

## Notice of Appeal

The Town of Pomfret appeals to the Pomfret Zoning Board of Adjustment the Administrative Officer/Zoning Administrator's determination letter dated April 28, 2017 (hereinafter the "Determination"), granting a request submitted in a letter from Peter DesMeules on behalf of Chippers (hereinafter the "Applicant") dated April 14, 2017, for the property located at 1241 Pomfret Road. Copies of the Determination and the letter dated April 14, 2017, are attached. The subject property consists of a 7.7-acre parcel of land on the westerly side of Pomfret Road.

Pursuant to 24 V.S.A. section 4465(b)(2), the Town of Pomfret is an interested person with standing to appeal because the Pomfret Zoning Ordinance is at issue and because the Administrative Officer exceeded his authority by making and issuing the Determination.

The Town of Pomfret requests that the Zoning Board of Adjustment grant it the following relief:

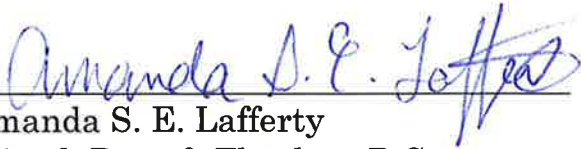
1. Declare the following:
  - A. The Administrative Officer lacked authority to issue the Determination and to make the determinations therein, without first referring an application for the proposed location of the uses, the storage and processing of wood, on the subject property to the Zoning Board of Adjustment for review under Part 7 and Section 11.3 of the Pomfret Zoning Ordinance, as required by Sections 7.1 and 10.2.3 of the Pomfret Zoning Ordinance, and
  - B. The Zoning Board of Adjustment's Findings and Decision dated May 19, 2016, in Application #ZP16-05, which incorrectly states that the uses proposed in Application #ZP16-05 are "grandfathered," does not grant the Administrative Officer any authority to issue the Determination, or to make the determinations therein, without first referring to the Zoning Board of Adjustment an application for the proposed location of the uses on the subject property for review under Part 7 and Section 11.3 of the Pomfret Zoning Ordinance, and

2. Deem the Determination void and without effect, and
3. Deny the Applicant's request in the letter dated April 14, 2017.

**DATED** at Burlington, Vermont this 12<sup>th</sup> day of May 2017.

TOWN OF POMFRET,  
by and through its attorneys,  
Stitzel, Page & Fletcher, P.C.

By:

  
Amanda S. E. Lafferty  
Stitzel, Page & Fletcher, P.C.  
P.O. Box 1507  
171 Battery Street  
Burlington, VT 05402

# DESMEULES, OLMSTEAD & OSTLER

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TELECOPIER (802) 649-2232

April 14, 2017

Preston Bristow, Zoning Administrator  
Town of Pomfret  
5218 Pomfret Road  
North Pomfret, VT 05053

**Re: Chippers/Dismissal of Environmental Division Action/  
Request for Determination**

Dear Preston:

I am writing on behalf of Chippers, Inc.

Attached is the Environmental District's Dismissal of Docket No. 162-12-16 Vtec. The Environmental District no longer has jurisdiction over this matter.

As determined by and set forth in the March 20, 2017 Findings and Decision of the Zoning Board of Adjustment (attached), jurisdiction over this matter has reverted to you as Zoning Administrator.

Accordingly, this letter requests, now that you have the necessary jurisdiction and authority, that you reissue your January 6, 2017 "Determination" (copy attached), as previously requested by Chippers (see letter from Mundy Wilson Piper to you dated December 27, 2016 attached).

I point out the following:

The Findings and Decision of the Pomfret Zoning Board of Adjustment dated May 19, 2016 are now final and binding on all parties because the only appeal has been dismissed;

The lands and premises on the easterly side of the Pomfret Road, where Chippers' log pile was formerly located, have been sold by the William A. Russell Trust to Hudson Holland.

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. DesMeules". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peter J. DesMeules

PJD:apc

Enclosures

cc: Ryan Kane, Esq. (w/o enclosures)  
Paul Gillies, Esq. (w/o enclosures)

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**Town of Pomfret**  
**Zoning Administrator**  
**5218 Pomfret Road**  
**North Pomfret, VT 05053**

April 28, 2017

Peter J. DesMeules  
DesMeules, Olmstead & Ostler  
P.O. Box 1090  
Norwich, VT 05055

**Determination regarding log storage and firewood processing on lands of the William A. Russell, Jr. Trust (Parcel ID #0500-A) west of Pomfret Road**

Dear Peter:

I am responding to your letter to me of April 14, 2017 written on behalf of Chippers, Inc., requesting that I reissue my Determination of January 6, 2017 as previously requested by Chippers through a letter from Mundy Wilson Piper dated December 27, 2016.

The Pomfret Zoning Board of Adjustment, through its Findings and Decision of May 19, 2016, denied the storage of logs and processing of firewood on the east side of Pomfret Road but allowed the storage of logs and processing of firewood on the west side of Pomfret Road at a volume and level no greater than was in use in 2001. The ZBA further authorized me to determine the volume and level of storage and disposition of logs and processing of firewood in 2001 on the lands of the William A. Russell, Jr. Trust (Parcel ID #0500-A) west of Pomfret Road for the purpose of implementing this condition.

As you note in your letter of April 14, 2017, the appeal before the Vermont Superior Court, Environmental Division has been dismissed and jurisdiction over this matter has reverted to me as Zoning Administrator. Further, Chippers' log pile is now on the westerly side of Pomfret Road and the lands on the easterly side of Pomfret Road where Chippers' log pile was formerly located have been sold by the William A. Russell Trust to Hudson Holland.

I hereby reissue my Determination regarding the location, maximum volume of storage, and maximum level of activity for the storage and disposition of logs and processing of firewood on lands of the William A. Russell, Jr. Trust (Parcel ID #0500-A) west of Pomfret Road. My Determination is as follows:

1. The location at which the storage of logs and processing of firewood may occur is depicted on an annotated Google Maps aerial photo and on a Rockwood Land Services survey, which annotated map and survey were provided with your letter to

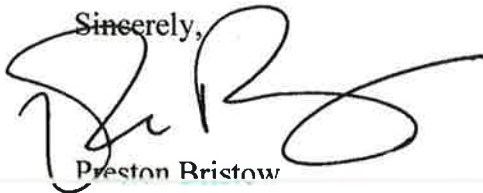
me dated December 27, 2016 and are attached to this Determination letter and incorporated herein.

2. Three types of wood may be stored and processed: firewood, mill wood and mulch wood. The maximum volume of storage of these three piles are as follows: the firewood pile will not exceed 100' long by 25' wide by 20' tall, the mill wood pile will not exceed 100' long by 25' wide by 20' tall, and the mulch wood pile will not exceed 30' by 30'.
3. There will be no burning, chipping or grinding of logs or wood on the property.
4. The hours of operation will be Monday through Friday from 7 AM to 5 PM with no delivery, loading, or processing of logs or firewood, including chainsaw operation, on weekends.
5. Backing-up of log and delivery trucks will be minimized through use of a loop or circular access drive.

The above-referenced two-page letter of December 27, 2016, from Mundy Wilson Piper, President & CEO of Chippers, Inc. to Preston Bristow, Town of Pomfret Zoning Administrator, with annotated Google Maps aerial photo and Rockwood Land Services survey, is attached to this Determination and all representations contained in the letter and on the map and survey are incorporated into this Determination.

This Determination may be appealed to the Zoning Board of Adjustment by you or an interested person by sending a written notice of appeal to the address above within 15 days of the date of this Determination. The notice of appeal must give the reasons for the appeal and be accompanied by a hearing fee of \$135 payable to the Town of Pomfret. If no appeal is received within this 15-day appeal period, this Determination will become final.

Sincerely,



Preston Bristow  
Zoning Administrator

cc: Interested persons: Kristen Maxham, Susan Cross, Lora Murray, Brian Alderfer, Hudson Holland, Margaret Holland  
Attorneys: Ryan Kane, Paul Gillies, Peter Vollers, Amanda Lafferty



December 27, 2016

Preston Bristow, Town of Pomfret Zoning Administrator  
5218 Pomfret Road  
North Pomfret, Vermont 05053  
Re: ZBA's decision of 5/19/2016 (Chippers Log Pile Application)

Dear Preston:

Pursuant to your e-mail of 12/16/2016 (attached) this is to state Chippers' intention to comply with the ZBA's decision of 5/19/2016 when clarification has been received from you as to an acceptable location of the pile on the west side of the Pomfret Road and "the volume of material and level of activity for the log pile and firewood processing" which is approved for that site.

In furtherance of such clarification, Chippers proposes the below described level and volume of activity on the site identified on the attached plan and drawing. The drawing shows the available space for the log landing OUTSIDE the flood plain area (marked in white) and Chippers' access and egress to the pile formations marked in black.

There will be three distinct groups of wood, one for firewood, one for mill wood and one for mulch wood. The firewood and mill wood is depicted by the parallel black lines on the attached document 'Chippers Proposed Log Landing 27 December 2016', the mulch wood by the black circle.

In 2001 the log storage was 2 piles 100' long by 25' wide by 25' tall, or 125,000 cubic feet in total. That year Chippers processed 150 cords of firewood and burnt a 30' X 30' pile of waste wood.

For 2017 and henceforth Chippers propose significantly less: 2 piles 100' long by 25' wide by 20' tall, or 100,000 cubic feet in total, with a mulch pile of 30' X 30' (this was the wood we used to burn). Chippers will process approximately 30 cords of wood a year.

The hours of operation will be Monday through Friday from 7am to 5pm and no weekends. Activity on the site is limited to wood being unloaded by Chippers from job sites and wood being picked up by vendors for transporting the materials to their final mill destination. As in the past chain saws must be used to get the wood into proper shape for the pile. (As has been the practice for over two years there will be no burning, chipping or grinding onsite.)

The attached survey by Rockwood Land Services, LLC (named as 'Chippers West Side Survey by Rockwood Land Services December 2016') shows the flood plain boundaries-as noted above, the proposed relocated log pile site is OUTSIDE of and respects the flood plain boundaries.

Chippers would appreciate your review and approval/clarification (on behalf of the Town) of the proposed/requested site and the level and volume of activity to be conducted thereon. Chippers is prepared to begin to effect the log pile relocation, weather permitting, as soon as possible.

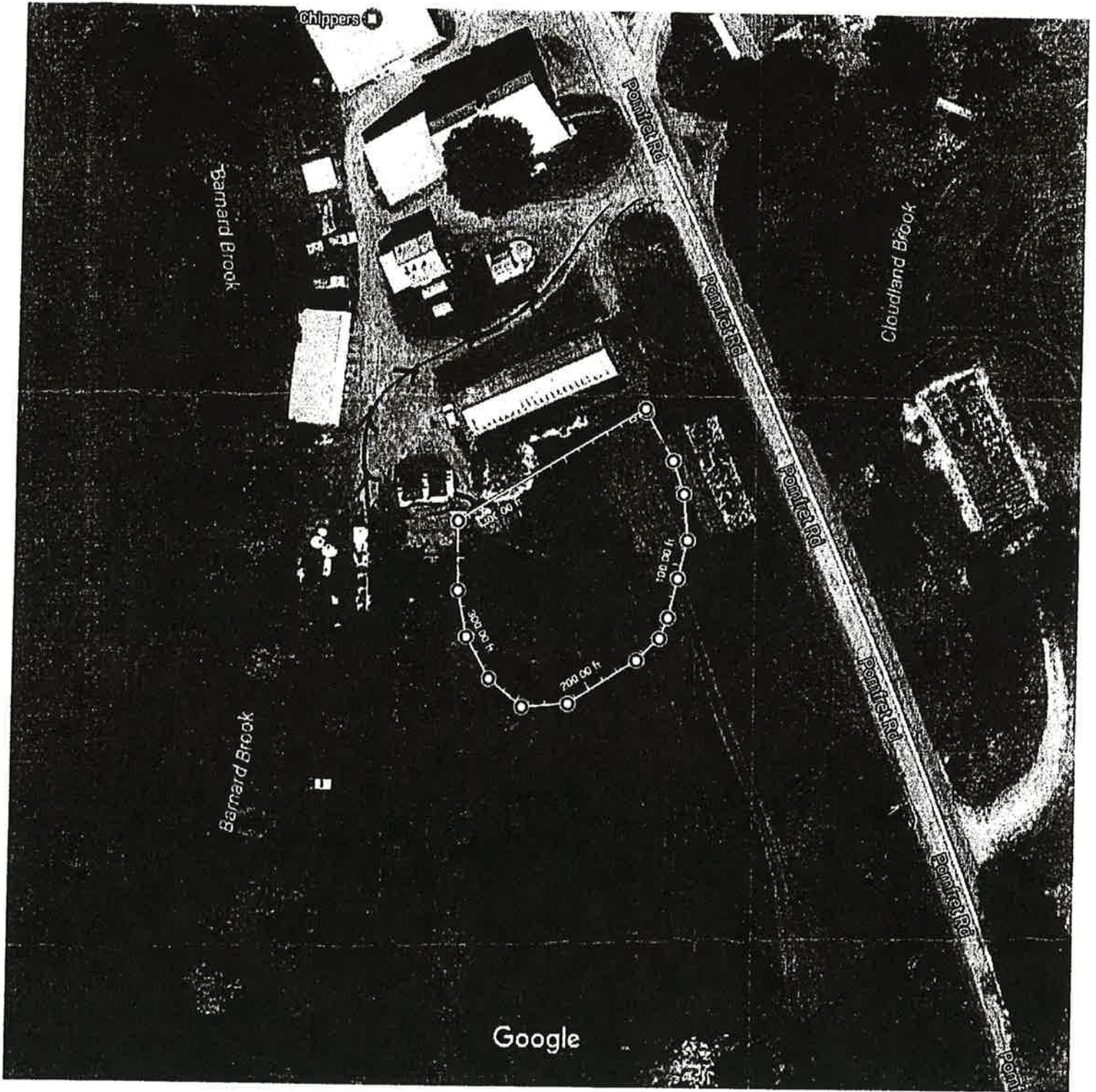
Sincerely,

A handwritten signature in cursive script that reads "Mundy Wilson Piper". The signature is written in dark ink and is positioned below the word "Sincerely,".

Mundy Wilson Piper  
President & CEO



Google Maps



Imagery ©2016 DigitalGlobe, Map data ©2016 Google 50 ft

Measure distance

Total area: 18,025.09 ft<sup>2</sup> (1,674.59 m<sup>2</sup>)

Total distance: 508.87 ft (155.10 m)

attachment to Chippers letter of 12/27/16  
 to Pomfret Zoning Administrator  
 Preston Bristow



