

Flood Hazard Area & River Corridor Individual Permit

10 V.S.A. § 754

PERMIT #: FP-1-0030-2017-IND

Date: 1/17/2018

Applicant: Intervale Center, Inc.

Contact: Rob Hunt

Phone: 802-660-0440

Email: rob@intervale.org

Project Location: 282 Intervale Ave, Burlington

Flooding Source: Winooski River

Project Description: New 80' x 40' produce wash/pack house with cold storage, and attached deck and open-sided shed

Based upon the Findings contained in this permit, the Secretary has determined that the proposed project will comply with the Flood Hazard Area & River Corridor Rule (Environmental Protection Rule, Chapter 29) and is hereby approved under the following conditions and specifications.

I. Findings

The Secretary of Natural Resources has determined that:

- (a) The project is located within the special flood hazard area (Zone AE). The project is also located within the river corridor.
- (b) This project is exempt from municipal regulation because it is a Required Agricultural Practice.
- (c) This project authorization includes an 80' x 40' wash station & pack house building that also incorporates cold storage for the Intervale Center farms and conservation tree nursery. An attached 60' x 20' exterior porch and 12' x 36' open-sided shed/pole barn will be located on the north side of the building.
- (d) This project meets the Standards of the Flood Hazard Area & River Corridor Rule (Subchapter 4), based on the following:
 - (1) The project is located within the existing farm production area of the Intervale Center property. The location of the project is considered infill of the existing farm production area, and does not extend closer to the Winooski River than the other existing development within the farm production area so as to meet the river corridor exceptions outlined in §29-303(b) of the Rule.
 - (2) The project meets the exceptions to the compensatory storage in flood fringe requirement found in §29-401(c)(1)(C), as the building, deck and shed has been designed to have a minimal effect on floodwater storage through the use of flood vents and a wet-floodproof building design, or by being an open-sided structure. A small volume of fill is proposed for the slab-on-grade foundation

design and for minor site grading adjacent to the building, as indicated on site plan C1.0, dated October 2017.

- (3) The wash/pack house and open-sided shed will be used only for the washing, packing and storage of agricultural products or equipment.
- (4) The BFE for the wash/pack house is 113.0' (NAVD 1988).
- (5) The applicant has stated that the building design will incorporate insulated Smart Vent flood vents adequate to cover the 3,200 square feet of the building, and install them in accordance with the National Flood Insurance Program guidance and standards, and in accordance with the Rule.
- (6) The mechanical and electrical equipment for the three refrigerator coolers shall be located on top of the coolers to avoid the infiltration of flood water into the system.
- (7) The project will not adversely affect the public safety by increasing flood elevations, flood velocities, or decreasing flood storage volume.
- (8) The project is designed to be reasonably safe from flooding as required by §29-401(c)(2) of the Rule.
- (9) The project is designed to comply with the NFIP Floodplain Management Criteria in 44 C.F.R. § 60.3.

II. Specific Conditions

- (a) The building must be designed to be wet-floodproofed as outlined in §29-401(c) Section 2 & 3; specifically, at least 16 Smart Vents in order to cover the 3,200 square feet of enclosed space in the building installed as outlined in §29-401(c)(3)(C), with the bottoms of the vents being located no higher than one foot above grade.
- (b) The pack/wash house or exterior shed shall not be used for or converted to another use that is not listed in §29-401(c)(3)(C)(i), Prohibited uses include office space or living space.
- (c) Flood resistant materials shall be used below the BFE for the pack/wash house, exterior deck and open-sided shed. All building utility systems, such as the coolers, electrical outlets, water service, or any other electrical, plumbing or mechanical systems shall be elevated above the BFE or designed to prevent water from entering or accumulating within the components during flood conditions (§29-401(2)).
- (d) The wash/pack house will be built as required in §29-401(c)(3)(C) of the Rule for at-grade structures subject to flooding.
- (e) **Before construction commences**, the applicant will submit the final design drawings that 1) indicate the number and location of proposed flood vents, 2) include specific mechanical, electrical or other utility floodproofing details, such as the elevation for any electrical outlets and location of the cooler pump systems, 3) include a reference to the base flood elevation for the site, 4) include the open-sided 12' x 36' shed, and 5) include any other design or operation details specific to flood hazards.
- (f) The permittee must notify the Floodplain Manager by phone or email when construction begins and when the project is complete.
- (g) As-built documentation, including a completed FEMA Elevation Certificate, prepared by a licensed land surveyor or professional engineer shall be submitted to the Floodplain Manager when the project is complete.

III. General Conditions

- (a) **Access to property.** By conducting any activity authorized under this permit, the permittee agrees to allow Agency representatives access to the property covered by this permit, at reasonable times and

upon presentation of credentials, for the purpose of ascertaining compliance with the Vermont Flood Hazard Area & River Corridor Rule and this permit. This permit does not grant the permittee the right to enter onto any property not owned by the permittee.

- (b) **Changes to authorized activity.** All activity shall be completed and maintained in accordance with the terms and conditions of this permit. The permittee shall notify the Secretary of any planned changes to the authorized activity prior to carrying out such changes. The Secretary may require the permittee to submit additional information on the proposed change. The Secretary may require an amendment to this permit, which may require re-noticing of the project for public comment.
- (c) **Remedial measures.** The Secretary maintains continuing jurisdiction over an activity authorized under this permit and may at any time order remedial measures if it appears the activity is not in compliance with this permit.
- (d) **Compliance with other regulations.** This permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, and local laws, regulations, and permits.
- (e) **Legal responsibilities for damages.** The Secretary, by issuing permit, accepts no legal responsibility for any damage direct or indirect of whatever nature and by whomever suffered arising out of the approved activity.
- (f) **Revocation.** The Secretary may, after notice and opportunity for a hearing, revoke or suspend, in whole or in part, this permit for cause, including:
 - (1) Violation of the terms or conditions of this permit;
 - (2) Obtaining authorization by misrepresentation or failure to fully disclose all relevant facts;
 - (3) A change in any condition or new information that requires either a temporary or permanent reduction or elimination of the authorized activity.
- (g) **Duty to comply; enforcement.** The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the Flood Hazard Area & River Corridor Rule and may be cause for an enforcement action and/or revocation and reissuance, modification, or termination of this permit.
- (h) **Transfer of permit.** The permittee may transfer this permit by submitting a notice of transfer on a form provided by the Secretary. The notice shall be submitted at least 10 days prior to transfer and shall include at a minimum, the name and address of the new permittee, the name and address of the former permittee, the date of transfer, and a statement signed by the new permittee stating that he/she has read and is familiar with the terms and conditions of this permit and agrees to comply with it.
- (i) **Reopener.** If, after granting this permit, the Secretary determines, at his or her discretion, that there is evidence indicating that an authorized activity does not comply with the requirements of the Flood Hazard Area & River Corridor Rule, the Secretary may reopen and modify this permit to include different limitations and requirements.
- (j) **Limitations.** This permit conveys no vested rights or exclusive privileges. This permit conveys no title to land nor authorizes any injury to public or private property.
- (k) **Appeals.**
 - (1) **Renewable Energy Project.** If this decision relates to a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248, any appeal of this decision must be filed with the Vermont Public Utility Commission pursuant to 10 V.S.A. § 8506. This section does not apply to a facility that is subject to 10 V.S.A. § 1004 (dams before the Federal Energy Regulatory Commission), 10 V.S.A. § 1006 (certification of hydroelectric projects), or 10 V.S.A. Chapter 43 (dams). Any appeal under this section must be filed with the Clerk of the Public Utility Commission

within 30 days of the date of this decision; the appellant must file with the Clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. § 8504(c)(2), and shall also serve a copy of the Notice of Appeal on the Vermont Department of Public Service. For further information, see the Rules and General Orders of the Public Utility Commission, available online at www.puc.vermont.gov. The address for the Public Utility Commission is 112 State Street, Montpelier, Vermont, 05620-2701 (Tel. # 802-828-2358).

(2) **All Other Projects.** Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Division; and must be signed by the appellant or the appellant's attorney. In addition, the appeal must give the address or location and description of the property, project, or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Division is: 32 Cherry St.; 2nd Floor, Suite 303; Burlington, VT 05401. Telephone # 802-951-1740.

If the development is constructed as described and according to the above conditions, there is no reason to expect an adverse impact on either the river corridor or flood hazard area.

This permit shall be effective on the date of signing and shall be valid for a period of five years.

Emily Boedecker, Commissioner
Department of Environmental Conservation



By _____ dated 1/17/2018

Rebecca Pfeiffer, Northwest Floodplain Manager
Rivers Program
Watershed Management Division

cc: Beth Anderson - Interim Chief Administrative Officer, City of Burlington
Chittenden County Regional Planning Commission

Abutters:

Independent Tower & Wireless Corp – 288 South River Road, Bedford, NH 03110
City of Burlington Fire Department – 136 South Winooski Ave, Burlington, VT 05401