

CONDITIONAL USE DETERMINATION APPLICATION HANDBOOK

VERMONT AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



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**CONDITIONAL USE DETERMINATION
APPLICATION HANDBOOK
*May 1997***

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PURPOSE

The following document provides assistance to anyone who may be required by law to apply for a Conditional Use Determination. The first section of this handbook answers questions concerning wetlands in general and "Why" and "How" Vermont wetlands are protected. Section two gives an overview of the Conditional Use Determination (CUD) and explains who must apply for a CUD and the procedures for applying. The third section sets out a CUD application process time line and provides question by question guidance to completing a CUD application. Each question from the CUD application is included and followed by information, suggestions, and directions to help an applicant complete a CUD application in a thorough, precise and complete manner. Submissions of complete applications are critical to speed the processing time at the Vermont Wetlands Office. Section four offers basic information on compliance. A compilation of appendices, which are referenced throughout the document, is included. The document in its entirety was created to provide useful information to anyone who may become involved in the CUD application process.

For more information, please call the Vermont Wetlands Office at (802)241-3770.

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I. INTRODUCTION

A. What is a Wetland?

Wetlands are defined by the Vermont Water Resources Board as “those areas of the state that are inundated by surface or ground water with a frequency sufficient to support significant vegetation or aquatic life that depends on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas that grow food or crops in connection with farming activities.” A wetland is an area of the landscape where water is stored long enough to provide an inhabitable environment for wetland dependent plants and animals. In Vermont, wetlands can be found near the shorelines of Lake Champlain and other smaller lakes and ponds, in flood plains and other areas adjacent to rivers and streams, and in isolated areas where saturated soil conditions exist. The wetland/upland boundary can be determined using methodology described in the 1989 Federal Manual for the Identifying and Delineating Jurisdictional Wetlands.

B. Why are Vermont Wetlands protected?

Until recently, wetlands were regarded as wastelands that had no use or value to humans. Most people thought wetlands should be either avoided or eliminated. As a result, more than 50 percent of America’s original wetlands and over 35 percent of Vermont’s original wetlands were destroyed. With our increased understanding of ecological processes, attitudes toward wetlands have changed dramatically. Wetlands are now viewed as valuable natural resources that should be protected.

In addition to being one of our most productive ecosystems, wetlands in Vermont serve a wide variety of functions beneficial to the health, safety, and welfare of the general public. The Water Resources Board has identified 10 specific functions that Vermont wetlands can provide. The functions include:

- (1) Water storage for flood water and storm runoff.
- (2) Surface and ground water protection.
- (3) Fisheries habitat.
- (4) Wildlife and migratory bird habitat.
- (5) Hydrophytic (wetland dependent) vegetation habitat.
- (6) Threatened and endangered species habitat.
- (7) Education and research in natural sciences.
- (8) Recreational value and economic benefits.
- (9) Open space and aesthetics.
- (10) Erosion control through binding and stabilizing the soil.

To qualify for protection, it is not necessary for every Vermont wetland to provide all 10 functions. The more functions a specific wetland provides, the more integral it is to the health, safety and welfare of the general public.

Wetlands are very important aesthetically, ecologically, and economically. Therefore, we protect wetlands to ensure that the values and functions they provide will be preserved for us and future generations.

C. How are Vermont Wetlands protected?

In 1986, the Vermont legislature passed an act that directed the Water Resources Board to create and adopt rules to identify, evaluate, and protect “significant wetlands” in the State of Vermont. The Vermont Wetland Rules were adopted by the Board and became effective on February 23, 1990.

The Vermont Wetland Rules establish a three-tier classification system. Wetlands are designated by the Board as either Class One, Class Two, or Class Three. Class One and Class Two wetlands are considered significant because of the functions they provide and are protected. Class Three wetlands have not been pre-determined by the Board to be so significant and are not protected by the Wetland Rules.

Class One	Class Two	Class Three
Class One wetlands are determined by the Board, on a case by case basis, to be exceptional or irreplaceable. A 100 foot buffer zone is designated adjacent to Class One wetlands.	Class Two wetlands are designated on the National Wetlands Inventory (NWI) maps and are those wetlands contiguous* to mapped wetlands. A 50 foot buffer zone is designated adjacent to Class Two wetlands.	Class Three wetlands are not mapped and not protected by the Vermont Wetland Rules. However, these wetlands may be protected by federal, local, and other state regulations.

* A contiguous wetland is a wetland which shares a boundary or touches a mapped wetland.

Section 6.2 of the Vermont Wetland Rules provides a list of activities that are allowed within significant wetlands and their adjacent buffer zones. These uses are permitted without any review; some require that no draining, dredging, filling, grading, or alterations of the water flow occurs. Examples of some uses that are permitted without review include routine repair and maintenance of existing structures, recreational activities, fish and wildlife management [see Section 6.2(n)], and use of legal pesticides or biological agents to control mosquitoes.

Section 6.3 of the Rules states that “**all uses which are not allowed uses are conditional uses.**” Conditional uses within significant wetlands (Class One or Class Two wetlands) or their adjacent

buffer zones are only allowed in accordance with the conditions of a **CONDITIONAL USE DETERMINATION** (*see* Section 8 Vermont Wetland Rules).

II. CONDITIONAL USE DETERMINATIONS

A. What is a Conditional Use Determination?

A Conditional Use Determination (CUD) is similar to a variance. A CUD may authorize a use which is not otherwise allowed in a Class One or Class Two wetland or its adjacent buffer zone. To protect wetland functions, conditions may be placed on projects in the final CUD. CUDs are administered and processed by the Water Quality Division of the Vermont Department of Environmental Conservation and issued by the Secretary of the Agency of Natural Resources. The issuance of a CUD does not relieve any person of the responsibility of complying with all other federal, state, or local laws.

B. Who must apply for a CUD?

Any individual who proposes an activity in a Class One or Class Two Wetland or its adjacent buffer zone, which is not an allowed use (*see* Section 6.2 of the Rules), must apply for and receive a CUD prior to conducting the activity. All conditional uses require a CUD for the activity to be conducted without violating the Vermont Wetland Rules. If a conditional use is to occur outside of a significant wetland or its adjacent buffer zone or if it is an allowed use, then a CUD is not required.

If you are unsure about whether a CUD is required, contact the Vermont Wetlands Office. If the activity is a conditional use, you can arrange for a Wetlands Office staff member to conduct a site visit to: 1) determine if a significant wetland or buffer zone is present; 2) determine the wetland functions; and 3) discuss whether it is likely that a CUD will be issued. For large or complex projects, a wetland consultant may be needed for guidance in completing the CUD application form. (*see* Appendix B, Wetland / Environmental Consultants)

C. How does an individual apply for and receive a CUD?

1. Obtain a CUD application form.

Prior to commencing a conditional use in a Class One or Class Two wetland or its adjacent buffer zone, stop in, write, or call the Vermont Wetlands Office and request a CUD application form. If you would like to meet with someone in the Wetlands Office, you should call ahead and make an appointment. The address is: Vermont Wetlands Office, 103 South Main Street, 10 North Building, Waterbury VT 05671-0408. The telephone number is (802) 241-3770.

2. Complete the CUD application form.

Once a CUD application form has been acquired, follow the directions provided and answer the questions in a clear and detailed manner. It helps to provide ALL additional supporting documents (maps, photographs, site plans, etc.) requested in the application form. (*see* Section III - “Completing a CUD Application”- for step by step assistance; *see also*, Appendix G, CUD Application Models)

3. File the CUD application form with the Vermont Wetlands Office.

File an original copy of the CUD application with the Vermont Wetlands Office at the address provided above. There are no fees when applying for a CUD. Make a copy of the application for your records. The Wetlands Office will contact you in writing to let you know whether your CUD application is complete or not. If the CUD application is not complete, the Wetlands Office will indicate what additional information is needed. The standard of review for issuance of a CUD is whether the proposed conditional use will have an “undue adverse effect” on protected wetland functions. In making this determination, the potential effects of any proposed conditional use shall be assessed on the basis of both its direct and immediate effects as well as on any cumulative or on-going effects on the significant wetland. Adverse impacts on wetland functions, other than minimal impacts, are presumed to constitute an undue adverse effect unless mitigated (*see* “Wetland Mitigation” - Fact Sheet #15, for mitigation information).

4. Distribute copies of the complete CUD application.

Once you have been notified that your CUD application is complete, you must send a copy to the town clerk and to the regional planning commission (*see* Appendix D, Regional Planning Commissions). In addition, copies of the location map, a description of the proposed conditional use, any supporting narrative, and a list of locations where copies of the complete application have been filed must be sent to the municipal planning commission, the conservation commission and all persons owning property within or adjacent to the wetland or buffer zone in question. Owners of property within or adjacent to the wetland or buffer zone can be determined using property tax maps located at the town clerk’s office and a site map indicating the applicant’s property lines, and the boundary of the wetland and its adjacent buffer zone.

5. Notice and comment period of proposed conditional use.

Upon receipt of written notification from the applicant verifying that the above mentioned information has been sent out, the Wetlands Office will provide, at a minimum, a 15 day notice period and opportunity for public comment. For projects proposing larger impacts, a longer notice period may be required. The notice period may also be extended upon request by any interested party. Notice of a CUD must be posted at the Town Clerk’s office of all towns where the wetland or buffer zone is located. The Wetlands Office, at its discretion, may provide additional notice of the request for a CUD.

6. Decision by the Wetlands Office to deny or approve the CUD application.

When the notice period has come to a close, the Wetlands Office will review all public comments, the complete CUD application and any other pertinent information related to the application. The Office will then issue a decision either approving or denying the conditional use. To protect wetland functions, special conditions may be added or modifications of the proposed project may be imposed in the issuance of the CUD. It will generally take from 3 to 4 weeks from the time a complete application is received at the Wetlands Office to issue a decision.

7. Appeals.

Any person with an interest in a decision made under the Wetland Rules can appeal the decision pursuant to 10 V.S.A. Section 1269 to the Water Resources Board. Any notice of appeal must be filed within 30 days of the decision at the Water Resources Board, National Life Records Center Building, Drawer 20, Montpelier, VT 05620-3201. (Telephone: 802-828-3309). Decisions of the Board may be appealed to the Superior Court for the county in which the violation is located

III. COMPLETING A CUD APPLICATION

A. CUD application process time line.

If an individual is planning a project in a Class One or Class Two wetland or its adjacent buffer zone, he or she should plan on the following time line to avoid any delay in project initiation or completion due to the lack of a Conditional Use Determination.

The following are average turnaround times at the Wetlands Office for the different phases of the CUD application process. *PLEASE NOTE:* These are potential time frames; seasonal workloads are difficult to predict.

1-2 Weeks - Scheduling a Site Visit
The Wetlands Office will try to schedule an initial site visit within 1 to 2 weeks of receiving a call from a landowner/potential applicant regarding a project. Adverse weather conditions and snow cover may delay site visits. During particularly busy times of the year, such as spring and fall, the staff may take longer to schedule a site visit. If at the site visit, the staff member determines that a CUD will be needed, the applicant will be advised to either complete an application form on their own or, if the proposed project is large or complex, staff will recommend that the applicant retain a consultant to delineate the wetland and assist in completing the CUD application. (Additional time should be allocated for large or complex projects.)

1-2 Weeks - Reviewing an Application

Upon receipt of a CUD application, the Wetlands Office will review the application for completeness and send a written response to the applicant in 1 to 2 weeks. (If the Wetlands Office determines that the application is not complete, additional time should be allocated for revision and the reprocessing of the application.)

3-4 Weeks - Processing an Application

Once the Wetlands Office receives a complete CUD application and the distribution requirements have been met by the applicant, the application will take 3 to 4 weeks for processing. This time period includes the required minimum 15-day notice period for public comments, and time for the Wetlands Office to incorporate comments into the final decision.

If the suggested turnaround times are acknowledged and incorporated into project scheduling, project delays that could result from the lack of a CUD will be minimized.

B. Guidance to completing each question of a CUD application.

Questions 1 through 18 follow in the order that they appear in the CUD application. After each sub-question, question, or group of questions is a narrative providing guidance and assistance. The narratives should help you answer the application questions adequately. This will allow for the initial filing of a complete CUD application form. (The application questions appear in a different typeface thereby making it easy to distinguish between CUD application and narrative. Narratives are marked with a star.)

NAMES

1. Applicant: _____
Address: _____
_____ Phone: _____

2. Landowner (if different): _____
Address: _____
_____ Phone: _____

(If landowner is other than the applicant, attach copies of any easements, agreements, or other documents conveying permission, and an agreement with the landowner(s) stating who will be responsible for meeting the terms and conditions of the Conditional Use Determination.)

3. Representative: _____
Address: _____
Phone: _____

★ Please include the applicant name and landowner name if different from the applicant. Question 3 is only applicable if someone other than the applicant or landowner completes the CUD application. If a consultant is retained to complete the CUD application, the name of the consultant firm and specific contact person should appear here.

PROJECT DESCRIPTION

4. Location: (*Street Address*) _____

★ This is the physical/legal address where the proposed conditional use will occur.

5. Acres owned by applicant and landowner at project site: _____
Acres involved in project: _____

★ The two answers will be the same only if the entire acreage owned at the project site will be involved in the project.

6. Project purpose: _____

★ Please provide a description of the expected end product of the proposed project. (Example: create 5 single-family residences)


7. General project description (*include number and size of buildings; number of lots; length of roads; type of sewage disposal; etc.*) _____

★ Please include a description of the project in enough detail to answer the specifics asked for in the parenthesis. In addition, you should explain any proposed changes to existing uses. (For example, widening a drive from 12 to 15 feet for a length of 100 feet, installing a new 10-space employee parking lot behind an existing building, etc.)

OTHER INFORMATION

8. Are any other federal, state or local permits required for this project, and if so have they been applied for or obtained?

	Required	Applied for	Obtained
US Army Corps of Engineers Permit	[]	[]	[]
401 Water Quality Certification	[]	[]	[]
VT Act 250 Permit	[]	[]	[]
VT Stormwater Discharge Permit	[]	[]	[]
VT Lakes and Ponds Permit	[]	[]	[]
VT Stream Alteration Permit	[]	[]	[]
Local Zoning Permit	[]	[]	[]
Other: _____	[]	[]	[]

 **If you are not absolutely sure whether or not you need one of these permits, please contact the state or federal agency responsible for issuing that particular permit and confirm whether or not the permit is required. (see Appendix C, State and Federal Agency Contacts)**


9. Attach the following information to the application:

[] Location map (*project area marked on a USGS topographic map or Vermont Significant Wetlands Map*)

[] Site plan(s) including existing conditions, proposed work, erosion controls, and wetland and buffer zone boundaries (*see Sections 3.2 and 4.6 of the Vermont Wetland Rules for description of methodology*).

[] Any other narratives or documents that the application intends to rely upon in support of the proposed Conditional Use.

[] Photos of wetland, if available.

 **These items of information will greatly assist the Wetlands Office staff in making a determination on your application. Without these attachments, your CUD application may be considered incomplete and take longer to issue a decision. The site plans must clearly show the location of the wetland and buffer zone and all proposed impacts. (see Appendix E, Wetland Delineation and Evaluation Standards, for site plan requirements)**

10. List the names and complete mailing addresses of all persons owning property within or adjacent to the wetland or buffer zone in question.

Name Mailing Address with Zip Code

- ★ **This list should include all persons owning property within or adjacent to the wetland or buffer zone. You can find these names and addresses by using property tax maps and records located in the town clerk's office. NOTE: The question is not only asking for adjacent property owners with whom you share a common boundary line. You need to provide the names and addresses of all property owners having land within or adjacent to the wetland or buffer zone. By locating the wetland and buffer zone on the property tax map, you can identify all land owners of property occurring within or adjacent to the wetland and buffer zone.**

WETLAND AND BUFFER ZONE IMPACTS

11. Complete the following for the wetland in question.

a. Size of wetland (to nearest 1/2 acre): _____

b. Check the dominant type of wetland present:

_____ open water _____ marsh _____ wet meadow
 _____ shrub swamp _____ forested swamp
 _____ bog or fen _____ beaver influenced wetland
 _____ other (explain):

- ★ (see "What is a Wetland"- Fact Sheet #2, for descriptions of the various wetland types.)

c. Name of all streams, rivers, lakes, and ponds adjacent to the wetland and approximate distance from proposed activity: _____

d. Approximate the percentage of each of the following cover types in the area surrounding the wetland:

_____ forested _____ agriculture
 _____ old field _____ open water
 _____ lawn _____ residential
 _____ commercial or industrial _____ road
 _____ other (specify) _____



The above questions refer to the wetland in its entirety, not just that portion of the wetland in the vicinity of the proposed project. Question 12 differs because it refers to the specific area of the wetland in the location of the proposed impact.

12. Complete the following for the portion of the wetland and buffer zone in the area of proposed impact.
- a. Area of impact in wetland (*sq ft*): _____.
Area of impact in buffer zone (*sq ft*):_____.
 - b. Check the type of wetland present (*check all that apply*):
 open water marsh wet meadow
 shrub swamp forested swamp
 bog or fen beaver influenced wetland
 other (*explain*): _____
 - c. Description of dominant vegetation: _____


 - d. Description of soils in the wetland and buffer zone (from Soil Conservation Service soil surveys or site investigations): _____

 - e. Check the characteristics of the wetland which apply:
 flooded most of the time
 standing water during at least part of the growing season
 water impounded by beavers
 soils are saturated during at least part of the growing season
 dry most of the year
 - f. Description of the buffer zone: _____




Please answer question 12 in as much detail as possible. The answer to 12a should be in square feet and, if available, portions of an acre. For question 12c please include common and/or scientific names (if known) of the different types of vegetation in the area. Answers such as grasses, trees, or bushes may not be sufficient for this question. Question 12d can be answered from either a Soil Conservation Service (Natural Resource Conservation Service) county soil survey map or a site investigation. The answer to question 12f should provide as much detail about the buffer zone as possible. Please include information on type of land uses, vegetation, slope, soil conditions, etc.

13. Describe in detail all work that is proposed within the wetland or buffer zone, including erosion control measures, referencing attached plans where appropriate. _____
-
-

 **Please include descriptions of all work proposed. Provide any information on how the project will be constructed and timing of the project and/or measures to be taken to protect the wetland during construction. This answer should be as specific as possible, noting proposed work and exact location of individual phases of the project. (For example, 8-inch waterline will cross the wetland, utility line trenches will be approximately 3 and 1.5 feet wide for the water and electric lines. See also Appendix G, CUD Application Models)**

14. Before this section is completed it will be necessary to determine for which functions the wetland in question is significant. The functional criteria for evaluating a wetland's significance are described in Section 5 of the Vermont Wetland Rules. The Vermont Wetland Evaluation Form is available through the Wetlands Office to help determine which functions may be significant.

 **Question 14 is the most critical component of the CUD application. To answer questions 14a - 14j, first determine whether the wetland and buffer zone possess characteristics necessary to provide the function in question. All wetlands will not provide all 10 functions. However, some wetlands may provide all 10 functions. If the wetland and buffer zone in question does provide all 10 functions, a response to all 10 questions, 14a - 14j, is necessary. If the wetland and buffer zone in question does not provide a listed function, please include an answer explaining why that function is considered not significant.**

The “Vermont Wetland Evaluation Form,” available from the Wetlands Office, can provide additional guidance to completing this section of the CUD application. The Form provides detailed information explaining how to determine whether the functions are provided by a wetland and a means for deciding whether there is a potential for adverse impact to the functions by carrying out your project.

***PLEASE REMEMBER:* If a function is provided, an explanation of how the proposed project will or will not effect this function is required. If a function is not provided, an explanation as to why the function is non-existent is required.**

Demonstrate how the project as proposed will avoid any undue adverse impacts on each of the functions. Refer to plans and other attached documents as necessary.

a. Water storage for flood water and storm runoff: _____



Please provide the location of the wetland and buffer zone in the watershed (i.e. upstream/downstream of pond, adjacent to river/stream, etc.). Downstream conditions including development and unstable stream bank can make this function more significant. A lack of many other wetlands or large areas of impervious surfaces (i.e. pavement, black top, etc.) or steep slopes within the watershed may make the wetlands in question more important for flood storage. Conditions in the wetland such as constricted outlets or no outlets, physical space for floodwater expansion, and dense vegetation make a wetland more efficient at performing this function. If the storage capacity is created primarily from beaver dams or other temporary structures, the wetland may not be as important for water storage.

b. Surface and ground water protection: _____




Please provide information about the topography and physical features of the wetland and surrounding area. Also, include the known surrounding land uses (i.e. urban area with many parking lots, rural area with very little concrete, etc.). Information about land uses that may contribute sediments, toxicants or nutrients to the wetland should be discussed (i.e. steep erodible slopes, row crops, old landfills, parking lots, heavily traveled roads and septic systems).

c. Fisheries habitat: _____




Determine if the wetland and buffer zone in question provide spawning, nursery, feeding, or cover habitat for fish. This function will be applicable primarily to those wetlands adjacent to streams and lakes. Describe if there is any woody vegetation overhanging the banks of a stream which could be important for shading the stream, providing cover, and a source of food for fish. Determine also whether northern pike spawning or salmon species habitat is provided. The District Fisheries Biologists may be contacted to help make this determination.


d. Wildlife and migratory bird habitat: _____

 **Many wetlands are rich in wildlife. The more complex the wetland is, the more species are likely to use it. Please provide information about the habitat of the wetland and surrounding landscape. If known, provide the names of plants and descriptions of the areas in which they occur. Information on field sightings of mammals, birds, and reptiles, or other evidence of such species (nests, beaver dams, tracks, etc.) should also be included.**


e. Hydrophytic vegetation habitat: _____

 **Provide information about the wetland community type (i.e. beaver pond, deep marsh, wet meadow, shrub swamp, or wooded swamp). If known rare vegetative species occur, please list them in this answer.**


f. Threatened and endangered species habitat: _____

 **Notwithstanding any known occurrences of rare, threatened, or endangered species, the Nongame and Natural Heritage Program should be contacted at (802) 241-3700 for additional information about the occurrences of these types of plants and animals in the wetland and buffer zone in question. If you send the Nongame and Natural Heritage Program a location map of your project, program staff can provide a letter noting whether or not rare, threatened, or endangered species are known to occur on or in the vicinity of the property in question.**


g. Education and research in natural science: _____

 **Please answer by explaining whether or not the land is owned or leased by anyone dedicated to education or research, or whether any schools or other educational institutions have used or studied the wetland.**


h. Recreational value and economic benefit: _____

 **Please list any known uses for recreation or economic benefit (i.e. hunting, trapping, harvest of wild foods, logging, etc.).**

I. Open space and aesthetics: _____

 **Please answer by describing the prominence of the wetland and buffer zone in the surrounding landscape. Include any unique aesthetic qualities of both the wetland and buffer zone and where the wetland can be viewed by the public.**

j. Erosion control through binding and stabilizing the soil: _____


 **Please provide information on the stabilizing effect that the vegetation has on the local soil conditions. Information about the immediate vegetative habitat and slope that occurs in the surrounding area should be included. Explain erosive forces that may be present, such as lake waves or a flowing stream.**

15. Demonstrate by narrative and reference to plans that the following mitigation measures have been used to achieve no undue adverse impacts to the protected wetland functions.

a. Can the proposed activity practicably be located on an upland portion of the site or on another site owned, controlled or available to satisfy the basic project purpose? (*Explain*). _____


b. Demonstrate how all practicable measures been taken to avoid or minimize adverse impacts on protected functions, including project redesign or project scale back. _____

c. For wetlands that have been disturbed, what steps will be taken to restore impacted functions (e.g. plantings, seeding, mulching exposed soil, removal of fill, etc.). _____

 **Please provide information regarding supporting circumstances, if any, that demonstrate why this project must be located in the wetland in question. Explain why the project could not practicably be located at an upland site. If alternatives were considered, list them and explain why they proved to be impractical. Modifications to original project plans should be included if the modifications were incorporated to avoid or minimize adverse impacts. Some examples would include**


scaling back of the project, relocation of structures, and schedule changes due to nesting season or wet/dry periods. Also, please include any plans to restore impacted wetland functions. For a CUD to be issued, demonstrate that through project planning and modification you have both avoided and minimized wetland and buffer zone disturbances. (In answering this question, references to site plans will be helpful.) Provide a copy of deed restrictions or covenants that will be used to protect the wetland. (see Appendix F, Model Wetland Covenants)

16. Wetland compensation (creating replacement wetlands) is a measure to mitigate adverse impacts on protected functions that will only be possible in rare cases for specific functions (see Section 8.5c of the Vermont Wetland Rules). If a compensation plan is part of this proposal, demonstrate by narrative and reference to plans how the steps in Section 8.5c(1)-(7) will be met.

 **If the proposed project requires this type of mitigation, provide an explanation as to how the plan fits with the requirements of Section 8.5c(1)-(7), Vermont Wetland Rules. Please be as specific as possible when explaining how the plan satisfies the requirements provided in the rules. Creating replacement wetlands is a risky proposition due to the high rate of failures. Proposals including this form of mitigation will be reviewed thoroughly.**

DISTRIBUTION

17. Submit the original request for conditional use determination to the Wetlands Office, Division of Water Quality, 103 South Main Street, 10 North, 2nd Floor, Waterbury, VT 05671-0408. Notification of receipt will be sent to the applicant once a complete application has been received by the Wetlands Office.

 **After all questions have been answered to the best of your knowledge and any required supplemental information has been attached, send the CUD application to the Wetlands Office. Applications with unanswered questions and incomplete answers will take longer to be reviewed. In addition, if after a CUD application is submitted it becomes necessary to make substantial revisions in the project plan, please submit a revised application. This will make the reviewing process less cumbersome and may speed up the conditional use determination review.**

18. After receiving notification of completeness from the Wetlands Office, send a complete copy of the application to the Town Clerk and Regional Planning Commission. Also, send copies of the location map, a description of the specific action(s) for which conditional use determination

is sought, the supporting narratives, and a listing of where complete copies of the request have been filed to:

- a. the municipal planning commission and/or conservation commission; and
- b. all persons owning property within or adjacent to the wetland or buffer zone (item 10. of the application).



Number 18 is self-explanatory. However, it should be noted that if the distribution is not completed, there will be delays in the issuance of a final determination. (see Appendix D, Regional Planning Commissions)

IV. COMPLIANCE

A. Enforcement.

Unless specified as an allowed use under the Vermont Wetland Rules, any activity in a designated “significant” wetland is a conditional use. If a CUD has not been issued by the Wetlands Office, such an activity may be a violation of the Vermont Wetland Rules.

Occasionally a person willfully or inadvertently violates the Vermont Wetland Rules. In this event, the Wetlands Office works with the landowner to correct to violation as quickly as possible. However, violations are subject to enforcement under applicable Vermont law. If the Secretary of the Agency of Natural Resources finds that any person has failed to comply with the provisions of the Wetland Rules, he or she may issue an order to abate the rule violations. Violators are exposed to potential administrative penalties of up to \$25,000 per violation plus \$10,000 for each day of the violation and potential civil penalties of up to \$50,000 per violation plus \$25,000 for each day the violation continues.

V. APPENDICES



A. WETLANDS FACT SHEET INDEX

Department of Environmental Conservation
 Water Quality Division, Wetland Office
 103 South Main St., Waterbury, VT 05671-0408
 (802) 241-3770

Topic: Index Sheet

January 1999

The Vermont Wetlands Office has produced a series of Wetlands Fact Sheets to answer frequently asked questions. Below is a listing of the Fact Sheets that have been completed with a brief overview of each. In the future, additional Fact Sheets will be produced as is necessary. Fact Sheets may be ordered by calling the Division of Water Quality at (802) 241-3770 or by writing to the above address. Please specify which fact sheets you would like to receive.

INDEX OF VERMONT WETLAND FACT SHEETS

NUMBER	TITLE	FACT SHEET OVERVIEW
1	THE VERMONT WETLANDS OFFICE	A summary of the roles and responsibilities of the Vermont Wetlands Office.
2	WHAT IS A WETLAND?	A description of the types of wetlands in Vermont and how wetlands are recognized in the field.
3	WETLAND FUNCTIONS AND VALUES	A description of the functions and values wetlands provide such as flood storage, water quality protection and wildlife habitat.
4	VERMONT WETLAND RULES SUMMARY	A summary of the key provisions of the 1990 Vermont Wetland Rules.
5	CONDITIONAL USE DETERMINATIONS	Answers to commonly asked questions about the state wetland permit, known as a Conditional Use Determination.
6	ALLOWED USES IN A WETLAND	A description of the activities which are allowed without review in Vermont's wetlands.
7	POLICY ON ENFORCEMENT OF WETLAND RULES	A summary of the Agency of Natural Resources' policy on enforcement of wetland violations.

NUMBER	TITLE	FACT SHEET OVERVIEW
8	PRE-PROJECT REVIEW	A description of the project planning that should occur for all projects in or near wetlands, prior to applying for any permits.
9	ACT 250 REVIEW GUIDELINES	A summary of how wetlands are reviewed under Act 250, the state Land Use Law.
10	FEDERAL WETLAND REGULATIONS	An overview of the Army Corps of Engineers wetland jurisdiction under the Clean Water Act and the Rivers and Harbors Act.
11	AGRICULTURAL ACTIVITIES IN WETLANDS	A summary of how state and federal wetland regulations apply to agricultural activities.
12	EROSION CONTROL	Impacts of off-site sediments on wetlands and techniques to control these sediments.
13	STORMWATER AND WETLANDS	Stormwater impacts on wetlands and ways to minimize these impacts.
14	UTILITY LINE CROSSINGS	Recommended steps for minimizing impacts to wetlands from utility line crossings.
15	WETLAND MITIGATION	A description of the wetland mitigation steps and specific considerations for the planning and design of compensation projects.
16	TOWN WETLAND RESPONSIBILITIES	A description of local regulatory tools to protect wetlands and the state notification requirements prior to issuing zoning permits for development in wetlands.
17	LOCAL WETLAND INITIATIVES	A discussion of the ways municipalities can protect their wetlands and educate the public.
18	BUFFER ZONES	A discussion of the values of wetland buffer zones.
19	WATER QUALITY CERTIFICATION	An explanation of Vermont Water Quality Certification as it pertains to wetland impacts.
20	CLASS THREE WETLANDS	An explanation of regulations related to Class Three wetlands.

B. Wetland / Environmental Consultants

Updated July 1999

This list of consultants does not represent an endorsement of the firms by the Wetlands Office nor does it represent a complete list of available consultants. The list is updated periodically; please contact the Wetlands Office for the most recent list.

Bruce Gilday Bag Land Consultants 43 Rockingham Street Concord, New Hampshire 03301 603-228-5775	Dan McPherson McPherson Consulting RR1, Box 389 Charlestown, NH 03603 603-826-5073	Dori Barton Heindel & Noyes P.O. Box 64709 Burlington, VT 05406 802-658-0820	Sheila McIntyre Pinkham Engineering Associates 431 Pine Street Burlington, VT 05401-4742 802-658-5588
William F. Suhr Pioneer Environ. Assoc. LLC. P.O. Box 824 Middlebury, VT 05753 802-388-1210	Mickey Marcus New England Environmental 800 Main Street Amherst, MA 01002 413-256-0202	Charlotte Brodie Dubois & King P.O. Box 634 Williston, VT 05495 802-878-7661	Brad Wheeler The Johnson Company 100 State Street Montpelier, VT 05602 802-229-4600
Jerry Jenkins White Creek, NY 12057 518-686-7208	Jeff Parsons P.O. Box 34 Lowell, VT 05847 802-744-2043	Cathy O'Brien P.O. Box 533 Williston, VT 05495 802-482-2112	Chris Heins, Woodland Services P.O. Box 1323 Manchester Center, VT 05255 802-362-7050
Jim Fougere The Smart Associates 72 North Main Street Concord, NH 03301 603-224-7550	Jim McGinnis 13 Kingmen Street St. Albans, VT 05478 802-524-9849	Jeffrey Severson 55 Spruce Street Burlington, VT 05401 802-660-8312	David Peterson RR 1 Box 259 Bethel, VT 05032 802-234-6967
Tim Ruggles Ruggles Environmental Services P.O. Box 325 St. Johnsbury Center, VT 05863 802-748-5898	Brian Tremback Lamoureux, Stone & O'Leary 14 Morse Drive Essex Jct., VT 05452 802-878-4450	Norbert Quenzer Bagdon Environmental 3 Normanskill Boulevard Delmar, NY 12054 518-439-8588	Dennis Magee Normandeau Associates 25 Nashua Road Bedford, NH 03102-5999 603-472-5191
Scott Begraft American Environ. Consulting Services 11 East Maple Avenue Succasunna, NJ 07876 201-927-5303	Kurt N. Olson 256 Meaderboro Road Rochester, NH 03867 603-332-9386	Valley Environmental Services 161 North Street Sunderland, MA 01375 413-665-2353	William Countryman RD1, Box 999 Northfield, VT 05663 802-485-8421
Douglas Sparrow Sparrow Environmental Services 155 Pine Street Medfield, MA 02052	Chris Einstein Clough, Harbour & Associates 73 Center Street Rutland, VT 05701 802-775-0204	Peter Spear Natural Resources Consulting Services 67 West Shore Road Grand Isle, VT 05458 802-878-4800	James McClammer, Jr. CVES, Inc. P.O. Box 1204 Charlestown, NH 03603 603-826-5214
	Gretchen Stevens Hudsonia Ltd. Anandale-on-Hudson, NY 12504 914-758-1881	Peter Schauer New England Environmental Associates P.O. Box 2394 Concord, NH 03301 603-224-4773	Charles Racine 1708 Groton Road Groton, VT 05046 802-584-3772

C. State and Federal Agency Contacts

1. Vermont Wetlands Office
 Water Quality Division
 Agency of Natural Resources
 103 South Main Street
 Waterbury, VT 05671 - 0408
 (802) 241-3770

2. Natural Resources Conservation Services Offices (*also see:* <http://www.vt.nrcs.usda.gov/>)

St. Johnsbury	Tim McKay	748-3885
White River Junction	Dana G. Young	295-7942
St. Albans	Robert Sylvester	527-1296
Rutland	William Forbes	775-8034
Brattleboro	James Adam	254-5323
Williston	Michael Frounier	879-4785
Middlebury	Keith Hartline	388-6748
Berlin	Bruce Chapell	828-4493
Morrisville	Charles T. Mitchell	888-4453
Newport	Larry Hamel	334-6090

3. Army Corps of Engineers
 Vermont Field Office
 8 Carmichael Street Suite 205
 Essex, VT 05452
 (802) 872-2893

4. Kim Greenwood
 State Erosion Control Specialist
 Water Quality Division
 (802) 241-3770

D. Regional Planning Commissions

List Revised: February 1999

Mr. Adam Lougee, Executive Director
Addison County Regional Planning and
Development Commission
79 Court Street
Middlebury, VT 05753-1406
(802) 388-3141 Fax: (802) 388-1888
E-Mail: alougee@sover.net

Mr. Gregory Burke, Executive Director
Bennington Cnty Regional Commission
P.O. Box 342 - US Route 7A
Arlington, VT 05250
(802) 375-2576 or 9964
Fax: (802) 375-1561
E-Mail Address: bcrcburk@sover.net

Ms. Susan Sinclair, Executive Director
Central Vermont Regional Planning Commission
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Montpelier, VT 05602
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E-Mail Address: cvrpc@together.net

Catherine Dimitruk, Executive Director
Northwest Regional Planning Commission
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St. Albans, VT 05478
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Tollfree: 1-800-564-5958
E-Mail Address: cdimitruk@nrpcvt.com

Herbert Durfee III, Acting Executive Director
Chittenden Cnty Regional Commission
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Essex Junction, VT 05452
(802) 872-1600, Fax: (802) 879-3610
E-Mail Address: administrator@ccrpcvt.org

Michele Boomhower, Executive Director
Lamoille County Planning Commission
P.O. Box 1008
Morrisville, VT 05661
(802) 888-4548
Email: lcpc@pshift.com

Mr. Mark Blucher, Executive Director
Rutland Regional Commission
P.O. Box 965, Merchants Row
Rutland, Vermont 05701
(802) 775-0871 or (800) 464-7900
Fax: (802) 775-1766
E-Mail Address: MBlucher@sover.net

Mr. Tom Kennedy, Director of Planning
Southern Windsor County Regional Commission
The Ascutney Building, P.O. Box 320 - Route5
Ascutney, Vermont 05030
(802) 802) 674-9201 Fax: (802)674-5711
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Peter G. Gregory, Executive Director
Two Rivers - Ottauquechee Regional Commission
The King Farm
Woodstock, Vermont 05091
(802) 457-3188, Fax: (802) 457-4728
EMail Address: pgregory@vermontel.com

Tara Bramford, Executive Director
Upper Valley - Lake Sunapee Council
77 Bank Street
Lebanon, NH 03766-1704
(603) 448-1680, Fax: (603) 448-0170
E-Mail Address: uvlsrpc@sover.net

James Matteau, Executive Director
Windham Regional Planning Commission
139 Main Street, Suite 505
Brattleboro, VT 05302
(802) 257-4547, Fax: (802) 254-6383
EMail Address: wrc@sover.net

Mr. Charles Carter, Executive Director
Northeastern VT Development Association
P.O. Box 630, 44 Main Street
St. Johnsbury, VT 05819
(802) 748-5181 or (800) 639-5011
Fax: (802) 748-1223
Email: nvdaplan@hcr.net

E. Wetland Delineation and Evaluation Standards

Wetlands Office Division of Water Quality Agency of Natural Resources

A. Field Work

1. The Methodology in the 1989 Federal Manual¹ should be used for Class Two wetlands. The Methodology in the 1987 Manual² should be used for delineation of Class Three Wetlands. The appropriate level of study (routine, intermediate, or comprehensive) should be determined based upon site conditions.
2. Applicants should flag all points at which wetland boundary determinations are made in the field. Although we recognize that points flagged are not persistent, flags should be placed so that the Wetlands Office Staff can check the field points if needed. Applicants should label flags with consecutive numbers or letters.
3. Transects across wetland boundaries should be included as needed to confirm the wetland boundary location. All transect points should be close together to minimize the zone of uncertainty. At least one transect for each individual wetland boundary should be completed. Often more than one will be needed. Transect points must be marked in the field.
4. Documentation of representative transect points' characteristics and general characteristics of the wetland should be included. For an example, although speckled alder may dominate a wetland underlain by mottled silt loam on the margin, the main part of the wetland may be a shallow marsh dominated by sedges underlain by an organic soil. Both pieces of information are important: the first for the differentiation of the wetland from the adjacent upland and the second for gaining an understanding of the functional significance of the wetland.
5. Applicants must accurately show wetland boundary points on plans. They should show individual flag numbers or letters on the plan. For major jobs these points should also be located by a licensed surveyor who will certify the plan.
6. The method of surveying must be accurate. Sketching, pacing, and compass mapping based on uncorrected GPS fixes may not be acceptable. In general, the only GPS information that we will accept is post-processed information that has demonstrated accuracy. Features located with a GPS accurate to within one meter or less are acceptable.

Submittals

¹ Federal Interagency Committee for Wetland Delineation. 1989. 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands. U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and U.S.D.A. Soil Conservation Service. Washington, D.C. Cooperative technical publication.

² Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual. Technical Report Y-87-1. Department of the Army, Waterways Experiment Station, Corps of Engineers.

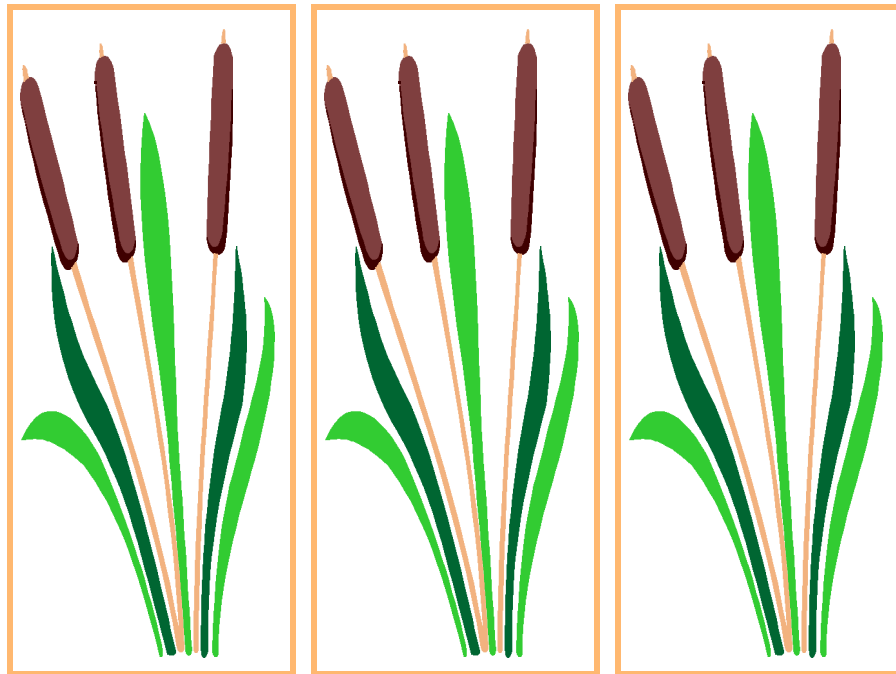
1. Applicants must submit data sheets for representative data points. Each data sheet should correspond to a named point or points depicted on the plan.
2. Plans
 - a. Applicants must specify the portion of the area examined by the delineator. This allows the Wetlands Office staff to determine whether the entire property has been checked for wetlands.
 - b. Plans showing delineations must include the name of the surveyor, the name of the delineator, date(s) of the delineation, the dates of plan preparation and revision, a graphic scale and a north arrow. The scale and paper size must be appropriate for the scale of the project.
 - c. Applicants must specify the source of all data layers used so that we may evaluate their suitability. For example, if contours are based on aerial photogrammetry, Applicants should state this on the plan. Locations of all features should be accurate at the scale of the plan. You must clearly note any information based on enlargements from smaller scale maps as such.
 - d. Base maps constructed from enlarged USGS maps are not acceptable, except for minor projects.
 - e. Plans that have disclaimers stating that they are not to scale or that no scale measurements are to be made from them are generally also not acceptable.
 - f. Scale: Plans must show sufficient details about the site to enable the Wetlands Office staff to determine whether the lines are correct. Applicants should show survey flag numbers and locations on plans. For ease of reading, omitting flag numbers and locations from later plans that show the identical wetland boundary is acceptable. The line type chosen for the wetland boundary and buffer boundary must be clear and distinct. We recommend that a heavy weight line be used with an icon that clearly shows it to be a wetland boundary.
 - g. Applicants must clearly show all proposed impacts within wetlands or adjacent buffer zones including regrading, stormwater discharges and edge of clearing. They should also include the limits of disturbance and erosion control measures.
3. Functional Evaluations
 - a. The Vermont Wetland Evaluation Form should be used as the starting point for all evaluations. This is a preliminary field checklist based on Section 5 of the Vermont Wetland Rules. We remind applicants that only the Vermont Water Resources Board can make formal determinations of wetland functions. All other determinations are informal.
 - b. Applicants must evaluate all functions for each site.
 - c. Additional wetland evaluations beyond those mentioned above may be of utility. Applicants are encouraged to go beyond the functional evaluations listed above but are reminded that the Vermont Wetland Rules list the criteria in Section 5 as a minimum that must be considered in functional evaluations.

F. Model Wetland Covenants

The following restrictions may apply to uses on this property within the designated wetland and buffer zone:

The existing wetland and associated buffer zone will remain in its currently existing natural state with the exception of the proposed construction areas as shown on the noted site plan. No draining, dredging, filling, grading or alterations of the water flow is allowed. No cutting, clearing or removal of vegetation within the wetland and buffer zone with the exception of proposed construction zone as approved by the conditional use determination (CUD) for this property. Allowed uses within this wetland and buffer zone are to be in conformance with Section 6 of the Vermont Wetland Rules, effective February 23, 1990. These restrictions run with the land and are enforceable under the Vermont Wetland Rules and the associated conditional use determination for this property.

G. CUD Application Model



VERMONT WETLAND RULES

CONDITIONAL USE DETERMINATION APPLICATION
Title 10 V.S.A., Chapter 37, Section 905

file number: _____
date received: _____
 [] complete
 [] incomplete
date completed: _____
DEC receiver: _____

OFFICE USE ONLY

INTRODUCTION

The following questions must be answered in order for this application to be considered complete. If you have questions on any portion of this form, please call the Vermont Wetlands Office at (802)241-3770 for assistance.

NAMES

1.Applicant: Town of Milton

Address: P.O. Box 9

Milton, VT 06568 Phone: (802)-893-6655

2.Landowner (if different): Same as above

Address: _____

_____ Phone: _____

(If landowner is other than the applicant, attach copies of any easements, agreements, or other documents conveying permission, and an agreement with the landowner(s) stating who will be responsible for meeting the terms and conditions of the Conditional Use Determination.)

3.Representative: _____

Address: _____

_____ Phone: _____

PROJECT DESCRIPTION

4. Location: (*Street Address*) Milton Recreation Park
Middle Road and Bombardier Road
Milton, VT

5. Acres owned by applicant and landowner at project site: ±150
Acres involved in project: ±40

6. Project purpose: To construct a wooden boardwalk (allowed use) to provide pedestrian access across the narrow wetland that bisects te Milton Recreation Park, and to construct various additional recreational facilities including a hockey rink, pool, bleachers and restrooms in the upland areas.

7. General project description (*include number and size of buildings; number of lots; length of roads; type of sewage disposal; etc.*) The Town of Milton proposes to expand its existing Receptions Park in accordance with the enclosed master Site Plan. In August 1993, The Town received Act 250 approval to expand its facilities to include playing fields and a picnic shelter. There were no wetland or buffer zone encroachments proposed as part of those project plans.

This proposal includes the construction of a pool facility and gravel recreation path, and the relocation of the volleyball courts on the eastern portion of the Park. On the western portion of the Park, the proposal includes a hockey rink, bleachers concession/restroom building and associated gravel parking and paths. As part of the proposal, a realignment of the previously permitted playing fields in the western portion of the park is necessary to accommodate the new facilities. Two on site sewage disposal systems are proposed: one on each side of the park. A water line will be extended to service both sides of the Park. An electrical conduit will also be installed in the utility corridor under the boardwalk.

The portion of the project directly associated with the wetland includes a wooden boardwalk crossing located directly over a proposed buried 8" waterline crossing and 4" electrical conduit. The trench associated with the water-line will be 2'8" wide while the electrical conduit trench will be 18" wide. The dimensions of the boardwalk are 125' x 6'. The boardwalk will be supported by approximately 15 supports constructed with 6" wooden ties. A portion of the proposed 6' wide gravel paths encroach into the 50 foot wetland buffer zone, as indicated on the site plans.

OTHER INFORMATION

8. Are any other federal, state or local permits required for this project, and if so have they been applied for or obtained

	<u>Required</u>	<u>Applied for</u>	<u>Obtained</u>
US Army Corps of Engineers Permit	[x]	[]	[]
401 Water Quality Certification	[x]	[]	[]
VT Act 250 Permit	[x]	[]	[]
VT Stormwater Discharge Permit	[]	[]	[]
VT Lakes and Ponds Permit	[]	[]	[]
VT Stream Alteration Permit	[]	[]	[]
Local Zoning Permit	[]	[]	[]
Other: <u>Planning Commission Approval</u>	[x]	[]	[]

9. Attach the following information to the application:

[x] Location map (*project area marked on a USGS topographic map or Vermont Significant Wetlands Map*)

[x] Site plan(s) including existing conditions, proposed work, erosion controls, and wetland and buffer zone boundaries (*see Sections 3.2 and 4.6 of the Vermont Wetland Rules for description of methodology*).

[x] Any other narratives or documents that the application intends to rely upon in support of the proposed Conditional Use.

[x] Photos of wetland, if available.

10. List the names and complete mailing addresses of all persons owning property within or adjacent to the wetland or buffer zone in question.

Name Mailing Address with Zip Code

Attach additional sheets if necessary.

WETLAND AND BUFFER ZONE IMPACTS

11. Complete the following for the wetland in question.

a. Size of wetland (to nearest 1/2 acre): 3.5 ± (onsite)

b. Check the dominant type of wetland present:

 open water marsh wet meadow

 shrub swamp x forested swamp

 bog or fen beaver influenced wetland

 other (explain):

c. Name of all streams, rivers, lakes, and ponds adjacent to the wetland and approximate distance from proposed activity:

Drainage flows south offsite to contiguous Class II wetland.

d. Approximate the percentage of each of the following cover types in the area surrounding the wetland:

15% forested 5% agriculture

40% old field open water

 lawn residential

 commercial or industrial road

40% other (specify) Maintained recreational/playing fields

12. Complete the following for the portion of the wetland and buffer zone in the area of proposed impact.

a. Area of impact in wetland (sq ft): 1,110

Area of impact in buffer zone (sq ft): 17,100

b. Check the type of wetland present (check all that apply):

_____ open water x marsh _____ wet meadow

_____ shrub swamp X forested swamp

_____ bog or fen _____ beaver influenced wetland

_____ other (explain):

c. Description of dominant vegetation: The dominant vegetation at the location of the proposed impact is Marsh Fern (*Thelypteris thelypteroides*) and Arrow-leaved Tearthumb (*Polygonum sagittatum*) (see photos No. 3-5). A transect of the impact area (east to west) is characterized by the following:

Gray Birch (*Betula Populifolia*)

Marsh Fern (*Thelypteris thelypteroides*)

Arrow-leaved Tearthumb (*Polygonum sagittatum*)

Rough-stemmed Goldenrod (*Solidago rugosa*)

Steeplebush (*Spirea tomentosa*)

Meadow-sweet (*S. alba*)

d. Description of soils in the wetland and buffer zone (from Soil Conservation Service soil surveys or site investigations): Adams (Sand)

e. Check the characteristics of the wetland which apply:

_____ flooded most of the time

_____ standing water during at least part of the growing season

- water impounded by beavers
- soils are saturated during at least part of the growing season
- dry most of the year

f. Description of the buffer zone: Primarily old field with forested slopes to the south.

13. Describe in detail all work that is proposed within the wetland or buffer zone, including erosion control measures, referencing attached plans where appropriate.

Utility (waterline and electric) Crossing.

To service both sides of the park, an 8 inch waterline will cross the wetland as indicated on the site plan. The utility trench will be approximately 3 and 1.5 feet wide for the water and electric, respectively. No heavy machinery will be permitted within the wetland, and sediment and erosion controls will be located and maintained as indicated on the site plan. The existing elevations will be maintained. Any excess material removed from the wetland as part of the construction will be disposed of onsite in an upland area where there is no threat of sedimentation to the wetland. (See site Plan.) Impact areas are described in Table 1.

Boardwalk

The boardwalk will be placed on supports constructed of 6" wooden ties (see sketch). The foundation of the supports will be two parallel ties 16-18" in length, with two cross beams. Fifteen supports will be located in the wetland. The boardwalk will be 6' wide and elevated over the wetland on the supports. No excavation or filling is required for construction of the boardwalk. Impact areas are described in Table 1.

Gravel Paths

The walking paths will be graded, 6' wide gravel paths. The gravel surface material is the only fill proposed for construction of the paths. Gravel will also be placed on the existing paths as noted on the site plan, however, there will be no expansion of the width of the existing paths within the wetland area. Impact areas are noted on Table 1 and the site plan.

Playing fields

The playing fields and the associated parking and pedestrian areas will be graded, seeded and mulched. There is minimal encroachment into the buffer zone. Sediment and erosion controls will be installed and maintained as noted on the site plan. Actual impact areas are noted on Table 1 and the site plan.

14. Before this section is completed it will be necessary to determine for which functions the wetland in question is significant. The functional criteria for evaluating a wetland's significance are described in Section 5 of the Vermont Wetland Rules. The Vermont Wetland Evaluation form is available through the Wetlands Office to help determine which functions may be significant.

Demonstrate how the project as proposed will avoid any undue adverse impacts on each of the functions. Refer to plans and other attached documents as necessary.

- a. Water storage for flood water and storm runoff:

The wetland is significant for water storage. The wetland collects drainage from the adjacent fields, forested area, and agricultural field. There is no contiguous pond that provides storage capacity independently of the wetland. It has a constructed outlet via an existing culvert at the south end of the developable (+40 acre) site. The wetland drains to the south via the culvert to private, developed property. The majority of the wetland is vegetated by persistent woody species. The proposed project will impact a negligible portion of the wetland (0.03 acres). The utility line will be buried and will not significantly impact the flow of water or the storage capacity of the wetland. The boardwalk is primarily elevated above existing grade and will not require fill or restrict normal flows. The selected crossing location is dominated by herbaceous vegetation located between two open water areas that will not be effected by the project. Minimal removal of woody vegetation is required for construction of the boardwalk and none for the playing fields or paths. There are no impervious surfaces proposed within the wetland or buffer zone. Therefore, no significant impacts to water storage are anticipated .

- b. Surface and ground water protection:

The wetland is significant for surface and groundwater protection. It is assumed that the wetland reduces nutrient levels in the surface waters collected from the adjacent upland areas, particularly the barn lot located directly to the north of the property. Nutrient removal is facilitated by low water velocity, permanently saturated soils in portions of the wetland, persistent vegetation, and a constricted outlet. Impacts to this function are expected to be insignificant as the project was designed to minimize the impact area and degree of alteration necessary to serve the intended purpose.

- c. Fisheries habitat:

The wetland is not significant for this function because there are not bodies of water large enough to support fish.

- d. Wildlife and migratory bird habitat:

The wetland is significant for wildlife habitat. The wetland is composed of a variety of habitat types within a relatively small area, including open water, marsh and forested wetland. During a site

visit, signs of use by deer were evident and a greenback heron was observed in the open water area. The daily and seasonally limited use of the Park contributes to its availability for use by wildlife. The project will not alter the composition of the wetland or restrict use of the wetland by wildlife. Refer to the letters from Everett Marshall, Nongame and Natural heritage Program, dated 10/29/92 and Larry Garland, Department of Fish & Wildlife, dated, November 12, 1992.

e. Hydrophytic vegetation habitat:

The wetland is not significant for this function

f. Threatened and endangered species habitat:

The wetland is not significant for this function

g. Education and research in natural science:

The wetland is currently not significant for this function, however, the project may contribute to education through use of the proposed boardwalk directly for educational purposes, or indirectly by providing persons an opportunity to observe the characteristics of the wetland "in passing

h. Recreational value and economic benefit:

The wetland is not significant for this function, however, the proposed project may contribute to the value of this wetland for recreation as it is located in a recreational park, and "low-impact" access to the wetland will be provided by the boardwalk and the walk paths.

i. Open space and aesthetics:

The wetland is significant for this function to the extent that the wetland is a prominent feature of the landscape, which is otherwise open fields in the vicinity of the project. Its aesthetic value will not be negatively impacted as the gravel walks and wooden boardwalk are generally non-intrusive and will not detract from the aesthetic quality of the site. Further, the wetland may actually become more prominent due to its accessibilities and visibility to the general public that use the park, thereby increasing its value for this function.

j. Erosion control through binding and stabilizing the soil:

The wetland is not significant for this function.

15. Demonstrate by narrative and reference to plans that the following mitigation measures have been used to achieve no undue adverse impacts to the protected wetland functions.

- a. Can the proposed activity practicably be located on an upland portion of the site or on another site owned, controlled or available to satisfy the basic project purpose? (*Explain*).

The proposed project can not be located on an upland site as the park is bisected by the wetland from north to south. In order to provide water to the proposed facilities, the water line must cross the wetland at some feasible location. The crossing was selected to minimize impacts to the wetland. There is no municipal water on Middle Road on the easterly side of the project. The power will need to service the pool and the concession stand and rink with the tie into the pole on Middle Road being the best location to serve both sides of the park. The project site is the only recreation park owned by the Town of Milton. Facilities requiring water service could not be located on one side of the park due to the number of facilities and fields needed to serve the recreational needs of the Town and the limited areas of the park slated for development in relation to those portions o the park previously developed. Similarly, access to both sides of the park was necessary. Currently, there are two access roads, one to each side of the park. Pedestrian access between the two sides of the park is only provided at the southern most end of the park, which is not the most direct, or commonly used crossing site. For safety purposes, parents have requested and access point that allows them to keep their children within visual contact.

- b. Demonstrate how all practicable measures been taken to avoid or minimize adverse impacts on protected functions, including project redesign or project scale back.

The project was redesigned during conceptual phases to reduce the size and number of wetland crossings for access, and the crossing was limited to pedestrian access only (non-vehicular). Further, paved walkpaths were substituted with gravel walkpaths, and a boardwalk was proposed in lieu of a culvert crossing. After limits of the wetland were identified, the walkpaths were relocated to remove them from the wetland. The applicant has taken all practicable steps to reduce the scope of the project to the minimum necessary to meet the needs of the Town.

- c. For wetlands that have been disturbed, what steps will be taken to restore impacted functions (e.g. plantings, seeding, mulching exposed soil, removal of fill, etc.)

The wetland area to be disturbed is limited to the utility/boardwalk crossing. Sediment and erosion controls including silt fences, haybales, seeding and mulching, will be employed to prevent impacting wetland functions, as noted on the site plans. The measures will be maintained until the soil is stabilized. Removal of vegetation will be minimized, and disturbed wetland areas will be allowed to revegetate naturally. A 10' visual corridor on each side of the boardwalk will be maintained. This will be accomplished by cutting/trimming existing vegetation to a height of 4'. Any vegetation of less than 4' in height will not be impacted in this corridor. Excess soil resulting from excavation for the utility line will be removed from the wetland area and disposed of on-site in an identified disposal area appropriate to prevent sedimentation of the wetland.

16. Wetland compensation (creating replacement wetlands) is a measure to mitigate adverse impacts on protected functions that will only be possible in rare cases for specific functions (see Section 8.5c of the Vermont

Wetland Rules). If a compensation plan is part of this proposal, demonstrate by narrative and reference to plans how the steps in Section 8.5c(1)-(7) will be met.

A compensation plan is not proposed as part of this project as no significant functions will be adversely impacted as a result of this project.

DISTRIBUTION

- 17. Submit the original request for conditional use determination to the Wetlands Office, Division of Water Quality, 103 South Main Street, 10 North, 2nd Floor, Waterbury, VT 05671-0408. Notification of receipt will be sent to the applicant once a complete application has been received by the Wetlands Office.

- 18. After receiving notification of completeness from the Wetlands Office, send a complete copy of the application to the Town Clerk and Regional Planning Commission. Also, send copies of the location map, a description of the specific action(s) for which conditional use determination is sought, the supporting narratives, and a listing of where complete copies of the request have been filed to:
 - a. the municipal planning commission and/or conservation commission; and
 - b. all persons owning property within or adjacent to the wetland or buffer zone (item 10. of the application).

SIGNATURES

- 19. I hereby certify that the information provided above or attached to this application is true and accurate to the best of my knowledge.

_____ (sign here) _____

Signature of Applicant Date

_____ (sign here) _____

Signature of Applicant's Representative Date