



***Agenda for Special City Council Meeting***

City Council Chambers, City Hall  
Wednesday, May 4, 2016  
5:30 P.M.

**Call-in Information**

Toll-Free number 1-800-356-8278  
Conference Code: 567032

- 1) Call to Order by the Mayor
- 2) 16-134. Review and Approve Agenda
- 3) 16-135. Acquisition of Overlake Park, LLC Easement by Eminent Domain 
- 4) *Adjournment*



CITY COUNCIL Agenda Item \_\_\_\_

Date: May 4, 2016

Consent \_\_ Discussion   x  

**SUBJECT:** Acquisition of Overlake Park, LLC Easement by Eminent Domain

**SUBMITTING DEPARTMENT:** City Manager on behalf of Mayor

**RECOMMENDED ACTION:** Proceed with taking a temporary easement of 104 square feet and a permanent easement of 27 square feet across 56 State Street owned by Overlake Park, LLC by eminent domain under the provisions of Sections 1301 and 1302 (b) of the City Charter for the purposes of constructing an alternate transportation path and bridge. Conduct viewing of parcel on June 8, 2016 at 5:30 PM and public hearing to determine the necessity of taking such parcel for June 8, 2016 at 6:30 PM. Property to be taken as per attached easement description and drawing.

**RELATED COUNCIL GOAL/PRIOR ACTION:** E. Maintain current timeline and budget for the One Taylor Street redevelopment project

**EXPENDITURE REQUIRED:** None to set hearing. Parcel is appraised at \$1,350. Costs of hearing dependent on amount of presentation.

**SOURCE OF FUNDS:** One Taylor Street Project Funds

**LEGAL REQUIREMENTS:** Set hearing date. Provide a minimum 30 day notice of hearing to all interested parties. Perform title search. Create survey of parcel if none exists. Conduct site visit; hold evidentiary hearing. Deliberate and issue decision concerning necessity.

**BACKGROUND INFORMATION:** A bike path connection from Taylor Street to Main Street is an integral part of the One Taylor Street project. The Overlake Park, LLC parcel is essential for the siting of a bike/pedestrian bridge crossing the North Branch River.

**SUPPORTING DOCUMENTS:** Engineer's drawing and description of land to be acquired. Images of proposed new bridge and path on this parcel of land.

**CITY MANAGER'S APPROVAL:**

A handwritten signature in black ink, appearing to be "W. J. [unclear]", written over a horizontal line.



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ENGINEERING • PLANNING  
MANAGEMENT • DEVELOPMENT

Jeffrey W. Tucker, P.E., LEED AP  
President | Chief Executive Officer

To: Jesse Jacobs, William Fraser

Re: Overlake Park LLC: City of Montpelier easement information

Date: February 5, 2016

Gentlemen:

As you know, we met at the Overlake Park LLC property off State Street on February 2, 2016 and discussed the alignment of the City's planned bike path and its impact to the property. The following is a response to several of the questions and issues raised at this meeting. The approximate alignment of the bike path and the pedestrian bridge were painted on the ground and used for discussion.

1. **Easement Request.** The bike path crosses the southeastern tip of the Overlake Park LLC property as shown on the attached map. As a result, the City is requesting three (3) small easements from the Owner in order to construct and maintain the bike path. The land use of this area is sloped riverbank, from the top of the bank to the edge of the North Branch of the Winooski River. The easements are generally described as follows and are keyed to the Right of Way plans by Stantec dated January 2016.
  - Easement area #1 (shown as CONST (T) on the ROW plans). This is a temporary construction easement of 101 square feet to allow, if needed, people and equipment to install stonefill on the riverbank to provide protection against erosion of the new pedestrian bridge abutment.
  - Easement area #2 (shown as CH (P) on the ROW plans). This is a permanent easement of 104 square feet, which is where the stonefill is to be placed and left in place. CH (P) refers to a Channel Protection easement, permanent. The shrub / scrub trees on the bank will be removed, the stone placed and then the stone covered with grub material (excavated sod and soil) and vegetated. The general slope and shape of the riverbank will not be changed and once re-vegetated, will look essentially the same as existing conditions.
  - Easement area #3 (shown as I&M (P) on the ROW plans). This is a permanent easement of 27 square feet that will allow the placement of stonefill, similar to easement #2 above) as well as the area where the bridge will span over. I&M (P) refers to Install and Maintain a permanent stone and bridge. The bridge will not touch the ground but will occupy the air space above this easement area.

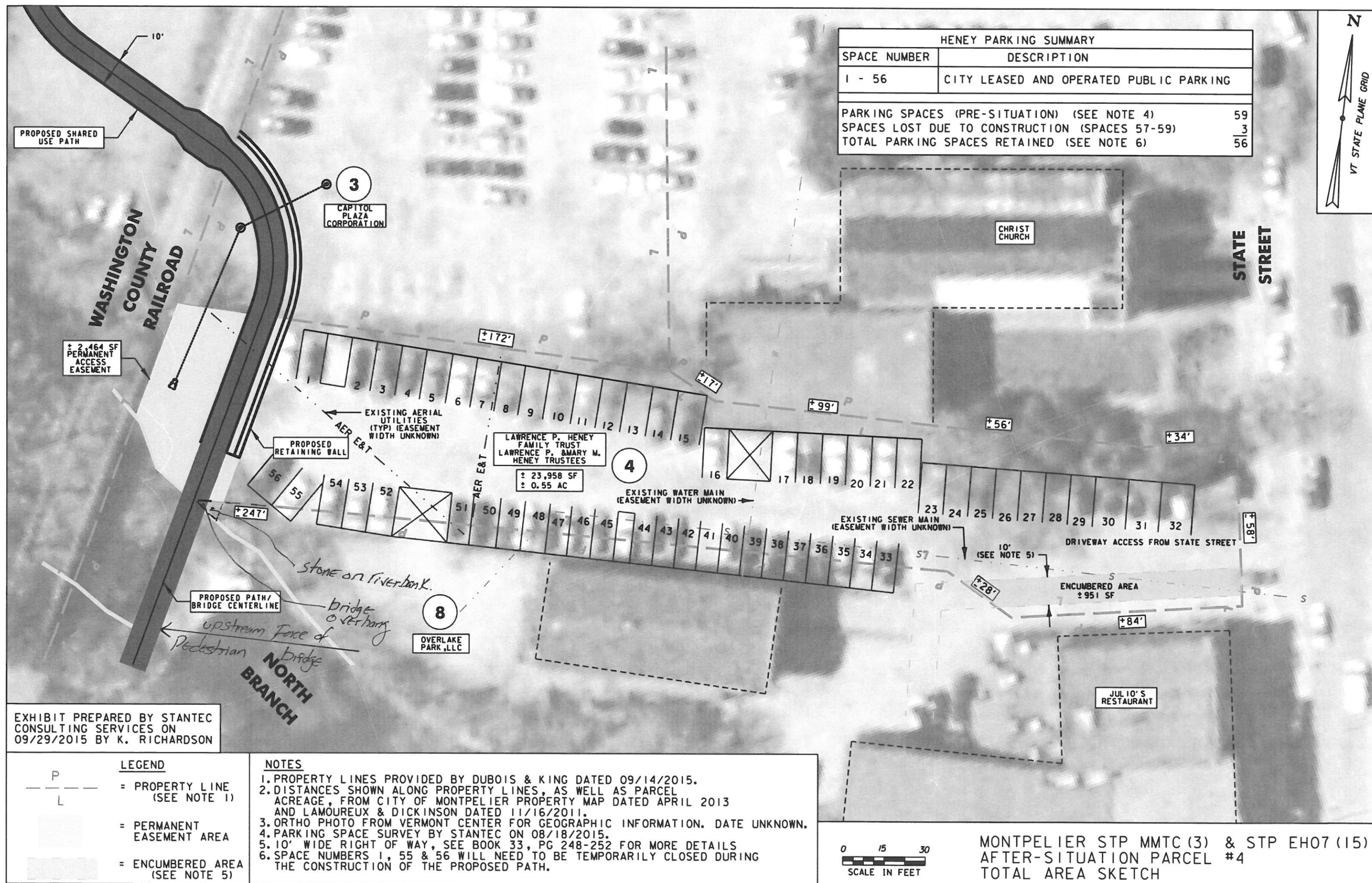
2. **Location of the pedestrian bridge.** A question was asked if the pedestrian bridge could be moved further downstream and closer to the existing railroad bridge in an effort to avoid the Overlake Park LLC property altogether. The answer is the bike path and pedestrian bridge is located as close to the railroad bridge as possible and cannot be moved closer.

This issue was carefully examined several years ago in response to similar questions raised by others. As part of this examination, the engineering team made a specific effort to keep the bike path alignment off the Overlake Park LLC property, because the intent is to avoid properties when possible. However, it is the geometry of the bike path as it crossing the railroad tracks at the existing grade crossing that controls the location of the pedestrian bridge. While the path cannot be relocated to completely avoid the Overlake Park LLC property, the area has been minimized and only affects a small corner of the riverbank.

3. **Stakeout of the Easement Area:** Mr. Jacobs requested the easement area be staked out and photographed so it could be easier to visualize. The City moved the snow bank on Feb 4<sup>th</sup> and D&K's survey crew staked the easement area on Feb 5' 2016. Several photographs are attached that illustrate the area.

4. **Attachments:** There are several attachments to this memo associated with this easement request and include:

- Aerial map of easement area
- Photographs of the stakeout. As discussed above, the easements were staked on February 5, 2016 and several photographs are attached to illustrate the location.
- Draft easement agreement. The attached draft easement was prepared following guidance from the VT Agency of Transportation's Right of Way group. This is the specific easement the City is requesting approval from Overlake Park LLC on.





Copyright Reserved

The Contractor shall verify and be responsible for all dimensions. DO NOT scale the drawing - any errors or omissions shall be reported to Stantec without delay.

The Copyrights to all designs and drawings are the property of Stantec. Reproduction or use for any purpose other than that authorized by Stantec is forbidden.

Legend

|                       |                              |
|-----------------------|------------------------------|
| — — — — —             | EXISTING RIGHT-OF-WAY        |
| - - - - -             | TAKING WITH ACCESS           |
| /// - - - - -         | TAKING WITHOUT ACCESS        |
| - - - - - CZ          | CLEAR ZONE                   |
| — P — — — — —         | PROPERTY LINE                |
| — L — — — — —         | TOE OF CUT                   |
| — Δ — — — — —         | TOP OF SLOPE                 |
| — SR — — — — —        | SLOPE RIGHT                  |
| — CONST (T) — — — — — | TEMPORARY CONSTRUCTION RIGHT |
| ● ●                   | SURVEY MONUMENTATION         |
| - - - - -             | SURVEY TIE LINE              |

| Notes |                     |
|-------|---------------------|
| (P)   | PERMANENT           |
| (T)   | TEMPORARY           |
| DR    | DRAINAGE RIGHT      |
| DIT   | DITCHING RIGHT      |
| CH    | CHANNEL RIGHT       |
| DRIVE | DRIVE RIGHT         |
| CUL   | CULVERT             |
| C&T   | CLEARING & TRIMMING |
| SR    | SLOPE RIGHT         |
| UE    | UTILITY EASEMENT    |
| SL    | STREET LIGHT        |
| HH    | HAND HOLE           |

[illegible]

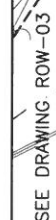
Client/Project

CITY OF MONTPELIER  
MONTPELIER SHARED USE PATH  
STP MMT (3) & STP EHO7(15)  
MONTPELIER, VERMONT

RIGHT-OF-WAY PLAN

|                          |                          |
|--------------------------|--------------------------|
| Project No.<br>195310691 | Scale<br><b>AS NOTED</b> |
| Drawing No.              | Sheet                    |
|                          | Revision                 |

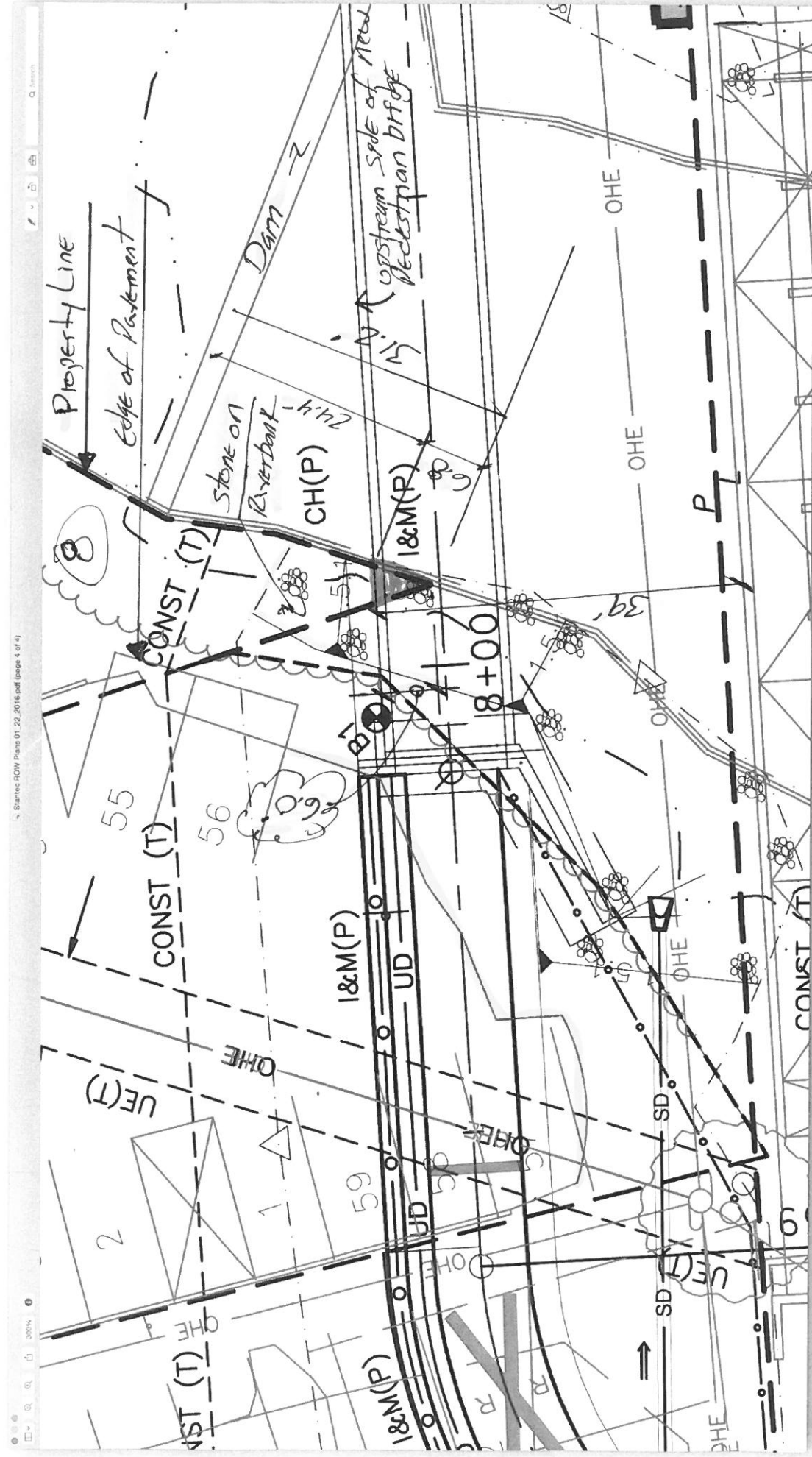
ROW-04 4 of 4 C



LINES SHOWN ON THIS PLAN AS EXISTING  
 PROPERTY LINES (P/L) ARE BELIEVED TO  
 BE ACCURATE BUT SHOULD NOT BE RELIED  
 UPON FOR PURPOSES UNRELATED TO THE  
 CITY OF MONTEPELIER'S ACQUISITION OF  
 LAND AND RIGHTS FOR THIS PROJECT.

ORIGINAL SHEET - ANSI D





Overlake Park LLC  
Easement Area (enlarged)

JWT  
1-Feb-16  
15.21



Yellow line is upstream edge of pedestrian bridge:



Yellow line s upstream edge of pedestrian bridge



Red paint line is Overlake Park property line, pink flagging on stakes is upstream limit of easement



Pink flagging (by dark car) is upstream easement limit, red flagging (by white car) is approx. property line



Easement to consist of stone placed on riverbank downstream of pink flagging and bridge by yellow lpoint



Close-up of area

**CITY OF MONTPELIER**

**WARRANTY DEED OF EASEMENT**

KNOW ALL TO WHOM THESE PRESENTS COME:

THAT **OVERLAKE PARK, LLC**, a Vermont limited liability company with an office in the City of Montpelier, in the County of Washington, and State of Vermont, Grantor, in consideration of ten dollars and other good and valuable consideration paid to its full satisfaction by the **CITY OF MONTPELIER**, a municipality of the State of Vermont, Grantee, do hereby give, grant, bargain, sell and convey unto the said **CITY OF MONTPELIER**, and its successors and assigns, such rights and easements as the public has the right to condemn and take for the purposes of the creation of a ten foot wide shared use bike and pedestrian path on, beneath and above that certain land situated in the City of Montpelier, County of Washington and State of Vermont, and described as follows, viz:

Being **Parcel #8**, consisting of a temporary easement on the lands of the Grantors, as shown on the Detail Sheet and Sheet 4 of the Right-Of-Way plans for Transportation Project Montpelier Shared Use Path STP MMTC (3) & STP EHO7(15) ("the Project") as filed on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, in the office of the Clerk of the City of Montpelier, Vermont. In connection with this **Parcel #8**, the following easement is hereby conveyed:

*A permanent easement to install, construct, and maintain a channel embankment in an area of 104 square feet, more or less, left of and between approximate stations 8+02.98 and 8+14 of the established centerline of the Transportation Project.*

*The slopes and embankments may be extended at such an angle as will hold the material of said slopes in repose against ordinary erosion in accordance with the standard practice of Transportation construction. The City of Montpelier shall have the right to remove all trees, logs, stumps, protruding roots, brush, duff, and other objectionable materials, structures, growth, and any other thing of whatever kind or nature from said slope area(s).*

*A permanent easement to install, construct, and maintain a shared use path in an area of 27 square feet, more or less, left of and between approximate stations 8+06.27 and 8+12 of the established centerline of the Transportation Project.*

*A temporary easement during the period of construction to enter upon land of the Grantor, for construction purposes, including the right to install a temporary fence and apply paint, as necessary and as noted on the project plans and undertake general construction functions in an area of 101 square feet, more or less, left of and between approximate stations 8+01 and 8+16 of the established centerline of the Transportation Project.*

The easement conveyed herein is a portion of the lands and premises conveyed to Overlake Park, LLC by Quitclaim Deed of Jeffrey Jacobs dated August 20, 2010 of record in Book 594 at Page 203; and being further described as the land and premises conveyed to Jeffrey Jacobs by Warranty Deed of Charles H. Miller dated June 28, 1991 of record in Book 238 at Page 401 of the City of Montpelier Land Records.

The Grantor, having been fully informed of its right to receive just compensation for the acquisition of the property, hereby acknowledges, waives and releases the municipality from Grantor's right to receive just compensation determined by an appraisal as well as the municipality's obligation (if applicable) to perform and provide an appraisal.

TO HAVE AND TO HOLD said granted rights and easements, with all the privileges and appurtenances thereof, unto the said **CITY OF MONTPELIER**, Vermont, and its successors and assigns, to it and its own use and behoof forever; and **OVERLAKE PARK, LLC**, for itself and its successors and assigns, does covenant with the said **CITY OF MONTPELIER**, Vermont and its successors and assigns, that until the ensembling of these presents it is well seized of the property, as a good and indefeasible estate in fee simple, and have good right to grant and convey the said rights and easements in manner and form as above written and that the same are free from every encumbrance, whatsoever.

AND FURTHERMORE, **OVERLAKE PARK, LLC**, does by these presents bind itself and its successors and assigns, forever, to WARRANT and DEFEND the above rights and easements to the said **CITY OF MONTPELIER** and its successors and assigns against all claims and demands whatsoever.

IN WITNESS WHEREOF **OVERLAKE PARK, LLC**, by its authorized agent does hereunto set its hand  
this \_\_\_\_ day of \_\_\_\_\_, 2016.

OVERLAKE PARK, LLC

By: \_\_\_\_\_  
Authorized Agent

STATE OF \_\_\_\_\_  
\_\_\_\_\_ COUNTY, SS.

At \_\_\_\_\_ (city), this \_\_\_\_ day of \_\_\_\_\_, 2016, \_\_\_\_\_ personally  
appeared, and acknowledged this instrument, by him or her subscribed to be his/her free act and deed and the free  
act and deed of **OVERLAKE PARK, LLC**.

Before me, \_\_\_\_\_  
Notary Public  
My Commission Expires 2-10-19