

Hardwick Development Review Board
Conditional Use Review Request
LB2, LLC
75 Log Yard Drive, Hardwick
Application #2021-003
March 3, 2021

To consider a Conditional Use Review request by LB2, LLC for the construction of an addition to an existing Warehouse/Storage Facility structure in the Industrial zoning district. Development would be an Accessory Use to a Motor Vehicle Service (Car Wash) and would occur at 75 Log Yard Drive in Hardwick, VT. Site is in Zone AE in the Flood Hazard Area Overlay and in the Source Protection Overlay.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.5 Industrial District; 2.8 Flood Hazard Area Overlay; 3.11 Performance Standards; 3.12 Protection of Water Resources; Section 3.13 Parking and Loading Requirements; Section 5.2 Conditional Use Review; and 5.3 Flood Hazard Review.

Warnings were posted on Monday, February 15, 2021 outside the Hardwick Memorial Building, at the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: Hardwick Lake LLC c/o Dennis Pudvah; Thornhill Farm, LLC; the Town of Hardwick; Margaret Marcy Rev Living Trust; and 154 Route 15 West LLC on Monday, February 15, 2021. It was also published in The Hardwick Gazette on Wednesday, February 17, 2021.

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

Development Review Board members absent: None

Others present: Kristen Leahy, Zoning Administrator (acting clerk); John Grenier; and Rick Welcome of Lamoille Valley Ford.

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

1. Email letter from Sacha Pealer, Floodplain Manager dated March 1, 2021.
2. Email letter from Shaun Fielder, Town Manager re: Source Protection Area, dated October 9, 2020.

Summary of Discussion

Chair John Mandeville began the hearing at 7 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.

Mr. Mandeville invited the applicants to present their proposal. John Grenier of Grenier Engineering introduced the proposal. This would be a 2-bay automatic car wash with municipal water and sewer. The structure is an addition to an existing Warehouse/Storage structure and is an Accessory Use to a Motor Vehicle Service (Lamoille Valley Ford) on the adjoining lot. The lots are separate but have the same ownership. The access to the car wash would be from Log Yard Drive, which is an existing town-owned road that has a curb-cut/access onto State Route 15 West.

The proposed car wash would be in the Flood Plain (AE) but not the Floodway. The floodplain proposal focuses on utilizing fill to elevate the car wash bays to the same level as the existing (elevated) warehouse structure. The fill would be compensated by removal from an adjoining parcel (#3 – separate but owned by the

same entity). The floodplain coordinator, Sacha Pealer, has made recommendations which can be easily accomplished.

The Act 250 permit (minor) has been submitted and is waiting for the town's response. The wastewater permit has been obtained from the state and the allocations have been provided by the town manager's office.

There will be a water/sand/oil separator installed. The water will be circulated to the sewage treatment plant and the residual sand/oil will be pumped and removed to a landfill as needed. Typically, this occurs twice each year.

The car wash will be open to the public but will also function as the car wash for the Lamoille Valley Ford dealership/vehicle service.

There will be 2 enclosed bays with a connecting portion which will house the equipment for the car wash. An entrance from Log Yard Drive will lead to the initial doors of the car wash bays and an additional driveway will provide the exit from the closing doors. One way traffic will be utilized. All access roads on site will be paved.

The addition will be a metal sided building with the same color roof and exterior as the current storage building.

Storm water management will focus on the existing soils and a vegetation approach. There will be a grass island next to the addition to catch water runoff from the structure. An additional grass swale will be on the 2 sides which abut the car wash and there will be a vegetated buffer beyond the swale.

The sewer lines are gravity fed to the sewage treatment plant which is across Route 15.

The facility would be automated and would not have any employees on site. No parking has been established as the car wash is designed for intake and departure with no reason for idling on site. No outside vacuums, for example, will be installed.

The Log Yard Drive access to Route 15 is well located with a wide curb cut onto Route 15 and well-defined site lines in both east and west directions. The Rail Trail road crossing is relatively close to the Drive access but is visible to turning and exiting traffic.

Future plans may include solar panels on the structure.

The sand/oil separator is essentially a concrete box with special piping inside. No mechanical devices. The device will meet FEMA standards.

No high levels of noise are expected. The equipment will be housed in the center island between the two car wash bays. The doors will be closed when the facility is in operation. Steam will also be minimized by the closed doors.

Per Rick Welcome, the facility will be open at night but will not utilize extensive light shows. There are lights on the utility poles and there will be down lit LED lights over the car wash entrances/exits.

The hearing ended at 7:35 pm. Helm Nottermann made the motion to enter into deliberative session after the hearing and Kate Brooke seconded. All members were in favor.

Findings of Fact:

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

2.5 Industrial District – all setbacks and dimensional standards are met for this district. An Accessory Use (to a conditional use) and Motor Vehicle Service are listed as Conditional Uses in the district (Car Wash). Applicant is requesting to construct an addition on their existing Warehouse/Storage Facility structure. Location must be 45 feet from the centerline of Log Yard Road and 20 feet from the side and rear setbacks.

2.8 Flood Hazard Area Overlay District – The Flood Hazard Area Overlay District lists “Substantial improvements to existing structures” and “Channel management Fill (to elevate new and existing structures)” as Conditional uses. **The proposal was reviewed by the Floodplain manager, Sacha Pealer, (See Exhibit #1). Ms. Pealer made several recommendations for the proposal. A substantial improvement determination must be completed by the Zoning Administrator prior to construction. See conditions 6.**

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 in the Flood Hazard Area Overlay. The proposal is beyond the setback required from the Lamoille River. The proposal is located in Hardwick’s Source Protection Area. **Car Washes are specifically prohibited within the designated Source Protection Area, unless it is demonstrated to the satisfaction of the Development Review Board under conditional use review that no potential for contamination of the water supply exists. A letter of support was received from Shaun Fielder, the Town Manager. See Exhibit #2. The DRB accepted Mr. Fielder’s letter of support as testimony that the water supply will not be subject to contamination from this facility.**

3.13 Parking and Loading Requirements – The Industrial District requires parking of 1 space per 2 employees on the largest shift. Furthermore, “off-street loading areas shall be provided for commercial uses which will receive shipments in vehicles too large for a standard parking space.” “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.” **The facility is fully automated and will not have any employees on site. The car wash is designed to encourage customers to enter and to exit in a timely manner. Furthermore, no external or additional distractions (such as external vacuums) will be included in the project. DRB found that adequate parking exists on site. No testimony was received to indicate that screening from adjoining properties would be necessary.**

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 either capacity.
- 2. Character of the area affected.** Location within the Industrial District matches the purpose of this district and the character of the surrounding area.
- 3. Traffic on roads and highways in the vicinity.** The Industrial District circulation and traffic pattern on Log Yard Drive is directed by the existing use. No adverse effect was identified.
- 4. Bylaws in effect.** Source Protection Area concerns were addressed in the conditions.

5. **The utilization of renewable energy resources.** Solar panels may be installed in the future but were not included in this proposal.

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. **Landscaping 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. **Extensive plans have been submitted to the State of Vermont. No additional plans were indicated as necessary. See Condition 5.**

5.3 Flood Hazard Review

3) All new or substantially improved structures in Zone AE shall be located such that the lowest floor is at or above the base flood elevation, and this must be documented, in as-built condition, with a FEMA Elevation Certificate. **According to Grenier Engineering, the addition is proposed to be elevated to 805.6' on a slab on fill and the existing storage building floor elevation is at 805.5'. If this is built as planned, the building's lowest floor will be above the base flood elevation of 803.5', which meets this section of the review. The car wash will be elevated by placing 420.2 cubic yards of fill within the floodplain. Sacha Pealer, the Floodplain Manager, has recommended 4 conditions to receive the most benefit from the compensation approach. See Condition #7 to #11.**

4) New or substantially improved non-residential structures shall:

a) Meet the standards in 5.3 (G)(3) **Demonstrated above.**

9) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters. **The new sand/oil separator tank is proposed to be below base flood elevation. To make certain that the proposed system minimizes the risk of backflow into the building, Sacha Pealer recommends that the town ask for more information and have a qualified professional evaluate the design for conformance with FEMA-348. See Condition 12.**

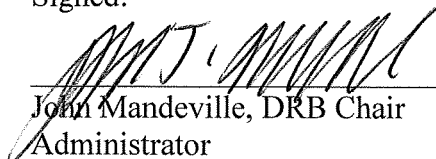
Decision and Conditions

Based upon these findings, the Development Review Board voted 5-0 to approve the LB2 LLC conditional use 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. LB2, LLC must follow all applicable hazardous materials and waste handling procedures to ensure there is no soil contamination from activities occurring during construction or from the on-going operation of the building.
4. LB2, LLC must provide the Town of Hardwick with an annual inventory of all hazardous materials stored and/or used in the building. The inventory shall be provided to the Town Manager's office by the first of July of each year.
5. Storm water remediation shall occur as designed.
6. Prior to construction, the applicant will submit all necessary information so that the Zoning Administrator can issue a substantial improvement determination.
7. A FEMA Elevation Certificate for the finished building must be submitted to the zoning office upon project completion. The Elevation Certificate will be completed and stamped by a licensed professional engineer or land surveyor. The Elevation Certificate will also be recorded with the Hardwick Town Clerk's office.
8. All excavated material must be relocated outside the Special Flood Hazard area.
9. Excavation must be completed within the same construction season as the rest of the project.
10. Appropriate seeding and mulching of the cut & fill areas will be done so as to stabilize the soil.
11. Flood Hazard review will occur on future projects on lot 3, which is shown by topographic plans to already be below the base flood elevation.
12. A qualified professional must evaluate the design for the new sand/oil separator tank to make certain that the proposed system minimizes the risk of backflow into the building and to ensure conformance with FEMA-348. A written review will be provided to the zoning office prior to installation of the sand/oil separator tank.

Signed:


_____, Chair
John Mandeville, DRB Chair
Administrator


_____, acting clerk
Kristen Leahy, Zoning

Date 3/9/21

Date 3/9/21

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:

represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or

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;

Flood Hazard Review - proposed car wash at 75 Log Yard Drive

Inbox

Pealer, Sacha

Mon, Mar 1, 12:09 PM (1 day ago)

to me

Hi Kristen,

Thanks for sending the Hardwick Zoning application materials for the proposed car wash at 75 Log Yard Drive. I reviewed the application materials and offer the following comments relating to the town's flood hazard regulations (Hardwick's Unified Development Bylaws).

The project involves the addition of a two-bay car wash to the existing storage building in the Special Flood Hazard Area (Zone AE) of the Lamoille River. The project is outside of the FEMA-designated floodway but involves lands below the base flood elevation within the Special Flood Hazard Area. To ensure the project meets Hardwick's flood hazard regulations, I recommend the following:

- 1. Substantial Improvement Determination:** I agree the proposed addition appears likely to be a substantial improvement. A *Substantial Improvement* is defined in Hardwick's regulations as "any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over one year, or over a period of a 'common plan of development,' cumulatively equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement...." Sometimes a project is clearly a substantial improvement, but I suggest routinely making and recording a substantial improvement determination by comparing the improvement cost to the market value of the structure before the work (not including the land value). Attached is FEMA guidance on what costs to exclude/include.
- 2. Lowest Floor Elevation:** According to site plans prepared by Grenier Engineering, the addition is proposed to be elevated to 805.6' on a slab on fill, and the existing storage building floor elevation is 805.5' (NGVD29). If built as planned, the expanded building's lowest floor will remain above the base flood elevation of 803.5' and thus would meet the elevation requirements for a substantially improved building (as required in 5.3 (G)(3) in Hardwick's bylaws). As a check during construction, it is a good practice is to have the slab elevation surveyed when poured, but before the addition is framed, to help catch and correct any errors early. At minimum, to ensure the addition is built as proposed and Hardwick has record of the lowest floor elevation, be sure to require that a FEMA Elevation Certificate for the finished building be submitted to your office upon project completion (e.g. before issuing a Certificate of Compliance). The Elevation Certificate should be completed and stamped by a licensed professional engineer or land surveyor.
- 3. Fill & excavation:** According to Grenier Engineering, the car wash will be elevated by placing 420.2 cubic yards fill within the floodplain. While Hardwick's regulations do enable filling within the floodplain to elevate a building above base flood elevation, it is important to track fill projects and minimize the impacts of fill, which can displace floodwater onto other properties or create local drainage problems. The proposal also includes excavation of 466.1 cubic yards from the adjacent field in lot 3 in order to compensate for the newly proposed fill. Compensation for fill by excavating is not specifically required by Hardwick's flood hazard

area regulations but can be a way to minimize fill impacts. To get the most benefit from the compensation approach, I recommend the town request: 1) all excavated material be relocated outside the Special Flood Hazard Area, 2) excavation be completed within the same construction season as the rest of the project, 3) appropriate seeding and mulching of the cut & fill areas to stabilize soil, 4) flood hazard review for future projects on lot 3, which is shown by topographic plans to already be below the base flood elevation.

4. **Wastewater system:** A new sand/oil separator tank is proposed below base flood elevation. Hardwick's bylaw section 5.3 (G)(1)(e) and (G)(9) require wastewater designs to prevent floodwater from entering the system or to prevent wastewater from leaving the system during flooding. To make sure the proposed system minimizes the risk of backflow into the building, I recommend the town ask for a little more information, such as having a qualified professional evaluate the design for conformance with FEMA P-348, Protecting Building Utility Systems From Flood Damage (2017) -- see especially section 5.3.3.

Please let me know if you have any questions. You may consider this email as ANR flood hazard review to assist with the local permit process per 24 V.S.A. §4424. Please note the Vermont DEC Rivers Program may comment separately during the Act 250 permit review, using the DEC Flood Hazard Area and River Corridor Protection Procedure, and Act 250 comments may differ from the local review.

Sacha Pealer, CFM | Northeastern River Scientist & Floodplain Manager (she, her)
Vermont Agency of Natural Resources | Department of
Environmental Conservation
Watershed Management Division, Rivers Program
1 National Life Drive, Davis 3 | Montpelier, VT 05620-
3522
802-490-6162 office & cell
Sacha.Pealer@vermont.gov
<http://dec.vermont.gov/watershed/rivers>

*Due to the coronavirus (COVID-19) we are taking additional safety measures to protect our employees and customers and are now working remotely while focusing on keeping our normal business processes fully functional. Please communicate with our staff electronically or via phone to the greatest extent possible since our processing of postal mail may be slowed during this period. **Flood Hazard Area & River Corridor Permit Applications** are available here: <https://dec.vermont.gov/watershed/rivers/river-corridor-and-floodplain-protection/state-permits>. **You may now submit permit applications, compliance reports, and fee payments through our new online form to expedite its receipt and review:** https://anronline.vermont.gov/?format=WSMD_Intake. Division staff contact information can be found online here: <https://dec.vermont.gov/watershed/contacts>.*

Thank you for your patience during this challenging time. We wish you and your family the best.

From: [Shaun Fielder](#)
To: [Chris Austin](#)
Cc: [John Grenier](#); [Kristen Leahy](#)
Subject: Re: Engineers Letter- Lamoille Valley Ford Carwash Project- 75 Log Yard Drive
Date: Friday, October 9, 2020 10:46:28 AM
Attachments: [image001.png](#)

Chris,
Good morning. Thanks for your email and related information for the proposed car wash at 75 Log Yard Drive.

This email will serve as the response from the town on your question of a car wash facility being allowed to be located within the source protection area of the town water supply.

As is outlined in your cover letter dated October 1, 2020 (subject RE: Propsoed 2-bay Automatic Car Wash Facility. 75 Log Yard Drive. Application: LB2, LLC.),

"... the facility will have trench drains inside the building and on the outside entry/exit ramps that collect almost all wash water before the vehicle leaves the facility. The trench drains will be directed to the sand/oil separator, and eventually the municipal sewer treatment system. Therefore, wash water runoff will not be introduced to the ground in the area of the project."

It is assumed the trench drains are water tight infrastructure and any wash water entering these structures has to flow to the separator prior to discharge to the community wastewater collection system. If this is correct the facility would be allowed to be located within the source protection area. Be advised any changes to design and or use of the facility where runoff could be introduced to the pervious ground in the area would require a reevaluation of this activity within the source protection area.

Please note this response is separate from a response on water and wastewater allocation information and or any other permit requirements that would need to be met at the town and or state level.

If anything more is needed from me at this time, please let me know.
Shaun.

Shaun Fielder

Town Manager
Town of Hardwick

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Fax (802) 472- 3793

NOTICE: