

Hardwick Development Review Board
Conditional Use, Variance, and Flood Plain Review Request
Town of Hardwick – Yellow Barn Business Accelerator (YBBA)
281 Vermont Route 15 West, Hardwick
Application #2020-002
February 19, 2020

To consider a Conditional Use, Variance, and Flood Plain Review request by the Town of Hardwick for the conversion of an existing Motor Vehicle Service/Sales structure (Yellow Barn – 3000sf) into a Mixed Use structure and to construct a new Mixed Use structure (Accelerator Building – approximately 35,000 sf) and a 18'x36' Accessory Structure for trash/recycling on the same site. Site is in the Highway Mixed Use zoning district and in Zone AE of the Flood Hazard Area overlay.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.3 Highway Mixed Use; Table 2.8 Flood Hazard Area Overlay; Section 3.7 Height Requirements; Section 3.9 Nonconforming Structures and nonconforming uses; Section 3.11 Performance Standards; Section 3.12 Protection of Water Resources; Section 3.13 Parking and Loading Requirements; Section 4.10 Light Industry, Section 4.11 Agricultural and Forest Processing, Section 4.12 Mixed Use; Section 5.2 Conditional Use Review; Section 5.2 G3 Highway Mixed Use District Standards; Section 5.3 Flood Hazard Review and Section 7.4 Variances.

Warnings were posted on Tuesday, January 28, 2020 at the Hardwick Memorial Building, the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: LB2 LLC; Hardwick Electric; Hardwick Lake LLC c/o Dennis Pudvah; 454 Route 15 LLC; 154 Route 15 LLC; Kenneth, Chris, and Margaret Davis; Jack Merrill c/o Lori Gaskell; Margaret Marcy Rev Living Trust; and Aubuchon Realty Company Inc. on Tuesday, January 28, 2020. It was also published in The Hardwick Gazette on Wednesday, January 29, 2020.

Development Review Board members present: Kate Brooke; John Mandeville, Chair; and Ed Keene.

Development Review Board members absent: Ruth Gaillard and Helm Nottermann

Others present: Kristen Leahy, Zoning Administrator (acting clerk); Shaun Fielder, Town Manager; Eric Remick, Hardwick Select Board; Patrick Kane; David Burke; and James Coe.

During the course of the hearing and prior to the hearing the following exhibits were submitted:

1. Flood Hazard Review from the Regional Floodplain Manager, Sacha Pealer
2. Letter of Intent from Vtrans
3. Section 106 Evaluation from the Vermont Division for Historic Preservation
4. Storm Water plans from Grenier Engineering
5. Wetland Impact Plan
6. Lease between the State of Vermont (Agency of Transportation) and the Town of Hardwick (re: railroad corridor)
7. Project Review Sheet
8. Vermont Agency of Natural Resources – Individual Wetland Permit and Determination

Summary of Discussion

Chair John Mandeville began the hearing at 7:02 pm. He noted that the hearing was quasi-judicial, explained the hearing procedure, asked board members for any disclosures of conflict of interest, and swore in all those who wished to speak at the hearing.

Eric Remick, Hardwick Select Board Chair, began the hearing with a historical review of the proposed Yellow Barn Business Accelerator (YBBA) project. The project was envisioned nearly 4 years ago. A space for businesses to expand was identified as a local need. The hope was to allow a larger entity, such as Caledonia Spirits, to have a next-step location and to also provide a location for smaller companies to expand. The Greensboro Garage location became available for sale. After review, consultants identified this location as a match for the business expansion concept. The traffic counts near Greensboro Garage were very favorable (high) and the site was located at the gateway to Hardwick. The location had good visibility and could be an attraction for vehicular traffic.

The Town of Hardwick recently purchased the former Greensboro Garage parcel to accommodate the YBBA concept. The current plan is to renovate the Yellow Barn with assistance from the Vermont Division of Historic Preservation. The external visual of the Yellow Barn on the front 3 sides will be the same as it currently exists except it will be more crisp (squaring the edges, more vibrantly yellow, etc). A loading dock and porch will be installed on the rear (south) side of the building. Cabot Cheese has signed a letter of intent to create a retail space in the building. The new building, the Accelerator Building, is proposed for the space adjacent to the Yellow Barn. The location is constrained by wetlands and flood plain locations. The building is proposed to be at the edge of the wetland buffer and next to the Flood Plain delineation. Nearly 80% of the new building will be used for Jasper Hill (letter of intent has been signed). The residual 20% would be available for up to 5 smaller businesses. Jasper Hill will be aging cheese and shipping product out of this location. This would essentially be a doubling of their current business. The restoration and construction of the two buildings would provide up to 105 jobs within the next five years. Consultants predict an increase of 110 residents in the Hardwick region.

The Phase 1 review of the site has been accomplished and a corrective action plan has been created.

James Coe, Architect, reviewed the site plans for the YBBA. The proposed Accelerator Building is located in the wetland buffer but has received a permit to impact this section. There is less than an acre of impervious surface on the site. There are plans to install an infiltration system behind the Yellow Barn structure to prevent the eroding effect of storm water on the rail bed. The Storm water plan provides for discharge of the water into the Lamoille River as the water flows can handle the infusion. Vtrans has issued a letter of intent regarding the access on State highway – Route 15. The access was altered to meet the Vtrans requirement that only one entry point would access the road. Town water and wastewater will be utilized in both structures. The Town Manager testified that the Town has capacity for both aspects. New direct lines will be installed to the adjacent wastewater plant and an Industrial grade grease trap will be included. The biochemical oxygen demands (BOD) of Jasper Hill are still being reviewed but adjustments will be made once those numbers are known.

Admittedly, the current parking plan is limited on spaces. The intended tenants (Jasper Hill and Cabot Cheese) are confident that the parking is adequate. Future parking will be added on Wright Farm Road and adjacent to the Wastewater Treatment plant (the former location of the Farmer's Market). A split rail fence will be installed to prevent on-street parking (an additional fence will be installed near Wright Farm Road to prevent cars from entering the wetland area). The applicant has requested a waiver for the parking.

Trees and bushes are being proposed for the buffer zone next to Route 15. This will serve to screen the new building. The Yellow Barn's location is too close to Route 15 to allow for an additional buffer. In an attempt to retain the visual of the Yellow Barn at the gateway to Hardwick, the Accelerator structure was moved away from Route 15 (into the rear setback by 3 feet – variance request). The requested height of the new building is an average of 36 feet. The height is derived from the Jasper Hill cave requirements. The actual footprint is 26,000 sf with 9000 sf available for lease. Historic Preservation is requiring the new building (Accelerator) to be different from the existing Yellow Barn. A more modern, contemporary design is being purposed. The external visuals will be local wood which will be left to age naturally. The lighting concept is based on dark

sky principals – downward lighting under canopies, minimal light fixtures. And most of the lighting will be in the rear section of the property.

The only external storage on site will be in the 18’x36’ trash enclosure (Accessory Structure).

The hearing ended at 8:28 pm. Kate Brooke made the motion to enter into deliberative session and Ed Keene seconded. All members were in favor.

Findings of Fact:

Based on the application and testimony, the Development Review Board makes the following findings:

2.3 Highway Mixed Use – all setbacks and dimensional standards are not met for this district. The Yellow Barn structure is a previously existing nonconforming structure (Section 3.9) and variances are being sought for two setbacks (the parking area/trash enclosure and the left rear corner of the Accelerator Building). Applicant is requesting to convert the Yellow Barn structure from Motor Vehicle Sales/Service to a Mixed Use – Retail, Agricultural and Forest Processing and Restaurant. A primary Accelerator Building would also be considered Mixed Use – Industry (Light), Retail, Office, Agricultural and Forest Processing; Warehouse /Storage; Restaurant; and Cultural Facility. All proposed uses would be Conditional Uses in this district.

2.8 Flood Hazard Area Overlay District – the proposed project has elements within the Special Flood Hazard area. See 5.3 Flood Hazard Review.

3.7 Height Requirements – The Accelerator Building is proposed to exceed the 35 feet maximum height. The average height is proposed to be 36 feet. The DRB may permit structures in excess of the district standard subject to conditional use review under Section 5.2, upon finding that:

1. the structure does not constitute a hazard to public safety, or to adjoining properties; **the DRB finds that the Accelerator Building will not be a hazard to public safety or to adjoin properties.**
2. the portion of the structure above the district maximum height shall remain unoccupied except for normal maintenance; **the DRB finds that the portion of the structure above 35 feet will remain unoccupied.**
3. the structure is not to be used for advertising purposes; **the DRB finds that this structure will not be used for advertising purposes.**
4. lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation; and, **the DRB finds that the lighting will be restricted to the minimum required for security and safe operation.**
5. the proposed building height and scale are consistent with the character of the immediate surroundings. **The DRB finds that the building height is consistent with the character of the immediate surroundings.**

The DRB permits the Accelerator Building to be 36 feet and to exceed the 35 feet maximum height.

3.9 Nonconforming Structures and Nonconforming Uses – the Yellow Barn is a pre-existing structure that does not conform to the provisions of the regulations regarding setbacks (the front setback). The structure may be structurally enlarged as long as this does not increase the degree of nonconformity (addition of a rear deck/dock is proposed). **The proposed addition to the Yellow Barn will not increase the degree of nonconformity. The rear deck and loading dock are allowed to be constructed as proposed.**

3.11 Performance Standards – review was made of the performance standards by the DRB. **No adverse**

aspects were identified.

3.12 Protection of Water Resources – the property is located on the Lamoille River and in the Flood Hazard Area Overlay. “An undisturbed, vegetated buffer strip shall be maintained for a minimum of 25 feet from all streams, rivers, and lakes. The 25 feet buffer strip shall be measured from the top of the streambank.” **The project is well beyond the 25 feet buffer. The proposal will be reviewed for the Flood Hazard Area Overlay in Section 5.3 Flood Hazard Review.**

3.13 Parking and Loading Requirements – The Highway Mixed Use District states that “off street loading areas shall be provided for commercial uses which will receive shipments in vehicles too large for a standard parking space. **The YBBA proposal has two loading docks on the new building and an additional, smaller loading dock on the Yellow Barn. Loading areas will be adequate for proposed uses.** Mixed Uses of the structures have a variety of parking requirements. **A waiver has been requested to allow 29 parking spaces to be installed. Two additional parking areas (with approximately 48 parking spaces) will be created in the next phase of the project – next to Wright Farm Road and next to the Wastewater Treatment Plant. See Condition #4.** “Non-Residential parking areas shall be located to the side or rear of buildings unless otherwise approved under site plan or conditional use review and shall be screened from adjoining residential properties.” **No testimony was received to indicate that additional screening from adjoining residential properties would be necessary.**

4.10 Light Industry – the proposal must meet the following provisions:

- (1) All industrial activities, and the maintenance and repair of vehicles and equipment, shall be conducted within an enclosed building or buildings. **The proposal meets this provision.**
- (2) The Development Review Board may limit the outdoor storage of materials, vehicles and heavy equipment shall be limited to a designated area, and may require that such area be screened year-round from the road and from neighboring properties. **No outdoor storage of materials will occur. An enclosure for trash and recycling will be located to the rear of the property. Deliveries will also occur on the shielded rear side of the structures.**
- (3) Any area designated for the outdoor storage of materials shall be located outside of flood hazard areas and set back a minimum of 100 feet from road rights-of-way, surface waters, wetlands and adjacent properties. All other setback and dimensional standards for the district in which the light industry is located shall apply. The Development Review Board may however, as a condition of approval, require greater setbacks based on specific site conditions to protect water quality and neighboring properties. **N/A.**
- (4) Industrial uses shall comply with all performance standards under Section 3.11; additional conditions, including conditions on the hours of operation, may be imposed as appropriate to protect public health, safety, and welfare, municipal facilities and services, and other public investments. **No testimony was received to indicate that additional conditions would be necessary.**
- (5) The on-site storage of hazardous materials shall require the specific approval of the Development Review Board. In approving such storage the Board shall require the submission of a hazard mitigation plan, prepared by the applicant, to ensure the protection of ground and surface waters and public safety in the event of a spill or release. **The propane tanks will be buried on site.**
- (6) Sufficient landscaping and screening shall be provided along parcel boundaries and within the project site to protect adjacent properties from objectionable visual impacts. At a minimum, a landscaped buffer a minimum of 30 feet deep shall be located along all boundaries adjoining a residential property. **Due to the pre-existing nonconforming structure, Yellow Barn, this is not**

possible but a landscaped buffer will exist next to Route 15.

4.11 Agricultural and Forest Processing – the proposal must meet the following provisions:

- (1) The processing facility shall be of a size and scale appropriate for the neighborhood in which it is proposed. **The proposal meets this provision.**
- (2) Where a processing facility uses or generates hazardous materials, the applicant shall demonstrate compliance with applicable state or federal regulations. **N/A.**
- (3) Wholesale sales of processed products are allowed as a part of any approval. Retail sales may be allowed as a part of conditional use approval. Sales of products in addition to those processed on the site will be limited to those clearly incidental, secondary and ancillary to those processed products or as declared and approved as a part of the conditional use permit. **The Mixed Use request includes a retail element.**

4.12 Mixed Use – More than one principal use may be allowed within a single building, or on a single lot, subject to the following provisions:

- (1) Each of the proposed uses is allowed as a permitted or conditional use within the zoning district in which the mixed use is located. **The proposed uses are all conditional uses in the Highway Mixed Use zoning district.**
- (2) The uses in combination meet all applicable standards for the district in which the mixed use is proposed, including minimum lot, frontage and setback requirements; or the mixed use is part of a planned unit development (PUD) reviewed in accordance with Section 5.4. **The proposal meets this provision.**
- (3) The mixed use shall meet all applicable general regulations under Article 3, including but not limited to sign and parking requirements. **The proposal meets this provision.**

5.2 Conditional Use Review

E) General Review Standards

The proposed conditional use will/ will not result in an undue adverse effect on any of the following:

1. **The capacity of existing or planned community facilities and services.** The proposed use will not affect this capacity negatively. The Police and Fire Chiefs are familiar with the proposal and have not expressed any concerns.
2. **Character of the area affected.** Proposed development is compatible with the area.
3. **Traffic on roads and highways in the vicinity.** The proposal will consolidate the curb cuts in a high traffic count area. An improvement to traffic safety should be realized.
4. **Bylaws in effect.** Per testimony from the Town Manager, no negative effects are anticipated for the Town Water and Wastewater.
5. **The utilization of renewable energy resources.** The Town hopes to install and utilize solar power on this project.

F) Specific Review Standards shall include:

1. **Siting & Dimensional Standards.** All conditional uses shall meet minimum applicable dimensional and density standards as specified for the district in which the use is located (Article 2), the particular use (Article 4), and for the protection of surface waters (Section 3.12). **All standards are met by the proposal.**

2. **Performance Standards.** All conditional uses shall meet performance standards as specified in Section 3.11. **The performance standards were reviewed. See Condition #2.**

3. **Access & Circulation Standards.** All conditional uses shall meet applicable access management standards as specified in Section 6.6. **Standards will be met by the proposed changes.**

4. **Landscaping & Screening Standards.** The Board may require landscaping, fencing, screening or site grading as necessary to maintain the character of the area, or to screen unsightly or incompatible uses from town highways, other public rights-of-way, or adjoining properties. **Further landscaping, beyond the proposed landscape plan, was not indicated as necessary.**

5. **Stormwater Management & Erosion Control Standards.** All conditional uses shall incorporate accepted stormwater management and erosion control practices as appropriate for the setting, scale and intensity of the existing and planned development. **No additional plans were indicated as necessary.**

5.2G3 Highway Mixed Use District Standards

- a. Within and contiguous to parking areas, landscaping shall emphasize the use of shade trees to provide a tree canopy, provide separation between parking spaces to avoid large expanses of parking and minimize the visibility of parking areas from off-site. Suitable locations for shade trees include along walkways, in center islands, in between parking spaces and clustered in appropriate locations. **The proposal meets this standard.**
- b. A landscaped strip of at least twenty (20) feet shall be provided parallel to the road, which may be crossed by driveways and sidewalks. Form, location, and composition of the landscaped strip shall be shown on the site plan and approved by the Development Review Board. **A landscaped strip of 25 feet will be provided parallel to the road. This has been shown on the site plan and is approved by the Development Review Board.**

5.3 Flood Hazard Review

Development Standards – Special Flood Hazard Area.

All development shall be:

- a. Reasonably safe from flooding;
- b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
- g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes;

Suggestions were received from the Floodplain Manager (Exhibit #1) and were incorporated into the conditions of the decision. See Conditions 5-13.

7.4 Variances – two variances are being requested for the project. Variances would be necessary for the rear/side setback and for the parking area and trash enclosure within the rear right of way setback.

- A) The Development Review Board shall hear and decide upon requests for variances pursuant to the Act [§4469] and appeal procedures under Section 7.3. The Board may grant a variance, and render a decision in favor of the appellant, only if all of the following facts are found, and the findings are specified in its written decision:

- (1) that there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located; **Both variances are being requested due to the shape (narrow triangle) of the lot and the location of the property next to the rail-bed. Wetlands also dictated the request.**
 - (2) that because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property; **Affirmative in both requests.**
 - (3) that the unnecessary hardship has not been created by the appellant; **The Town of Hardwick did not create the lot nor install a rail way through the parcel.**
 - (4) that the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and **Neither variance would alter the essential character of the neighborhood.**
 - (5) that the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan. **The variance for the rear corner of the Accelerator building would allow the building to be 3 feet into the setback on one corner of the structure. The variance for the trash enclosure and the parking area would be inside the leased land from the State of Vermont.**
- (B) In granting a variance, the Development Review Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these bylaws and the municipal plan currently in effect. In no case shall the Development Review Board grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density. **The Development Review Board grants both variance requests for this purposal.**

Decision and Conditions

Based upon these findings, the Development Review Board voted 3 to 0 to approve the Town of Hardwick – Yellow Barn Business Accelerator conditional use and flood hazard review application as presented and amended with the following conditions:

Conditions:

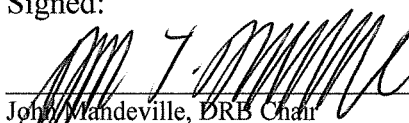
1. Any and all necessary state and federal permits must be in place before development can commence.
2. The Applicant will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11 (Attached).
3. The DRB permits the Accelerator Building to be 36 feet and to exceed the 35 feet maximum height.
4. The Applicant has requested and received a waiver regarding the number of parking spaces provided on

the Yellow Barn Business Accelerator campus. This waiver has been granted because the Applicant has begun planning for two additional parking areas – adjacent to Wright Farm Road and on the Municipal Wastewater Treatment plant parcel. No on-street parking will be allowed at this site.

5. As per the recommendation of the regional Floodplain Manager, the Applicant must have the foundation design for the Accelerator Building reviewed by a structural engineer to make sure the footers are buried adequately and the foundation is otherwise designed appropriately.
6. As per the recommendation of the regional Floodplain Manager, the Applicant will equip any below ground space, like a basement, with dry floodproofing techniques to make the walls/floor watertight and/or sump pumps. Plans for this will be provided prior to construction and proof of completion will be submitted after construction.
7. As per the recommendation of the regional Floodplain Manager, all of the finished Accelerator building must be within the LOMA removed area or on land originally mapped as outside the SFHA, or a combination of the two. Prior to and during construction of the foundation, the Applicant must have the legally recorded LOMA boundary clearly staked out by a professional engineer or licensed land surveyor.
8. As per the recommendation of the regional Floodplain Manager, all excavated materials must be relocated outside of the floodplain.
9. As per the recommendation of the regional Floodplain Manager, prior to the construction of the stormwater proposal, the Applicant will provide certification from a professional engineer that the stone outfall will not change the riverbank dimensions, either by building up the ground on top of the bank or by extending the bank outward into the river channel, and that the pipe is protected from erosion (scour) that might unearth or expose any part of it during flood conditions.
10. As per the recommendation of the regional Floodplain Manager, if the transformer and the meter must be located at the northwest corner of the building, then the transformer/vault and meter box should be elevated to at least 1' above BFE and anchored. Any electrical components (e.g. lines) that extend below BFE should be housed in watertight conduit and protected from exposure due to erosion (scour).
11. As per the recommendation of the regional Floodplain Manager, all components of the water supply and wastewater service lines should be above BFE and, if they are below BFE, they must be watertight and adequately buried to protect from exposure due to erosion (scour).
12. As per the recommendation of the regional Floodplain Manager, the portion of the parking area and walkway on the east side of the site (which is in the SFHA) must be built as proposed with no increase in ground elevations. The applicant must submit documentation that these elements were built as proposed after the project is complete. The applicant will provide photos showing specific elevation reference points prior to and after construction.
13. As per the recommendation of the regional Floodplain Manager, the kiosk on the east side of the site must be anchored.

The Development Review Board also voted 3 to 0 to approve the Town of Hardwick variance requests. A variance is granted to construct the Accelerator Building 42 feet from the centerline of the right of way (Rail Trail) rather than at the district requirement of 45 feet from the centerline of the right of way. A variance is also granted to construct the parking area and the trash enclosure 18 feet from the centerline of the right of way (Rail Trail) rather than at the district requirement of 45 feet from the centerline of the right of way. Land has been leased for this placement – see Exhibit #6.

Signed:

 , Chair
John Mandeville, DRB Chair

Date 2/24/2020

 , acting clerk
Kristen Leahy, Zoning Administrator

Date 2/24/2020

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Hardwick Unified Development Standards

Section 3.11 Performance Standards

- (A) The following performance standards must be met and maintained for all Conditional Uses and Home Occupation uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Zoning Administrator alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No Conditional Uses or Home Occupation uses, under normal conditions, shall cause, create or result in:
- (1) **regularly occurring noise**, which:
 - i. represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or
 - ii. in excess of 65 decibels, or 70 decibels within the Industrial District.
 - (2) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;
 - (3) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);
 - (4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;
 - (5) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;
 - (6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.
 - (7) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or
 - (8) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;