



October 3, 2017

VIA EMAIL AND US MAIL

Bradford Zoning Board of Adjustment
Town of Bradford
PO Box 436
Bradford, NH 03221
recorder@bradfordnh.org

**Re: Request to Hear Halsted Appeal at October Meeting;
Right-to-Know Request**

Chairman McCandlish and Members of the Zoning Board of Adjustment,

I write on behalf of Michele and David Halsted ("Halsteds") regarding their appeal of the Planning Board's July 25, 2017, decision that Erik V. Croto's proposed ammunition manufacturing business, Kraken Ammunition, LLC, meets the home business criteria in the Bradford Zoning Ordinance. I understand that the Zoning Board has accepted the Halsteds' appeal as timely, but has requested that they provide a completed Application for an Appeal from an Administrative Decision form. I further understand that the Zoning Board intends to discuss at the upcoming October 4, 2017, meeting the Halsteds' standing to pursue this appeal. However, the scope of the October 4, 2017, meeting is unclear. Therefore, I reserve the right to supplement the record, and assume abutters' notice will occur in compliance with the law. Accordingly, please accept the enclosed completed form (Exhibit 1) and this letter, which states the reasons this Board should reverse the Planning Board's decision. I request that you make both the form and letter part of your official record for this matter.

Section I of this letter explains why the Halsteds have standing to bring this appeal. Section II addresses the Zoning Board's jurisdiction and expansive standard of review to hear and decide this appeal. Section III argues that the Zoning Board should reverse the decision of the Planning Board and conclude the proposed use does not satisfy the home business exception because the Planning Board's decision is unreasonable, unlawful, and based on insufficient evidence. Section IV concerns the Planning Board's failure to analyze whether there was a potential for regional impact. Finally, Section V reviews the approval process that the proposed use would be subject to should this Board conclude that the proposed use does not qualify as a home business and is, therefore, subject to site plan and other zoning review.

I. The Halsteds have Standing to Bring this Appeal

A person or entity must have standing to bring an administrative appeal. In the context of local land use boards, any "persons aggrieved" may file an appeal. *See RSA 677:15, I*. In determining whether a person has standing, the board must make a factual



determination based on factors such as proximity of the appellant's property to the subject property, the type of change proposed, the immediacy of the injury claimed, and the appellant's participation in the hearing. *Weeks Restaurant Corp. v. Dover*, 119 N.H. 541 (1979).

All of the *Weeks* factors weigh in favor of the Halsteds. First, the Halsteds are noise abutters to the subject property because of their close proximity and the topography in between. Exhibit A, an annotated copy of a Bradford Tax Map depicts the subject property—Lot 12—and the Halsteds' properties—Lots 26, 27 (house located here), 40, 29, and 41. There is a distance of approximately 3,500 feet, or slightly more than half a mile, between the center of Lot 12 and Lot 27. While this physical proximity alone is sufficient to confer standing, the proximity is amplified by the fact that, due to the topography of the neighborhood, sound travels largely without obstruction between the Croto and Halsted properties. See Exhibit B (topographical map of neighborhood).

The immediacy of the injury caused by this decision is great. The Halsted family, as well as many other Bradford residents, frequent the trails that run adjacent to the Croto facility. For example, please see the attached photos depicting the Halsted family recreating on the trails, Exhibit C, and the New Hampshire Snowmobile Corridor map, which shows the proximity of snowmobile trails to the subject property, Exhibit D. These substantiated facts regarding the Halsteds' close proximity and recreational use also relate to the immediacy of the injury. This proposed use, especially if it expands as Mr. Croto intends, involves the production, storage, and/or testing of ammunition, the receipt of manufacturing materials, and/or the shipping out of finished product. This has the potential to create severe noise pollution and safety risks that will negatively affect the Halsteds' quiet enjoyment of their home and neighborhood trails.

The second *Weeks* factor also supports the Halsteds' position. The use proposed is a dramatic departure from the status quo residential use. It deviates from the common-law understanding of a home business. It is an industrial use inappropriate for a rural residential district. The Halsteds have chosen to live in this area of Bradford because of its rural residential character, for which commercial or industrial uses are allowed only where the Zoning Board has granted a special exception and the Planning Board has issued site plan approval.

And finally, the Halsteds have standing because they have sufficiently participated in this matter. Immediately upon learning of the Planning Board's decision, having not received any notice of the application, the Halsteds signaled their intent to appeal and have extensively involved themselves in this matter ever since.

Based on these factors, there can be no reasonable doubt that the Halsteds have standing. Therefore, the Zoning Board should consider the merits of the appeal.



II. The Zoning Board has Jurisdiction to Hear and Decide this Appeal and may Reverse or Affirm, Wholly or in Part, or may Modify the Planning Board's Decision and may Make Such Order or Decision as Ought to be Made

The Board has extensive jurisdiction to hear and decide appeals where it is alleged, as it is here, that the administrative official erred in its enforcement of a zoning ordinance adopted pursuant to RSA 674:16. RSA 674:33, I(a). This appellate jurisdiction extends to decisions of the planning board. *See Dube v. Town of Hudson*, 140 N.H. 135, 138 (1995) (stating that the ZBA “has explicit authority to review the planning board’s construction of the zoning ordinance”). There are few actions an administrative official or planning board may take that do not fall under the scope of RSA 674:16. *Peabody v. Town of Windham*, 142 N.H. 488, 492 (1997) (“The [ZBA] has broad authority on subjects within its jurisdiction.”). Moreover, in determining whether it has jurisdiction to hear an appeal, the zoning board shall not exalt form over substance. *See Accurate Transp. Inc. v. Town of Derry*, 168 N.H. 108 (2015).

Here, the Planning Board was exercising its general zoning powers, not its site plan or subdivision authority. It issued a decision on the legality of a proposed use, not an advisory opinion. Therefore, its decision falls within the scope of this Board’s appellate review. Alternatively, even if this Board were to conclude that the Planning Board was exercising its subdivision or site plan powers and not its general zoning powers, this Board would still have jurisdiction because the Planning Board’s determination that the criteria were satisfied necessarily involved interpretation of the zoning ordinance. This is particularly true where inconsistencies between the home business provisions in the Site Plan Regulations and the Zoning Ordinance create ambiguity as to the criteria for a home business.

In exercising its jurisdiction, a zoning board may “reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.” RSA 674:33, II; *see also* RSA 676:5 (appeals to board of adjustment). Such action would be appropriate where the zoning board is persuaded by the balance of probabilities that, on the evidence before it, the decision being appealed is unreasonable. *Cf.* RSA 677:15, VV. The standard of review by a zoning board on all administrative appeal is *de novo*; as such, the zoning board is to give no deference to the decision of the administrative official, including the planning board, in making its decision. *Ouellette v. Town of Kingston*, 157 N.H. 604, 612 (2008). Neither the RSA nor Bradford’s laws prevent this Board from hearing evidence presented for the first time upon appeal.

But the Board’s remedies in reversing or modifying a decision are limited in one important respect. The Board may not grant the applicant a variance from the terms of the home business ordinance. 15-22 Land Use Planning and Zoning § 22.02 (2016).



Therefore, the Board may proceed to consider the merits of the appeal and craft any remedy it determines is appropriate as if it were standing in the place of the Planning Board.

III. The Planning Board's Determination that the Applicant Satisfied the Home Business Criteria is Unlawful and Unreasonable and Made Based on Insufficient Evidence

A. The Proposed Use Unlawfully Exceeds the Scope of the Home Business Exception to Zoning Board and Planning Board Review

Under New Hampshire law, the home business exception is a narrow exception to typical planning board and/or zoning board review. Municipalities enacted it because they recognized that certain home occupations were too numerous and important to be summarily terminated when zoning districts were first created. 15-10 Land Use Planning and Zoning § 10.01 (2016). The concept behind the exception is to allow traditional home occupation uses to be permitted, subject to certain conditions intended to prevent them from detracting from the residential character of the neighborhood. *Id.* "Consequently, a home occupation will be permitted in a residential district only if it is customarily incidental to the use of the premises as a dwelling and it is subordinate to the residential use of the property. Uses which are not traditionally conducted at the home of the proprietor generally do not fall into the category of home occupations." *Id.*

Recognizing this common law of zoning, the New Hampshire Supreme Court has struck down municipal interpretations and applications of the home business exception it deemed so overly broad permitting it would "enable the home occupation exception to swallow up the rule preserving the residential character of a zoning district." *Milford v. Bottazzi*, 122 N.H. 636 (1981). For example, in *Milford v. Bottazzi*, the Court rejected the defendant's argument that a home occupation is by definition any income-producing activity carried on in the home. *Id.* The Court rejected his argument and held that a part-time automobile truck repair business at defendant's residence was not a traditional home occupation. *Id.*

The Bradford ordinances that constitute the home business exception must be interpreted and applied consistent with this common law. The Bradford Master Plan complies with this common law and should also guide this Board's interpretation of the home business ordinances. The Master Plan explains that the exception is limited to home businesses that do not change the character of the dwelling, and "have no visible outside storage, emission of dust, noise, fumes, vibration or smoke, or additional street parking or traffic." Bradford Master Plan, at 25. The ordinance describes the modern home business in Bradford as computer-based. The Master Plan also explains that the citizens do not value industrial uses in Bradford and favor home-based businesses that are agriculture-related. *Id.*, at 30. During a community visioning session in 2004, participating citizens expressed interest in maintaining the rural character of Bradford over interest in creating



more jobs or businesses, stating that Bradford must protect its primary attraction—the scenic landscape. *Id.* As such, the citizens concluded that home businesses should be permitted only where they have “little to no impact on their surroundings.” *Id.*, at 40.

For the reasons explained below, Mr. Croto’s proposed use is not one of the traditional home occupations permitted by the common law, nor one of the traditional, computer-based, or agricultural-related home businesses with no impact on Bradford’s rural neighborhoods that the Master Plan clearly favors. To allow a use such as that proposed by Mr. Croto would permit the home business exception to swallow the rules of the Bradford Zoning Ordinance that require site plan approval and a special exception for commercial and industrial uses. For this reason, not only does the Planning Board’s decision risk legal challenge, it may result in further abuse of the home business exception or, as a result of that potential abuse, the elimination of the exception.

B. The Planning Board’s Decision is not Supported by Sufficient Evidence

The Bradford Zoning Ordinance provides that home businesses are legal only “with full compliance with applicable sections of this ordinance.” Bradford Zoning Ordinance, § IV(B)(3)(b)(3). In the rural residential district, within which the subject property lies, commercial or industrial establishments are permitted only by special exception, unless they satisfy all criteria of the home business exception. *Id.*, § IV(B)(3)(b)(4). Use of an accessory building for a home business requires site plan review. *Id.* § IV(B)(3)(b)(3). The Bradford Ordinances and Regulations define require a home business as “clearly incidental and subordinate to the residential dwelling(s) and meets the criteria in Article III, Generally Provisions, Section O.” *Id.*, § II(T). Section O lists seven specific criteria the applicant for a home business exception must satisfy, the most relevant which are as follows.¹ *Id.*, § III(O):

1. Does not alter the character of the existing structure(s) by creating a need for additional building expansion which changes the character of the residential use;

....

6. Is conducted during the hours of 7:00 am and 8:00 pm., including all deliveries in this time frame;

7. [D]oes not create noises, or produce potential nuisances associated with such use including but not limited to vibration, dust, smoke, odors or would reasonably interfere with anyone’s enjoyment of their residence or that of neighboring residents.

¹ While the Halsteds do not raise arguments concerning the omitted standards, they do not concede that there is sufficient evidence to support the Board’s finding that Mr. Croto satisfied the criteria.



The Planning Board's decision that Mr. Croto satisfied the above criteria is unlawful and unreasonable because there is insufficient evidence and too many unresolved questions that the Planning Board should have thoroughly probed, but did not.

i. Noise, Traffic, and Other Nuisances

The Planning Board's decision was not subject to any condition limiting Mr. Croto from testing ammunition on the property. It is also not clear from the record whether Mr. Croto has in the past or presently intends to test ammunition on the property. As such, there is insufficient evidence that the proposed use will not create excessive noise or other nuisances prohibited by the seventh standard. There is also no condition limiting any testing or manufacturing to between the hours of 7:00 am and 8:00 pm. To this point, the Halsteds and other neighbors have heard from their homes automatic gun fire emitting from what they believe to be the abandoned gravel pit on the subject property. Moreover, the Planning Board did not consider noise. Traffic, safety, or other circumstances arising from shipment to the property of materials and shipment from the property of finished product. The decision is unreasonable because the Board failed to consider the noise and other nuisances associated with the manufacture and testing of ammunition. Further, the Board did not consider the noise and increase in traffic from the transportation of the ammunition, materials, etc.

ii. Fire and Safety

The proposed business includes the storage, transportation, and manufacturing of explosive, toxic, hazardous, and flammable materials. Despite the clear risks associated with this, the record is devoid of any evidence ensuring the safety of the operations, either for Mr. Croto or for the general welfare of the public. The Board failed to conduct an independent investigation or solicit opinions from the fire chief or police chief. These risks may be intensified if there is outdoor testing or storage, which is currently possible because there are no conditions of approval.

Please see attached as Exhibit E, the letter of October 3, 2017 from Douglas R. Nadeau, MSFPE, PE, CFPS, LEED AP, and President of RAN Fire Protection Engineering.

As Mr. Nadeau explains, he performed a preliminary review, based on the scant information provided by the Applicant. He made several conclusions, including that:

1. The risk to the house at 26 Fortune Road and the surrounding properties is greater than would be anticipated in a residential setting.
2. The amount of explosive material exceeds the use and allowance anticipated for the health and safety of the public. Reference standards of the Fire Code limit the amount of black powder, smokeless propellant, and



small arms primers stored in a one family dwelling to 20 lbs. with special circumstances allowing up to 50 lbs.

3. Because the level of explosive material will exceed the allowable limit for a single family dwelling, a change in occupancy classification from Residential Group R-3 to a High-Hazard Group H occupancy is warranted.
4. High-Hazard Group H occupancies have required set back from the walls enclosing the occupancy to lot lines, including those on a public way, which is typically at least 75 feet.
5. There may be additional fire protection features required by Group H occupancies including but not limited to automatic fire detection and automatic sprinkler protection.

iii. Outdoor Storage

The Planning Board's decision is unlawful because the record and subsequent email conversations between members of the Planning Board indicate that Mr. Croto may intend to store materials related to the ammunition manufacturing in outdoor buildings. Not only does this increase the risks and nuisances discussed above, it is contrary to the criteria for the home business exception.

The first standard prohibits the additional expansion of buildings for purposes of the home business. The addition of outdoor storage facilities changes the rural residential character of the property and must, therefore, go through site plan review. Further, Section III(E)(5) of the Bradford Site Plan Regulations states, "[u]se of an accessory building for a home business in the Residential Rural District requires site plan approval." (Citing Article III(O) of the Zoning Ordinance). Therefore, even if Mr. Croto plans to use an existing accessory building, this use exceeds the narrow home business occupation and the ammunition manufacturing, therefore, requires site plan approval.

IV. The Planning Board Unlawfully Failed to Conduct a Regional Impact Analysis

Local land use boards must review all applications to determine whether the proposed development, if approved, could reasonably be construed as having the potential for regional impact. RSA 36:56, I. The minutes do not show that the Planning Board made any review and determination of regional impact. Because of the close proximity of the subject property to shared transportation networks and neighboring municipalities, the regional planning commission and abutting towns should have been notified pursuant to RSA 36:57. For this reason alone, the Zoning Board should reverse the Planning Board's decision and either remand the matter to the Planning Board or decide for itself whether the proposed use has a potential regional impact per RSA 36:56.



V. Site Plan Review and the Special Exception Process may Address Abutters' Concerns

Because the proposed use exceeds the scope of and cannot satisfy the criteria for the home business exception, to determine whether he may proceed with the proposed use, Mr. Croto must seek a special exception from this Board and, if that is granted, must then apply for site plan review before the Planning Board. It is only through these processes, that the Planning Board and Zoning Board can prevent the use if it does not satisfy the applicable standard, or if it does, place conditions on the business to maintain the rural residential character of the neighborhood. These conditions could potentially address many of the abutters' concerns. Further, given the additional time and more expansive standards of review, both the Zoning Board and/or the Planning Board can consult experts, hear additional testimony, and more thoroughly review the application. Therefore, while the reversal of the Planning Board's decision may cause Mr. Croto some temporary delay and expense, through the site plan and special exception process, a consensus is more likely to be found that may reduce the risk of subsequent challenge and litigation.

CONCLUSION

For the foregoing reasons, the Zoning Board should reverse the decision of the Planning Board and require Mr. Croto apply for a special exception and site plan review. While the Halsteds remain concerned about the proposed use and will vigilantly exercise their rights, the Halsteds are hopeful that further review by the Planning Board and Zoning Board may lead to a mutually favorable result.

Very truly yours,



Amy Manzelli, Esq.

cc: Clients (via email only)



EXHIBIT 1

APPLICATION FOR AN APPEAL FROM AN ADMINISTRATIVE DECISION
ZONING BOARD OF ADJUSTMENT | Bradford, NH 03221

DATE FILED: _____

CASE NO. _____

NAME OF APPLICANT: David and Michele Halsted

MAILING ADDRESS: 707 West Road
Bradford, NH 03221-3228

TELEPHONE NUMBER: (603) 938-2199

PROPERTY OWNER: Erik V. Croto
(If same as applicant, enter "same")

LOCATION OF PROPERTY: 04-012-00-26 Fortune Road

TAX MAP NUMBER: 04 LOT NUMBER: 012-00

Complete the following sections. Sign and date the application in the space provided. This application will not be considered unless all required statements have been made. Additional information may be supplied on separate sheets if the space provided is inadequate. Applications shall be acceptable only when presented to the Clerk of the Board at the beginning of any regularly scheduled meeting. ONE ORIGINAL AND SIX (6) COPIES OF THE COMPLETED APPLICATION SHALL BE PRESENTED TO THE CLERK. If you have any questions and/or require assistance, attend a regularly scheduled Zoning Board of Adjustment meeting for our consultation.

Applicant is fully responsible for researching and knowing all laws which may be applicable and affect the outcome of the Board's decision on your application request. Applicant must appear at the public hearing or be represented by an authorized agent or attorney for the Board to take action on your application. The application will be terminated or tabled for failure to appear at a scheduled meeting. If an agent or attorney is designated to represent this application, applicant must submit a signed Letter of Authorization.

Attach a copy of the Zoning Administrative Decision, if applicable.

All fees shall be paid before a public hearing can be noticed.

APPLICANT SIGNATURE: _____ DATE: _____

APPLICATION FEES

ADMINISTRATIVE & NEWSPAPER NOTICE

Check made out to Town of Bradford/ZBA: **\$80.00**

REQUIRED NOTICES (include Applicant, Abutters, Engineers, Easement Holders, etc.)

Check made out to Postmaster, Bradford, NH: _____ AT \$ _____ EACH SUBTOTAL: \$ _____

TOTAL FEES: \$ _____

ZBA USE ONLY. Comments have been solicited from the Selectmen ☐, Conservation Commission ☐, Road Agent ☐, Police Chief ☐, Fire Chief ☐, and Planning Board ☐ as appropriate.

APPLICATION FOR AN APPEAL FROM AN ADMINISTRATIVE DECISION
ZONING BOARD OF ADJUSTMENT | Bradford, NH 03221

Describe the property. Give area, frontage, side and rear lines, slopes, natural features, etc. Attach survey plan, plot plan, etc.

Please see Attachment A.

Describe the proposed action. Attach sketches, plot plans, pictures, construction plans, or whatever may explain the proposed use. Include copies of any prior applications concerning the property.

Please see Attachment A.

In consideration of the proposed action, an order, requirement, decision, and/or determination was made by _____ (an administrative official) based upon Article _____, Section _____ of the Bradford Zoning Ordinances.

This order, requirement, decision, and/or determination was made in error because:

APPLICATION FOR AN APPEAL FROM AN ADMINISTRATIVE DECISION
ZONING BOARD OF ADJUSTMENT | Bradford, NH 03221

APPLICANT NAME		
DATE:	Case Number:	Map/Lot No. 04
ABUTTERS LIST		
FULL NAME AND ADDRESS FROM CURRENT TAX BLOTTER		
TAX MAP/LOT NO.	NAME	MAILING ADDRESS
01-001-00	Renate Davis and James Everman	110 West Elm St., Deep River, CT 06417
04-003-00	David B. Bassi	904 Mountain Rd., Newbury, NH 03255
04-13-0A, 04-13-0B, 04-002-000, 04-013-00	John Fortune and Cheryl McDonald Fortune	75-78 Fortune Rd., Bradford, NH 03221
04-010-00	Timothy Hicks	20 Fortune Rd., Bradfor, NH 03221
04-91-00	Ronald Connor	65 Essex St., Beverly, MA 01915
04-13-00	John Fortune and Cheryl McDonald Fortune	75-75 Fortune R., Bradford, NH 03221
04-015-00	Brook McCandlish and Janet G. Sillars	P.O. Box 112, Bradford, NH 03221-0112
04-021-01, 04-021-00	Christopher Payson	803 West Rd., Bradford, NH 03221
04-22-00	Christopher Payson	803 West Rd., Bradford, NH 03221

COMPLETE THIS FORM AND ATTACH TO APPLICATION

ATTACHMENT A TO APPLICATION FOR AN APPEAL FROM AN ADMINISTRATIVE
DECISION - ZONING BOARD OF ADJUSTMENT -- BRADFORD, NH

**DESCRIBE THE PROPERTY. GIVE AREA, FRONTAGE, SIDE AND REAR
LINES, SLOPES, NATURAL FEATURES, ETC. ATTACH SURVEY PLAN,
PLOT PLAN, ETC.**

Location and Topography: Lot 04-012-00 is a 43-acre parcel located off a Class V road in a heavily wooded the Rural Residential District near Box Corner in Bradford, New Hampshire, three miles south-southwest of South Newbury, New Hampshire, at approximately 43.26N 72.03W. The site lies five miles (thirteen minutes) from the downtown Bradford location of the volunteer Fire Department, First Responders, and Police Station. Elevation of this hilly lot varies from approximately 290 to 345 meters above sea level; the highest point appears equivalent to approximately 1,131 feet above sea level. Google Maps overhead imagery is murky, but there may be a body of water on the property. The attached topographical map shows that a gravel pit is located on the property that town records state was abandoned in 2013. Attachment A-1.

Google Maps overhead imagery (copyright 2017) shows a nearly completely forested lot with a single point of access provided by a one-lane dirt road. There do not appear to be any clear-cut fire prevention buffers between the one visible structure on the property and the property line. Although the parcel has 1308' frontage on Fortune Road, unique access appears to be gained via a right-of-way from Lot 04-10-10 that leads over a single-lane bridge. A public town sign posts the bridge at a six-ton limit, but by other indications the bridge appears to be private. The bridge has metal side rails. It is unknown whether the deed for Lot 04-10-10 Right-of-Way allows access for commercial business activity. The bridge crosses a stream that may flow into the nearby West Branch of the Warner River.

Ecology: Lot 04-012-00 lies near NH's largest tract of contiguous unfragmented undeveloped lands south of the White Mountains, part of the Quabbin-to-Cardigan tract of supreme conservation value to New Hampshire and the Northeast. The New Hampshire Wildlife Action Plan shows that this property contains highest-ranked habitat in the biological region and is surrounded by supporting landscapes. The lot abuts the Kiskanari conservation easement, a property evaluated as representing the highest-ranked habitat in New Hampshire. Within the past fifteen years, 114 different species of birds have been observed in the neighborhood. Wildlife is abundant. See *generally* Quabbin-to-Cardigan Partnership, <https://q2cpartnership.org/> (last visited Oct. 2, 2017).

Population: Residents of the abutting neighborhood treasure the tranquility and natural beauty of the area. The neighbors range from young families and stay-at-home moms with toddlers and school-age children, to working adults, including

ATTACHMENT A TO APPLICATION FOR AN APPEAL FROM AN ADMINISTRATIVE
DECISION - ZONING BOARD OF ADJUSTMENT – BRADFORD, NH

telecommuters, and elderly pensioners who enjoy visits from their grandchildren. Numerous neighbors on numerous different occasions have heard loud, military style auto or semiautomatic gunfire emanating from the general area of the subject property. For example, multiple neighbors recall this occurring for eight hours on July 16, 2017, as well as additional similar episodes on August 17 and August 28, 2017. Amongst each other, neighbors have expressed concerns about safety and noise, as well as their reluctance to step forward publically and raise these concerns.

Town Assessment of Site - Documents show Lot 04-012-00 contains a 1984 1.75 story dwelling, described without elaboration as waterfront. Extra features provided on the Property Card are assessed at a value of \$1,400. The distance from the dwelling to any other building to be used in this enterprise or neighboring dwellings is unknown. The existence of fire-retarding vegetation-free buffers is unknown. During the July 25, 2017, Planning Board meeting, the applicant referred to an occupied accessory dwelling on the lot, as well as a shed, with dimensions and model descriptions unknown.

Safety Plan Considerations: The response time for Henniker-based ambulance to this lot is estimated to be thirty minutes. A Bradford Based Fast Squad may arrive sooner.

Wildfire Danger: The NH Fire Marshall assesses that this area has a high danger of wildfire.

DESCRIBE THE PROPERTY. GIVE AREA, FRONTAGE, SIDE AND REAR LINES, SLOPES, NATURAL FEATURES, ETC. ATTACH SURVEY PLAN, PLOT PLAN, ETC.

Attached are the publicly available overhead and tax map plans of the lot, Attachment B-1, as well as a copy of the three-page Home Business Compliance Form. Attachment C-1. No sketches, plot plans, pictures, construction plans or other documents were submitted with the Home Business Compliance Form as part of the application to Bradford's Planning Board.

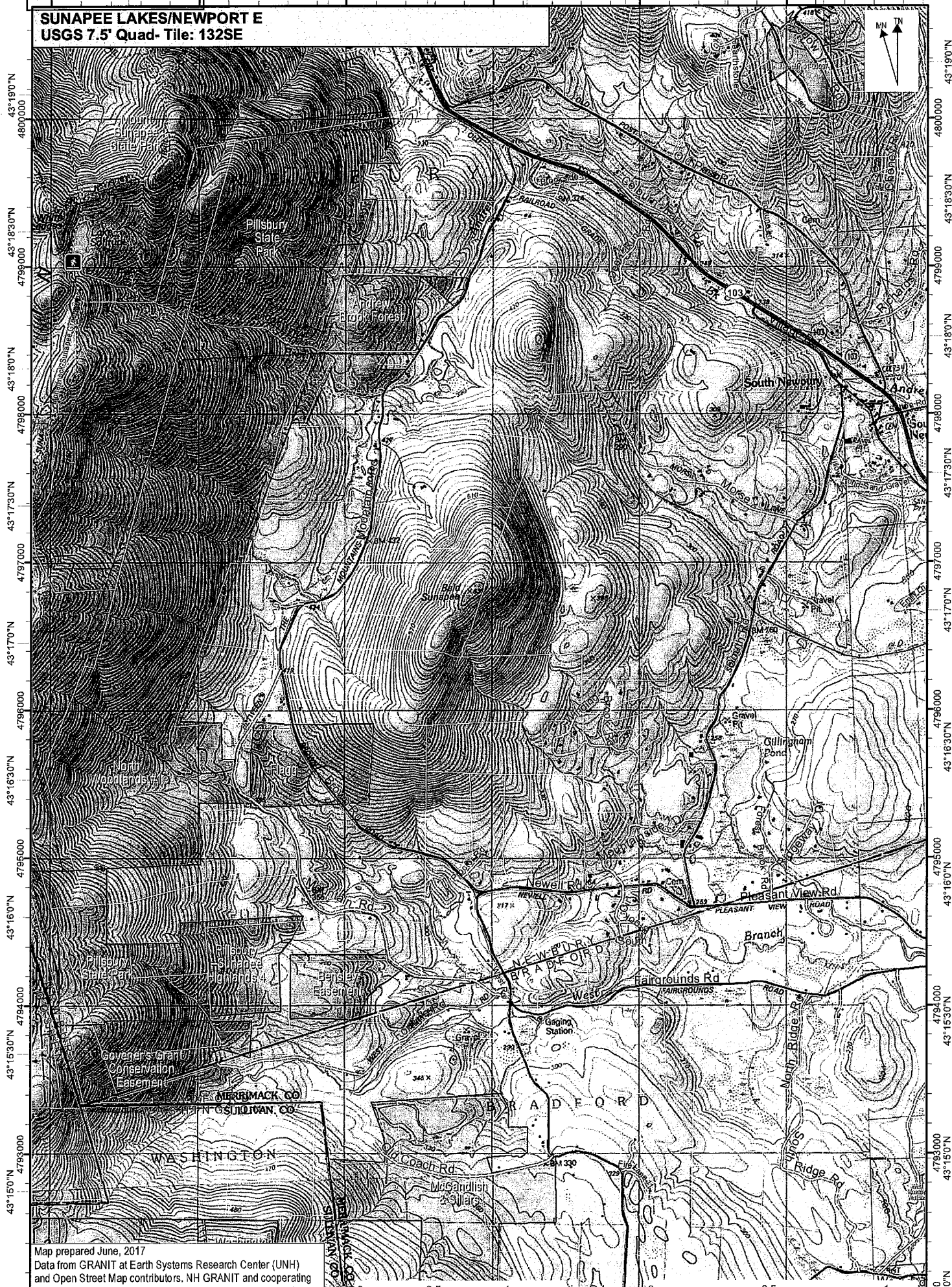
DESCRIBE THE PROPOSED ACTION. ATTACH SKETCHES, PLOT PLANS, PICTURES, CONSTRUCTION PLANS, OR WHATEVER MAY EXPLAIN THE PROPOSED USE. INCLUDE COPIES OF ANY PRIOR APPLICATIONS CONCERNING THE PROPERTY.

See above narrative and above-referenced attachments.

ATTACHMENT A-1

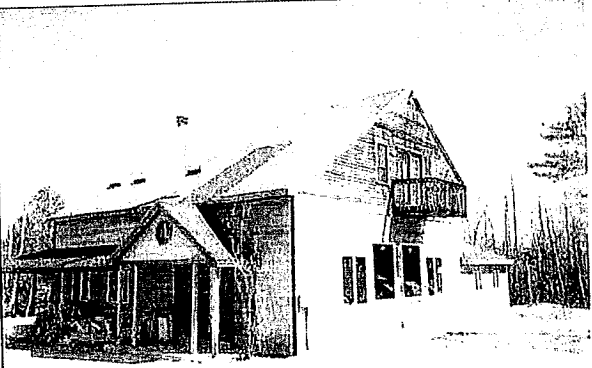
738000 72°3'30"W 739000 72°2'30"W 740000 72°2'0"W 741000 72°1'30"W 742000 72°1'0"W 743000 72°0'30"W 744000 72°0'0"W 71°59'30"W

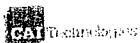
SUNAPEE LAKES/NEWPORT E
USGS 7.5' Quad- Tile: 132SE



Map prepared June, 2017
Data from GRANIT at Earth Systems Research Center (UNH)
and Open Street Map contributors. NH GRANIT and cooperating
agencies make no claim to validity or reliability or to any implied

Attachment B-1**Property Card: 26 FORTUNE ROAD**
Town of Bradford, NH

	Parcel ID: 04-012-00 PID: 000004000012000000 Owner: CROTO, ERIK V Co-Owner: Mailing Address: 26 FORTUNE RD BRADFORD, NH 03221
	General Information Map: 000004 Lot: 000012 Sub: 000000 Land Use: 1F RES Zone: RURAL RES Land Area in Acres: 43 Current Use: Y Neighborhood: N-D Frontage: 10000 Waterfront: Y View Factor:
	Sale History Book/Page: 3261-715 Sale Date: 7/1/2011 12:00:00 AM Sale Price: 255000
	Building Details Model Description: CONVENTION Living Area: 0 Year Built: 1984 Building Grade: AVG+10 Stories: 1.75 STORY



www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

8/27/2017

Page 1 of 1

Property Information - Bradford, NH

Attachment B-1



August 26, 2017

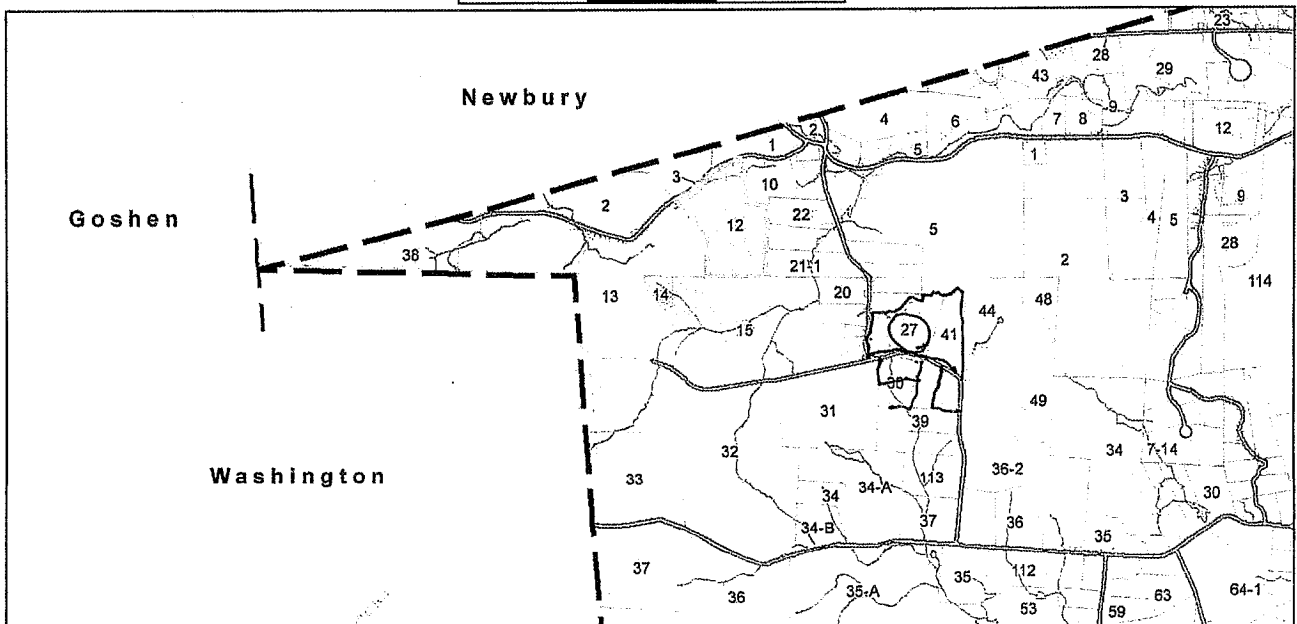
Bradford, NH

1 inch = 2151 Feet

0 2151 4302 6453

CAI Technologies

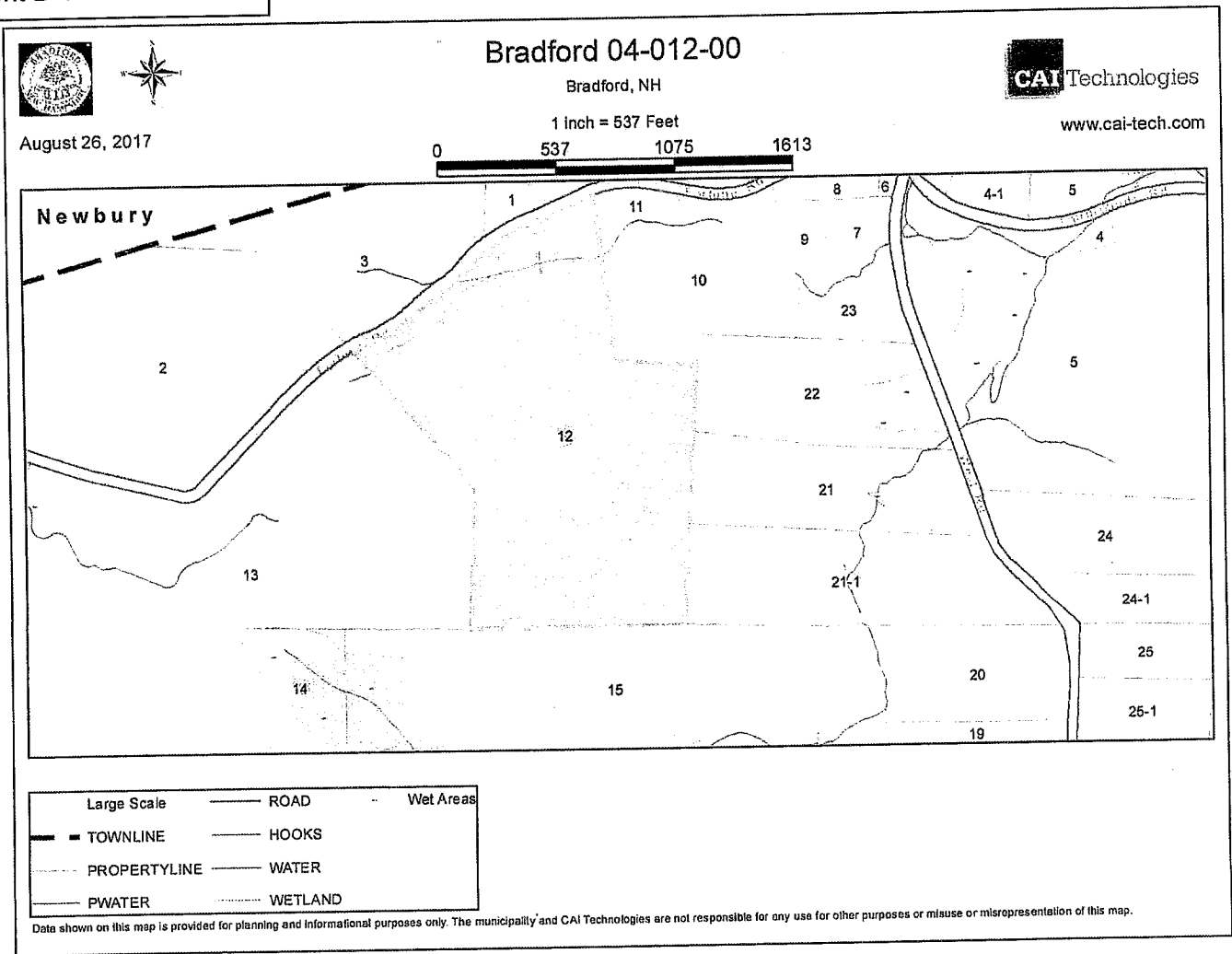
www.cai-tech.com



Large Scale	— PWATER	— TLIC
— TOWNLINE	— ROAD	— WATER
— PROPERTYLINE	— HOOKS	— WETLAND
— PVTRD	— RW	

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

Attachment B-1



HOME BUSINESS COMPLIANCE FORM

The purpose of this form is to show that the business as indicated below, at the address listed below, meets the criteria in the Bradford Zoning Ordinance set forth for a "Home Business".

NAME OF BUSINESS KRAKEN Ammunition, LLC

TYPE OF BUSINESS Manufacturing small ARMS Ammunition.
for retail sale on the internet, at gun shows,
and local gun shops. No store front.

OWNER OF BUSINESS ERIK V. CROTO

ADDRESS OF PROPERTY 26 Fortune Road, Bradford, NH 03221

A Home business is defined in Bradford Zoning Ordinance section II.R as:

The use of any type of residential unit or accessory unit located on said lot to engage in a business-like venture is permitted in a zoning districts if it is clearly incidental and subordinate to the residential dwelling(s) and meets the criteria in Article III, General Provisions, Section O. If the proposed use of the residential structure does not meet the stated criteria it shall be considered a business and require site plan approval from the Planning Board. More than one home occupation is permitted on said lot providing the overall affect to the house and character of the area remains residential.

Article III, Section O of the Bradford Zoning Ordinance stipulates the requirements that must be met in order to have an operation deemed as a "Home Business", and therefore not need site plan review. The requirements as indicated in Article III, Section O are as follows:

A Home Business is permitted in all zoning districts if it meets the following criteria:

- a) Does not alter the character of the existing structure(s) by creating a need for additional building expansion which changes the character of the residential use;*
- b) is Business owner occupied;*
- c) Employs no more than two persons who do not reside at said address;*
- d) Does not require a sign greater than four (4) square feet for any and all home occupations located on said premise;*
- e) does not create the need for the enlargement of the septic or other sewage disposal system to accommodate waste generated by said operation;*

ATTACHMENT C-1

f) Is conducted during the hours of 7:00 am and 8:00 pm., including all deliveries in this time frame;

g) does not create noise, or produce potential nuisances associated with such use including but not limited to vibration, dust, smoke, odors or would reasonably interfere with anyone's enjoyment of their residence or that of neighboring residents.

Compliance is assured given the following:

a) Does not alter the character of the existing structure(s) by creating a need for additional building expansion which changes the character of the residential use;

No Alterations needed.

b) is Business owner occupied;

yes

c) Employs no more than two persons who do not reside at said address;

no employees

d) Does not require a sign greater than four (4) square feet for any and all home occupations located on said premise;

no sign needed.

ATTACHMENT C-1

e) does not create the need for the enlargement of the septic or other sewage disposal system to accommodate waste generated by said operation;

no, there will no additional septic waste.

f) Is conducted during the hours of 7:00 am and 8:00 pm., including all deliveries in this time frame;

yes, normal daily operations of 9am-5pm for manufacturing, and receiving/shipping.

g) does not create noise, or produce potential nuisances associated with such use including but not limited to vibration, dust, smoke, odors or would reasonably interfere with anyone's enjoyment of their residence or that of neighboring residents.

The business will not create noise or produce any nuisances for any of the abutters, residents, etc....

*more space on back if needed

Owner's signature

E. V. L. L.

Date

7/19/17

Reviewed by Planning Board or Designee on:

Planning Board Chair Signature:

E. V. L. L.

Date 25 JULY 2017

EXHIBIT A

Exhibit A

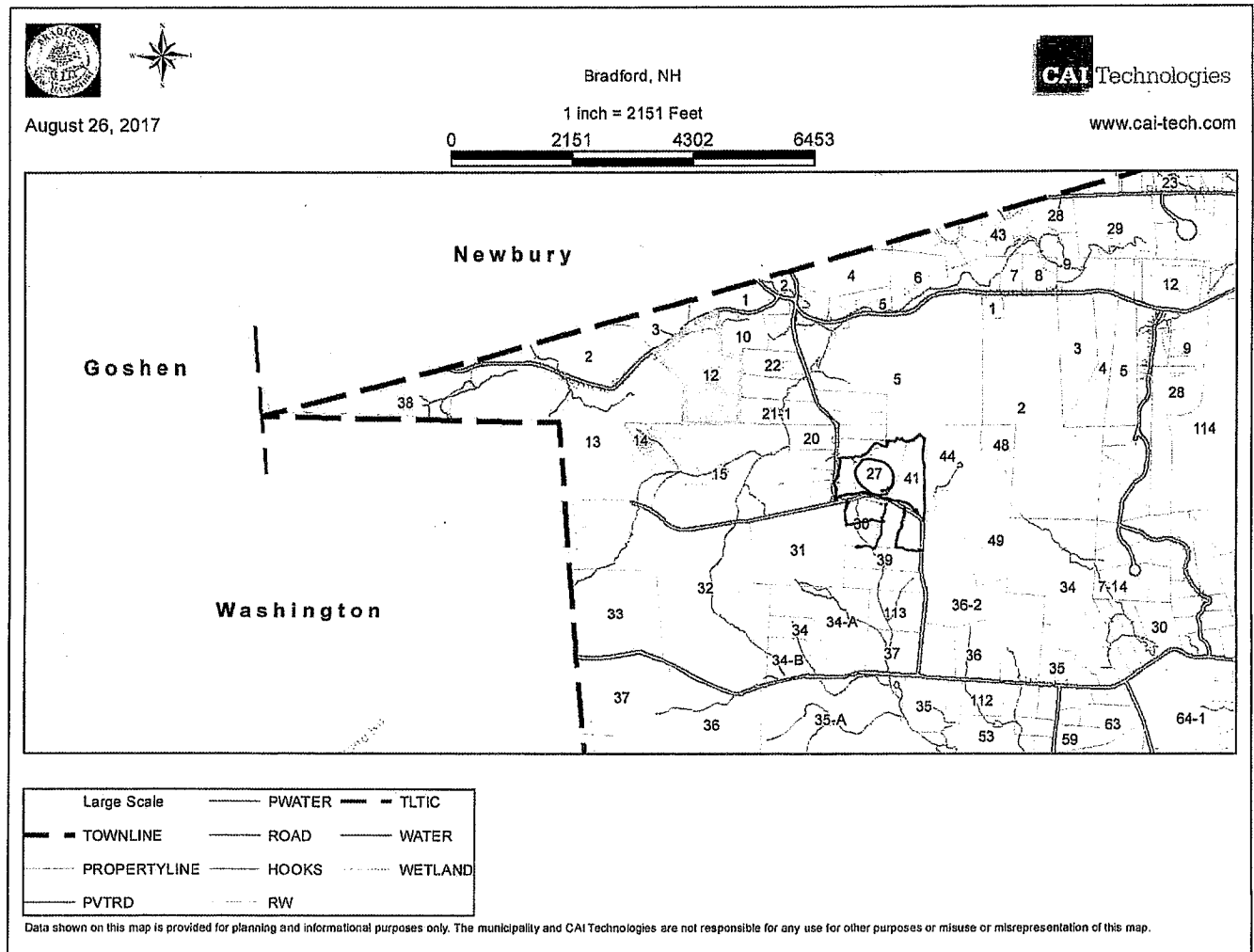


Exhibit A

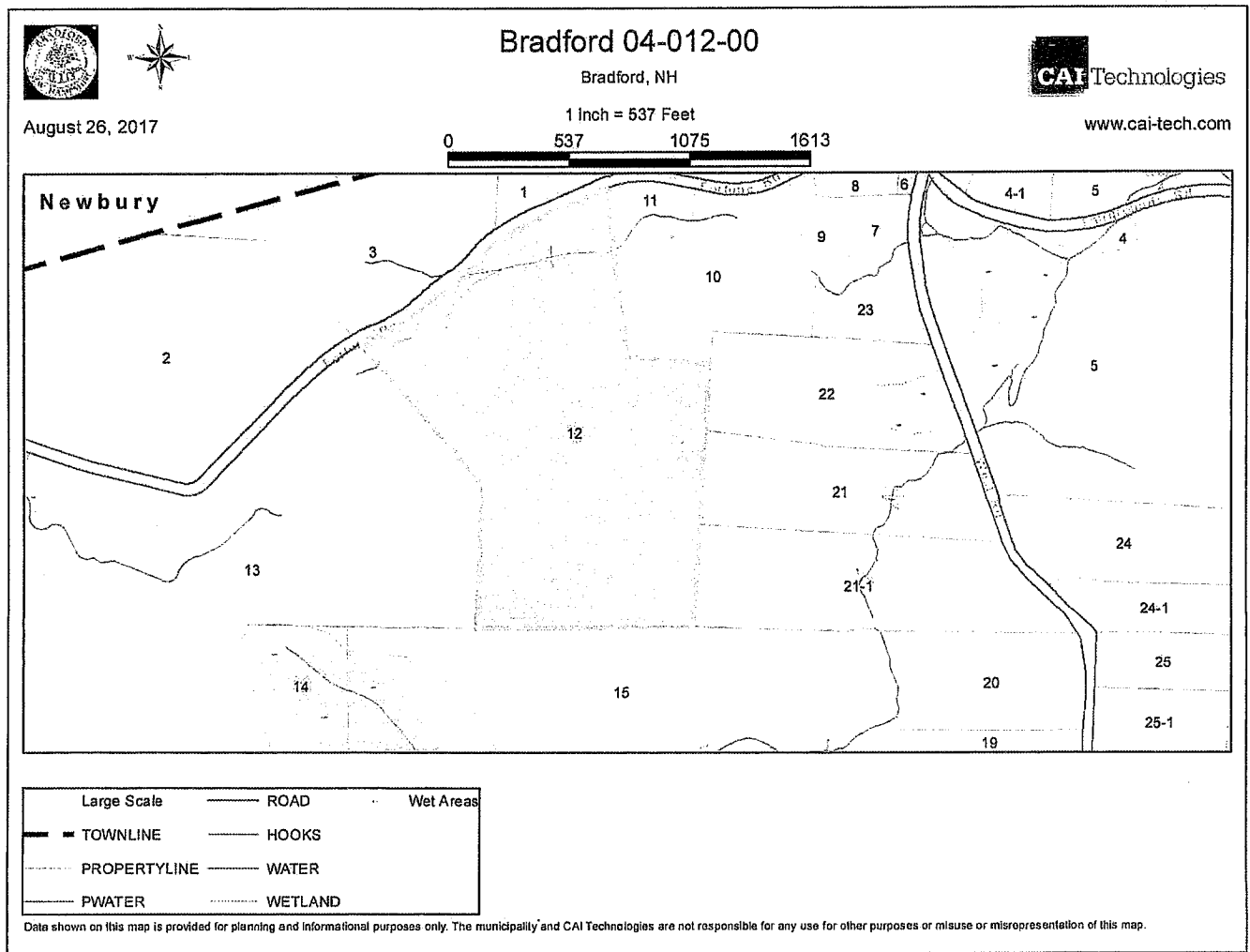
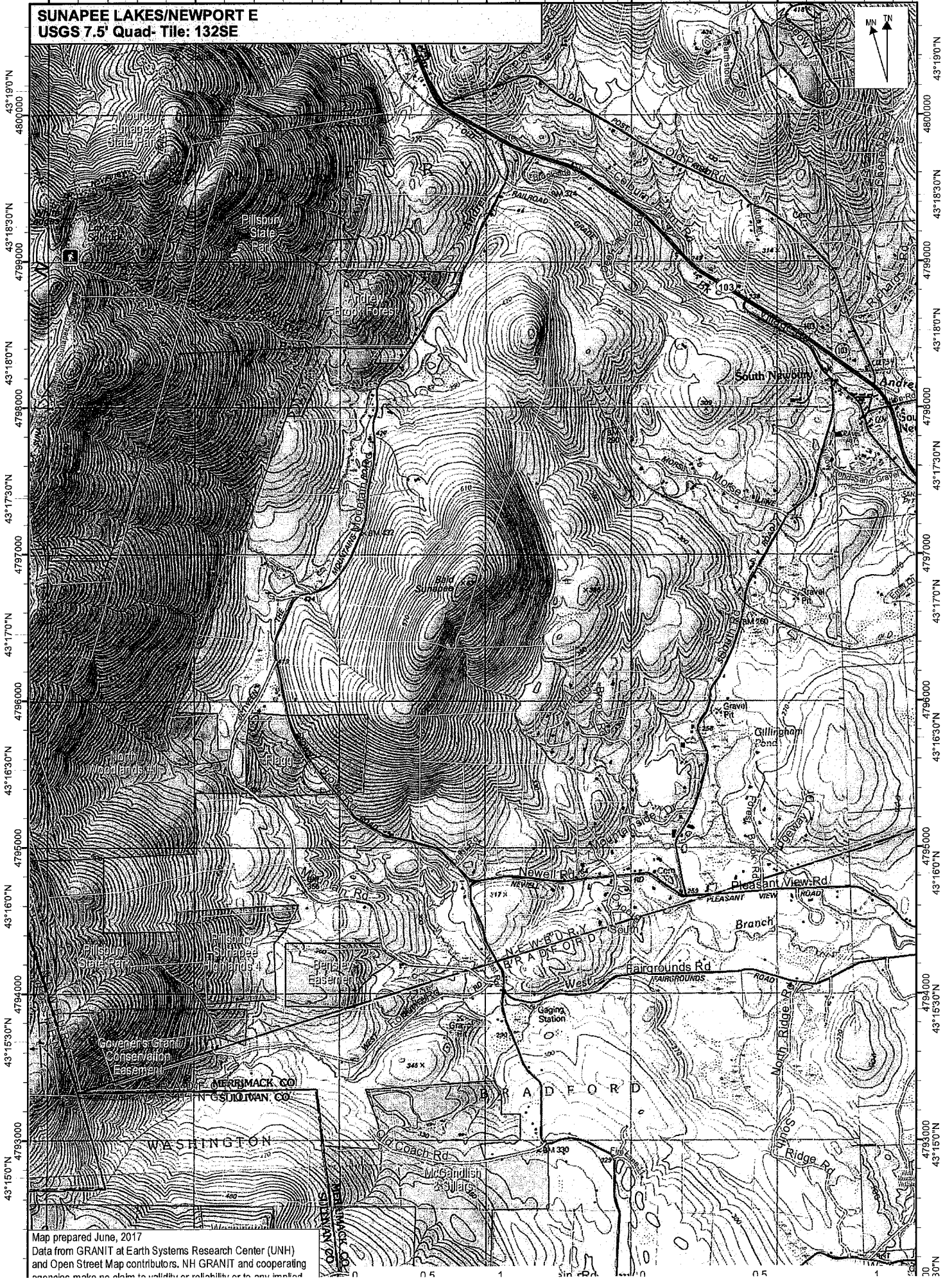


EXHIBIT B

Exhibit B

72°3'30"W 72°3'0"W 72°2'30"W 72°2'0"W 72°1'30"W 72°1'0"W 72°0'30"W 72°0'0"W 71°59'30"W
738000 739000 740000 741000 742000 743000 744000

SUNAPEE LAKES/NEWPORT E USGS 7.5' Quad- Tile: 132SE



Map prepared June, 2017
Data from GRANIT at Earth Systems Research Center (UNH)
and Open Street Map contributors. NH GRANIT and cooperating
agencies make no claim to validity or reliability or to any implied

EXHIBIT C



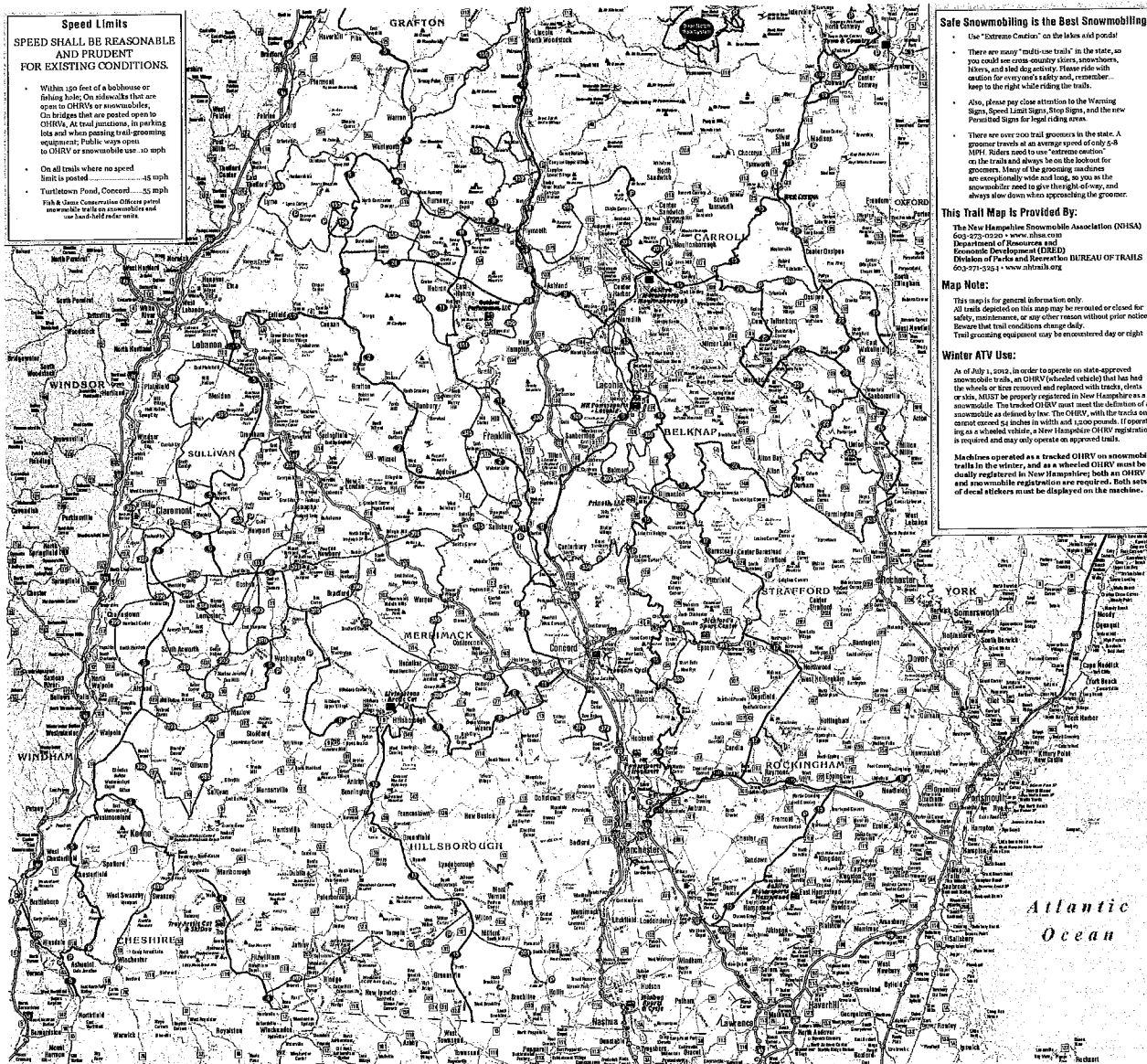


3 1 1 2



EXHIBIT D

- Within 150 feet of a bobhouse or fishing hole; On sidewalks that are open to OHRVs or snowmobiles, On bridges that are posted open to OHRVs, At trail junctions, in parking lots and when passing trail-grooming equipment; Public ways open to OHRV or snowmobile use - 10 mph
- On all trails where no speed limit is posted 15 mph
- Turtletown Pond, Concord 15 mph
- Fish & Game Conservation Officers patrol snowmobile trails on snowmobiles and snowmobiles reduce noise.



Use "Extreme Caution" on the lakes and ponds.

Use "Extreme Caution" on the lakes and ponds.

- There are many "multi-use trails" in the state, so you could be on a country trail with snowshoes, a sled, and a sled dog activity. Please ride with caution for everyone's safety and, remember... keep to the right while riding the trails.
- Also, please pay close attention to the Warning Signs, Speed Limit Signs, Stop Signs, and the new Permitted Signs for legal riding areas.
- There are over 200 trail groomers in the state. A groomer travels at an average speed of only 5-8 MPH. Riders need to use "extreme caution" on the trails and always be on the lookout for groomers. Many of the groomers may not be wearing seasonally needed gear, so you as the snowmobiler need to give them the right-of-way, and always slow down when approaching the groomer.

The New Hampshire Snowmobile Association (NHSA)
603-273-0220 • www.nhsa.com
Department of Resources and
Economic Development (DRED)
Division of Parks and Recreation BUREAU OF TRAILS
603-271-3254 • www.nhtrails.org

This map is for general information only

This map is for general information only.
All trails depicted on this map may be rerouted or closed for
safety, maintenance, or any other reason without prior notice.
Beware that trail conditions change daily.
Trail grooming equipment may be encountered day or night

Abstract

As of July 1, 2012, in order to operate on state-approved snowmobile trails, an OHRV (wheeled vehicle) that has had the wheels or tires removed and replaced with tracks, skis or skis, MUST be properly registered in New Hampshire as a snowmobile. The tracked OHRV must meet the definition of a snowmobile as defined by law. The OHRV, with the tracks on, cannot exceed 54 inches in width and 1,200 pounds. If operating as a wheeled vehicle, a New Hampshire OHRV registration is required and may only operate on approved trails.

Machines operated as a tracked OHRV on snowmobile trails in the winter, and as a wheeled OHRV must be dually registered in New Hampshire; both an OHRV and snowmobile registration are required. Both sets of decal stickers must be displayed on the machine.

[illegible]

EXHIBIT E



October 3, 2017

Amy Manzelli, Esquire
BCM Environmental & Land Law, PLLC
3 Maple Street
Concord, NH 03301

RE: Code Conformance Review of Kraken Ammunition at 26 Fortune Road, Bradford, NH

Dear Ms. Manzelli:

RAN Fire Protection Engineering, PC has performed a preliminary code conformance review of the ammunition manufacturing business at 26 Fortune Road, Bradford, NH. The intent of the review is to determine if there are potential hazards to the occupants of the residence, the public and first responders. Based on the code conformance review, there is a risk to house at 26 Fortune Road and the surrounding properties that is greater than would be anticipated in a residential setting.

The code conformance review was based on information obtained from:

1. Bradford Home Business Compliance Form – signed July 19, 2017 and reviewed by the Planning Board on July 25, 2017
2. Town of Bradford Planning Board Minutes 07.25.17

The documents generally describe a "Home Business" consisting of manufacturing small arms ammunition for retail sale. Based on the information provided, the business will utilize up to 80 lbs of explosive material within the residence.

An application of the New Hampshire Building Code to review conformance with the building at 26 Fortune Road, Bradford, NH with the requirements of Residential Group R-3 occupancy has been performed. The New Hampshire Fire Code regulates the use and storage of explosive materials within a residence for personal use. Based on the information provided to the Planning Board, the amount of explosive material exceeds the use and allowance anticipated for the health and safety of the public. Reference standards of the Fire Code limit the amount of black powder, smokeless propellant, and small arms primers stored in a one family dwelling to 20 lbs with special circumstances allowing up to 50 lbs.



The building owner has indicated that the level of explosive material will exceed the allowable limit for a single family dwelling. A change in occupancy classification from Residential Group R-3 to a High-Hazard Group H occupancy is warranted given the amount of explosives in the building. The New Hampshire Building Code requires that High-Hazard Group H occupancy occupancies have required set back from the walls enclosing the occupancy to lot lines, including those on a public way. The intent of requiring a minimum separation distances from Group H occupancies is to reduce the risk of fire and explosion to the public. Typically Group H-1 occupancies are structures that have a higher than typical fire and explosion hazard and require 75 feet of separation. The required separation is a means to lower the exposure of a fire or explosion event to the surrounding properties.

It should be verified that the compliance with the occupancy classification has been addressed in order to avoid noncompliance with the New Hampshire Building Code. Besides zoning limitations for a commercial occupancy in a residential area, there may be additional fire protection features required by Group H occupancies including but are not limited to automatic fire detection and automatic sprinkler protection.

Please note this letter does not constitute a full code analysis or fire hazard risk analysis. The observations made are based off the information provided for public review. There may be additional hazards and risks to the surrounding property which should be addressed by the owner's design professionals.

Sincerely,

A handwritten signature in cursive script that reads "Douglas R. Nadeau".

Douglas R. Nadeau, MSFPE, PE, CFPS, LEED AP
President