

**WOLFEBORO PLANNING BOARD**  
**November 2, 2010**  
**MINUTES**

**Members Present:** Kathy Barnard, Chairman, Stacie Jo Pope, Vice-Chairman, Chris Franson, Dave DeVries, Jennifer Haskell, Members, Fae Moore, Alternate.

**Members Absent:** Chuck Storm, Selectman's Representative, Richard O'Donnell, Member, Dave Alessandroni, Steve Buck, Alternates.

**Staff Present:** Rob Houseman, Director of Planning & Development, Lee Ann Keathley, Secretary.

*Chairman Barnard opened the meeting at 7:00 PM.*

*Chairman Barnard appointed Fae Moore, Alternate, to sit in for Richard O'Donnell, Member.*

**Consideration of Minutes**

**October 5, 2010**

***It was moved by Dave DeVries and seconded by Stacie Jo Pope to approve the October 5, 2010 Wolfeboro Planning Board minutes as submitted. All members voted in favor. The motion passed.***

**October 19, 2010**

**Corrections:**

Page 4, Wetlands Ordinance, 1<sup>st</sup> paragraph; strike "changes to the" & replace with "proposed draft"

Page 4, Parking Ordinance, 2<sup>nd</sup> paragraph; add the following sentence "The draft ordinance is proposed by the Parking Committee."

***It was moved by Chuck Storm and seconded by Chris Franson to approve the September 21, 2010 Wolfeboro Planning Board minutes as amended. All members voted in favor. The motion passed.***

**Informational Items**

Rob Houseman reviewed such; noting the Board received an email from Ken Perry, President, North Wolfborough Area Association, stating that at the Association's annual meeting the Association voted to wait until at least the 2012 Town Meeting to request the re-establishment of a Historic District Commission.

**Public Comment**

None.

**Subcommittee Reports**

- **TRC**
  - 10/6/10; Special Use Permit application approved for the construction of a single family dwelling on Alpine Meadows Road and nonbinding review for Zimmerman property.
  - 10/13/10; nonbinding review for a Laundromat at 107 Lehner Street.
- **Master Plan Implementation Committee**
  - No report.

- CIPC  
No report.
- Wetlands Ordinance  
No report.
- Parking Committee  
No report.

### Action Items

Huggins Hospital

Lot Merger

TM #218-61, 63, 64, 66, 67, 68, 69, 231-90

**It was moved by David DeVries and seconded by Chris Franson to approve the Huggins Hospital Lot Merger, Tax Map #218-61, 63, 64, 66, 67, 68, 69 and 231-90. All members voted in favor. The motion passed.**

Karl & Ruth Van Ledtje

Lot Merger

TM #188-28 & 15

**It was moved by Stacie Jo Pope and seconded by David DeVries to approve the Karl & Ruth Van Ledtje Lot Merger, Tax Map #188-28 & 15. All members voted in favor. The motion passed.**

### Scheduled Appointments

P&D Zimmerman Family Limited Partnership

Special Use Permit

Agent: Scott Lees, WMSC

Tax Map #218-99

Case #2010

P&D Zimmerman Family Limited Partnership

Site Plan Review

Agent: Scott Lees, WMSC

Tax Map #218-99

Case #201033

Rob Houseman reviewed the Special Use Permit application Planner Review for November 2, 2010 stating the applicant proposes to retain a portion of the fill that was placed within jurisdictional wetlands for use as a parking lot to support a proposed restaurant. He stated the total filled wetland area is 1251 SF and the total wetlands buffer encroachment is 2825 SF. He noted the fill was placed within the wetlands in fall 2008 to create a gravel parking surface and the activity included culverting an intermittent stream, fill and encroachment onto an abutter's property. He stated remediation has been required by NH DES however, the applicant wishes to retain the current filled area; noting that DES will only permit the retention of the fill if the fill is part of an approved site plan application. He stated the Health Officer and Code Enforcement Officer has no objections to the proposal however, the Conservation Commission notes the following;

*The Commission notes the applicant has not received Site Plan approval by the Planning Board for the conversion of an existing residential building to a restaurant. We are not in favor of the application for creation of a parking lot within the wetland buffer if the building is to remain residential in use. If the Planning Board feels the conversion of the building from residential to commercial is appropriate the Commission has no objection to the submitted application for proposed wetland buffer impacts.*

*Should the Planning Board feel that the conversion in use from residential to commercial is appropriate within current zoning, the Conservation Commission has no objection to the application, as submitted, to retain fill (1,251 SF of wetland) for a parking area for a proposed restaurant, impact to the wetland buffer impact of 2,825 SF for the parking area and associated structures and the alteration of 385 SF of the wetland buffer for the proposed driveway, grading and ADA access to the building. This presumes that NHDES approves the applicable permits for these impacts as the applicant alleges that they have indicated they would do. However, presuming that the use change is approved by the Planning Board, as a condition of approval, the Commission recommends the applicant plant a 25' wide natural vegetative buffer along the edge of the parking lot that abuts the intermittent stream.*

Rob Houseman reviewed the Site Plan Review application Planner Review for November 2, 2010 stating the applicant proposes to convert an existing vacant building, last used as a single family dwelling, into a 52 seat restaurant. He stated the parking area is sized to accommodate 11 parking spaces, including 1 ADA compliant space. In regard to access, he stated the plan has been revised to reflect concerns of the Public Works Department. He recommended the Board address the hours of illumination. He noted the NH DES Wetlands Permit remains outstanding.

Kathy Barnard verified HE Bergeron reviewed the revised plan and questioned whether Dave Ford has reviewed the plan.

Rob Houseman replied no; noting a copy was provided to Mr. Ford however, Mr. Ford has not commented on the revised plan. He stated Mr. Ford's issue deals with the Town's right-of-way due to drainage improvements in the area; noting construction design to occur in 2011 and construction to occur in 2012/2013. He stated storm water issues and encroachment are the issues the Board needs to address. He stated HE Bergeron reviewed the revised plans and provided a response, dated 11/2/10.

Scott Lees stated the State Wetlands Bureau has approved a restoration plan for the parking area with the stipulation that they will allow the retention of 1251 SF of wetland fill for the parking area if the Town approves the plan. He stated wetland buffer impact area #1 includes the 1251 SF of impact to the wetland and 1226 SF of impact to the buffer for the parking area, grading of the parking area and a solid waste site. He stated wetland buffer impact area #2 includes 285 SF of impact for drainage, grading of the driveway and possible required access to the front door for fire code.

Chris Franson stated she visited the site and has several concerns such as flow from property onto Pine Street and into the wetlands. She stated the Public Works Department, at the TRC meeting, required the applicant retain the flow on the property by adding a sediment basin and trench drain to redirect the flow.

Scott Lees stated the site slopes from the back to Pine Street and is graded so runoff flows into the wetlands and onto Pine Street. He stated the Public Works Department required that all runoff not flow onto Pine Street; noting a sediment basin and trench drain was added to the plan to allow for and control the flow into the Town's drainage system (noting such occurs currently).

Jennifer Haskell stated the HE Bergeron report raises a lot of issues and questioned whether the Board should review the application without the issues being addressed.

David DeVries expressed concern regarding comments made and issues raised in the HE Bergeron letter related to drainage, trench drains, sediment basin and slope (HE Bergeron letter, page 3).

Scott Lees questioned whether HE Bergeron reviewed the revised plans because the letter refers to retaining walls that are no longer on site. Referencing #2 on page 3 of the HE Bergeron letter, he stated a trench drain is a 12' wide shallow drain and is susceptible to freezing however, a snow removal maintenance plan helps keep the drain from freezing. Referencing #3 on page 3 of the HE Bergeron letter, he stated the purpose of the French drain is to keep the parking bed dry (intercept groundwater before it goes under the parking area); noting it will discharge into the Town's system however, the flow will be minimal.

Dave DeVries questioned the rate of flow.

Scott Lees replied 5 gallons per minute.

Chris Franson expressed concern that the trench drain may freeze. She stated the parking does not seem adequate for the proposed use and expressed concern over the HE Bergeron letter.

Scott Lees stated the property is located in the Central Business District therefore no parking is required.

Chris Franson questioned why the land was filled if there is no requirement for parking.

Scott Lees stated parking is not required by the Town's regulations however, the applicant wants to provide parking.

Stacie Jo Pope questioned whether the parking area would remain gravel.

Scott Lees replied yes.

Kathy Barnard questioned whether future intrusion and construction is proposed.

Scott Lees replied yes, for an ADA ramp, vegetation, sediment basin, signage and wider driveway entrance.

**It was moved by Stacie Jo Pope and seconded by Chris Franson to accept the Special Use Permit application as complete. All members voted in favor. The motion passed.**

*Chairman Barnard opened the public hearing.*

Gary Brockney, 19 Pine Street, expressed concern for the purpose of the site plan, change of use of the property, employee parking, congestion of traffic, noise, lights, deliveries, grease (noting maintenance of such is necessary) and snow removal (noting such would add to the runoff issue). He stated he is aware of runoff issues; noting the applicant's property has been disturbed twice which has affected his property. He distributed photographs prior to the first fill. He stated the area is not big enough to warrant a 52 seat restaurant.

Referencing the Special Use Permit, Kathy Barnard requested Mr. Lees to review supporting information that addresses the criteria for the permit; noting she has concerns regarding such.

Scott Lees reviewed his letter, dated 10/1/10, see attached.

Rob Houseman requested the Board allow the opportunity for the applicant and HE Bergeron to review the issues.

**It was moved by David DeVries and seconded by Chris Franson to continue the P&D Zimmerman Family Limited Partnership Special Use Permit application and public hearing, Case #201032, to December 7, 2010. All members voted in favor. The motion passed.**

**It was moved by Stacie Jo Pope and seconded by Chris Franson to continue the P&D Zimmerman Family Limited Partnership Site Plan Review application, Case #201033, to December 7, 2010. All members voted in favor. The motion passed.**

## **WORK SESSION**

- **Wetlands Ordinance**

Rene Pelletier, NH DES, stated for two years the State of NH has had a statutory committee called the Land Use Commission that concluded that a State wide setback should be implemented. He noted that currently the only setback at DES is a 100' buffer from designated Prime Wetlands. He stated 31 towns in NH have adopted Prime Wetland regulations. He stated during the permitting process, wetlands are based on functions and values and key consideration is given to such in addition to avoidance and minimization of impact since not all wetlands are created equal. He stated DES looks at grandfathered uses and watershed areas in a holistic approach. He stated DES views setbacks and buffers differently; noting setback is defined as a lineal distance and buffer is defined by a vegetative component / protection that provides filtration for storm water. He stated NH's water quality has been compromised over the last ten years; noting the compromise is taking place due to storm water. He stated that during the decision making process, he would recommend consideration to include surface waters in the ordinance and that the decisions of the Board be based on technical evaluation otherwise, the decision is always subject to appeal. He questioned whether the Board is trying to focus only on wetlands or whether the intent is to address surface waters as well and if so, he recommended verbiage in the ordinance related to such. He stated the State's wetlands program includes regulation of all activities that impact wetland resources and surface waters; recommending review of the NH method (revised and expected to be released within one month) and the Army Corps' manual.

Following review of the draft ordinance, Rene Pelletier recommended the following;

- Delineate wetlands on current zoning map
- Include Best Management
- Page 1, Section V, include surface water
- Page 2, 2<sup>nd</sup> paragraph; consider a buffer to an intermittent stream
- Page 2, 2<sup>nd</sup> paragraph; consider a buffer or setback to a perennial stream
- Page 2, 2<sup>nd</sup> paragraph, Setback, 1<sup>st</sup> sentence; strike "setback" & replace with "buffer", strike "consist of the land area" & replace with "be measured"
- Page 2, 3<sup>rd</sup> paragraph
- Page 2, 5<sup>th</sup> paragraph; strike "Setback and" (begin sentence with "Buffers") and insert "and a setback shall not apply" between "required" and "if"
- Page 2, Table of Minimum Wetlands Setbacks for Certain Uses; insert "and Surface Waters" between "Wetland" & "Setback"
- Page 3, 1<sup>st</sup> paragraph, 2<sup>nd</sup> sentence; insert "and surface waters" at the end of the sentence.
- Page 3, A.; add language relative to surface waters
- Page 3, B.; strike "RSA 483-A:7" and insert "RSA 482-A:15"

- Page 4, 1<sup>st</sup> paragraph, 2<sup>nd</sup> sentence; insert "certified" between "The" & "wetlands"
- Page 4, 2<sup>nd</sup> paragraph (2); paragraph noted as vague and ambiguous. Insert "for soil related issues" following "scientist"
- Page 4, 2<sup>nd</sup> paragraph (2); strike "wetlands biologist"; noting its either a wildlife biologist or a wetlands scientist
- Page 4, Section VI, D.; insert "and surface water" following "buffer"
- Page 5, Section VI, D.(1<sup>st</sup> line on page); insert "where it does not impair the function and values in the adjacent wetlands or surface waters" at the end of the sentence
- Page 5, Section VI, E.; insert "and surface waters" following "buffer"
- Page 5, Section VIII, 1<sup>st</sup> paragraph; insert "and surface waters" following "wetland"
- Page 5, Section VIII, A.; 1800 SF is an arbitrary number, recommended number of bedrooms; noting the use of technical basis for evaluation to determine impact
- Page 6, ii.; insert "and surface waters" following "wetland"
- Page 6, B. & D.; paragraphs are redundant ~ recommended combining the paragraphs
- Page 6, B., (1), (2), (3); should pertain to everything and not just pre-2003 lots
- Page 7, H.; BMP rule no longer has 50' criteria
- Page 7, J.; add "upland buffer areas"
- Page 7, Section X, 2<sup>nd</sup> sentence; insert "and surface water" following "wetlands"
- Page 8, #9; insert "waters and surface" between "Surface" & "drainage"
- Page 8, #12; add "Storm Water Implementation Plan (SWIP)"
- Page 8, B., 4<sup>th</sup> line; strike "the" and "insert surface waters," between "to" and "wetland"
- Page 8, B., 1., 2<sup>nd</sup> line; insert "surface waters," following "buffers"
- Page 9, 3.; insert "surface waters"
- Page 9, 7.; strike "concurrently triggers" & insert "proposes work that requires"
- Page 9, 7.; insert "RSA 483-B" following "NHCSA"
- Page 10, Definitions, Best Management Practices; note that such speaks to erosion control issues and SWIP concept
- Page 11, Vernal Pool; refer to State definition in Env-Wt 100
- Page 11, Wetlands Buffer; add "Vegetative area which exists or is established to protect wetlands and surface waters of the State."

Chris Franson stated the draft ordinance should be revised to reflect Rene Pelletier's comments.

Jennifer Haskell questioned whether the Board is going to address the letter from Orr & Reno.

Kathy Barnard stated yes, at the public hearing.

Chris Franson stated the letter was reviewed and discussed by the subcommittee.

The Board agreed to remove the Wetlands Ordinance from the 11/16/10 public hearing to allow for review and revision of the ordinance based on Rene Pelletier's comments by the subcommittee.

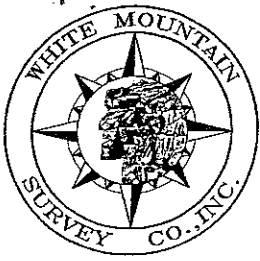
- **Public Hearings**  
Public Hearings for Planning Board Rules of Procedure, Zoning Ordinance Purpose Statement, Multi-family Dwelling and Parking Ordinance is scheduled for 11/16/10. Wetlands Ordinance removed from agenda.
- **Sign Ordinance**  
Following review of the draft Sign Ordinance, the Board requested the following;
  - Page 3, G., a., iv.; strike "the Central Business District" & replace with "all commercial districts"
  - reword Page 3, G., a., iv., 4.

**It was moved by Jennifer Haskell and seconded by David DeVries to move Sign Ordinance to public hearing. All members voted in favor. The motion passed.**

**It was moved by Jennifer Haskell and seconded by David DeVries to adjourn the November 2, 2010 Wolfeboro Planning Board meeting. All members voted in favor.**

*There being no further business, the meeting adjourned at 9:45 PM.*

Respectfully Submitted,  
*Lee Ann Keathley*  
Lee Ann Keathley



## WHITE MOUNTAIN SURVEY CO., INC.

1270 ROUTE 16, POST OFFICE BOX 440  
OSSIPPEE, NH 03864-0440  
TELEPHONE (603) 539-4118 FACSIMILE (603) 539-7912  
WEB ADDRESS: [www.whitemountainsurvey.com](http://www.whitemountainsurvey.com)

October 1, 2010

### Via Hand Delivery

Mr. Robert T. Houseman, Town Planner  
Town of Wolfeboro, Planning Board  
P.O. Box 629  
Wolfeboro, NH 03894-0629

Re: P&D Zimmerman Family Ltd. Partnership  
7 Pine Street  
Special Use Permit Application

Dear Rob:

Please accept this letter, accompanying documents, and plan as the applicant's completed application for a Special Use Permit under Article II of the Wolfeboro Zoning Ordinance Section 175-8.

The proposed project impacts two areas. The first impact, Proposed Wetland Buffer Impact 1, involves filling 1,251 square feet of wetland and 2,825 square feet of wetland buffer, for the proposed parking area and associated structures.

The second impact, Proposed Wetland Buffer Impact 2, involves the alteration of 385 square feet of the wetland buffer for the proposed driveway, grading, and ADA access to the building.

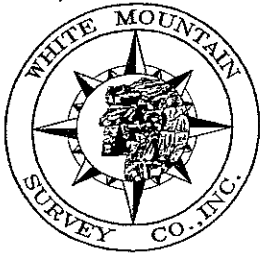
The applicant will also be filing a Site Plan Review application for the site plan with the goal of having both applications heard concurrently by the Planning board.

In addition to the application, plan, and wetland report, I ask that you accept this letter as the "Project Report" as required by the application.

### Description of the Ecological Communities

North Country Soil Services Environmental Professionals (NCSS) have evaluated the wetland located on the site. Following is a summary from that report. In the project area the wetlands have been restored under a Wetlands Bureau permit; the NCSS report was done prior to/and for the wetlands restoration. The undistributed areas of the wetland are





classified as forested wetland with dominant vegetation of Red, Maple, Black Ash, Sugar Maple, Cinnamon Fern, and Sensitive Fern.

### **Functions of the Wetlands and Effects of the Impacted Wetlands**

The function of the wetland is wildlife habitat and sediment retention.

### **Measures Taken to Minimize the Impact**

To reduce the impact to the wetlands and wetlands buffer, parking stalls have been designed with reduced depths. This allows for a parking area with a smaller footprint. Also, a retaining wall is proposed to reduce the amount of grading that would otherwise be needed.

In accordance with Section 175-8(3), we offer the following information to support the request.

**175-4.(A) The purpose of this article is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which are subject to standing water, flooding, or high-water tables for extended periods of time;**

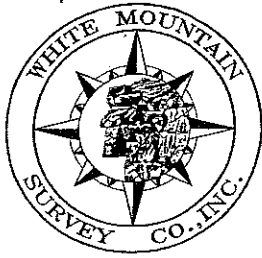
The proposed impact to the wetland and wetland buffer is small compared to the overall size of the wetland as will be demonstrated in response to zoning requirements outlined in 175-4.B(1) through (7).

**175-4.B (1) To prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and groundwater by sewage, sediment and/or noxious substances;**

The property is serviced by town sewer. Therefore, this application will not contribute sewage to surface and groundwater. The impacted area has been designed so that a majority of runoff, which transports sediment and noxious substances, will flow into a small basin prior to flowing into the wetlands. The basin will allow sediment and noxious substances to settle out of the runoff.

**175-4.B (2) To prevent the destruction of or significant changes to natural wetlands which provide flood protection, and trap sediment;**

A drainage study has been done on the effects of the proposed changes to the site. The results of the study are that there will be no increase in the amount of runoff from the proposed impact. Therefore, no increase in flooding is anticipated.



**175-4.B (3) To protect rare, unique and unusual natural species, both flora and fauna;**

The proposed project's impact to the entire wetland, which extends over multiple properties, is small; since the impacted area is maintained lawn, we expect there to be no negative impact to the flora and fauna.

**175-4.B (4) To protect wildlife habitats and maintain ecological balances;**

As stated in 175-4(B)4, the proposed project's impact to the entire wetland, which extends over multiple properties, is small; since the impacted area is a maintained lawn we expect there to be no negative impact to the wildlife habitat or ecological balances.

**175-4.B (5) To protect existing and potential water supplies and aquifers (water-bearing strata) and aquifer recharge areas;**

The proposed project area is in a neighborhood that is supplied by town water. Therefore, this project will have no impact on existing or potential water supplies. The small size of the proposed impact, which does not redirect runoff away from its collection point, will preclude it from causing a negative impact on aquifers and recharge areas.

**175-4.B (6) To prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands;**

The proposed project impacts only one town utility, a fifteen inch culvert located in Pine Street. As stated in 175-4(B)(2), a drainage study has been conducted which evaluates the effects of the proposed impact has before and after construction. The results of the study showed there to be no increase of the impact as a result of the project on the culvert. There will be no need to spend municipal funds as a result of approving the project.

**175-4.B (7) To protect the wetlands, watercourses, and water bodies of the Town from degradation and help maintain their natural beauty;**

The Proposed project has been designed to minimize the impact to the wetlands as well as protect them with the construction of a small basin.



Because the application is for a Special Use Permit under Section 175-8, I will address the criteria in Section 175-9.B. (1), to aid the board in understanding why a Special Use Permit should be granted.

**175-9.B (1) (a) The effects of the wetland capacity to support fish and wildlife;**

The wetland complex does not support fish. Therefore, this application will have no impact on that aspect of the complex. By permitting this application, we anticipate a minimal impact on wildlife given the overall size of the wetland complex. The applicant believes that the proposal will not have a substantial impact on the overall wetland complex capacity to support wildlife.

**175-9.B (1) (b) The Control and/or limit of downstream flooding;**

As part of the town requirements for the development of the site, a drainage analysis has been conducted on the proposed site changes. The analysis shows that there will not be an increase in the amount and rate of runoff from the proposed impact. Therefore, no increase in downstream flooding is anticipated.

**175-9.B (1) (c) The supply and protection of surface and groundwater;**

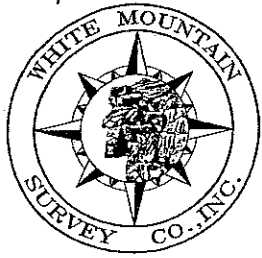
The proposed impact to the wetlands and the buffer areas will have an insignificant impact on the remaining wetland complex's ability to provide groundwater recharge and nutrient absorption. The remaining wetland complex will continue to provide nutrient absorption to protect surface and groundwater.

**175-9.B (1) (d) The control of sediment;**

The proposed impact area will not have a negative impact on the wetland's ability for controlling sediments. The parking area has been designed for a majority of runoff to flow into a small basin prior to flowing into the wetland. The basin will allow sediment to settle out of the runoff.

**175-9.B (1) (e) The facilitation of drainage;**

As stated in response to 175-9.B (1) (b), the results of a drainage analysis (that will be submitted as part of the site plan application) show no increase or decrease in drainage.



**175-9.B (1) (f) The control of pollution;**

The proposed basin is designed to be vegetated which will allow for the removal of suspended pollution prior to flowing off-site.

**175-9. (1) (g) The support of recreational activities;**

The proposed impact to the wetland and wetland buffer will have no impact on any recreational activities since none exist.

**175-9.B (1) (h) The promotion of public health and safety;**

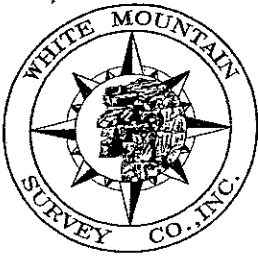
By granting the Special Use Permit for the proposed wetland and wetland buffer impacts, the board will be permitting the Applicant the ability to construct a parking area that meets town standards for safe vehicle and pedestrian access to the site.

**175-9.B(2) The character and degree of injury, or interferences with safety, health, or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion; turbidity; siltation; loss of fish and wildlife and their habitat; loss of unique habitat having demonstrable natural, scientific or educational value; loss or diminution of beneficial aquatic organisms and wetland plants; the dangers of flooding and pollution; and the destruction of the economic, esthetic, recreational and other public and private uses and values of wetlands to the community.**

The proposed project will not create conditions that interfere with safety or health. As stated in 175-9(B)(1)(b), consideration has been given in the design so that the project will not increase the volume or rate of runoff from the site into the town's storm drainage system.

With the exception of the parking area, the remainder of the impacted area will be re-vegetated. The vegetation will eliminate erosion and will control turbidity and siltation.

Since the proposed impact is to a small portion of the wetland which is a maintained grassed area, there will be no impact to fish, wildlife, unique habitat, aquatic organisms and wetland plants. There will also be no destruction of the economic, esthetic, or recreational value of the wetland or wetland buffer.



Mr. Robert T. Houseman, Town Planner  
October 1, 2010  
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If you have any questions, please call.

Sincerely,  
White Mountain Survey Co., Inc.

W. Scott Lees, Jr., P.E.