

November 20, 2013

The Village at Franklin Park Association, Inc.

C/O Marie McCarthy, President

216 Garden Circle

Saint Albans, VT 05478

Dear Ms. Kehne:

Thank you for this opportunity to comment on the proposed Assurance of Discontinuance agreement between the Natural Resources Board and GSD Development, LLC (GSD) and John Philip Gerbode. We are members of the Association Board representing the group of 26 homeowners who have purchased the 26 units that have been constructed on the site of the project referenced on Land Use Permit #6F0569.

We have been asking Mr. Gerbode and Ms. Samson, the owners of GSD and original controlling Association Board Members, to bring the project into compliance with the approved plans and exhibits that were approved and filed as part of their Land Use and other permits mentioned in the Assurance of Discontinuance from the beginning. Our concerns were raised at several meetings with the developer. We were told that everything was being done correctly. In 2010, at our Annual Meeting, the Association members elected a new Board (Diana Pillsbury, Marie McCarthy and Joan Wood), and Mr. Gerbode and Ms. Samson voluntarily left the Board. The new Board retained our Attorney, Mr. Daniel O'Rourke, to advise us on how to proceed. We then met with Mr. Gerbode, Ms. Samson, their attorney Mr. Michael Gawne and our Attorney, Mr. O'Rourke, in hopes of resolving some of the outstanding issues between GSD and the Association. There was no substantive outcome to the meeting.

In August, 2011, after episodes of flooding, collapsing pavement, etc., we hired an engineer, Mr. Justin Holmes of Pinnacle Engineering, PLC to review the project and give his opinion as to the conditions, causes and remedies of the deficiencies he discovered. We received his report November 14, 2011 (exhibit 1). During the course of his investigation we requested a number of documents and drawings from the developer and his engineer, Mr. Peter Cross of Cross Engineering. Some of the requested information was provided, most was denied.

Mr. Holmes then contacted Mr. John Wakefield and Mr. Tom Benoit sharing his report with them. They eventually came to the Development in July, 2012, met with Mr. Holmes to review his findings, and began the process of investigating the various permit violations on behalf of the State of Vermont.

During the summer of 2013, GSD had a contractor come in and attempted various repairs to the retention pond and the storm drains.

The draft Assurance of Discontinuance was provided to us for initial comment August 2, 2013 along with Mr. Gerbode's initial responses.

In September, Mr. Holmes came to the Development again and conducted a second investigation into the status of the various violations and to assess the quality and viability of the repairs made by GSD. I am attaching a copy of his report for your review (exhibit 2) which outlines the status of the existing and repaired infrastructure components, photos taken on September 12, 2013, and his comments. The work done was not adequate nor did it bring the sections repaired into compliance with the approved drawings or permits.

We are relieved to see that many of the violations discovered and documented by Mr. Holmes have been cited as violations in the Assurance of Discontinuance.

Our specific additional comments on the Assurance of Discontinuance, beyond those incorporated into Mr. Holmes' engineering reports, are as follows:

1. The Statement of Facts and Description of Violations Item 6 refers to the street lights. The Association members repeatedly paid contractors to come in and repair the street lights over the last few years. The fixtures were not installed correctly and would remain lighted for only a few weeks before they began to fail again. We asked GSD to repair or replace the lights repeatedly and were always told that the lights were complete as constructed and repairs were the financial responsibility of the Association. Last spring we were down to three working lights. We are an Association of retirees. One of the things we moved here for was security. We finally spent \$6,180.00 of Association reserve funds to replace the 17 lights and repair the wiring (exhibit 3a and 3b). One of the fixtures we installed replaced a light box installed by GSD that had nothing inside of it. It was never finished by the developer. We now have working streetlights and much smaller electric bills. We are requesting that the Court order the Developer to reimburse the Association \$6,180 for the cost of repairing and replacing their streetlights as one of the Agreement payment provisions in section D of the Agreement section.
2. On August 23, 2013 Mr. Peter Garceau, P.E. of Cross Consulting Engineers, P.C. provided Mr. Gerbode with a letter to the Town of St Albans "...providing written confirmation that all construction and/or repairs required under phase I of the project have been completed in agreement with the approved plans..." (exhibit 4). The purpose of this letter was to support Mr. Gerbode's request to the Town that they reduce his Town Building Permit Letter of Credit requirement from the \$100,000 established by the Development Review Board in the spring of 2013.

This \$100,000 Letter of Credit requirement was enacted by the town DRB after it was discovered that Mr. Gerbode had let his required bond lapse for two years. The lapse was discovered when a home in the development was being sold and town officials discovered the problem. The

Select board agreed to drop the Letter of Credit Requirement to \$10,000 based on Mr. Gerbode's misinformation and Mr. Garceau's inaccurate statement.

Mr. Holmes confronted Mr. Garceau about his statement and his summary of his conversation and communications are attached (exhibit 5).

We bring this up because the Assurance of Discontinuance Agreement items C. 2 and C.3 are, first optional, and second, require an engineer's certification of Compliance with the Operational Stormwater Permit and the Land Use Permit. We are requesting that regardless of GSD compliance with C. 1 that C.2 and C.3 must also be certified. We ask that the Certifications come from a firm other than Cross Engineering because of their questionable confirmation given to the Town of St. Albans on August 23, 2013.

On November 8<sup>th</sup>, 2013 Mr. Holmes further reinforced his concerns with the attached e-mail (exhibit 6) all which further clarifies his concerns about the content of the Assurance of Discontinuance as it is currently worded.

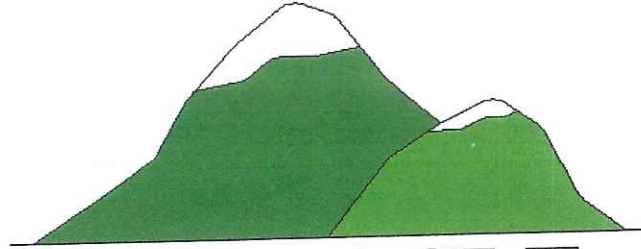
3. Item 24 in the Statement of Facts and Description of Violations mentions that the project is being foreclosed upon by the Peoples Trust Co. and both Respondents are in the process of declaring bankruptcy. We are assuming that this is why the civil penalty in the amount of \$19,800 listed in the Draft Assurance of Discontinuance was reduced to \$1,500 in the preliminary Assurance of Discontinuance. We believe it is inappropriate to reduce the penalty to accommodate the current financial condition of the respondents or any event in the future that may, or may not, come to pass. We ask that the Penalty be reinstated to a minimum of \$19,800 and that an appropriate payment plan be provided to the respondents to accommodate monthly payments to the State. Mr. Gerbode is still in the Real Estate Business and is selling property in the area (exhibit 6). He has an income and can be compelled to pay a fine that is pursuant to 10 V.S.A. Ch. 201. The State should not be held hostage for a smaller penalty amount because of bad business practices executed by the Declarants.
4. We would like a schedule of inspection to be imposed on the Department to ensure that Permit compliance is achieved and maintained. Our Association of 26 homeowners is currently paying the cost of landscaping, snow removal, insurance, utilities, repairs, etc. We simply do not have the resources necessary to continue hiring an Engineer to do the follow-up work on this project that should be done on a regular basis by the state or by an independent contractor hired by the state acknowledging the continuing lack of compliance that has occurred to date. The anticipated cost of this compliance certification should be incorporated into the Cost of Enforcement.

Respectfully submitted,

Marie McCarthy, Association President  
Joan Wood, Association Vice-President and Secretary  
Diana Pillsbury, Association Treasurer

Book Copy

EXHIBIT 1

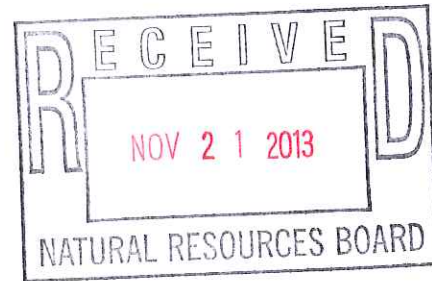


**PINNACLE  
ENGINEERING, PLC**

1475 Main Street, Sheldon, Vermont 05483  
(802) 782-5980 - [justin@pinnacle-vt.com](mailto:justin@pinnacle-vt.com)

November 14, 2011

Bergeron, Paradis & Fitzpatrick  
Attn: Mr. Daniel P. O'Rourke, Esq.  
34 Pearl Street, P.O. Box 174  
Essex Junction, Vermont 05453



**RE: Village at Franklin Park, St. Albans, VT**

Dear Mr. O'Rourke:

As you are aware, I have been asked by you and the Village at Franklin Park Homeowners' Association to review several aspects of the Village at Franklin Park elderly housing development located in the Town of St. Albans, VT.

It appears that all of Phase I and a portion of Phase II of the proposed "GSD Enterprises - Rocheleau Farm" development have been constructed. Construction has not commenced on Phases III and IV. The residents have concerns regarding the condition of the constructed portions of the stormwater system, sidewalks and other onsite features that appear to be deficient. I agreed to review their concerns and offer my opinion as to the conditions, causes and remedies of the deficient areas. The following is a summary report of my findings.

**Stormwater Drainage Structures**

An alarming number of the catch basin structures within paved areas are showing signs of settlement of immediately adjacent backfill material. This is evidenced by the following:

- On the day of my site visit, August 20<sup>th</sup>, settlement around two catch basins had resulted in holes in the asphalt. Several others showed significant depressions around the catch basin structure that may over time result in holes and others showed slight depressions. Holes in the asphalt are obviously hazardous, but even

the slight depressions can result in dangerous icing during the winter months. These issues are particularly concerning in an elderly housing development.



- The storm pipes have settled and deformed near at least one of the catch basins. This may result in pipe failure over time.
- Some pipe penetrations into the catch basins have settled and gaps have formed between the pipes and the grout. This may result in washing of fine materials around the structure and eventually undermining of the pipe and roadway.



- In several areas, particularly around the catch basin structures, curbs have settled resulting in uneven curb elevations and cracking of the curbs.



to be greater than the maximum allowable of ¼” or ½” (depending on beveling). Also, the sidewalks are cracked in several places. This would not be expected in a new development and may be related to the compaction issue discussed above.



### Erosion Control

During my site visit I also noted an unusual amount of sediment buildup in the 3-foot sumps of the catch basins and within the stormwater piping. Some of the sediment included relatively large rocks that could not have entered the system through the stormwater grates.



While I realize that a majority of the site is currently stabilized with grass regrowth, I witnessed no effort to limit further sediment runoff from areas where the soil was disturbed. There was no evidence of catch basin inlet protection as specified in Detail 2 on Sheet S-22. The stockpiled materials were not protected with a perimeter silt fence, and the stockpile had not been mulched as would likely be required by the Construction General Permit.



### Drainage Swales

The Homeowners' Association also asked me to give my thoughts on the issues related to the stormwater drainage swale located along the western edge of the property. The swale appears to have very little pitch (less than 0.5% slope according to the design drawings).

- One section of sidewalk adjacent to a catch basin is hollow underneath. This will result in failure and cracking of the sidewalk over time.

It is my opinion that the above deficiencies are caused by inadequate compaction of bedding and backfill materials around the stormwater structures and associated piping. Details 3 and 4 on Sheet S-19 of the approved plans prepared by Cross Consulting Engineers, P.C. refer to the specifications for proper material and compaction requirements. This is a reference to "Section 02225 – Trenching" and "Section 02722 – Site Storm Sewerage and Underdrain Systems." We were unable to obtain a copy of Section 02722 from Cross Consulting; however Section 02225 requires the use of "sand bedding" and "drainage stone and miscellaneous native fill" and clearly states that areas under and within 36" of structural (paved) areas "shall be compacted to 95% of maximum Modified Proctor density in 12 inch thick lifts." If the areas around the catch basins and associated piping had been compacted to 95% of Modified Proctor the existing signs of settlement would not exist.

During my inspection I noted that the stormwater piping for several catch basins was significantly lower than shown on the plans I was provided (particularly the Drainage Summary on Sheet S-19 dated 3/29/04). I discussed this with Cross Consulting Engineers, P.C. and learned that the stormwater piping had been lowered. I was forwarded a copy of Sheet S-19, revised 1/18/05, showing undated pipe information. Based on the date of the plan revision, this change occurred after the stormwater permit was issued (10/6/04). Changes to the pipe elevations will result in a change in system hydraulics. It is not known at this time if revised stormwater calculations were performed and if the revised information was forwarded to the State.

### Sidewalks

During my inspection I also noted that there is no grass strip between the sidewalk and roadway curb along Garden Circle as shown on the approved plans. The grass strip is provided elsewhere onsite but not in this area. The grass strip provides an additional factor of safety for elderly people travelling on foot, with walkers and by wheelchairs and motorized chairs. Without the grass strip there is an increased likelihood of a fall over the curb resulting in injury.

I also noted that some sidewalk handicap ramps are steeper than 1:12 specified on the approved plans and required by the Americans with Disabilities Act (ADA). Some changes in elevation along the sidewalk and at the intersections with the curb and asphalt appear



It is my understanding that the homeowners had expressed concerns with pooling water during storm events and subsequently a French drain was installed along the centerline of the swale utilizing stone and pipe. While I agree that installing the French drain is a good solution to eliminate standing water in swales with little slope, I have concern that the elimination of the grass-lined swale may result in a permit violation *if* the grass-lined swale was required to treat stormwater runoff as part of the original stormwater design and permit. I have not reviewed the submitted stormwater permit application materials to offer any further opinion.

### **Recommended Solutions**

The following is a list of recommendations for solutions to the above-noted deficiencies.

- Any catch basin showing evidence of adjacent settlement should be reconstructed to the original specifications. This would include removal and resetting of the catch basin structure, as well as removal and replacement or adjacent piping, paving, curbing and sidewalks. If left in place, this settlement will likely continue over time resulting in further failures.
- Uneven and cracked curbs and sidewalks should be removed and reconstructed in accordance with the original specifications.
- The sidewalk adjacent to Garden Circle should be removed and reconstructed with a grass strip between the new sidewalk and roadway curb as shown on the original plans.
- Sidewalks and ramps not meeting ADA requirements for slope and changes in elevation should be removed and reconstructed in accordance with the original specifications.
- Disturbed areas should immediately be temporarily stabilized in accordance with wintertime construction practices and silt fence should be added to the lower limit of disturbance.
- Sediment accumulated in the catch basin sumps and stormwater piping should be removed.
- Catch basin inlet protection should be added to all inlets that may receive runoff from disturbed areas.
- There are enough discrepancies between the design drawings and the constructed features and utilities to warrant the preparation of a set of As-Built drawings, if a set does not already exist.
- If the original stormwater design and permit required the treatment of runoff within the grass-lined swales approval from the State should be sought to allow the French drain conversion. If not granted an alternate solution may be required.



### **Additional Information**

If you wish to further investigate these issues it would be beneficial to obtain copies of the following:

- All Specifications for the project developed by Cross Consulting Engineers, P.C.
- The State stormwater permit application submittal including all supporting information and calculations.
- Revised stormwater calculations performed after the stormwater piping was lowered.
- The Individual NPDES and/or State General Construction Permit application and all supporting information and calculations.

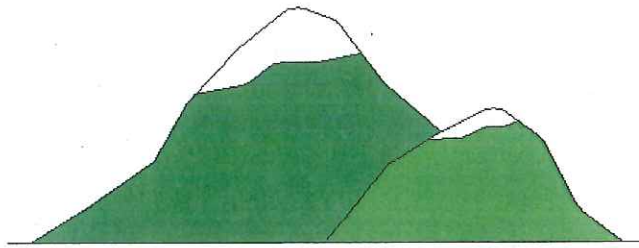
I hope the above information is helpful to you and the Village at Franklin Park Homeowners' Association. Upon your review of the enclosed, should you have any questions or require additional information, please contact me at 802-782-5980 or [justin@pinnacle-vt.com](mailto:justin@pinnacle-vt.com).

Sincerely,  
**PINNACLE ENGINEERING, PLC**

Justin T. Holmes, P.E.  
Member

cc: Village at Franklin Park Homeowners' Association

Exhibit 2

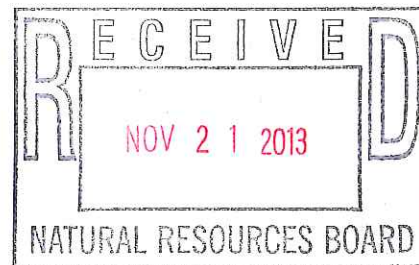


**PINNACLE  
ENGINEERING, PLC**

189 Maple Drive, Georgia, Vermont 05478  
Phone: (802) 782-5980 – [justin@pinnacle-vt.com](mailto:justin@pinnacle-vt.com)

September 14, 2013

Village at Franklin Park Homeowners' Association  
Joan Wood, Treasurer  
213 Garden Circle  
St. Albans, VT 05478



**RE: Assurance of Discontinuance Comments  
GSD Enterprises, Inc. – GSD Development, LLC  
Village at Franklin Park, St. Albans, Vermont**

Dear Ms. Wood:

Per your request with regard to the above referenced project, I have reviewed the Assurance of Discontinuance and visited the development again to review current site conditions. I offer the following comments:

**Statement of Fact #7 – End Section**

With regard to the end section into the forebay, it is my opinion that an HDPE end section may have an advantage in corrosion resistance, but a metal end section is tougher and more resilient. Either may be acceptable for this application, but both require proper installation to function properly. When the damaged end section and accumulated sediment were removed, it appears the Type III stone fill riprap may have also been removed. This should be replaced immediately to limit potential erosion at the pipe outfall.

**Statement of Fact #8 – Booted Connections**

I address this issue under my response to Statement of Fact #25.

**Statement of Fact #9 – Recharge Swale**

With regard to the stormwater swale located along the western property line, the respondent's claim that "Permit 3604-9015 requires approximately 16 linear feet of properly constructed grass channels to meet

the recharge requirement” is not correct. The applicant took advantage of the Grass Channel Credit to meet the recharge requirement in accordance with Section 3.5 of the *Vermont Stormwater Treatment Standards* in effect at the time. A condition of taking this credit is that the length of the channels must be equal to the length of the roadways. That is why 4,000 linear feet of swales were originally designed and permitted.

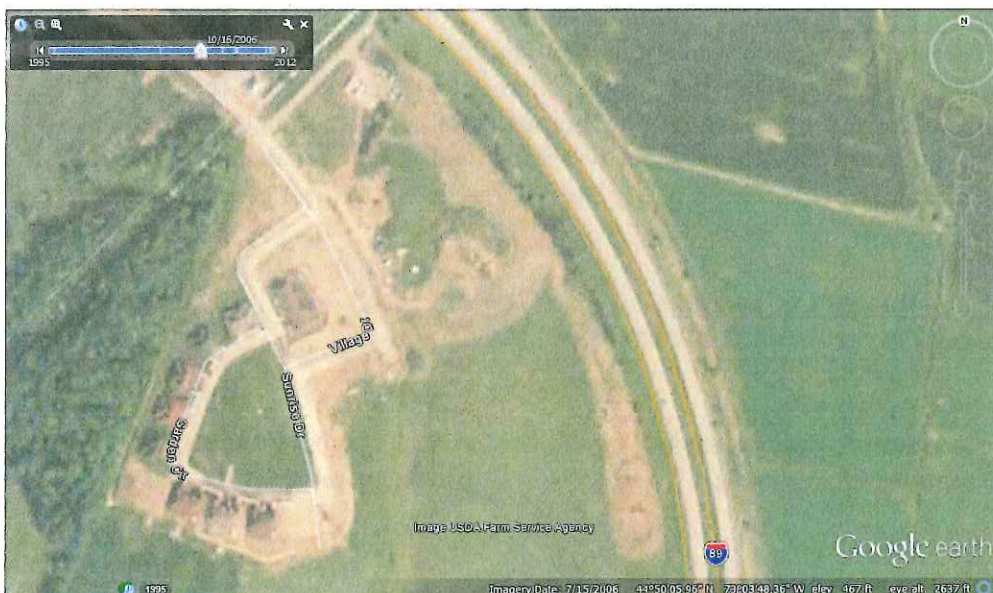
As we reviewed in the previous report there are additional concerns with the western swale. It is likely the 6” drainage pipe and crushed stone decreases the amount of standing water thus reducing the threat of mosquitos around the residences, but it certainly is not beneficial hydraulically in larger storms. Although the rules allow for swales to be designed to accommodate the 10-year storm event, a swale at the rear of residences should be designed for the 100-year storm event plus sufficient freeboard to account for accumulation of sediment and potential buildup of snow and ice (i.e. cold considerations). I’m sure you and your neighbors would not find it acceptable to have your houses flooded every 10 years. Residents already experience threatening water during heavy rainfall events, and upon construction of Phase IV additional runoff will be directed toward this swale according to the design.

Please note that the design drawings include a Typical Swale Section (Sheet S-19) with a minimum bottom width of 2’ and side slopes of 4’ horizontal to 1’ vertical. The grading design shows side slopes of 3’ horizontal to 1’ vertical (Sheets S-2 and S-3) though there appear to be problems with the contouring at the rear of units 412 and 414. Based on my field measurements the swale at the rear of Garden Circle was constructed with a 1’ bottom width and much steeper side slopes (2’ horizontal to 1’ vertical). This certainly reduces the hydraulic capacity of the swale and contributes to the high water problems the homeowners have experienced.

This swale should be redesigned and reconstructed to protect the residents from future flooding and meet permit requirements.

### **Statement of Fact #22 – Erosion Control**

Based on my observations over the last two years, the sediment in the stormwater system is a result of absent and inadequate erosion control measures. I did not observe any inlet protection or silt fencing. Available aerial photography from July of 2006 shows a majority of Phase I and part of Phase II residences erected yet a majority of the disturbed areas have little or no vegetation.



I've also included a couple photos that demonstrate your point about a lack of seeding of disturbed areas. These show typical weedy vegetation on previously disturbed areas on-site.



Additionally, even though some sediment has been removed from the catch basin sumps there are still several pipes containing rocks and sediment (observed in pipe segments CB 37 to CB 55, CB 37 to CB 36, CB 36 to CB 30, CB 28 to CB 29, CB 29 to CB 30, though there may be others). The photos immediately below and later in this letter illustrate this.



**Statement of Fact #23 – Forebay Inlet**

As of my most recent site visit, 9/12/13, the new end section had not been installed. (See photo below)



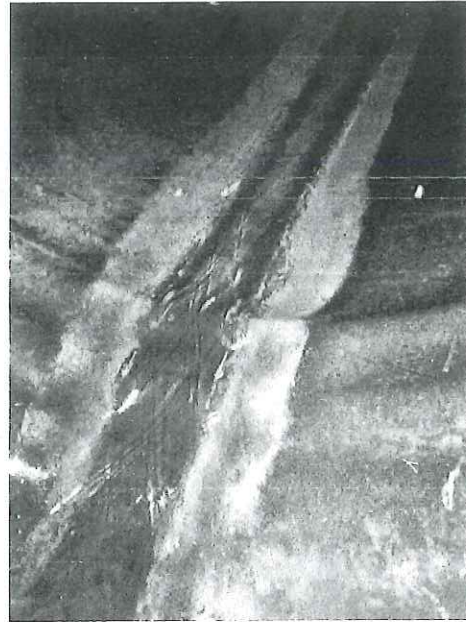
**Statement of Fact #24 – Topsoil**

The respondent admits that topsoil from the development is being removed from the site. There is a significant volume of topsoil that has already been removed from the site, and it is likely the developer plans to remove additional topsoil from the remainder of the area to be developed. Topsoil is considered an earth resource and extraction of significant volumes is subject to Act 250 review under Criteria 9E. The Act 250 permit application stated that Criteria 9E was not applicable to the project. If the developer plans to continue removal of topsoil from the site it would appear an amendment should be filed that includes a plan to minimize impacts to neighboring land uses and the environment.

**Statement of Fact #25 – Stormwater Construction Issues**

One of the major construction issues within this development is the problem of settlement of the areas adjacent to catch basins. The main reason for this is a lack of adequate compaction of material around catch basins and under drainage pipes. This has resulted in the creation of depressions and sinkholes at numerous catch basins. The developer has attempted to patch the asphalt in these areas, but this is a temporary fix that only masks the underlying problem. Beneath the surface several pipes are beginning to fail just outside the catch basins (CB 37 and CB 41 are particularly bad and worse than I observed just two years ago). There are several others that I was not able to inspect due to their depth below grade.





On inspection it is obvious at these locations that the material beneath the pipes immediately outside the catch basin was not properly compacted. The design drawings refer to specifications for requirements regarding compaction of backfill. Cross Consulting Engineers, P.C. supplied us with specifications for Trenching (Section 02225), Site Water Lines (Section 02667) and Site Sanitary Sewerage Systems (Section 02732), but according to Mr. Garceau they were unable to locate the specification for the Site Storm Sewerage and Underdrain Systems (Section 02722). The specification for Trenching calls for "compaction to 95% Modified Proctor density" "under structural areas and within 36" of structural areas." I've included a copy of these specifications. I've also included Advanced Drainage Systems (ADS) Technical Note 5.04 regarding *HDPE Connections to Manholes and Structures*. ADS is believed to be the manufacturer of the HDPE piping utilized on this project. Their details also specifically state "Performance highly dependent on installation. Contractor must insure manhole gasket is uniformly seated around structure adapter. Extra precautions must be taken to prevent differential settlement between pipe and manhole." If the piping and catch basins had been installed with proper compaction in accordance with the design drawings, specifications and manufacturer specifications the HDPE pipes would not be failing.

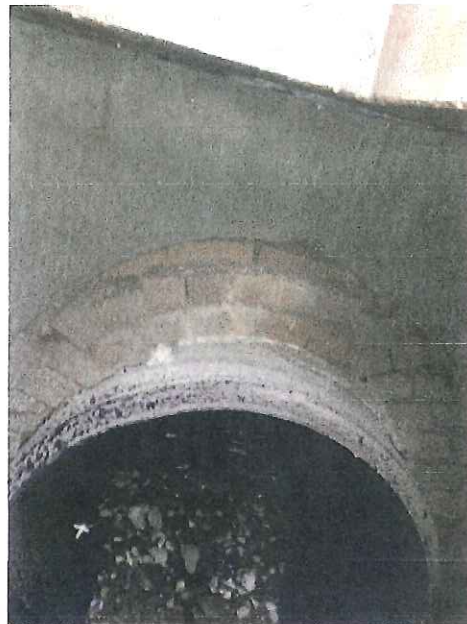


Additionally settlement was observed along the pipes to and from CB 55.

Another issue with the catch basins is the seal around the pipe penetrations. Based on my field inspections the joints sealed with neoprene boots appear to be performing better than the joints with brick and mortar. The booted connections allow for slight movement of the pipe without failure of the joint. The brick and mortar connections do not. Several of the brick and mortar connections show differential settlement and cracks around the pipe allowing for seepage of water and sediment.



A coarse sandy material was observed entering catch basins through a few of these cracks. Some of the pipe to catch basin connections (CB 30, CB 29 and CB 28) appear to be brick with little or no mortar.



The Typical Catch Basin detail (Sheet S-19) calls for the contractor to “Install Neoprene Boot at Each Penetration”. This appears to indicate that a watertight connection is desired as opposed to a soil tight connection. Booted connections are the gold standard for HDPE penetrations of concrete catch basins. The manufacturer recommendations attached do not allow for brick or brick and mortar connections. They do allow for a non-shrink grout in soil tight applications. Several municipalities including Colchester, Vermont require booted connections for all storm pipes 6” and larger. I’ve included a copy of their standard detail. Some of the on-site catch basin pipe penetration holes simply appear to be of the wrong size for the pipes seated in them.

Many of the existing on-site connections are not properly constructed. The cracks discussed above allow sediment to wash from around the sides of the pipes and catch basins resulting in void spaces and further sinkholes. Booted connections are far superior to grouted connections due to their flexibility, resiliency and minimal maintenance requirements. I assume this is why Cross Consulting included them in the approved design. I recommend that all deformed pipes be replaced and all catch basins with



inadequate connections be properly reconstructed or replaced with catch basins that contain the specified neoprene boot connections.

Additionally, it is understood that changes to horizontal and vertical alignment of utilities often are necessary during construction to accommodate unexpected obstacles. Based on my past conversation with Mr. Garceau of Cross Consulting, changes were made during construction of the storm sewer for this project resulting in several pipe elevations being lowered. It is correct for the Homeowners' Association to request and receive as-built drawings and calculations for any portion of the project they are expected to maintain prior to taking on that responsibility. A copy of these should also be supplied to the State.

Please note that all photos utilized in this letter were taken during my site visit 9/12/13. As I mentioned in my previous report, there are other site construction issues that remain to be addressed (including issues with curbs, sidewalks, handicap ramps, etc.), but these are my comments as they relate to the Assurance of Discontinuance.

Upon your review of the enclosed, should you have any questions or require additional information, please contact me at 802-782-5980 or [justin@pinnacle-vt.com](mailto:justin@pinnacle-vt.com).

Sincerely,

**PINNACLE ENGINEERING, PLC**

Justin T. Holmes, P.E.  
Owner/Manager

Attachments: ADS Technical Note 5.04 – HDPE Connections to Manholes and Structures  
CCE Specifications 02225, 02667 and 02732  
Town of Colchester Figure 4.1

Exhibit 3a

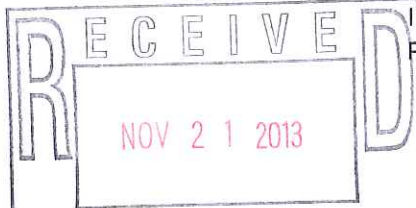
**Griffiths Family Electrical, Inc.**

DBA No. Electrical Contractors  
81 Sleepy Hollow Road  
Essex Junction, VT 05452

**INVOICE**

Invoice Number: 996  
Invoice Date: Aug 20, 2013  
Page: 1

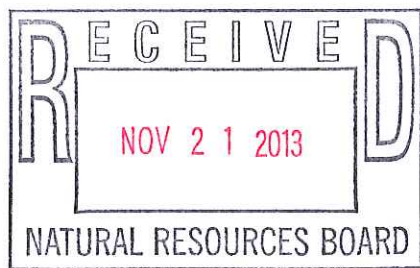
802-893-1859  
Voice: 802-899-1859  
Fax: 802-899-1859



|   |   |
|---|---|
| <b>Bill To:</b><br>Village At Franklin Park<br>Attn Joan Wood | <b>Ship to:</b><br>Village At Franklin Park<br>Attn Joan Wood |
|---|---|

|                                     |  |                                       |                            |
|-------------------------------------|--|---------------------------------------|----------------------------|
| <b>Customer ID</b><br>Franklin Park | <b>Customer PO</b><br>Parking lot fixts. | <b>Payment Terms</b><br>Due Upon Rec. |                            |
| <b>Sales Rep ID</b>                 | <b>Shipping Method</b>                   | <b>Ship Date</b>                      | <b>Due Date</b><br>8/20/13 |

| Quantity | Description  | Unit Price | Amount   |
|----------|--|------------|----------|
|          | Labor & material for installing 17 fixtures in the parking lot according to quote #113 5/13/2013.<br>Thank You |            | 6,180.00 |



|                        |                 |
|------------------------|-----------------|
| Subtotal               | 6,180.00        |
| Sales Tax              |                 |
| Total Invoice Amount   | 6,180.00        |
| Payment/Credit Applied |                 |
| <b>TOTAL</b>           | <b>6,180.00</b> |

Check/Credit Memo No:

6 →

# Exhibit 3b

Griffiths Family Electric Inc.  
120 Catamount Drive  
Milton, VT 05468

September 13<sup>th</sup>, 2013

Joan Wood  
Village at Franklin Park Assn.  
112 N Main St, Ste. 1  
Saint Albans, VT 05478  
802-524-5724

Dear Joan Wood:

We found an underground splice box with too much corrosion on the wires. Out of 20 lights only 1 was working in the project. The repair of the fixtures would have been more costly than to replace them with new energy efficient fixtures with rebates. We had to relocate light control closer to power source eliminating voltage drop on wire feeding the main pole lights. The lights that were there were too old school. The previous lights were accepted by the state, but were not energy efficient rated. They were too costly to repair and too maintain. The old fixtures had a very poor lay out design. They should have had a consolidation of all lighting on 1 meter. They are paying for meter rents that are not required. Please let us know if you need any more information. Thank you.

Sincerely,

Griffiths Family Electric Inc.  
Stephan Griffiths  
802-893-1859  
120 Catamount Drive  
Milton, VT 05468

Exhibit 4



**CROSS CONSULTING ENGINEERS, P.C.**

Peter H. Cross, P.E., L.S.  
President

103 Fairfax Road, St. Albans, Vermont 05478-6271 • Tel. : 802.524.2113 • Fax: 802.524.9681  
E-mail: pcross@crossconsultingengineers.com

August 23, 2013

Town of St. Albans  
P.O. Box 37  
St. Albans Bay, VT 05481

Attn: Becky Bushey, Zoning Administrator

Subject: Village at Franklin Park  
Permit #13-01-11-1529

File: 01019/7

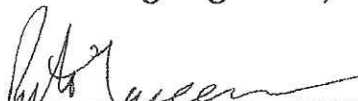
Dear Becky:

As required under condition #2 of the subject permit, this letter is to provide the Town of St. Albans written confirmation that all construction and/or repairs required under "phase I" of the project have been completed in agreement with the approved plans. If you have any questions, please don't hesitate to contact me.

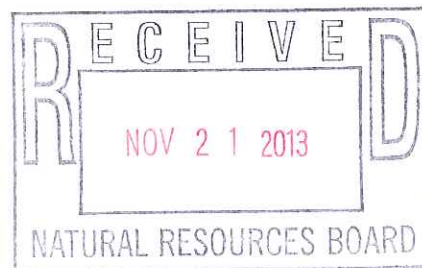
Sincerely,

**Cross Consulting Engineers, P.C.**

By

  
Pete Garceau, P.E.

\\R:\2001\01019\Town of St. Albans Cor\Phase I Completion.doc  
PG/jbl  
cc: J. Philip Gerbode



# Exhibit 5

XFINITY Connect

jwood570@comcast.net

+ Font Size -

## FW: Phil Gerbode letter of credit question

**From :** Justin Holmes <justin@pinnacle-vt.com>  
**Subject :** FW: Phil Gerbode letter of credit question  
**To :** 'Peter Garceau' <PGarceau@crossconsultingengineers.com>

Tue, Oct 15, 2013 03:12 PM

1 attachment

Hello Pete,

As a courtesy I've included some emails below that pertain to the 8/23/13 certification letter. It sounds like our difference of opinion is over whether the infrastructure is constructed or whether the infrastructure is constructed properly. As you stated on the phone you were certifying that the infrastructure was constructed, not that it was constructed properly. I understand that GSD did not pay you to observe construction, but it is our responsibility as engineers to adequately inspect a site prior to certifying it. There were and continue to be numerous known issues with the stormwater system. It is the Town's opinion you were certifying that the infrastructure was constructed properly...

Justin T. Holmes, P.E.

**PINNACLE ENGINEERING, PLC**  
 189 Maple Drive  
 Georgia, Vermont 05478  
[justin@pinnacle-vt.com](mailto:justin@pinnacle-vt.com)  
 (802) 782-5980

**From:** "Becky Perron" <sat zoning@comcast.net>  
**To:** jwood570@comcast.net  
**Sent:** Monday, September 30, 2013 8:06:43 AM  
**Subject:** RE: Phil Gerbode letter of credit question

Joan,

I've attached the letter for you.

Becky

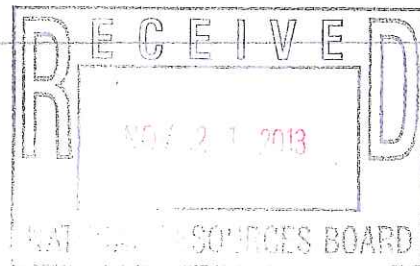
**From:** "Becky Perron" <sat zoning@comcast.net>  
**To:** [jwood570@comcast.net](mailto:jwood570@comcast.net)  
**Sent:** Thursday, September 26, 2013 10:43:50 AM  
**Subject:** RE: Phil Gerbode letter of credit question

Hi Joan,

I just tried to call you & left a message. I'm sorry you feel that we are not doing what we can or are standing behind any one individual in particular.

When the DRB speaks about infrastructure that requires a bond or letter of credit, they are only talking about infrastructure that may become public (i.e. water lines, sewer lines, roads if they are going to be requested to be taken over by the Town). The letter of credit is in place only to make sure that what is completed is habitable. It really isn't to finish anything except basics should the development be left without water, sewer, access to the homes they have purchased; things like that. The DRB required that a "registered engineer" provide the certification so that there is a protection in place should someone certify something that is not accurate. A registered engineer's license is on the line when they issue a certification. The DRB took into account this testimony and evidence and wanted to make sure that that protection was in place since they are not engineers. I do not believe I said that the DRB did not receive anything, just that you presented evidence and were having your engineer complete more detailed work. The DRB members are not engineers and make their decision's based upon the evidence and testimony they are presented with.

Beyond the protection of the engineer's license is the right of any interested party to appeal the Development Review Board's decision within 30 days of the date of the decision to the Superior Court, Environmental Division for a new hearing on the application before a



Judge.

Please let me know if I can explain or answer any more questions for you.

Becky

On Sep 25, 2013, at 11:07 AM, "Carrie Johnson" <[satownmanager@comcast.net](mailto:satownmanager@comcast.net)> wrote:

Becky states that at the DRB hearing the homeowners told the DRB that the HO association was getting another engineer to review the site. The DRB basically said they had the required certification letter from the engineer and would make a decision based on that requirement. It's not within their framework to consider making a decision and decide which engineer to trust. This appears to be a civil matter since it's a difference of opinion between two engineers. Phil will need to resolve the issues with the state stormwater permit and the HO association before he can move to phase 2. Phil's engineer (cross) appears to disagree with the HO engineer but the issues should be able to be resolved, and they have \$10,000 in a LOC remaining. Hope this clears it up some, if not please feel free to call Becky for clarification – the SB took the advice of the DRB and ZA who appear to be operating within the regulations. Carrie

---

**From:** Becky Perron [<mailto:satzoning@comcast.net>]  
**Sent:** Wednesday, September 25, 2013 10:13 AM  
**To:** 'Karen Drennen'  
**Cc:** Carrie Johnson; 'Bernie Boudreau'  
**Subject:** RE: Phil Gerbode

Hi Karen,

The Selectboard did not reduce the letter of credit, they released the original letter of credit so that the DRB approved reduction could be received by the Town.

GSD came before the Development Review Board requesting a reduction in the letter of credit for Phase I of the development. The DRB agreed to reduce the letter of credit from \$100,000.00 to 10% or \$10,000.00 upon receipt of a certification letter from a registered engineer stating that all infrastructure has been completed as per the DRB approved plan. This decision is dated April 2, 2013. The certification letter was provided to the Town by Cross Consulting Engineers on August 23, 2013 stating that "all construction and/or repairs required under "phase I" of the project have been completed in agreement with the approved plans."

Let me know if you have any other questions.

Becky

---

**From:** Karen Drennen [<mailto:snowflake55@myfairpoint.net>]  
**Sent:** Tuesday, September 24, 2013 7:41 PM  
**To:** [satzoning@comcast.net](mailto:satzoning@comcast.net)  
**Subject:** Phil Gerbode

Becky,

Today's Messenger reported the selectboard lowered Phil's letter of credit from \$100,000 to \$10,000. Is this the bond? If so why did it go before the selectboard? Why weren't we notified? Who determines that the infrastructure is complete? I have to work from 9-5 on Wednesday, but I will try to call.

Thank you in advance,

Karen



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56 KB

# Exhibit 6

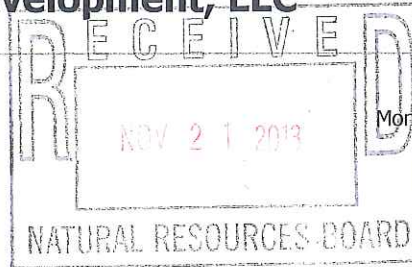
XFINITY Connect

jwood570@comcast.net

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## RE: NRB v. Gerbode and GSD Development, LLC

**From :** Justin Holmes <justin@pinnacle-vt.com>  
**Subject :** RE: NRB v. Gerbode and GSD Development, LLC  
**To :** jwood570@comcast.net



Hello Joan,

Attached are my comments concerning the Assurance of Discontinuance for NRB v. Gerbode and GSD.

### Under "Statement of Facts and Description of Violations"

Item #8 – It should be noted that in addition to the neoprene boots the construction plans were not followed regarding proper compaction around stormwater piping adjacent to the catch basins. Several pipes are failing and need to be replaced.

Item #21 – If not addressed under #8, the need to replace failing (deflected/squashed) piping should be addressed here. In addition sediment in pipes and grass swale side slopes should be addressed here. Item 21 should be amended as follows (bold where modified):

21. GSD Development, LLC has coverage under an Operational Stormwater Permit (3604-9015) but is not in compliance with said permit based on catch basin issues (settling sinkholes **and failing/deflected piping** around many of them), some of the grass swales being converted to stone and/or lined with drainage pipe, **improperly constructed grass swales (side slopes too steep and bottom widths too narrow)** and general maintenance issues (sediment in catch basins, **piping, ponds, and forebays, and improperly maintained grass swales (bottom widths)**).

### Under "Agreement"

Item A. – The correct Land Use Permit # should be referenced.

Item C. – I agree with your comment that C.1, C.2 and C.3 should be an AND, not an EITHER requirement. I understand that the respondent may wish to bring some violations into compliance by amending their permit, but just because they file an amendment for some issues should not mean that other issues are not addressed/repaired/reconstructed, then inspected and certified.

Also, the certifying engineer should have all homeowner complaints available to them so they can properly inspect known issues. Items C.2 and C.3 are pretty vague as far as what the engineer is actually certifying. As an example, Condition 1 of the LUP requires construction and maintenance to be performed in accordance with the plans and exhibits. In theory the certifying engineer should review the Landscape & Lighting Plans (Exhibits 34-36) versus the site to verify that all trees were installed and have survived (they have not...). I doubt that this will happen, and I doubt this is what the NRB intends by this requirement. Clarification is required.

Lastly in C.3 the correct Land Use Permit # should be referenced.

Please forward this along to others as you see fit.

Justin T. Holmes, P.E.

### **PINNACLE ENGINEERING, PLC**

189 Maple Drive  
 Georgia, Vermont 05478  
[justin@pinnacle-vt.com](mailto:justin@pinnacle-vt.com)  
 (802) 782-5980

**From:** "Melanie Kehne" [Melanie.Kehne@state.vt.us](mailto:Melanie.Kehne@state.vt.us)  
**To:** "jwood570@comcast.net" <jwood570@comcast.net>, "Marie McCarthy" <missmccarthy@comcast.net>, "Diana and Leo Pillsbury" <djpills@yahoo.com>, "Dan O'Rourke" <dorourke@essex.bpflegal.com>, caroljim111@myfairpoint.net  
**Sent:** Sunday, October 27, 2013 4:31:21 PM  
**Subject:** NRB v. Gerbode and GSD Development, LLC

Here is the final proposed Assurance of Discontinuance, which will be posted on our [website](#) tomorrow for a 30-day public comment

period. During that time, you may comment via email by scrolling down to this Assurance and clicking on "submit comment." Please feel free to share this with anyone else who may be interested.

After the 30-day period ends, the Board reviews any comments and determines whether to file the Assurance and any comments with the Court, or whether to vacate or modify the Assurance. Modification would require new negotiations, and, if those negotiations succeed, another 30-day notice and comment period.

If I can provide any additional information, please let me know. Thank you for your interest in this environmental enforcement matter.

Best regards,  
Melanie

**Melanie Kehne**  
General Counsel  
Vermont Natural Resources Board  
802.828.3305

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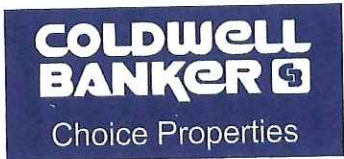
EXHIBIT 7

Just Sold!



751 Sheldon Road, St. Albans

I'm happy to report that I have sold a property in your neighborhood and I need more inventory to sell. If you know of anyone interested in selling or buying, please give me a call on my cell phone 802-309-3353 or send me an email at [jggerbode@comcast.net](mailto:jggerbode@comcast.net). Thank you.



Phil Gerbode  
REALTOR

(802) 524-9526  
(802) 309-3353

[jggerbode@comcast.net](mailto:jggerbode@comcast.net)

[www.vermontchoiceproperties.com](http://www.vermontchoiceproperties.com)



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Phil Gerbode

REALTOR

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(802) 524-9526

[jggerbode@comcast.net](mailto:jggerbode@comcast.net)

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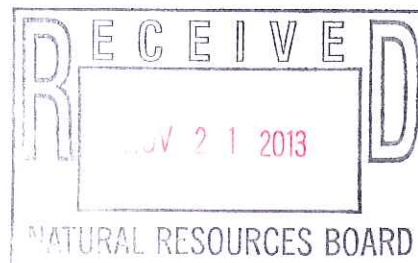
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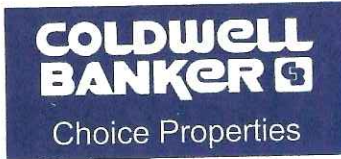
JOAN WOOD  
OR CURRENT RESIDENT  
213 GARDEN CIR  
SAINT ALBANS VT 05478-4439



# Just Sold!

751 Sheldon Road, St. Albans

I'm happy to report that I have sold a property in your neighborhood and I need more inventory to sell. If you know of anyone interested in selling or buying, please give me a call on my cell phone 802-309-3353 or send me an email at [jpgerbode@comcast.net](mailto:jpgerbode@comcast.net). Thank you.



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REALTOR

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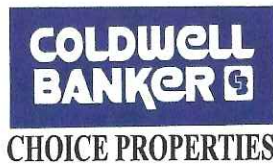


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## Phil Gerbode

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