

TOWN OF WINHALL  
SELECTBOARD

In re: Reclassification of Read Road, Town Highway #7 To Legal Trail

**FINDINGS, CONCLUSIONS, AND DECISION**

The Winhall Selectboard met on Tuesday, August 1, 2017 at Read Road, Town Highway #7, to conduct a site visit and hearing on the Board's notice to consider the Reclassifying Read Road in its entire length to a Town Trail. In September of 2016 the Board considered the discontinuance of Read Road, Town Highway#7, and concluded that it was not justified by the public good, necessity nor convenience of the inhabitants to discontinue Read Road at this time and the Board decided it warranted further study. On its own motion, the Town of Winhall, through the Selectboard, warned the present hearing.

The Minutes of the August 1, 2017 Hearing with the associated Notice of Hearing and Exhibits A through D are hereby incorporated herein and made a part hereof.

Based on the testimony, exhibits, and other evidence offered at the hearing, the Board makes the following:

**Findings of Fact**

1. Town Highway #7, also known as Read Road (the class 3 portion) and Read Road Extension (the class 4 portion), begins on South Road adjacent to the lands of Jesser and runs through the lands of Crabtree, Judge, Zaino, and the National Forest and is a three rod road from the centerline as shown in metes and bounds on Exhibit D, a certain survey of record by Charles M. Stewart, surveyor, dated January 2, 2007, recorded July 5, 2007 in Map Pull#25 Town of Winhall Land Records, entitled "The Property of Signa L. Read, Trustee of the Signa L. Read January 5, 1998 Revocable Living Trust" which survey is referenced and used herein, Exhibit D.
2. There was evidence of the original laying out of this Highway by the Selectmen by Survey found at Page 5, Town Records 1810-1859, Exhibit C.
3. Witnesses testified and evidence was presented as noted in the August 1, 2017 Minutes, Notice of Hearing, and Exhibits A-D attached hereto and made a part hereof.
4. The costs to the Town of maintaining the Class 3 section, Read Road, and the associated plow time and maneuvering without a cul-de-sac and the future potential costs associated with any required maintenance of the class 4 section, Read Road Extension, so-called, supports the reclassification of Town Highway #7 to a Legal Trail where the Town will no longer be held responsible for any of the maintenance and the rights of the public are protected in its use into the future.
5. There was support for the conservation and recreational purposes associated with reclassifying to a Legal Town Trail wherein all public had continued have access to the Trail and to the National Forest it bounds.

Based on these findings, the Selectboard makes the following

**Conclusions of Law and Decision**

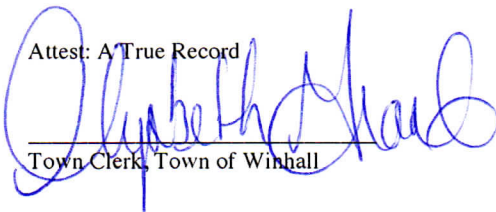
Based on the site visit and hearing and these findings and conclusions, the Selectboard makes the following conclusions of law and decision:


The public good, necessity, and convenience of the public justifies Reclassifying of Town Highway#7 to a Legal Town Trail.

The survey of the Reclassified road is as shown on a certain survey of record by Charles M. Stewart, surveyor, dated January 2, 2007, recorded July 5, 2007 in Map Pull#25 Town of Winhall Land Records, entitled "The Property of Signa L. Read, Trustee of the Signa L. Read January 5, 1998 Revocable Living Trust" which survey is referenced and used herein, Exhibit D.

Dated this 6<sup>th</sup> day of September, 2017, at Winhall, Vermont.

Attest: A True Record

  
Town Clerk, Town of Winhall

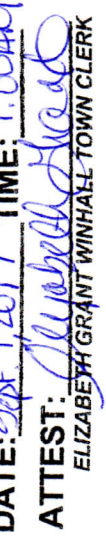
  
William Schwartz, Chair

  
Stuart Coleman

David Glabach

Appeal Rights

Any interested person affected by this decision may be entitled to appeal this decision in writing within 30 days of date it is signed to the Bennington Unit of the Civil Division of the Vermont Superior Court, upon payment of a fee, through V.R.C.P. 75.

WINHALL TOWN CLERK'S OFFICE  
BOOK: 210 PAGE: 874  
DATE: Sept 7 2017 TIME: 7:00AM  
ATTEST:   
ELIZABETH GRANT WINHALL TOWN CLERK

**Winhall Selectboard  
Site Review, Inspection & Hearing Regarding  
Read Road Reclassification To Legal Trail, Tuesday August 1, 2017**

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**SITE REVIEW & INPECTION OF READ ROAD:**

Present were, The Selectboard (represented by Bill Schwartz.The Chair, & Stuart Coleman, Vice Chair, as Dave Glabach was absent for medical reasons), Lucia Wing (Secretary), Trevor Dryden (Highway Foreman), Robert Crabtree (landowner who se property the legal trail adjoins and serves as access), A. Jay Kenlan (Attorney for Crabtree), Ryan Downey Jr. (Surveyor for Crabtree), Hunter Kaltsas (Excavating), Gene Morrison, Bob Whitney, and Deb Hodis (Horses for Hire). All met at the intersection of Read Road (Town Highway #7) and South Road at 5:00 PM per the Notice of Hearing on reclassifying Read Road to a Legal Town Trail (see attached Notice). The purpose of the site inspection was to walk Read Road in its entirety. A Public Hearing at approximately 6:30 PM at the Town Hall in Bondville would follow the inspection walk per the Notice.

**CALL TO ORDER:**

The Public Hearing was called to order at 6:20 PM at the Town Hall. All persons noted above at the Site Review with the exception of Hunter Kaltsas and with the addition of Marcel Gisquet (Chair, Winhall Planning Commission) were in attendance. Noticed Parties and Abutters not present at the Read Road site inspection or Public Hearing included Green Mountain National Forest, Green Mountain Power, Carolyn Crabtree, The Bank of Bennington, Roger D. Judge, Tracy or Sara Zaino, People's Bank, Edward or Margaret Jesser.

**PUBLIC HEARING:**

*Nicole Dernier*, Notary, swore in those present at the Hearing to give testimony. First, *Marcel Gisquet* submitted a letter to the Selectboard as evidence stating the Planning Commission's support of the proposed reclassification of Read Road (Class 3) and Read Road Extension (Class 4)) to a legal Town Trail (see attached Exhibit A). A. Jay Kenlan questioned Gisquet about the Planning Commission's position regarding discontinuance of Read Road. *The Chair* objected to the questioning as it was not relevant to the Noticed Hearing of Reclassification but allowed Attorney Kenlan to continue. Gisquet responded the Planning Commission took no position on discontinuance; the WPC was responding in support of the notice to reclassify Read Road to a legal Town Trail.

Next, *Bob Whitney*, (nearby resident on South Road who often walked sections of Read Road), asked what it meant to be a "Legal Trail". *The Chair* responded that the difference was that Legal Trials retained the Towns right of way and public access to and use of the Road without the obligation of maintenance and that presently the Town maintained the first section of Read Road, a class 3 road (plowing, etc.) and provides no maintenance of the rest of the, class 4 Road, but that there has been concern that requirements of maintenance of class 4 roads may be imposed on the Town. As a legal trail the Town would have no obligations to maintain it; however, the Town of Winhall and public retained all rights to use it and that it is easier to reclassify a road in the future (to upgrade the road) than to start over and layout and take over a road anew.

*Robert Crabtree* responding through *Attorney Kenlan* indicated that he would not maintain Read Road, which he has done for the past year and one-half or so, if the Town reclassified it a legal Town Trail. *Attorney Kenlan* also stated that the road has light use and that *Crabtree* has offered to enter into agreement with some of those present that use Read Road and with the National Forest if Read Road could be discontinued and that *Crabtree* would have no incentive in putting his own money into a road he did not own and requested that the road be discontinued. *The Chair* noted, again, that this was not a discontinuance hearing but a reclassification hearing.

Next, *Deb Hodis* (Horses For Hire) stated she and others had helped maintain Read Road Extension for more than 29 years and used it frequently for horseback riding purposes. Her concern was that if the road were discontinued, gated, and made private, she and future generations would not have use of the access they currently enjoyed. *Attorney Kenlan* responded that *Crabtree* had every intention to draw up agreements with the public who used it currently allowing them to continue using it and added, again, that the public use of the road was light and could be addressed by individual written agreements with *Crabtree* if the road was discontinued. Selectboard member, *Coleman* inquired of *Attorney Kenlan* as to how that might work when an agreement, even recorded in the land records, might simply add litigation between parties to the use of the road and did not address all current users of Read Road or any future parties using the Road if not approved and agreed to by *Crabtree*. *Attorney Kenlan* responded that use would not be for others or future users if not agreed to by *Crabtree*. *Coleman* noted that the Legal Trail status would provide access for all members of the public. *The Chair* made the point again that discontinuance of Read Road was not the topic under consideration, reclassification to a legal Town Trail was the noticed hearing and read the Notice to the assembly for clarity.

Next, *Attorney Kenlan*, stated that he has had a few conversations with the National Forest Service and he believes that they are willing to sit down with him and discuss alternate access and conditional access for the National Forest Service if Read Road would be discontinued and that they have access on the other end of Read Road. It was noted that often the National Forest Service, through their contract loggers, maintain sections of the road as necessary for their maintenance of the National Forest which adjoins most of the class 4 part of Read Road and for maintenance of the trails for its purposes. Currently the Catamount Trail (Walt's Camp Road end) allows public access to the National Forest; in addition, the National Forest maintained a logging trail which was gated and not used by the public. Further discussion included, as noted in Exhibit A, that the National Forest occasionally swaps lands for other lands in a completely different location and the potential impacts on public or private use when ownership changes. *Attorney Kenlan* continued with another reason for Read Road discontinuance adding that *Crabtree* had future intentions of building a house on a portion of his land and was looking for security as well as privacy. Response was that *Crabtree* could gate his driveway and achieve the same result without discontinuing the road. Once again *The Chair* reminded those present that discontinuance was not under consideration. *Coleman* added that depending on what the Selectboard decided whether to reclassify Read Road a Town Trail or keep it a class 3 & class 4 road, the landowner had the right to petition the Town for a discontinuance hearing.

Next *Ryan Downey Jr.* (Licensed Surveyor) submitted the 1940 Winhall Town Highway Map indicating Read Road as 1.4 miles in length (see attached Exhibit B) and a 1847 written Survey of Read Road form when the road was laid out which describes the road by degrees and rods and as a 3-rod wide (see attached Exhibit C). Discussion followed about a 3-rod road versus a 4-rod road. *Downey* gave testimony as a State Licensed Surveyor that he was certain the 1847 Survey was of Read Road and that it was a 3-rod wide road. Official Notice was taken of the 1997 revised 2007 Charlie Stewart survey for Signa Read which shows the entire length of Read Road in metes and bounds as it existed on the ground in 1997 and it is noted as recorded in the Town of Winhall Land Records (see attached Exhibit D).


*Trevor Dryden*, Highway Foreman, testified that the Town of Winhall Highway Department currently plowed and maintained Read Road to where it intersected with Read Road Extension; at that point, the plow turned around. *Dryden* continued and stated that as a Legal Trail th Highway Department would stay on South Road and not have to go up and back down with plowing or otherwise maintain that, Class 3, section of Read Road.

*Attorney Kenlan* reiterated that he thought the correct action for the Town of Winhall to take was discontinuance of Read Road and not reclassify it a legal trail.

*Crabtree* testified that, as *Attorney Kenlan* stated, he has no incentive to maintain the road if it is reclassified as a Legal Trail and that he has been very generous with the use of his land by others and his maintenance of the road. *The Chair* inquired as to whether or not *Crabtree* was aware that Read Road was a Class 3 and Class 4 Road at the time of his purchases of lands adjoining Read Road and *Crabtree* stated that he was but that he thought it a "simple matter" to discontinue the Road. *The Chair* responded, acknowledging that the Board considered discontinuance at the request of *Crabtree* and that is why there was a hearing for discontinuance in September of 2016 and that a site visit and hearing resulted in a determination that discontinuance was not in the best interests of the public.

The Selectboard agreed to admit all evidence as submitted. They recessed the public hearing and would enter into deliberative session at a later date (with findings within 60 days per statute); *motion by Schwartz; seconded by Coleman; unanimous.*

Lucia Wing, Secretary, Winhall Selectboard



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William Schwartz, Chair



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Stuart Coleman

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David Glabach

**Notice of Hearing**  
**On Reclassifying Read Road (T.H. 7) to a Legal Town Trail**  
Select Board of Winhall, Vermont

The Select Board of the Town of Winhall hereby gives notice to the persons named below as owners or persons interested in lands and rights that may be affected by a decision of said Select Board to reclassify Read Road (Town Highway #7) in its entirety from its junction with South Road to its terminus to a Legal Town Trail.

The Select Board, affected landowners, and any member of the public will meet at the intersection of Read Road and South Road at 5:00PM on Tuesday, August 1, 2017 for a site inspection and walk of the portion of the highway, and then meet at the Town Offices at 115 Vermont Route 30 at approximately 6:30PM to conduct a hearing on the question of the reclassification.

As required by law, notice of this site inspection and hearing is being provided by certified mail to each of the persons owning or interested in lands through which the highway passes, listed below, as well as the Winhall Planning Commission. A copy is to be posted in the office of the Town Clerk, and published in the Vermont News Guide, not less than 10 days before the time set for the hearing.

If the Select Board determines that the public good, necessity, and convenience of the inhabitants of the Town require the reclassification of this highway, the Board will decide that matter in deliberative session. Damages are not available for reclassification of highways.

The following persons have been notified of the public hearing:

- Winhall Planning Commission
- Robert E. Crabtree, Jr. & Carolyn L. Crabtree
- The Bank of Bennington (reference Crabtree)
- Roger D. Judge
- Tracy L. Zaino & Sara E. Zaino
- People's United Bank (reference Zaino)
- Edward A. Jesser & Margaret V. O'Grady-Jesser
- Robert B. Whitney
- Green Mountain National Forest
- Green Mountain Power

Winhall Select Board:  
William Schwartz, Chair  
E. Stuart Coleman, Vice Chair  
David Glabach, Member

Winhall Planning Commission  
115 VT Route 30  
Bondville, VT 05340

**RE: Reclassification of Read Road (Class 3) and Read Road Extension (Class 4) to Town Trail**

Dear Selectboard Members,

The Planning Commission would like to offer their comments on the above referenced topic. The PC received the Notice of the proposed reclassification and discussed it at their regular meeting on July 18, 2017. A review of the available maps was also made.

It was concluded that the proposed action would benefit the Town financially in that it would eliminate the need to maintain it and yet still allow landowners along it to maintain it for their use. In addition, Read Road has served as an access to the National Forest for all manner of outdoor and recreational activity that people enjoy and should continue to have access to.

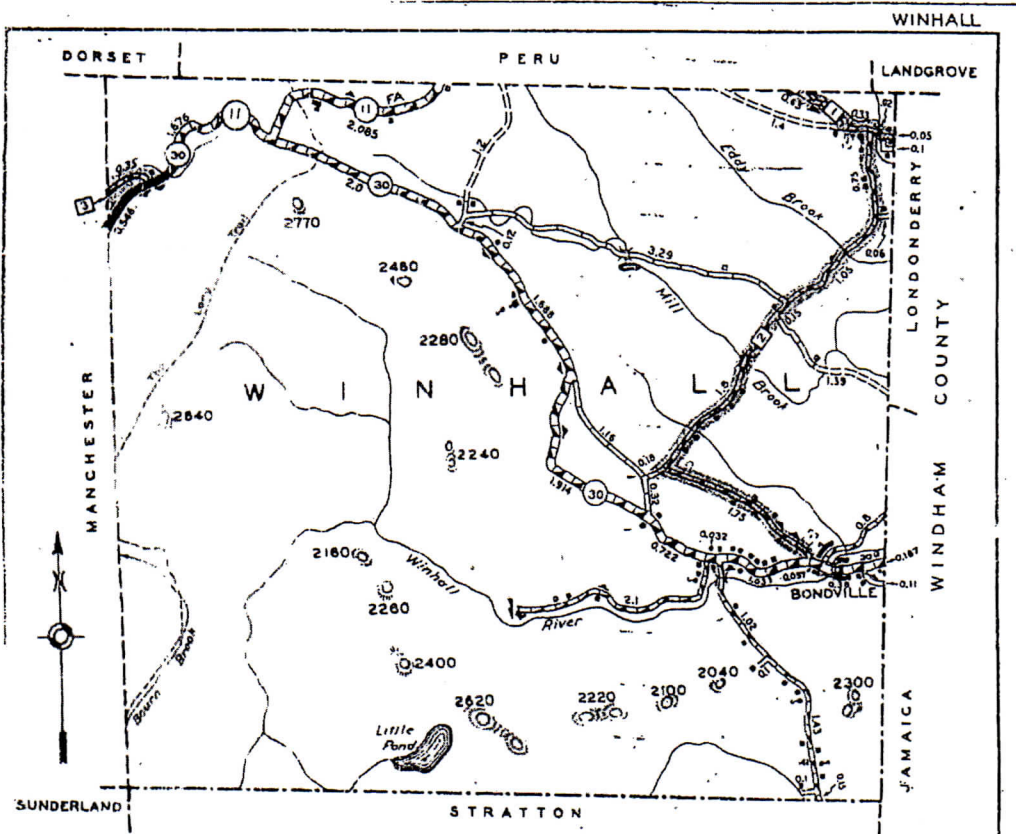
In our view, the most compelling reason to retain it as a Town ROW is that none of us can foresee the needs of future residents for access to the lands the road serves. Such ROW's are easy to divest of but very difficult to come by. The National Forest has in the past taken land out of the NF to obtain other lands they may have a greater interest in. Having a Town ROW in place in such a circumstance would be a benefit for potential future growth in that area.

So, by resolution of the Winhall Planning Commission at their meeting on 7/18/17, the PC unanimously supports the reclassification of Read Road to a Town Trail.



Winhall Planning Commission

# Exhibit B



## WIN HALL

SCALE: 1 INCH = 1 MILE  
-1940-

### LEGEND

- |  |                                      |  |                       |
|--|--------------------------------------|--|-----------------------|
|  | U.S. NUMBERED ROUTE                  |  | PAVED ROAD            |
|  | STATE HIGHWAY                        |  | SURFACE TREATED ROAD  |
|  | NUMBERED STATE AID HWY.              |  | GRAVEL ROAD           |
|  | STATE AID HWY WITH SELECTED TOWN NO. |  | GRADED & DRAINED ROAD |
|  | FEDERAL AID HIGHWAY                  |  | UNIMPROVED ROAD       |
|  | TOWN HIGHWAY                         |  | PRIMITIVE ROAD        |
|  | FARM UNIT                            |  | UNTRAVELED ROAD       |
|  | DWELLING (OTHER THAN FARM)           |  | CHURCH                |
|  | SCHOOL                               |  | CAMP                  |
|  | BUSINESS                             |  | CEMETERY              |
|  |                                      |  | TRAIL                 |

NOTE: VACANT CULTURAL FEATURES SHOWN IN OUTLINE FORM.

TOWN HIGHWAY.....	15.03	MILES
STATE AID HWY. NO. 1	1.05	"
STATE AID HWY. NO. 2	5.50	"
STATE AID HWY. NO. 3	0.35	"
STATE AID HWY. NO.	-	"
TOTAL STATE AID.....	6.90	"
STATE HIGHWAY NO. VT. 30	8.013	"
STATE HIGHWAY NO. VT. 11	4.260	"
STATE HIGHWAY NO.	-	"
TOTAL STATE HWY.	12.273	"
TOTAL ALL SYSTEMS	37.203	MILES

VERMONT HIGHWAY DISTRICT NO. 1

BENNINGTON COUNTY

R-O-A  
BK-4  
PS-70-2

2<sup>d</sup> Voted the Treasurer is Directed to pay Oliver Bebee over Secor of the poor twenty four Dollars for the support of Miss Reed the present year

3<sup>d</sup> Voted the Treasurer is Directed to pay Daniel Williams the Sum of Eighteen Dollars for the Removal of Aaron Mellens family to South Borough Moss to Miss Mellens Brothers

4<sup>th</sup> Vot. this meeting Resolved

Attest - Reuben Brooks Town Clerk

Survey of A Road from John Barnards to Vera Beginning at a point Six rods due east from John Barnards front Door & running North 44° West

32 rods thence N-49	W-156 rods	
S-15	W-64 rods	TOWN RECORDS
N-60	W-30 rods	1810-1859
N-46	W-62 rods	SMALL BOOK
N-60	W-67 rods	
N-54	W-94 rods	to the intersection

of Vera line

Surveyed April 14<sup>th</sup> to 1831 by Nathl. Mellen Surveyor  
Said Road three rods & Surveyed in the center beyond of

Received for Record May 19<sup>th</sup> 1831 and recorded by  
Nathl. Mellen } Select  
Silas Gleason } Men  
Reuben Brooks Town Clerk } Joseph Allen }

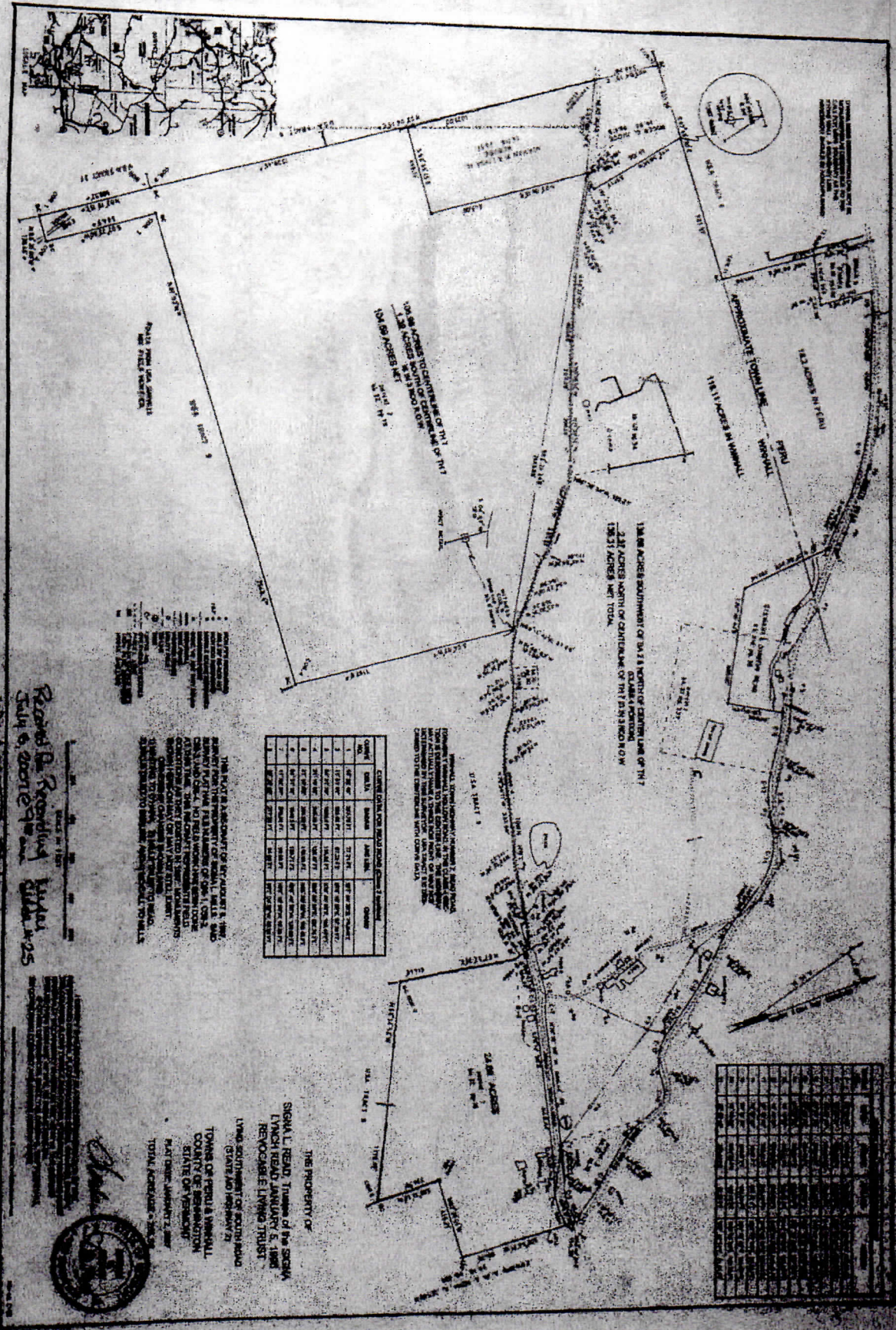


Geographics of New England, Winoski, VT hereby certifies that this map was reproduced by the flood line photographic process.

*Ch. J. J. J.*

This plan meets the requirements of 27 V.S.A. 1401.

*Charles Stewart* (Platiff)



THESE ARE THE BOUNDARIES OF THE SEVERAL PARCELS SHOWN ON THIS MAP AS TAKEN FROM THE RECORDS OF THE TOWN OF WINOSKI, VERMONT, AND AS THE SAME ARE SHOWN ON THE MAPS OF THE TOWN OF WINOSKI, VERMONT, AS THE SAME ARE SHOWN ON THE MAPS OF THE TOWN OF WINOSKI, VERMONT, AS THE SAME ARE SHOWN ON THE MAPS OF THE TOWN OF WINOSKI, VERMONT.

ORDER	AREA	ACRES	PERCENT	OWNER
1	100.00	100.00	100.00	CHARLES STEWART
2	120.00	120.00	120.00	CHARLES STEWART
3	130.00	130.00	130.00	CHARLES STEWART
4	140.00	140.00	140.00	CHARLES STEWART
5	150.00	150.00	150.00	CHARLES STEWART
6	160.00	160.00	160.00	CHARLES STEWART
7	170.00	170.00	170.00	CHARLES STEWART
8	180.00	180.00	180.00	CHARLES STEWART
9	190.00	190.00	190.00	CHARLES STEWART
10	200.00	200.00	200.00	CHARLES STEWART

THESE ARE THE BOUNDARIES OF THE SEVERAL PARCELS SHOWN ON THIS MAP AS TAKEN FROM THE RECORDS OF THE TOWN OF WINOSKI, VERMONT, AND AS THE SAME ARE SHOWN ON THE MAPS OF THE TOWN OF WINOSKI, VERMONT, AS THE SAME ARE SHOWN ON THE MAPS OF THE TOWN OF WINOSKI, VERMONT.

ORDER	AREA	ACRES	PERCENT	OWNER
1	100.00	100.00	100.00	CHARLES STEWART
2	120.00	120.00	120.00	CHARLES STEWART
3	130.00	130.00	130.00	CHARLES STEWART
4	140.00	140.00	140.00	CHARLES STEWART
5	150.00	150.00	150.00	CHARLES STEWART
6	160.00	160.00	160.00	CHARLES STEWART
7	170.00	170.00	170.00	CHARLES STEWART
8	180.00	180.00	180.00	CHARLES STEWART
9	190.00	190.00	190.00	CHARLES STEWART
10	200.00	200.00	200.00	CHARLES STEWART

Received & Recorded  
 July 6, 1907  
*Charles Stewart*



THE PROPERTY OF  
 SIGMA L. BEAD, Trustee of the SIGMA  
 LYNCH BEAD JANUARY 1, 1888  
 RENOVABLE LIVING TRUST  
 LYONS, SCOTT, & COMPANY  
 (STATE AND REGISTER)  
 TOWN OF WINOSKI, VERMONT  
 COUNTY OF BENNINGTON  
 STATE OF VERMONT  
 PLAT DATE: JANUARY 2, 1907  
 TOTAL ACRES: 200.00