

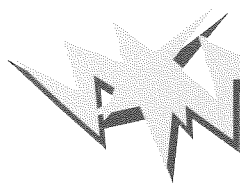
**Town of Pomfret
Selectboard Meeting Agenda
Town Offices
5218 Pomfret Road, North Pomfret 05053
November 15, 2023, 7:00 pm**

Zoom instructions below

Business Items	
1. Call to Order	7:00 pm
2. Agenda Review	
3. Public Comment	
4. Road Foreman's Report	7:05 pm
5. Items for Discussion or Vote a. Generator Service Contract b. Reserve Fund Policy c. Rainy Day Reserve Fund Policy d. Use of Tabulator for 2024 Town Meeting e. Renaming Windy Lane f. FY 2025 Budget Discussion g. Town Administrator Discussion h. Warrants i. Approval of November 1, 2023 Minutes	7:30 pm
6. Meeting Wrap Up a. Correspondence b. Review of Assignments c. Agenda for Next Meeting	
7. Executive Session – Attorney-Client Communications	9:00 pm
8. Items for Discussion or Vote a. Dinsmoor Road Request for Clarification/Reconsideration	9:30 pm
9. Adjournment	
<i>Time frames are approximate. Members of the public wishing to attend for specific business items are encouraged to arrive before the time indicated.</i>	

Zoom Instructions

- Computer or Smartphone <https://zoom.us/j/95395079923?pwd=ZjBEed3ZuZWgvWmx2M0tpOE8zbjg2dz09>
- Mobile Phone +19292056099,,95395079923#,,#,306922#
- Landline or Mobile Phone (301) 715 8592, followed by Meeting ID 953 9507 9923 and Password 306922



Brook Field Service

Providing Shelter from the Storm

P.O. Box 47 • Northfield, VT 05663 TOLL-FREE: 866-769-3797 • (802) 485-6567 • FAX: (802) 485-6690
E-mail: info@brookfieldservice.com • www.brookfieldservice.com

*Sent email
10.13*

Dear Valued Customer:

We are pleased to present our **2024** Preventative Maintenance Agreement for your standby generator. Attached you will find your agreement that is specific to your generator size and location.

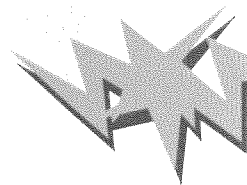
Your generator is a combustible engine that produces electricity. Regular preventative maintenance is essential for your generator to operate safely, reliably, and efficiently during power outages.

Please review the agreement which includes two options to consider for your generator's maintenance program. You are not required to pre-pay for the service, however if you do pay before the discount date you will be able to take advantage of the discount. If you opt not to pre-pay, returning the agreement with your signature commits us and you to the price of your service as shown in the agreement and ensures you are flagged for the schedule. I can take email confirmation as your approval, just be sure to indicate in your email which program you want and whether or not you intend to pre-pay. As always checks are accepted, be sure to put your customer agreement number (located in the upper right corner of the agreement) on your check.

Thank you for the opportunity of letting Brook Field Service take care of your generator's needs. I'm always available and welcome any questions or comments you may have.

Jim Brochhausen
Brook*Field*Service

Town of Pomfret				
C-0009392				
North Pomfret - 5218 Pomfret Road	Town Office	CH740EP #4227104581	Kohler 14RESA #SGM32355B	RXT #SGM322KDB
South Pomfret - 2026 Pomfret Road	Teago	GM 1.6L, 4 Cyl	Kohler 15RES #2087183	Kohler RDT #12073853
North Pomfret -7373 Pomfret Road	Fire Dept	Generac 1.6L, 4 cyl	Generac 4605610100 #2080189	Generac GTS020WAXDNAY #86484



Brook Field Service

Providing Shelter from the Storm

P.O. Box 47 • Northfield, VT 05663 TOLL-FREE: 866-769-3797 • (802) 485-6567 • FAX: (802) 485-6690
E-mail: info@brookfieldservice.com • www.brookfieldservice.com

Town of Pomfret
5218 Pomfret Road
North Pomfret, VT 05053

Customer Agreement #
C-0009392

PREVENTATIVE MAINTENANCE AGREEMENT Contractual Year 2024

Below please find the two preventative maintenance programs available for your standby generator. Prices quoted apply to the following: **Town Office Pomfret VT (3)Units Total - (2) Fire Dept. (1) Town Office, see attached list**

Manufacturer/Model#/Serial#

Engine: See Attached List
Equipment Driven: See Attached List
Switch/Controls: see attached list

Please indicate your acceptance of this agreement and terms by circling program you are selecting and signing below.
PLEASE RETURN (1) COPY TO BROOK FIELD SERVICE.

PROGRAM #1 – COMPLETE ANNUAL MAJOR SERVICE \$789 **OR** \$750 If Prepaid By: November 10, 2023
Parts, labor and mileage included
See reverse side for details

PROGRAM #2 – TWO VISITS A YEAR \$1,421 **OR** \$1,350 If Prepaid By: November 10, 2023
(1) Major & (1) Minor Svc.
Operational checkout service/analysis
See reverse side for details

Please Note: If you opt for Plan 1, the cost of the state inspection is NOT included. The additional cost is \$130.00 Per Unit

Date _____

DATE: October 10, 2023

Authorized Signature

Jim Brochhausen

James Brochhausen, Brook Field Service

Credit Card Number: _____

Expiration Date: _____ Security Code: _____ Zip Code for Card: _____

You may give our office a call with payment information if you prefer, 802-485-6567.

EMAIL: _____ PHONE#: _____

CUSTOMER PREFERENCE: (check on) No appointment needed Coordinate appointment

Industrial Engines and Generators • Transfer Switches • Load Bank Testing
Generator Rentals • Vermont Generator Inspections

PREVENTATIVE MAINTENANCE AGREEMENT
Program Details

Program 1 – Once a year maintenance program, Major Service

- A technical inspection and testing of your generator (multi-point test and review)
- Upload controller latest software upgrades
- Oil change and oil filters replaced
- Oil and diesel fuel analysis
- Air and fuel filters replaced
- Tune up of engine
- Coolant fluids tested for liquid cooled models
- Coolant levels topped off. If coolant change is required, an additional charge would occur.
- Automatic transfer switch testing and maintenance
 - If the ATS is located inside – arrangements must be made for someone to be there or to give an alternate authorization for our tech to reach it.
- A generator building load test
 - At your request - this will require an interruption of power.

Program 2 – Twice a year maintenance program (Done 6 months apart, Major & Minor)

- Includes items listed in Program 1, Major Service
- Technical inspection of your generator (multi-point review)
- Upload controller latest software upgrades
- Oil levels checked
- Coolant levels topped off. If coolant change is required, an additional charge would occur.
- A generator building load test
 - At your request - this will require an interruption of power
- Vermont State Inspection (if required – this will require an interruption of power)

Where to send your agreement form:

Fax: 802-485-6690

Email: info@brookfieldservice.com

Mail: Brook Field Service, PO Box 47, Northfield VT 05663

**RESERVE FUND POLICY
TOWN OF POMFRET, VERMONT**

Approved November [REDACTED], 2023

POLICY STATEMENT. A long-standing and sound financial management practice of the Selectboard is annual review of the Town’s reserve fund balances to ensure they are funded with regular appropriations in accordance with the Town’s capital spending plan. Growing reserve balances over time allows for spending from those funds as needed and in accordance with their purposes, rather than resorting to the Town’s operating funds. Adequately funded reserves promote a stable Town tax rate and reduce the need to incur short-term debt.

TOWN RESERVE FUNDS. Upon recommendation of the Selectboard from time to time, the voters of the Town established reserve funds with specific purposes and intended uses, each in accordance with 24 V.S.A. § 2804(a).¹ These funds and their purposes will continue until amended or repealed by a majority of the voters present and voting at a duly warned annual or special town meeting.

RESERVE FUND EXPENDITURES. Reserve funds may not be used for regular Town expenses or to reduce current taxes to be raised. All expenditures from reserve funds shall require approval by a majority of Selectboard members at a duly warned meeting, upon a finding that such expenditure is consistent with the purpose of the applicable reserve fund and the purpose of this Policy (or in the case of the Town Rainy Day Reserve Fund and the Town Rainy Day Reserve Fund, consistent with the Rainy Day Reserve Funds Policy). All other expenditures from reserve funds require authorization of a majority of the voters present and voting at a duly warned annual or special town meeting.

[Remainder of page intentionally blank. Signature page follows.]

¹ **Note:** The appendix to this Policy lists all reserve funds of the Town existing on the “last updated” date shown on the appendix and, based on research by members of the Financial Management Committee, the date each fund was established and the purpose for which it was established. The appendix may not be current or complete after the date hereof.

APPROVED by the Selectboard this [] day of November, 2023, and effective until amended or repealed.

John Peters Jr., Chair

Benjamin Brickner, Vice-Chair

Meg Emmons

Steve Chamberlin

Emily Grube

[Remainder of page intentionally blank. Appendix follows.]

APPENDIX
to
RESERVE FUND POLICY

Fund Name	Fund No.	Date Established	Fund Purpose
Abbott Memorial Library Building Reserve	440	March 5, 2013 (Article 11)	To repair and maintain the Abbott Memorial Library.
American Rescue Plan Act (ARPA) Reserve	180	August 2021 (initial funding)	The purposes described in 31 C.F.R. § 35.1 <i>et seq.</i> , including to respond to the COVID-19 public health emergency and its negative economic impacts, provide government services, and make necessary investments in public infrastructure. Funds are the Town’s share of the Coronavirus State and Local Fiscal Recovery Fund created by ARPA.
Communications Reserve	410	March 5, 2013 (Article 12)	To purchase and repair communications equipment used by the Fire Department, FAST Squad and town employees.
Fire Department Non-Vehicle Reserve	402	March 4, 2014 (Article 10)	To purchase non-vehicular fire equipment including, but not limited to, hose and associated accessories, self-contained breathing apparatus and personal protective equipment.
Fire Department Vehicle Reserve ²	400	March 1, 1994 (Article 15)	To purchase fire department vehicles.
Highway Bridges Reserve	424	March 5, 1991 (Article 14)	To repair bridges in the Town.
Highway Equipment Reserve	420	March 2, 2021 (Article 18)	To fund purchases of highway equipment.

² **Note:** Originally approved in 1994 by the voters as the “Fire Equipment Capital Fund”, then immediately referred to in town reports as “Fire Equipment Sinking Fund”, then as of the 2003 town report as the “Fire Equipment Reserve Fund”.

Fund Name	Fund No.	Date Established	Fund Purpose
Highway Paving Reserve	422	March 3, 2015 (Article 15)	To repave Town roads.
Highway Rainy Day Reserve	475	March 7, 2017 (Article 13)	To cover unanticipated revenue shortfalls and to pay non-recurring and unanticipated highway fund expenses.
Reappraisal Reserve	160	March 3, 2015 (Article 13)	To cover the expenses of future town-wide reappraisals.
Restoration and Preservation Reserve	350	June 2020 (initial funding)	The purposes described in 32 V.S.A. § 1671(c), including to restore, preserve, digitize, store and conserve municipal records. Funds are a portion of each records recording fee collected by the Town, as required by state law.
Teago Village Reserve	460	March 3, 2021 (Article 15)	To improve pedestrian and vehicular traffic flow in the village area of South Pomfret.
Town Buildings Reserve	452	March 5, 2013 (Article 13)	To repair and maintain town buildings.
Town Rainy Day Reserve	470	March 7, 2017 (Article 15)	To cover unanticipated revenue shortfalls and to pay non-recurring and unanticipated Town fund expenses.

**RAINY DAY RESERVE FUNDS POLICY
TOWN OF POMFRET, VERMONT**

Approved November [15], 2023

POLICY PURPOSE. The purposes of this Rainy Day Reserve Funds Policy are to maintain sufficient and immediately available funds necessary to:

- Meet budgetary spending, regardless of the timing of tax payments;
- Meet plausible but unanticipated spending occurring as a result of economic downturn, natural disaster, or similar circumstances beyond the Town’s control;
- Reduce the need for short-term borrowing; and
- Maintain a stable Town tax rate.

POLICY OBJECTIVE. The objective of this Policy is to establish a formula for maintaining these rainy day reserves, and to ensure they are used consistent with the purposes for which they were established.

RESERVE FUNDS PURPOSE. On March 7, 2017, voters of the Town established (1) a “Town Rainy Day Reserve Fund” to cover unanticipated revenue shortfalls and to pay non-recurring and unanticipated town fund expenses and (2) a “Highway Rainy Day Reserve Fund” to cover unanticipated revenue shortfalls and to pay non-recurring and unanticipated highway fund expenses, each in accordance with 24 V.S.A. § 2804(a).

RESERVE FUND EXPENDITURES. All expenditures from the rainy day reserve funds shall require approval by a majority of Selectboard members at a duly warned meeting, upon a finding that such expenditure is consistent with the purpose of the applicable rainy day reserve fund and the purpose of this Policy. In accordance with 24 V.S.A. § 2804(a), expenditure of the rainy day reserve funds for any other purpose shall require the authorization of a majority of the voters present and voting at a duly warned annual or special town meeting.

RESERVE FUNDING FORMULA. The Selectboard will fund the rainy day reserve funds at the following levels:

- *Town Rainy Day Reserve Fund (No. 470).* [One-sixth (i.e., two months)] of the average actual annual expenditures from the Town Fund (No. 100) for the [immediately preceding three fiscal years].

For example, actual annual expenditures from the Town Fund were \$435,949, \$466,779 and \$562,096 in Fiscal Years 2021, 2022 and 2023, respectively. As a result, the Town Rainy Day Reserve Fund should be funded at \$81,379 as of the beginning of Fiscal Year 2025.

- *Highway Rainy Day Reserve Fund (No. 475).* [One-sixth (i.e., two months)] of the average actual annual expenditures from the Highway Fund (No. 150) for the [immediately preceding three fiscal years].

For example, actual annual expenditures from the Highway Fund were \$1,102,154, \$1,067,616 and \$1,209,605 in Fiscal Years 2021, 2022 and 2023, respectively. As a result, the Highway Rainy Day Reserve Fund should be funded at \$187,743 as of the beginning of Fiscal Year 2025.

RESERVE FUND TRANSACTIONS. If at the end of a fiscal year, the balance in the Town Fund or Highway Fund (after subtracting any amounts previously assigned) is negative, the Selectboard shall direct the Treasurer to transfer from the related rainy day reserve fund, as of the last day of such fiscal year, the amount necessary to zero the negative balance (plus any amounts previously assigned).

If at the end of a fiscal year, the balance in a rainy day reserve fund is [less than 85%] of the amount prescribed by the formula herein, the Selectboard shall include in the regular budget, or by separate article on the next annual town meeting warning, an appropriation necessary to replenish the deficient rainy day reserve fund.

If at the end of a fiscal year, the balance in a rainy day reserve fund is [more than 115%] of the amount prescribed by the formula herein, the Selectboard may include in the regular budget, or by separate article on the next annual town meeting warning, an appropriation up to such excess amount to any other purpose, including to reduce current taxes to be raised.

The Selectboard may decline to make a transfer or appropriation described in this Policy upon a finding that such transfer or appropriation would be inconsistent with the purpose of this Policy.

[Remainder of page intentionally blank. Signature page follows.]

APPROVED by the Selectboard this [15] day of November, 2023, and effective until amended or repealed.

John Peters Jr., Chair

Benjamin Brickner, Vice-Chair

Meg Emmons

Steve Chamberlin

Emily Grube

tabulator use for TM

Becky Fielder <Clerk@pomfretvt.us>

Mon, Nov 6, 2023 at 10:00 AM

To: "John Peters Jr." <john.peters@pomfretvt.us>, Benjamin Brickner <benjamin.brickner@pomfretvt.us>, Emily Grube <Emily.Grube@pomfretvt.us>, Steve Chamberlin <steve.chamberlin@pomfretvt.us>, Meg Emmons <meg.emmons@pomfretvt.us>, Cynthia Hewitt <cynthia.hewitt@pomfretvt.us>

Good morning –

I have to let the programming company know by Friday the 17th whether we plan to use the tabulator for Town Meeting this year. We will be using it for the Presidential Primary ballots, which is paid for by the State. If we would like them to program our Town Meeting ballots then we would bear the cost of programming and ballot production, which was not budgeted for this year. As it is a Selectboard-run meeting, it is up to you lot to decide what you want to do. The cost for coding depends on the number of questions/candidates/options and should run in the neighborhood of \$1000, plus the cost of ballots (\$0.46 each plus \$50 for shipping the lot).

Please add this discussion to your next meeting – thanks!

-Becky

Becky Fielder, Town Clerk & Lister

Town Of [Pomfret](#)

[5218 Pomfret Road](#)

[North Pomfret, VT 05053](#)

Phone: (802) 457-3861

Fax: (802) 457-8081

Hours: MWF 8:30am - 2:30pm

clerk@pomfretvt.us

<http://pomfretvt.us>

*Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act.

*Please note that any documents we supply we do so as a courtesy. Public record law does not require us to conduct research to find documents or to furnish faxes/emailed copies. We have done our best to provide the items that you requested but we do not guarantee that the following are complete or that there are no other relevant documents.

next meeting

1 message

Becky Fielder <Clerk@pomfretvt.us>

Wed, Nov 8, 2023 at 1:29 PM

To: Cynthia Hewitt <cynthia.hewitt@pomfretvt.us>, "John Peters Jr." <john.peters@pomfretvt.us>, Benjamin Brickner <benjamin.brickner@pomfretvt.us>, Emily Grube <Emily.Grube@pomfretvt.us>, Steve Chamberlin <steve.chamberlin@pomfretvt.us>, Meg Emmons <meg.emmons@pomfretvt.us>

Please add the selection of a new road name for the easterly side of Windy Lane to the next Selectboard meeting agenda. Here are the options (checked against e911 database for local naming conflicts):

Acer Road or Drive, Erable Road, Maple Hollow Road, or Maple Ridge Drive. (Acer means Maple in Latin, Erable means Maple in French)

The residents have no preference, though personally I like Maple Ridge Drive best. Do with that what you will.

-Becky

Becky Fielder, Town Clerk & Lister

Town Of [Pomfret](#)

[5218 Pomfret Road](#)

[North Pomfret, VT 05053](#)

Phone: (802) 457-3861

Fax: (802) 457-8081

Hours: MWF 8:30am - 2:30pm

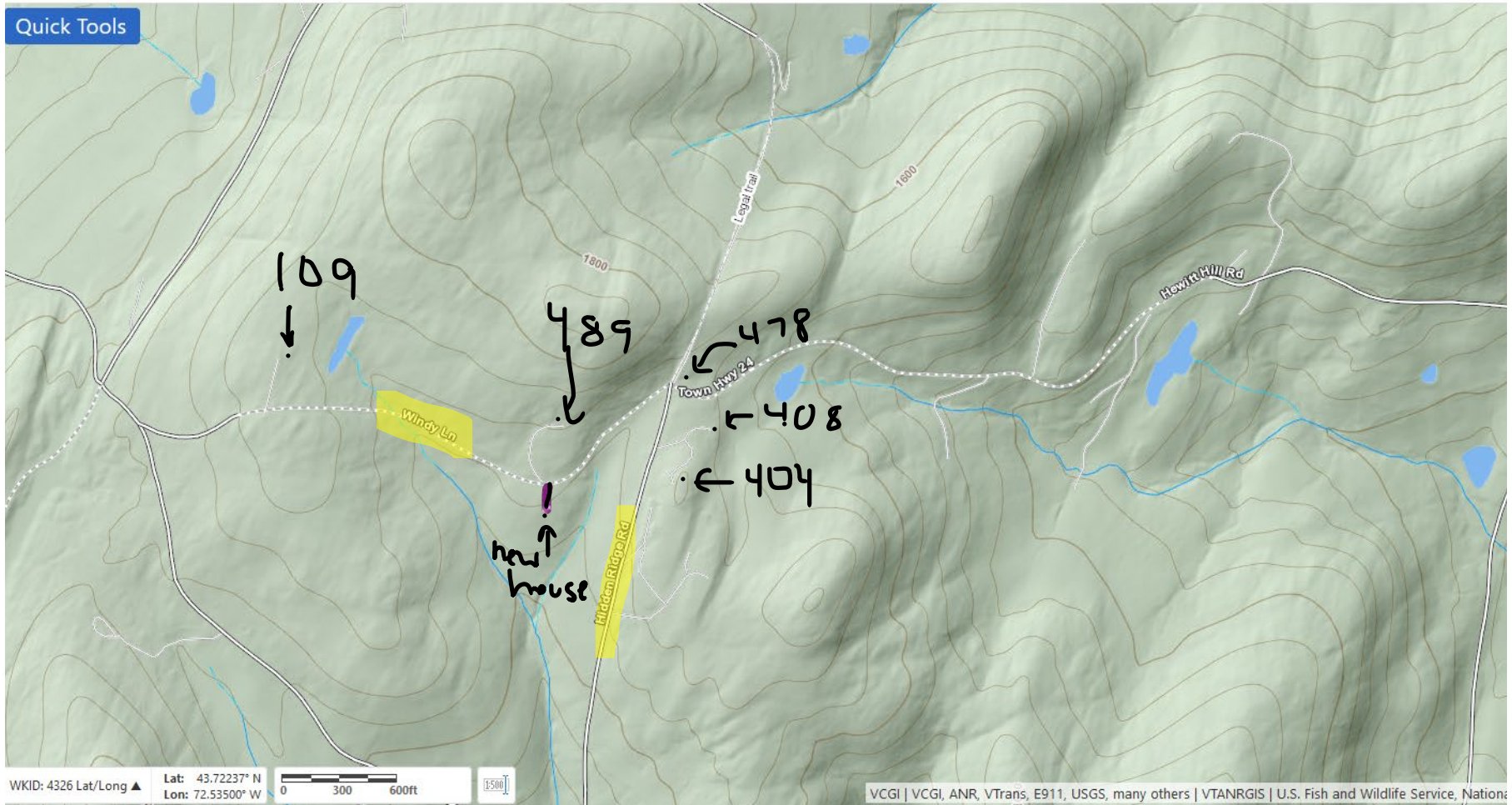
clerk@pomfretvt.us

<http://pomfretvt.us>

*Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act.

*Please note that any documents we supply we do so as a courtesy. Public record law does not require us to conduct research to find documents or to furnish faxes/emailed copies. We have done our best to provide the items that you requested but we do not guarantee that the following are complete or that there are no other relevant documents.

Moore/Phillips new driveway



Best option (preferred by e911): wrap Hidden Ridge Road around the corner to just past the second driveway on Windy Lane (now #489). 489 becomes 640 Hidden Ridge Road and the new driveway would be 635 Hidden Ridge Road. Windy Lane now begins at Webster Hill Road and ends at the “new” end of Hidden Ridge Road. Class 4 designation doesn’t change, just the road name. e911 Board will work with VTrans to make the change.

Second option (less easy/desireable): designate East and West Windy Lanes with a transfer point in the center-ish. They effectively become 2 different roads, with the Carroll residence becoming 109 West Windy Lane and the St. Cyr and Moore/Phillips residences becoming 166 and 161 East Windy Lane, respectively.

Town of Pomfret Selectboard
Draft Meeting Minutes
November 1, 2023

Present: John Peters, Benjamin Brickner, Steve Chamberlin, Meg Emmons, Emily Grube

Public: Jim Potter (Road Foreman), Neil Lamson (Lister), Betsy Rhodes (Library Trustee), Nancy Matthews (Auditor), Karen Osnoe (ZBA Administrator), Scott Pearce, John Moore (Planning Commission), William Emmons (Planning Commission), Cynthia Hewitt (SB Asst), Beriah Cushman (Stitzel Page)

1. John called the meeting to order at 7:02 pm.
2. Agenda Review – John moved and Steve seconded addition of supplemental heating oil and propane contracts, Trustee of Public Funds appointment, and Road Crew appreciation holiday gifts. Unanimous.
3. Public Comment – Betsy Rhodes thanked Jim and the Road Crew for patching the pot hole on Library Street; she also inquired about furnace maintenance contracts.
4. Road Foreman Report – Jim has placed the order for road signs, they should arrive for installation next week. Scott Jensen from Vtrans joined Jim for a site visit of the Broad Brook Road damage as well as the debris above Hatfield's on Stage Road. Jim will obtain permission from Hatfield to perform the job. Mr. Jensen approved both projects, the cost of which will be covered at 75% by FEMA. Jim will rent a large excavator for one month from Nortrax to complete these repairs. The Broad Brook Road repair will require installation of large stone, which will eliminate the need for Jersey Barriers; the machine can also be used to remove large trees/trunks from the Town Garage property, and to reduce the ledge on Joe Ranger Road. Emily moved and Steve seconded that Jim be authorized to rent the excavator at the cost of \$5,600, and to purchase Jersey barriers if they are still necessary. Unanimous. Jim is obtaining competitive quotes for the purchase of tire chains. GMP will supervise the installation of wiring for the new generator at the town garage. ECFiber will also perform an installation. New snow fence has been ordered. The new fence is green and will replace the orange fencing in use for more than 20 years.
5. Items for Discussion or Vote
 - a. Propane Tank for the Garage – Keith Chase will purchase a 1,000-gallon propane tank from F.W. Webb; Jim will install the underground tank with the assistance of Mike Bartlett, a certified propane installer. Emily moved and Steve seconded approval of the tank purchase and installation work, to be paid for from the Town's share of ARPA funds. Unanimous.
 - b. Caper Street Intersection Signage – A Caper Street resident requested a review of the signage and speed limit at the intersection of Caper Street and Pomfret Road. It was noted that a Road Safety Audit Review was performed in 2015-16, resulting in signage changes and a reduced advisory speed limit. Jim will confirm the current signage along the road is consistent with the audit recommendations and will discuss the same with the resident.
 - c. Generator Service Contract – A decision on this was postponed to the November 15 meeting to allow time to confirm the contract term and decide which generators should be included. Scott Pearce requested that installation of the North Pomfret

Station generator be postponed to spring if possible so that a barrier can be built to protect the generator from road salt.

- d. Reserve Fund Policy – Nancy Matthews presented a draft of the policy with an appendix listing the current funds with the date they were created and the purpose for which they were created. Nancy will edit the policy and appendix as discussed and present for approval at the November 15 meeting.
- e. Rainy Day Reserve Funds Policy – This revised policy has suggested a formula for determining the amount of money to be reserved. Nancy will edit the policy as discussed and present for approval at the November 15 meeting.
- f. Errors and Omissions Certificate (PVR-4261-E) – Emily moved and Ben seconded approval as provided by the Listers. Unanimous.
- g. PACIF Uninsured/Underinsured Coverage Limit and P&C Deductible – Ben moved and Emily seconded maintaining the Uninsured/Underinsured Motorist (UM/UIM) coverage limit at \$250,000 as this coverage is rarely utilized (the Town’s auto and workers’ comp policies cover many of the same perils) and the only alternative is to increase the coverage limit to \$10 million for an additional premium. Unanimous. Emily moved and Steve seconded increasing the deductible on the Town’s property and casualty coverage from \$1,000 to \$5,000, which is anticipated to reduce the related premium by about 6% per year, and because the Town is unlikely ever to file a property or casualty claim for a small loss. Unanimous.
- h. Preliminary Budget Discussion – Ben circulated a preliminary spreadsheet of the FY 2025 budget to interested departments and organizations, requesting their input before the November 15 meeting. The Selectboard scheduled the first two budget-only meetings for November 22 and November 29 at 7:00 pm.
- i. Continued Town Administrator Discussion – Ben prepared an initial job description at the Selectboard’s request, based on examples Becky obtained from a town clerks’ message board and the recent Woodstock town manager description. The Selectboard asked Ben to circulate the initial job description for its review.
- j. Trustee of Public Funds – Steve moved and John seconded the appointment of Bob Coates as a Trustee of Public Funds, to finish a 3-year term expiring in March 2024. Unanimous.
- k. Heating Oil and Propane Fixed Price Supply Agreements – When approving the initial contracts in July, the Selectboard understood that the Fire Department would separately contract for heating oil and propane for the 2023-24 season, but the Department were unable to do so. Accordingly, the Selectboard obtained proposals for additional product to cover the difference. Ben moved and Emily seconded approval of the proposed agreements: 500 gal. heating oil at \$3.286/gal. (or 1,000 at up to \$3.300/gal., if available) and 1,500 gal. propane at \$1.495/gal. Unanimous.
- l. Road Crew Appreciation Holiday Gifts – Emily moved and Steve seconded approval of a Hannaford gift card for each Road Crew member. Unanimous.
- m. Warrants – Emily moved and Ben seconded approval for payment of the following warrants:

24034	\$9,700.59	Payroll
24037	\$28,383.50	AP (all except the WCSD invoice, which will be paid directly by the Cloudland Road neighbor group)

Unanimous.

- n. Approval of Minutes – Ben moved and Emily seconded approval of the October 18, 2023, meeting minutes. Unanimous.
6. Executive Session
 - a. Ben moved and John seconded that the Selectboard enter executive session pursuant to 1 V.S.A. 313(a)(1)(F) to discuss confidential attorney-client communications. Unanimous. The Selectboard entered executive session at 9:52 pm.
 - b. The Selectboard exited executive session at 10:20 pm, with no decisions having been made therein.
7. Items for Discussion or Vote
 - a. Settlement Agreement (23-ENV-00092) – Ben moved and Emily seconded that defendants’ proposed settlement agreement be declined and that the settlement agreement proposed by the Town’s outside counsel, Stitzel Page & Fletcher, be approved, contingent on defendants’ acceptance of the same. Unanimous.
8. Meeting Wrap Up
 - a. Correspondence – Ben reported that The Daily Show/Comedy Central recently contacted the Town about producing an on-location segment regarding the recent foliage road closures. The Town also received a message from the Vermont 250th Anniversary Commission asking the Town to participate in the upcoming celebrations; the Selectboard may create a committee to work on this.
 - b. Review of Assignments – John to contact Brookfield re: generator service contract term and whether to include the North Pomfret Station generator; Sheriff re: Howe Hill directed patrols; Marge Wakefield re: Trustee of Public Funds appointment; Irving re: additional heating oil and propane contracts; Ellen re: DocuSign for UI coverage limit (maintain at \$250,000), sending the WCSD invoice to Cloudland Road neighbor group, increasing P&C deductible to \$5,000 starting in 2024. Ben to prepare a listserv message calling for volunteers on a new 250th anniversary committee; circulate town administrator job description to the Selectboard; review revised financial policy drafts.
 - c. Agenda for Next Meeting – FY 2025 budget, Reserve Fund Policy, Rainy Day Reserve Funds Policy, Generator Service Contract, Vermont 250th Anniversary Committee Resolution, Town Administrator job description.
9. Adjournment – Ben moved and Meg seconded that the meeting be adjourned. Unanimous. The meeting was adjourned at 10:35 pm.

Decision re Mann Town Highway Access Road Permit Application

Jason Crance <Jason@crancelaw.com>

Wed, Nov 8, 2023 at 9:25 AM

To: Benjamin Brickner <benjamin.brickner@pomfretvt.us>, Andrew Mann <[REDACTED]>

Cc: Alison Sander <[REDACTED]>, Cabot Teachout <cteachout@doolaw.com>, John Peters <john.peters@pomfretvt.us>, Becky Fielder <clerk@pomfretvt.us>, Joseph McLean <jmclean@firmspf.com>

Dear Ben and members of the Select Board,

I am writing to request reconsideration and clarification of two (2) provisions of the Memorandum of Decision and Driveway Permit with Conditions and Limitations issued to Andrew Mann on October 13, 2023.

Given that the deadline to appeal the Select Board's decision under VRCP 75 is fast approaching, and consistent with my conversation with Attorney McLean, please confirm upon receipt of this request for reconsideration and clarification that the thirty (30) day appeal deadline under VRCP 75 is tolled analogous to the provisions of VRCP 59.

Dr. White and Mr. Dechert seek reconsideration and clarification from the Selectboard regarding: (1) the contemplated disposition of the "berm" or "flat spot" currently constructed within the Town's highway right-of-way given Mr. Mann's testimony at the hearing indicating his willingness to remove the "berm," and the Select Board's imposition of Condition and Limitation A and Condition and Limitation G addressing the location and existence of the berm or flat spot; and (2) the approved Permit Application and the Memorandum of Decision and the perceived conflicts they have with each other and with Mr. Mann's Amended Site Plan, testimony, and Condition and Limitation B.

Request for Clarification and Reconsideration regarding the removal of the Berm or Flat Spot

With respect to the "berm", during the hearing Mr. Mann testified (34:30) that he could lower the "flat spot" [the berm], that he planned on lowering the flat spot, and that the reason the flat spot was so tall was because he got two loads of hardpack to put down to make a surface for his sand. He also testifies (35:07) that "if this is all a go, [to] cut that [the flat spot] down, at least enough to put 6 to 12 inches of top soil or other material to plant grass," and that he has "no problem dropping it [the flat spot] down to meet the driveway."

In that context, second part of Condition A reads: "[i]f despite Applicant's [Mr. Mann] best efforts all work in the highway right-of-way cannot be completed by November 30, 2023, Applicant shall by the same day remove (or cause to be removed) all objects, fill or other obstructions in the highway right-of-way interfering with the normal use of the existing traveled way of Dinsmoor Road or maintenance of the highway right-of way."

Condition G reads: "[t]he area south of Dinsmoor Road and within the highway right-of way shall be restored to a permeable surface sufficient to absorb the anticipated runoff from the modified driveway and kept open to allow for placement of snow removed from the driveway."

At the hearing before the Select Board on September 12, 2023, there was conflicting testimony with respect to the "normal use" of the existing traveled way of Dinsmoor Road and the Memorandum of Decision does not address or define what that "normal use" was. Nor does the Memorandum of Decision address what the definition of normal use looks like on the ground and as contemplated by the second paragraph of Condition A.

As it pertains to Condition G, pictures of the “berm” or “flat spot” were submitted into evidence at the hearing. It appears (and depending on the Select Board’s definition of “normal use”) that a portion of the fill deposited by Mr. Mann may not be within the “normal use” of the travel way. However, it is not disputed that all of the “berm” or “flat spot” or fill that exists was deposited wholly within the Town right-of-way. Although Condition G indicates that the area within the highway right of way needs to be restored to a permeable surface sufficient to absorb anticipated runoff from the modified driveway and kept open to allow for placement of snow removed from the driveway, it does not indicate whether that means, for example, that the slope and grade of this restoration needs to be consistent with the existing slope and grade of the unaltered portion of the Town’s right-of-way. As a result clarification is requested on this issue as well.

Lastly, the Memorandum of Decision makes no reference to the fact that Mr. Mann added the fill and constructed the “berm” or “flat spot” within the Town right of way and without any permit to do so. Nor does Mr. Mann’s Permit Application identify any proposed berm or flat spot. Moreover, Mr. Mann testified that at the time of the hearing he was “85% finished” with what he was proposing at that same hearing (21:24), an admission that he was already working in the Town right-of-way without a permit in violation of 19 VSA 1111(b) and Section 7.4 of Pomfret’s Highway Ordinance. As such, and irrespective of the clarification requests above, Dr. White and Mr. Dechert request the Select Board reconsider this issue and require Mr. Mann to remove all fill he has deposited into the right of way and return the area to the south of Dinsmoor road to the condition it was prior to him depositing any fill there for any reason whether this permit goes forward or is appealed.

Request for Clarification and Reconsideration of the Driveway Area Dimensions

Mr. Mann’s Permit Application indicates that he proposes to construct a “[w]idth of driveway between 17’ and 19’”. “Driveway will enter town road at 90 degrees and pitch away from the town road 1’ over the first 20’ from the town road.” “See green rectangle on sketch.” Condition and Limitation B states that “[t]he first 20 feet of the driveway shall conform in all material respects to the materials included in the Mann Application, Revised Site Plan, and testimony of the witnesses, except as modified herein.”

As set forth in Footnote 4 of the Memorandum of Decision, Mr. Mann chose to use altered CAD engineering drawings prepared by Ian MacKenzie for his Revised Site Plan and which were part of Dr. White’s and Mr. Dechert’s proposed driveway permit application. CAD drawings are not sketches. CAD drawings use actual units of measurement based on the existing topography and distances on the ground. Although ultimately rejected by the Select Board, Mr. MacKenzie testified as to how he created his drawings and what the lines in his site plan represented as to distance, elevation, slope, and the markers called out on the ground. Those same distances and slope exist in Mr. Mann’s Revised Site Plan to which he is bound per the Memorandum of Decision and Conditions of Limitation.

Attached as Slide 1 and Slide 2 to this request for reconsideration are CAD drawings prepared by Mr. MacKenzie. In Slide 1 Mr. MacKenzie has overlaid Mr. Mann’s Revised Site Plan onto a CAD drawing that mirrors the lines and circles Mr. Mann drew and submitted as part of his Revised Site Plan. By way of comparison, Slide 2 is the actual CAD drawing calling out Mr. Mann’s lines (and the distances he drew for the driveway area). Mr. Mann testified (13:42) that the blue lines in his Revised Site Plan represented the edges of his proposed (and approved) travel way on Dinsmoor Road. Given that testimony, and given what he submitted as a Revised Site Plan, those CAD drawings demonstrate that Mr. Mann’s Revised Site Plan actually contemplates an almost square box that is 23.1’ in width along Bartlett Brook Road and 23.4 feet deep.

This reading is also consistent with the Select Board’s Condition H which requires Mr. Mann to grant the record owners of the White Parcel and Sander Parcel a right of way in terms no less favorable to the 1987 right of way as defined to include all of the lands and premises within the red circles depicted on the Revised Site Plan. The distance to the red circles which will provide the White and Sander parcels additional rights of ingress and egress are beyond the distances called out in the Permit Application, the testimony of the parties including Mr. Mann, and the Memorandum of Decision with Conditions and Limitations.

By way of illustration and comparison, attached are Slides 3 through 6. These CAD slides illustrate the location of the proposed driveway box if Mr. Mann is bound by the language of his permit application (i.e., between 17' and 19' feet wide and pitching away from the road 1' over the first 20'). As the Select Board will note, whether 17' or 19' feet wide (as set forth in Slide 3 and Slide 5), if the driveway area defined in the permit application is located at the southern end of Mr. Mann's site plan abutting his southern boundary of the proposed (and approved) Dinsmoor Road travel way, there appears to be little or no need for the extension of the culvert at the north end of Dinsmoor road, a topic of discussion and expectation at the September 13 hearing (14:42 and 28:32). The location of the green box at that point in the CAD slides is consistent with his own testimony (21:24) that the project is 85% finished and that "[t]he only part that is really going to change is the upper left hand corner [on the Revised Site Plan] where we still got to cut it back."

Alternatively, if either a 17' or 19' box is located at the northern end of the Revised Site Plan (as set forth in Slide 4 and Slide 6) abutting the proposed (and approved) Dinsmoor Road travel way to the north, the southern end of the driveway entrance is located almost in the middle of the proposed travel way which is inconsistent with Mr. Mann's testimony and potentially changes what the Select Board contemplated in Conditions F and Condition G given that it is unclear what work would be contemplated between the edge of the green box and the southern edge of Mr. Mann's proposed travel way in his site plan.

Lastly, on Page 2 of the Memorandum of Decision, the Select Board indicates that the Mann application proposes to address the challenges of the existing Dinsmoor Road by "excavating the embankment north of the existing traveled way of Dinsmoor Road to create a level graded 20-foot wide by 16-foot deep area." Condition B also references a 20 foot wide by 16 foot deep area of "90-degree intersection between Dinsmoor Rd and Bartlett Brook Rd...". Mr. Mann testified (32:06) that he painted a white line in a picture from the site visit and that was 20 feet along Bartlett Brook road and stated that he was only required to have 16 feet but wanted to have "plenty of extra room." However, even at 20 feet of width it is unclear where the Select Board contemplates the beginning and end of that area within the proposed Dinsmoor Road travel way identified in the Revised Site Plan.

It is therefore unclear: (1) what the Select Board is approving as to the specific dimensions of the green box in Mr. Mann's Revised Site Plan (if not those dimensions as Mr. Mann drew them on the Revised Site Plan and as illustrated in Slides 1 and 2); (2) if not the dimensions as set forth in the Revised Site Plan, what the Select Board expects the actual dimensions to be (both along Bartlett Brook Road and extending onto Dinsmoor Road); and (3) where the Select Board anticipates Mr. Mann locating the green box on his Revised Site Plan as between the boundaries of his proposed (and approved) new travel way of Dinsmoor road.

To expedite and or assist in the clarification and reconsideration, Dr. White and Mr. Dechert are happy to produce Mr. MacKenzie at their expense to map out the location of Mr. Mann's driveway area as contemplated by the approved permit and conditions imposed.

For the above reasons, Dr. White and Mr. Dechert seek reconsideration and clarification of the basis for the Selectboard's decisions and conditions.

Dr. White and Mr. Dechert to supplement this request for reconsideration and clarification as necessary.

Thank you for your time and consideration of these requests.

Regards,

Jason

Jason R. Crance

Law Office of Jason R. Crance

65 Dartmouth College Highway

Lyme, NH 03768

Phone: 603-643-8801

Fax: 603-643-5297

www.crancelaw.com


This message originates from a law office. The information transmitted in this e-mail and any attachment is intended only for the personal and confidential use of the intended recipients. This message may be or may contain privileged and confidential attorney-client communications. If you as the reader are not the intended recipient, you are notified that you have received this communication in error and that any retention, review, use dissemination, distribution or copying of this communication or the information contained is strictly prohibited. If you have received this communication in error, please notify the sender immediately and delete the original message from your system. Thank you in advance for your cooperation.


[Quoted text hidden]


6 attachments

 **2304-SITE-231105-1.pdf**
214K

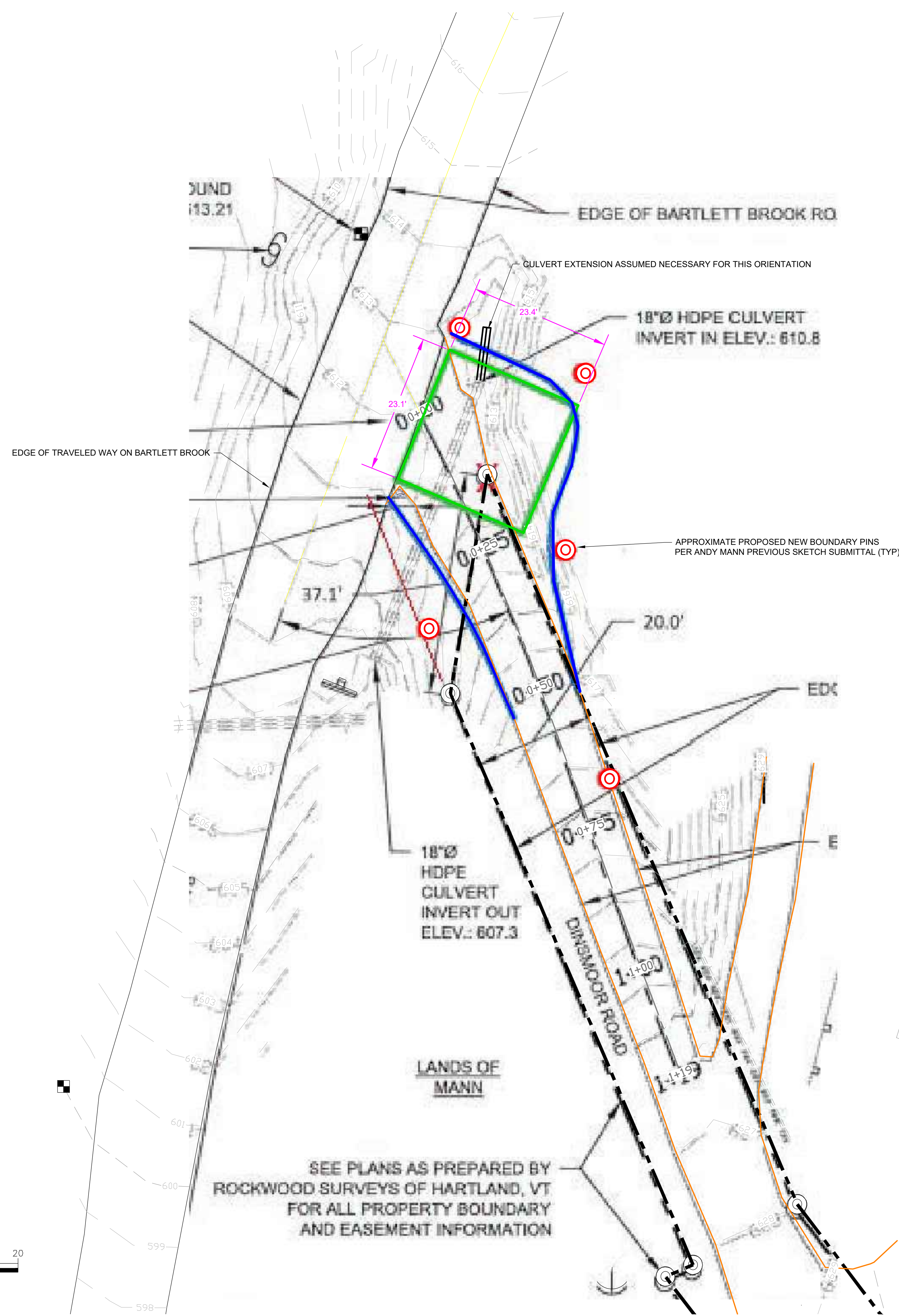
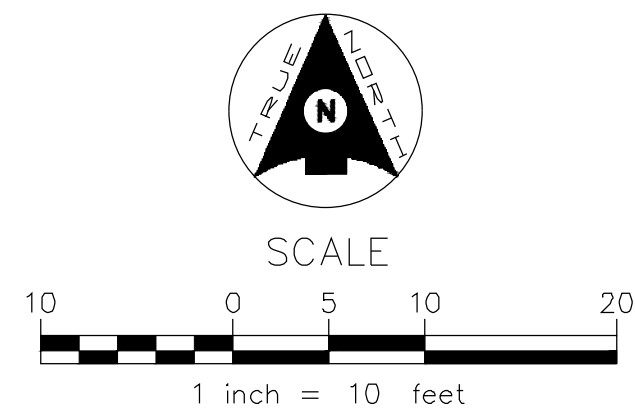
 **2304-SITE-231105-2.pdf**
137K

 **2304-SITE-231105-3.pdf**
136K

 **2304-SITE-231105-4.pdf**
136K

 **2304-SITE-231105-5.pdf**
137K

 **2304-SITE-231105-6.pdf**
137K

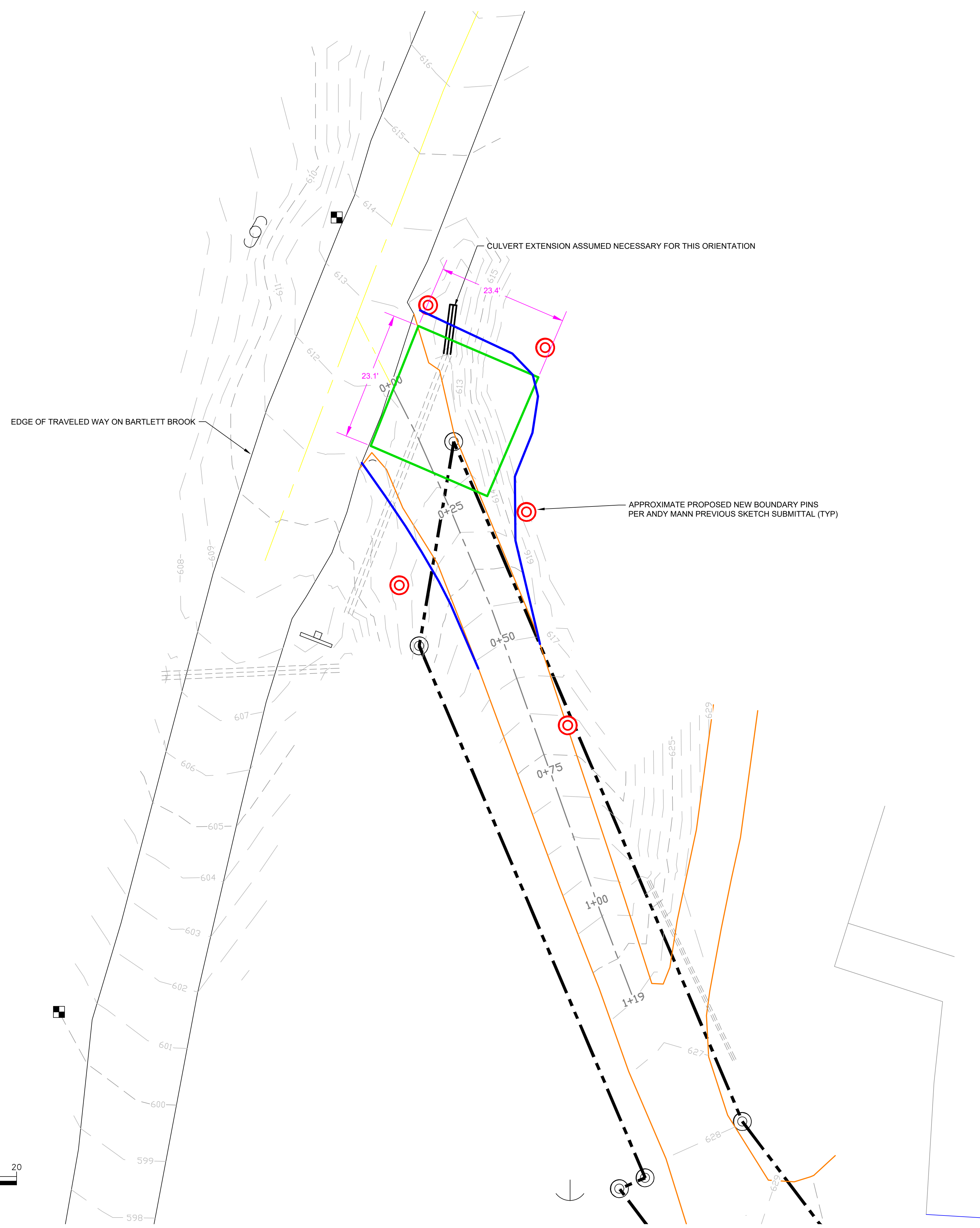
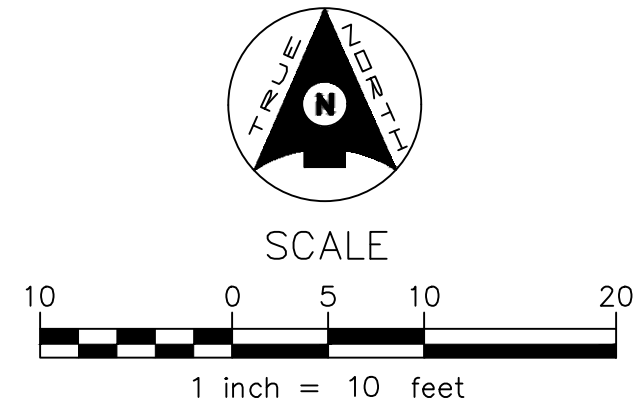


PROJECT TITLE:	ANDY MANN ACCESS PERMIT REVIEW
SHEET TITLE:	SLIDE #1 - 23.1' WIDE X 23.4' DEEP WITH MANN UNDERLAY
PROJECT NO.:	2304
SHEET NO.:	SLIDE #1
DATE:	11-7-2023

**DINSMOOR ROAD
 SHARED DRIVEWAY OFF
 BARTLETT BROOK ROAD
 POMFRET, VERMONT**

DOCUMENT NOT VALID WITHOUT ORIGINAL STAMP & SIGNATURE

MACKENZIE
 Engineering and Construction
 1313 VT Route 110, So. Royalton, VT 05068
 Mobile No.: 802.356.5617
 Email: ian@mack-eng.com

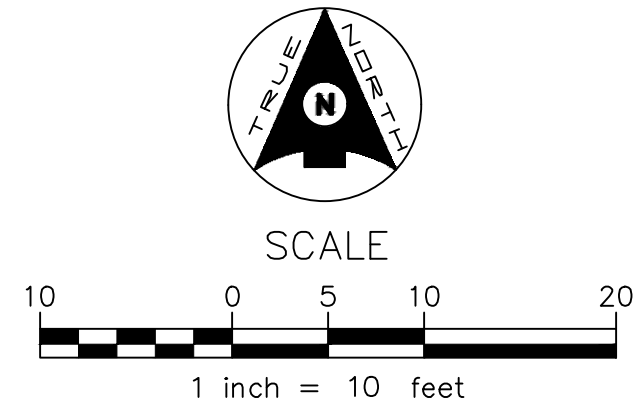


MACKENZIE
 Engineering and Construction
 1313 VT Route 110, So. Royalton, VT 05068
 Mobile No.: 802.356.5617
 Email: ian@mack-eng.com

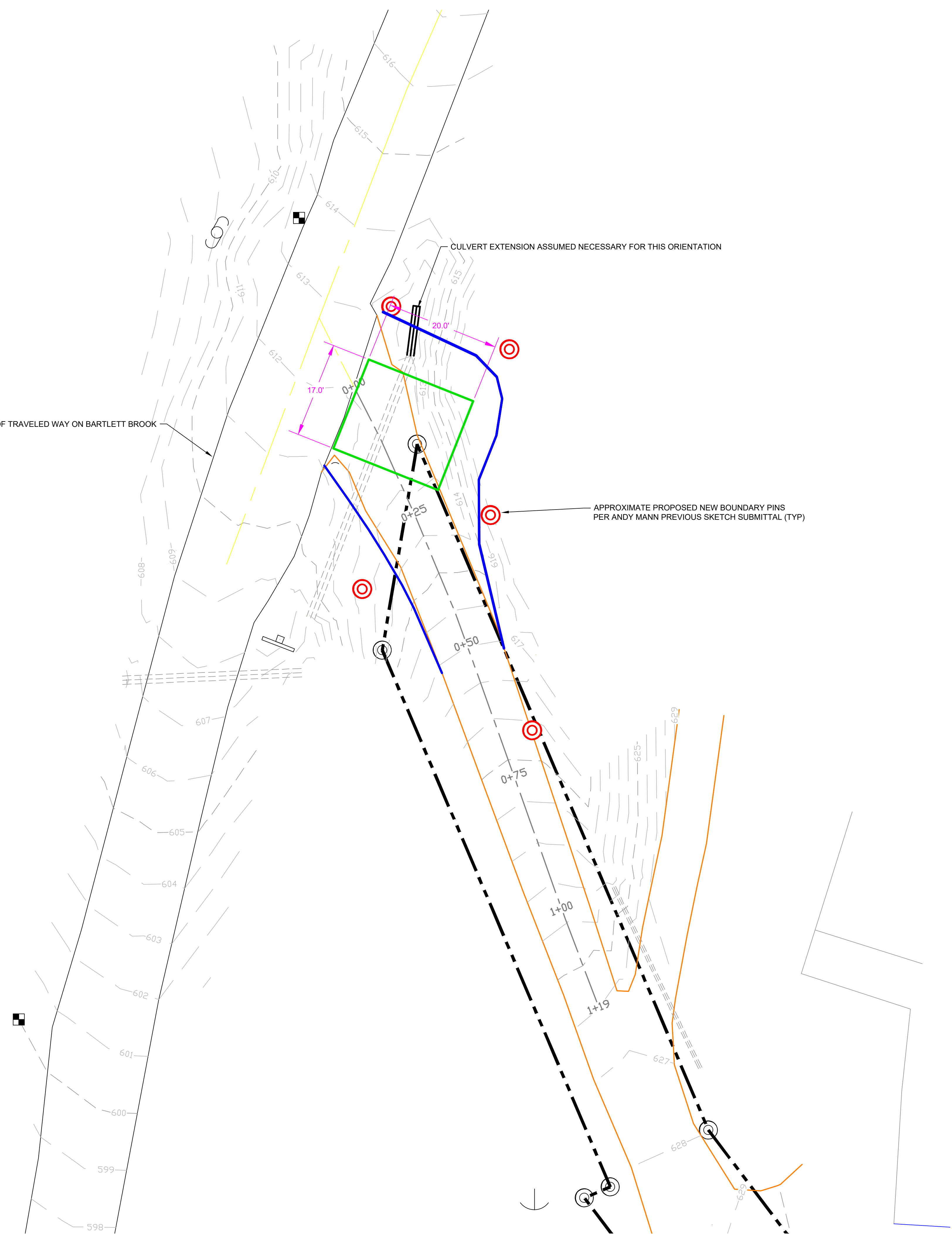
DOCUMENT NOT VALID
 WITHOUT ORIGINAL
 STAMP & SIGNATURE

**DINSMOOR ROAD
 SHARED DRIVEWAY OFF
 BARTLETT BROOK ROAD
 POMFRET, VERMONT**

PROJECT TITLE:	ANDY MANN ACCESS PERMIT REVIEW
SHEET TITLE:	SLIDE #2 - 23.1' WIDE X 23.4' DEEP WITHOUT MANN UNDERLAY
PROJECT NO.:	2304
SHEET NO.:	SLIDE #2
DATE:	11-7-2023



EDGE OF TRAVELED WAY ON BARTLETT BROOK



CULVERT EXTENSION ASSUMED NECESSARY FOR THIS ORIENTATION

APPROXIMATE PROPOSED NEW BOUNDARY PINS
PER ANDY MANN PREVIOUS SKETCH SUBMITTAL (TYP)

MACKENZIE
Engineering and Construction
1313 VT Route 110, So. Royalton, VT 05068
Mobile No.: 802.356.5617
Email: ian@mack-eng.com

DOCUMENT NOT VALID
WITHOUT ORIGINAL
STAMP & SIGNATURE

**DINSMOOR ROAD
SHARED DRIVEWAY OFF
BARTLETT BROOK ROAD
POMFRET, VERMONT**

PROJECT TITLE: ANDY MANN ACCESS PERMIT REVIEW

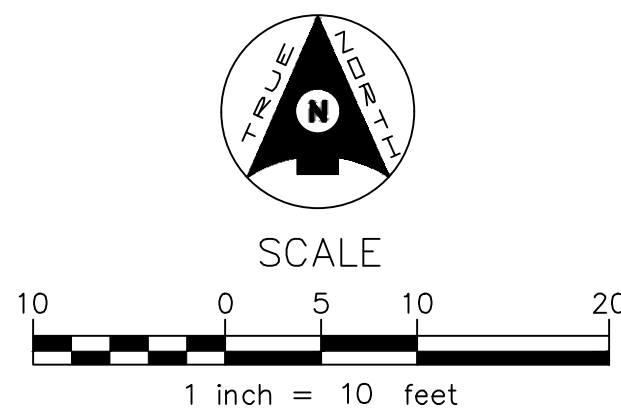
SHEET TITLE: SLIDE #3 - 17' WIDE X 20' DEEP HELD TO SOUTH EXTENT

PROJECT NO.: 2304

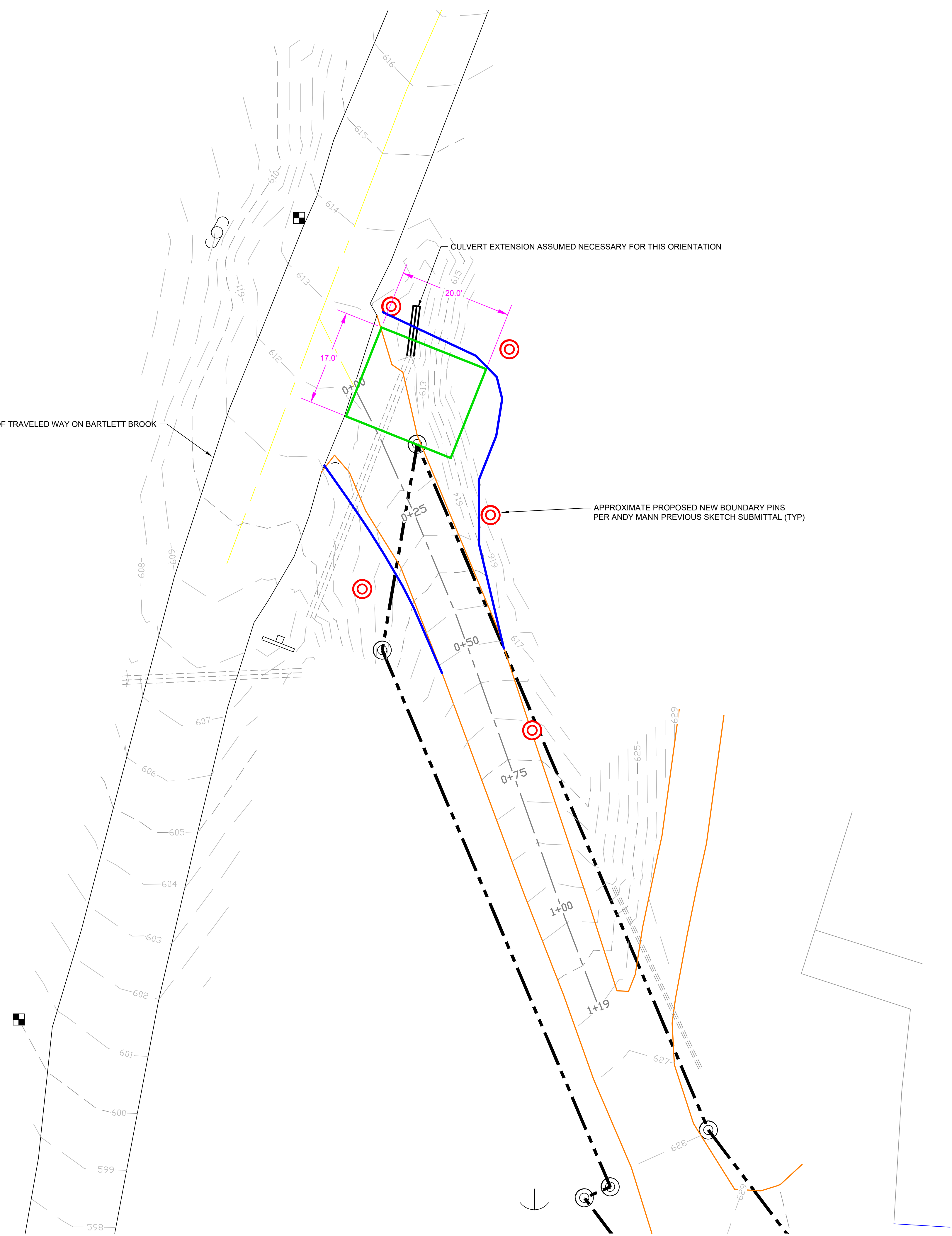
SHEET NO.:

SLIDE #3

DATE: 11-7-2023



EDGE OF TRAVELED WAY ON BARTLETT BROOK



CULVERT EXTENSION ASSUMED NECESSARY FOR THIS ORIENTATION

APPROXIMATE PROPOSED NEW BOUNDARY PINS
PER ANDY MANN PREVIOUS SKETCH SUBMITTAL (TYP)

MACKENZIE
Engineering and Construction
1313 VT Route 110, So. Royalton, VT 05068
Mobile No.: 802.356.5617
Email: ian@mack-eng.com

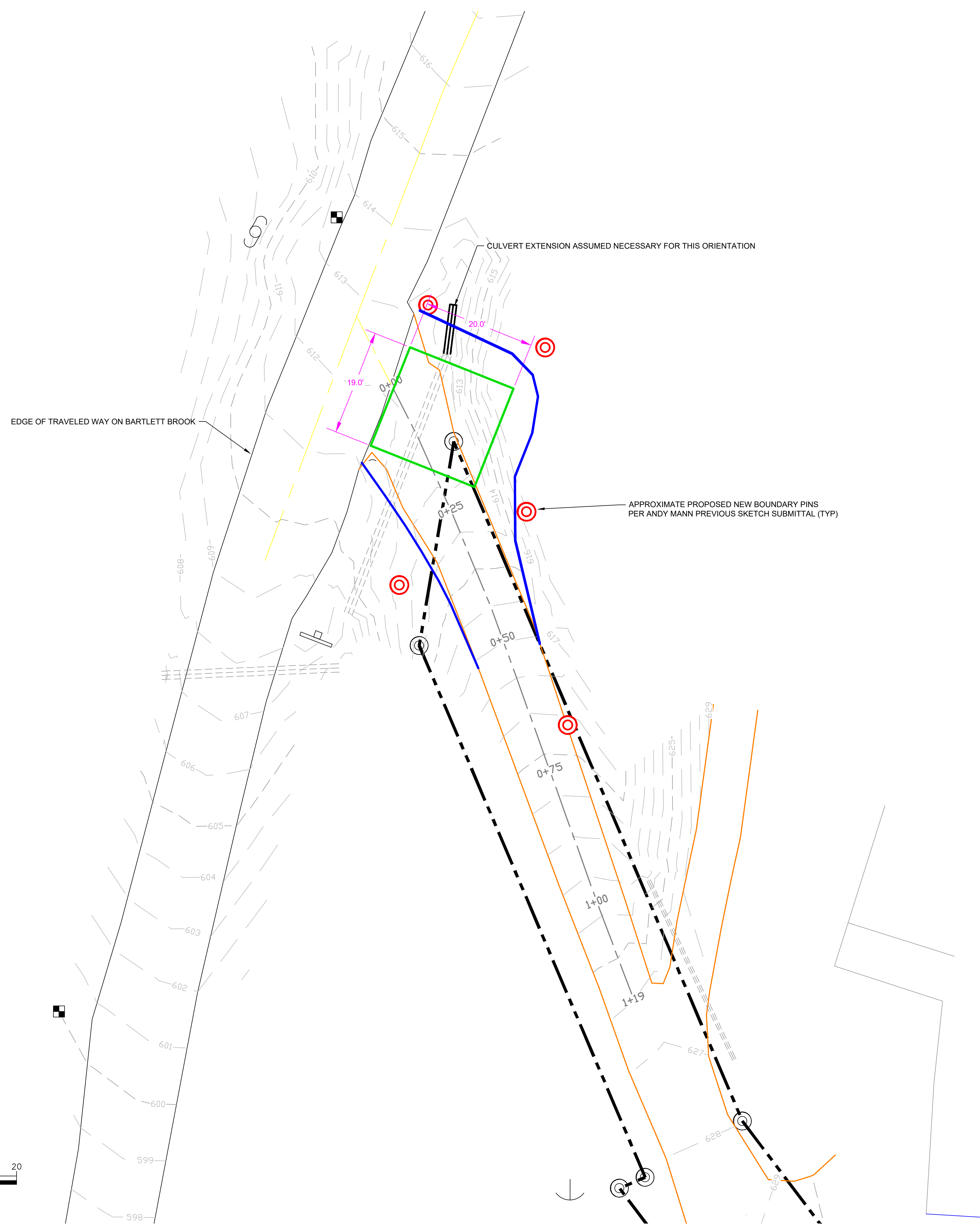
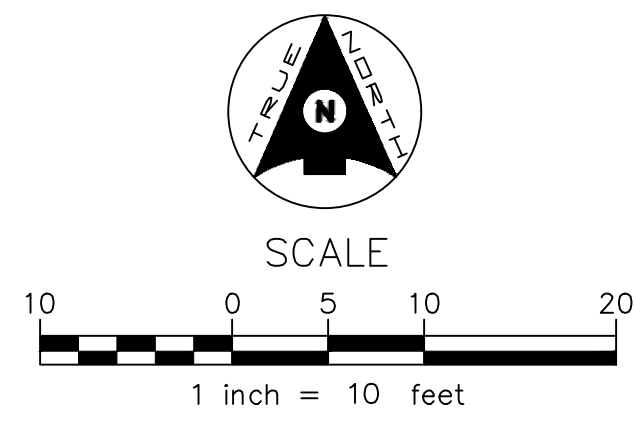
DOCUMENT NOT VALID
WITHOUT ORIGINAL
STAMP & SIGNATURE

**DINSMOOR ROAD
SHARED DRIVEWAY OFF
BARTLETT BROOK ROAD
POMFRET, VERMONT**

PROJECT TITLE: ANDY MANN ACCESS PERMIT REVIEW

SHEET TITLE: SLIDE #4 - 17' WIDE X 20' DEEP HELD TO NORTH EXTENT

PROJECT NO.: 2304 SHEET NO.: SLIDE #4 DATE: 11-7-2023



MACKENZIE
 Engineering and Construction
 1313 VT Route 110, So. Royalton, VT 05068
 Mobile No.: 802.356.5617
 Email: ian@mack-eng.com

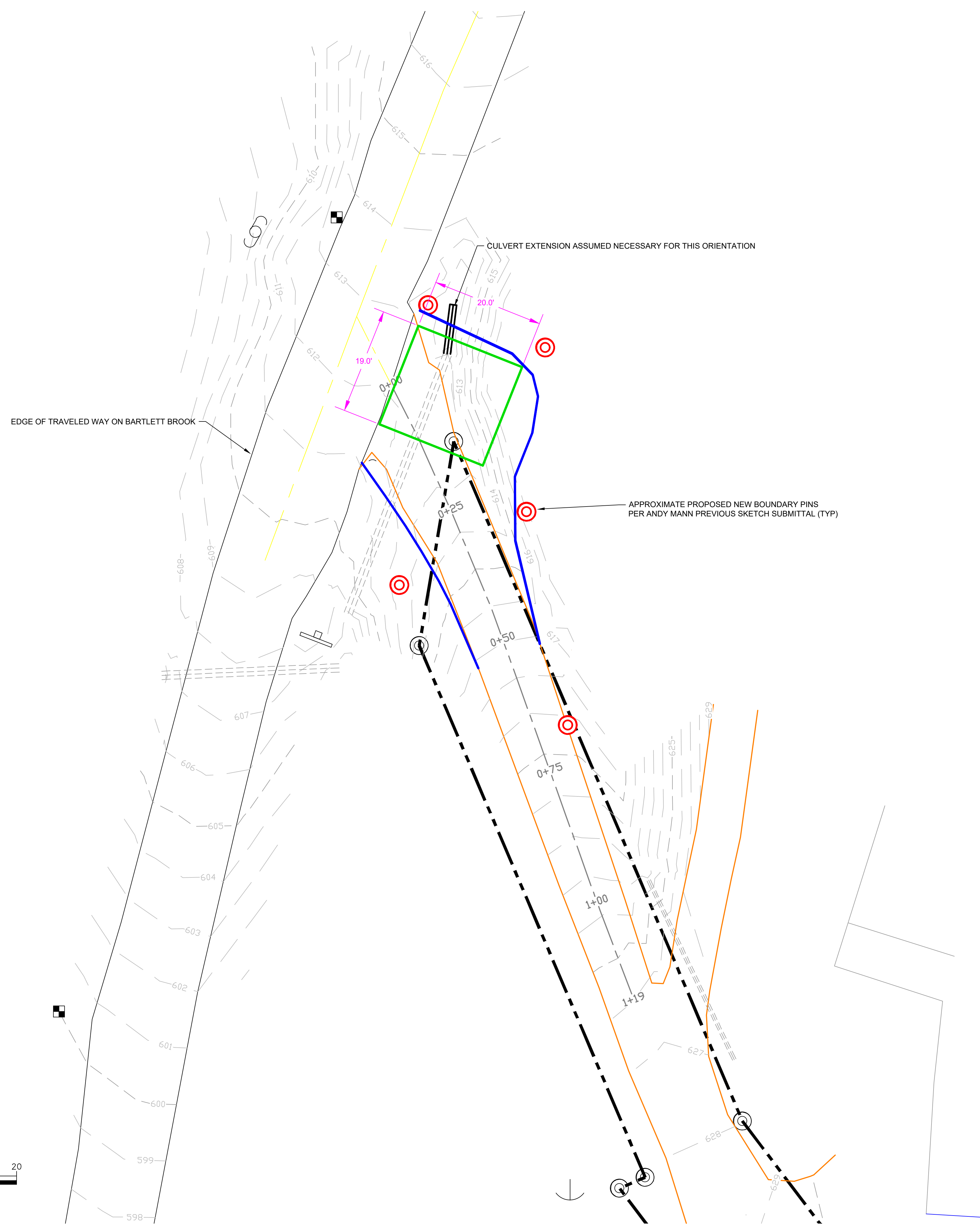
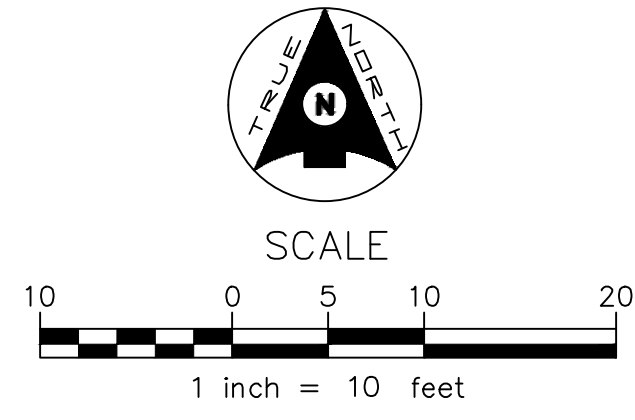
DOCUMENT NOT VALID
 WITHOUT ORIGINAL
 STAMP & SIGNATURE

**DINSMOOR ROAD
 SHARED DRIVEWAY OFF
 BARTLETT BROOK ROAD
 POMFRET, VERMONT**

PROJECT TITLE: ANDY MANN ACCESS PERMIT REVIEW

SHEET TITLE: SLIDE #5 - 15' WIDE X 20' DEEP HELD TO SOUTH EXTENT

PROJECT NO.: 2304 SHEET NO.: SLIDE #5 DATE: 11-7-2023



MACKENZIE
 Engineering and Construction
 1313 VT Route 110, So. Royalton, VT 05068
 Mobile No.: 802.356.5617
 Email: ian@mack-eng.com

DOCUMENT NOT VALID
 WITHOUT ORIGINAL
 STAMP & SIGNATURE

**DINSMOOR ROAD
 SHARED DRIVEWAY OFF
 BARTLETT BROOK ROAD
 POMFRET, VERMONT**

PROJECT TITLE: ANDY MANN ACCESS PERMIT REVIEW

SHEET TITLE: SLIDE #6 - 19' WIDE X 20' DEEP HELD TO NORTH EXTENT

PROJECT NO.: 2304 SHEET NO.: SLIDE #6 DATE: 11-7-2023