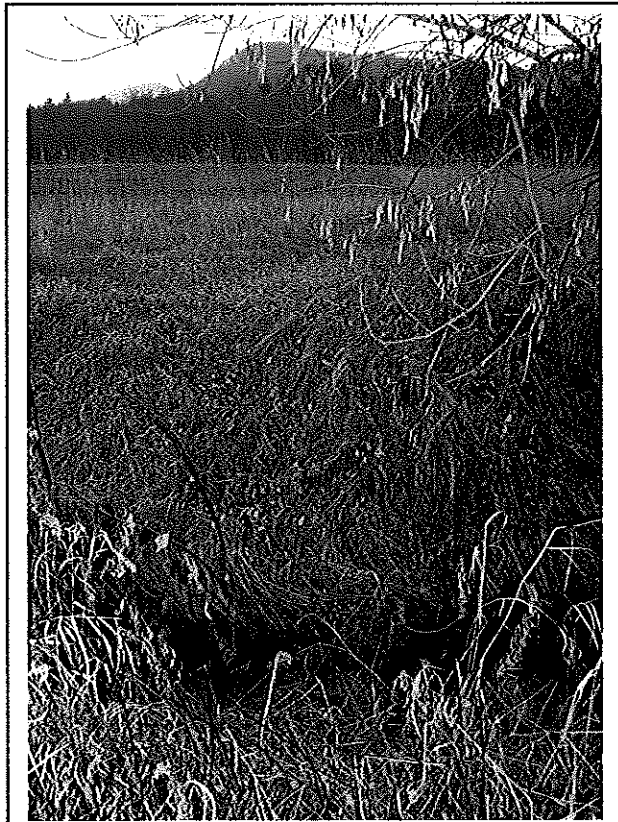


Photo 5

Direction: Looking south.

Description: "Enhanced" watercourse bisecting parcel; Path to cross over with bridge ultimately.

Date: November 24, 2009

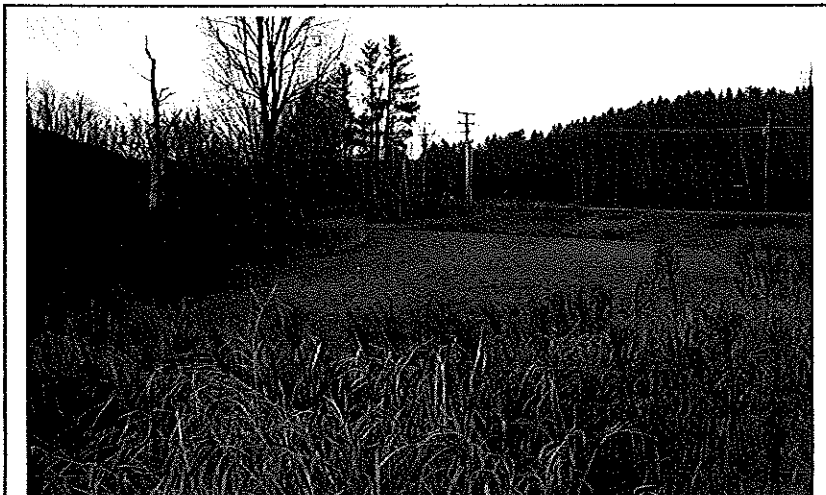


Photo 6

Direction: Looking north.

Description: River on left, farm fields on right, Path to be between; northern most section of parcel standing at town boundary looking into Waitsfield.

Date: November 24, 2009