



# Town of Underhill

## Development Review Board

### Findings and Decision

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#### FINAL SUBDIVISION APPLICATION OF REGINALD MATHIEU & MARGARET MONGEON REGARDING A 2-LOT SUBDIVISION

November 16, 2022

In re: Reginald Mathieu & Margaret Mongeon  
497 Poker Hill Road (PH497)  
Underhill, VT 05489

Docket No. DRB-21-11

**Decision:** Approved with conditions (see Section V – Decisions and Conditions of Approval)

#### **I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns the final subdivision application submitted by the Applicants, Reginald Mathieu & Margaret Mongeon, regarding a 2-lot subdivision of property they own located at 497 Poker Hill Road in Underhill, Vermont.

1. On June 9, 2022, the Applicant filed a Preliminary Subdivision review application for the abovementioned project. Planning & Zoning Administrator Nick Atherton received the application. A hearing date was scheduled to commence at 6:30 PM on July 18, 2022. A site visit preceded the hearing and was performed at 5:30 PM on the same day. During the July 18, 2022 hearing, the Board granted preliminary plat approval.
2. On September 6, 2022, the Applicants filed an application for final subdivision review. Planning & Zoning Administrator Nick Atherton received the application and determined it was complete shortly thereafter, and scheduled a hearing for October 3, 2022.
3. On September 14, 2022, a copy of the notice of the final subdivision review hearing was mailed via certified mail to the following property owners adjoining the property subject to the application:
  - a. Peter & Nancy Geiss, 10 Krug Road, Underhill, VT 05489
  - b. David & Carol Keszey, 505 Poker Hill Road, Underhill, VT 05489
  - c. Charles & Susan Skelly, 502 Poker Hill Road, Underhill, VT 05489
  - d. Richard Prah, 492 Poker Hill Road, Underhill, VT 05489
  - e. Christopher Baron & Heather Dickgiesser, 480 Poker Hill Road, Underhill, VT 05489
  - f. Constance Walker Life Estate, 477 Poker Hill Road, Underhill, VT 05489
4. During the week of September 11, 2022, notice of the public hearing for the proposed Mathieu Final Subdivision hearing was posted at the following places:

- a. The Underhill Town Clerk's office;
  - b. The Underhill Center Post Office;
  - c. The Underhill Flats Post Office, and
  - d. The Underhill Town website.
- 5. On Saturday, September 18, 2022, notice of the public hearing was published in the *Burlington Free Press*.
- 6. The final subdivision review hearing began at 6:36 PM on October 3, 2022 at the Town of Underhill Town Hall, 12 Pleasant Valley Road, Underhill, Vermont.
- 7. Present at the final subdivision hearing were the following members of the Development Review Board:
  - a. Board Member, Charles Van Winkle, Chairperson
  - b. Board Member, Brian Bertsch, Vice Chair
  - c. Board Member, Mark Green
  - d. Board Member, Karen McKnight
  - e. Board Member, Dan Lee
  - f. Board Member, Shanie Bartlett

Also present was Staff Member, Nick Atherton, Planning & Zoning Administrator. Board Members Charlie Van Winkle, Brian Bertsch, Mark Green, Karen McKnight, Dan Lee and Staff were physically present at the hearing; board member Shanie Bartlett participated remotely in the hearing.

Others physically present at the hearing were:

- 1. Applicant, Reginald Mathieu (PH497)
  - 2. Applicant, Margaret Mongeon (PH497)
  - 3. Joseph Flynn, L.S. VT & NH, O'Leary-Burke Civil Associates, PLC., Applicant's Land Surveyor and Representative (13 Corporate Drive, Essex Junction, VT 05452)
- 8. At the outset of the hearing, Chair Van Winkle explained the criteria under 24 V.S.A § 4465(b) for being considered an "interested party." Those who spoke at the hearing were:
  - 1. Joseph Flynn, L.S. VT & NH, O'Leary-Burke Civil Associates, PLC., Applicant's Land Surveyor and Representative (13 Corporate Drive, Essex Junction, VT 05452)
  - 2. Margaret Mongeon, Applicant
  - 3. Reginal Mathieu, Applicant
- 9. In support of the final subdivision application, the following exhibits were submitted to the Development Review Board:
  - a. Exhibit A - DRB Agenda October 3, 2022
  - b. Exhibit B- Final Cover Letter
  - c. Exhibit C - Subdivision Supplemental Form\_(Updated\_12.31.2018)
  - d. Exhibit D - 2021-123-S5-SH.1 - SUBDIVISION PLAN
  - e. Exhibit E - 2021-123-S4-SH.2 - SEWAGE AND WATER DETAILS & SPECIFICATIONS
  - f. Exhibit F - PLAT-FINAL 2022-09-04

- g. Exhibit G - PH497 Certificate of Service
- h. Exhibit H - BFP Notice 9\_18\_22
- i. Exhibit I - Mathieu & Mongeon- Mount Mansfield Unified Union School District Ability to Serve Letter Signed.7.27.22
- j. Exhibit J - 497 Poker Hill Underhill-Jericho Service Letter
- k. Exhibit K - Access Permit Application\_(Updated\_01.22.2019)
- l. Exhibit L - 2022-08-05 MATHIEU SUBDIVISION PLAN
- m. Exhibit M - Sample Deed to Lot 2 Reginal Mathieu and Margaret Mongeon Subdivision
- n. Exhibit N - WW-4-5799\_Water System and Potable Water Supply Permit

The exhibits submitted as part of the sketch plan and preliminary subdivision application, except as amended above, are also incorporated into this decision.

All exhibits are available for public review in the PH497 Final Subdivision Review file (DRB 21-11) at the Underhill Zoning & Planning office.

## **II. FACTUAL FINDINGS & CONCLUSIONS RELATING TO THE UNDERHILL UNIFIED LAND USE & DEVELOPMENT REGULATIONS**

The Minutes of the October 3, 2022 DRB meeting, written by Donna Griffiths, are incorporated by reference into this decision. Please refer to the Minutes for a summary of the testimony.

Based on the submitted application, testimony, exhibits, and evidence, the Development Review Board makes the following findings under the requirements of the 2011 *Underhill Unified Land Use and Development Regulations* (ULUDR), as amended through March 3, 2020:

### ***FACTUAL FINDINGS***

The Applicants, Reginald Mathieu & Margaret Mongeon, record owners of the property located at 497 Poker Hill Road in Underhill, VT, are seeking a subdivision permit to subdivide the abovementioned land. The property is located in the Rural Residential zoning district as defined in Article II, Table 2.4 of the 2020 Underhill Unified Land Use & Development Regulations.

### ***ARTICLE II – ZONING DISTRICTS***

#### **ARTICLE II, TABLE 2.4 – RURAL RESIDENTIAL DISTRICT**

The Board finds that the newly created lot will meet the zoning requirements of the Rural Residential District.

### ***ARTICLE III – GENERAL REGULATIONS***

#### **SECTION 3.2 – ACCESS**

The Board finds that although an Access Permit application was not submitted with the Subdivision application materials, the submitted materials depicted a generally acceptable driveway design. An Access Permit application shall be submitted and reviewed by the Zoning Administrator to ensure full compliance with the *Underhill, Road, Driveway, and Trail Ordinance*.

#### **SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS**

The Board finds that both lots and the proposed development will satisfy the requirements of the Rural Residential zoning district. Lot 1 will contain the existing single-family dwelling while the proposed Lot 2 will contain one proposed single-family dwelling. A single-family dwelling on the proposed Lot 2 is permitted per Table 2.4(B)(6). Both lots meet the requirements of the Rural

Residential zoning district: minimum frontage requirement of 250 feet, minimum acreage requirement of 3.0 acres, as well as satisfying all of the identified setbacks.

The Board notes that the Applicant has depicted a building envelope that is smaller than required.

### **SECTION 3.13 – PARKING, LOADING & SERVICE AREAS**

The Board finds that both lots will contain single-family dwellings, as Lot 1 already contains an existing single-family dwelling, and Lot 2 is proposed to include a single-family dwelling. The Board finds that the minimum parking spaces are presumably met by the existence, and eventual expansion, of driveways on both lots. The Board finds that Staff will ultimately review the requirements of this section upon the submission of a zoning permit application.

### **SECTION 3.17 – SOURCE PROTECTION AREAS**

The Board finds the existing property is not within a Groundwater Source Protection Area, nor is it in the immediate vicinity of a public water source; therefore, review under this section is not required.

### **SECTION 3.18 – STEEP SLOPES**

The Board finds that the existing lot does not contain areas of steep or very steep slopes.

### **SECTION 3.19 – SURFACE WATERS & WETLANDS**

The Board finds that a major portion of the subject property is defined as Class II wetlands according to the ANR Natural Resources Atlas. Class II wetlands have a buffer of 50 ft. The Board finds that the Applicants' consultant has submitted a wetland delineation that depicts all proposed new development as located outside of the required buffer.

### **SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS**

The Board finds that the applicant has obtained WW-4-5799, a Wastewater System and Potable Water Supply Permit from the Agency of Natural Resources (Exhibit N). The Board finds that the Applicant shall submit a copy of the approved permit to the Town for recording. The issuance of this permit satisfies the presumption that the project has adequate water and wastewater disposal capabilities and will not pollute or contaminate nearby soils, groundwater and surface waters.

### **ARTICLE VI – FLOOD HAZARD AREA REVIEW**

The Board finds that a majority portion of the property is located in a Special Flood Hazard Area. The Board additionally finds that the submitted plans conform to the ULUDR regulations regarding development in Special Flood Hazard Areas.

### **ARTICLE VII – SUBDIVISION REVIEW, ARTICLE VII**

#### **SECTION 7.2 – APPLICABILITY**

The Board finds that the Applicant's proposed subdivision is subject to the requirements of the 2020 *Underhill Unified Land Use & Development Regulations* per § 7.2 and was classified as a "minor subdivision" during the sketch plan review meeting and in the acceptance letter issued on August 2, 2021.

#### **SECTION 7.3 – SKETCH PLAN REVIEW**

The Board finds that the Applicants adequately satisfied the conditions of approval provided in the sketch plan review letter issued on August 2, 2021.

## **SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW**

The Board finds that the Applicants adequately satisfied the conditions of approval provided in the preliminary subdivision review acceptance letter issued on August 31, 2022

## **SECTION 7.6 – FINAL SUBDIVISION REVIEW**

As part of the final subdivision review application, the Applicants generally addressed many of the comments and concerns identified in the Preliminary Plat review process. Therefore, the Board finds that the Applicants satisfied the intent of this section and provided the necessary materials to make a determination on the final subdivision review application.

## ***SUBDIVISION STANDARDS, ARTICLE VIII***

### **SECTION 8.1 – APPLICABILITY**

The Board finds that no technical review is needed for this proposed project. The Board also finds that the Applicant has not, explicitly or impliedly, requested any waivers.

### **SECTION 8.2 – GENERAL STANDARDS**

#### **SECTION 8.2(A) – DEVELOPMENT SUITABILITY**

The Board finds that there are no additional unforeseen undue adverse impacts to the public health and safety, neighboring properties, or the character of the area as a result of the subdivision, or as a result of where the anticipated development is to be located. The Applicants have not expressed any intention of setting aside land as open space that would exclude periodic flooding, poor drainage, very steep slopes (>25%), or other known hazards, or that is otherwise not suitable to support structures or infrastructure. However, the Board notes that the large extent of Class II wetlands delineated in Exhibit D functions as a de facto open space area, as development in that area will presumably be precluded by the existence of state-protected wetlands and open water.

#### **SECTION 8.2.(B) – DEVELOPMENT DENSITY**

The Board finds that the proposed subdivision meets the density requirements of the Rural Residential zoning district.

#### **SECTION 8.2(C) – EXISTING SITE CONDITIONS**

The Board finds that the existing lot to be subdivided contains a small area of prime agricultural soils. The Board notes that future development in this area is feasible; however, the Regulations have no specific standards prohibiting development on prime agricultural soils. Overall, The Board finds that the impact to existing site conditions will be minimal provided development is made in accordance with the proposed site development plan.

#### **SECTION 8.2(D) – UNDERHILL TOWN PLAN & DEVELOPMENT REGULATIONS**

The Board finds that the proposed subdivision & development conform to the current *Underhill Town Plan* & the current *Underhill Unified Land Use and Development Regulations*.

#### **SECTION 8.2(E) – DISTRICT SETTLEMENT PATTERNS**

The Board finds that the proposed subdivision & development are consistent with the characteristics of the Rural Districts as described in Section 8.2(E)(2), as the subdivision and existing development are to be configured in a way that reinforces the rural character and historic working landscape, as well as reinforcing low densities of residential development interspersed with large contiguous tracts of undeveloped land.

SECTION 8.2(F) – LOT LAYOUT

The Board finds that the proposed subdivision conforms with the requirements of this subsection. See Section 3.7(E) for more analysis relating to this subsection.

SECTION 8.2(G) – BUILDING ENVELOPE

The Board finds that the proposed building envelope for proposed Lot 2 is adequate. Plan.

The Board notes that all development, including accessory structures, as well as areas for parking, must be located within the building envelopes. Any proposed changes to the building envelope require subsequent review by this Board.

SECTION 8.2(H) – SURVEY MONUMENTS

The Board finds that proposed property monumentation shall be installed as defined on the recordable Mylar.

SECTION 8.2(I) – LANDSCAPING & SCREENING

The Board finds that some vegetation exists between the proposed dwelling unit on proposed Lot 2 and the existing dwelling on Lot 1. This is consistent with other residential development in the area and satisfies the intent of this section, so long as the existing vegetation can be preserved during subsequent land development. The Board additionally finds that adequate wooded screening currently exists and Poker Hill Rd and the proposed and existing houses on Lots 1 and 2. To the greatest extent possible, the proposed clearing limits shall be adhered to and any existing wooded buffer between proposed Lots 1 and 2, as well as that directly adjacent to the Poker Hill Rd right-of-way shall be preserved in accordance with Section 8.2(I) of the Regulations.

SECTION 8.2(J) – ENERGY CONSERVATION

The Board finds that the proposal appears to leave adequate space in the yard for residential-scale solar installations, while the orientation of the driveway and building envelope in relation to the wetlands on the property allows for adequate south and west exposure.

**SECTION 8.3 – NATURAL & CULTURAL RESOURCES**

SECTION 8.3(A) – RESOURCE IDENTIFICATION & PROTECTION

The Board is not aware of, nor have they or the Applicant identified, any cultural or natural resources/features that require protection or preservation.

SECTION 8.3(B) – SURFACE WATERS, WETLANDS & FLOODPLAINS

The Board finds that wetlands and special flood hazard areas are located on the property. No existing development is in, nor is any proposed development expected to be in, the vicinity of these features or their associated buffers, as explained under Section 3.19 above.

SECTION 8.3(C) – ROCK OUTCROPS, STEEP SLOPES, HILLSIDES & RIDGELINES

The Board finds that no area of steep slope, hillsides, or exposed ridgelines exist on the property or would be impacted by its further development according to the plans submitted.

SECTION 8.3(D) – NATURAL AREAS & WILDLIFE HABITAT

The Board finds that there is a highest priority surface water and riparian area located on both lots. The habitat block has already been minimally impacted with existing development.

Additionally, the Board finds that the subject property features some of the following natural resources:

- Priority Level 4 Interior Forest Block,
- Highest Priority Riparian Connectivity Block (located along much of the surface water and riparian areas),
- Representative Physical Landscape Diversity,
- Highest Priority Riparian Wildlife Road Crossing (located along the entire road frontage of the subject parcel from the intersection of Mullen Rd to the south).

Though some or all of these areas may be located on the proposed lots, based on the configuration of the building envelope for Lot 2, there appears to be a minimal adverse impact on these areas.

#### SECTION 8.3(E) – HISTORIC & CULTURAL RESOURCES

The Board is not aware of, nor have they or the Applicant identified, any historical resources that require protection or preservation.

#### SECTION 8.3(F) – FARMLAND

The Board finds that while some small areas of prime agricultural land are located on Lots 1 and 2, the net amount is small and disturbance to that area would be minimal.

#### SECTION 8.3(G) – FORESTLAND

The Board finds both proposed lots contain some forestland. Lot 1 contains existing development, and, upon subdividing, minimal impact to forestland is anticipated on both Lots. The Board also finds that the proposed development's use of an existing driveway and curb cut for Lot 2 will minimize the impact on the forest to the front of the property, as well as to vegetative screening.

### **SECTION 8.4 – OPEN SPACE & COMMON LAND**

#### SECTION 8.4(A) – OPEN SPACE

The Board finds that the Applicant has not proposed to designate any land as open space.

#### SECTION 8.4(B) – COMMON LAND

The Board finds that the Applicant has not proposed to designate any land as common land.

#### SECTION 8.4(C) – LEGAL REQUIREMENTS

The Board finds that this subsection does not apply since the Applicant has not designated any land as open space or common land as part of the proposed project.

### **SECTION 8.5 – STORMWATER MANAGEMENT & EROSION CONTROL**

The Board finds the Applicant shall conform to the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control, published by the Watershed Management Division of the Vermont Department of Environmental Conservation when performing excavation and site work. The Board also finds that the proposed development shall have a minimal impact on stormwater runoff and does not require an additional treatment plan.

### **SECTION 8.6 – TRANSPORTATION FACILITIES**

#### SECTION 8.6(A) – ACCESS & DRIVEWAYS

Lot 1 is served by its own driveway, which accesses Poker Hill Road, a Class III Highway. Lot 2 will be served by a driveway which accesses Poker Hill Road via an existing curb cut which currently serves an existing garage. The garage will remain on Lot 2 if subdivision is approved. The Board

finds that since each proposed access way will serve two or less lots, only the requirements under Sections 3.2 & 8.6(A) apply. See findings in Section 3.2 above for more information as it relates to the *Unified Land Use & Development Regulations*. See Section III of this decision for more information as it relates to the *Underhill Road, Driveway & Trail Ordinance*.

#### SECTION 8.6(B) – DEVELOPMENT ROADS

The Board finds that this subsection does not apply since the subject access ways already do or will serve less than three (3) lots.

#### SECTION 8.6(C) – PARKING FACILITIES

The Board finds that no parking facilities, other than those to be expected with single-family residences, are proposed.

#### SECTION 8.6(D) – TRANSIT FACILITIES

The Board finds that no transit facilities are proposed.

#### SECTION 8.6(E) – PEDESTRIAN ACCESS

The Board finds that this section does not apply, and therefore, review under this Section is not required.

### **SECTION 8.7 – PUBLIC FACILITIES & UTILITIES**

#### SECTION 8.7(A) – PUBLIC FACILITIES

The Board finds the proposed subdivision and development will not create an undue burden on the existing and/or planned public facilities. Mount Mansfield Unified School District confirmed that there will not be an adverse impact on the school district (Exhibit I).

#### SECTION 8.7(B) – FIRE PROTECTION

The Board finds the proposed subdivision and development is not expected to create an undue burden on the ability of the Underhill-Jericho Fire Department to provide fire protection. The Applicants have provided an ability-to-serve letter from the UJFD confirming the Board's conclusion (Exhibit J). The Board finds that the curb cut serving the proposed residence on Lot 2 existed before the subject subdivision application and that proposed Lot 2 will receive access approval from the Zoning Administrator prior to receiving a building permit.

#### SECTION 8.7(C) – WATER SYSTEMS

The Board finds that for proposed Lot 1, the Applicant has a pre-existing drilled well potable water supply. The Board additionally finds that for proposed Lot 2, the Applicants have submitted WW-4-5799, a State of Vermont-issued permit regarding proposed potable water system for Lot 2 (Exhibit N). The same permit also applies to the water system serving Lot 1.

#### SECTION 8.7(D) – WASTEWATER SYSTEMS

The Board finds that for proposed Lot 1, the Applicant has a pre-existing wastewater disposal system. The Board additionally finds that for proposed Lot 2, the Applicants have submitted WW-4-5799, a State of Vermont-issued permit regarding proposed wastewater disposal water system for Lot 2 (Exhibit N). The same permit also approves a replacement system design for Lot 1.

#### SECTION 8.7(E) – UTILITIES

The Board finds that all communications, and media utilities shall be installed underground in accordance with Section 8.7(E).



## SECTION 8.8 – LEGAL REQUIREMENTS

The Board finds that this subsection does not apply.

### III. **FACTUAL FINDINGS & CONCLUSIONS RELATING TO THE UNDERHILL ROAD, DRIVEWAY & TRAIL ORDINANCE**

The Board finds that the Applicant has submitted an access permit application. The Board additionally finds that this application, together with the satisfactory engineering plans and a site visit by the Zoning Administrator, that the provisions of the *Underhill Road, Driveway & Trail Ordinance* have been satisfied. The Zoning Administrator is hereby directed to grant the requested Access Permit.

### IV. **Conclusion**

The Board is satisfied with the level of investigation, engineering and evaluation conducted in the application submittal and review process concerning the abovementioned project. The Board thoroughly reviewed all aspects of the proposal under the evaluation criteria in the ULUDR.

The Board concludes that based on the evidence submitted and the above findings, the proposed subdivision/development generally conforms to the 2011 *Underhill Unified Land Use and Development Regulations* (ULUDR), as amended through March 3, 2020.

### V. **Decisions and Conditions of Approval**

Based upon the findings above, and subject to the conditions below, the Development Review Board grants final approval for the subdivision as presented at the hearing with the following conditions:

#### **Procedural Conditionals**

1. ***Application Fees.*** All subdivision and recording fees must be paid in full prior to recording a subdivision plat in accordance with Section 7.7(B) of the *Underhill Unified Land Use and Development Regulations*.
2. ***Recording.*** Only the “Subdivision Plat” (Exhibit F) shall be submitted for recordation in the Underhill Land Records. The plat shall include parcel codes (see below) and shall be submitted for recording within 180 days of the date of this approval (November 16, 2022) in accordance with Section 7.7 of the *Underhill Unified Land Use & Development Regulations*. One-hundred eighty (180) days from the date of this approval is May 14, 2023.
3. ***Monumentation.*** The Applicant shall ensure that the proposed property monumentation for that lot shall be installed as defined on the recordable Mylar.
4. ***Transfer of Land.*** No transfer, sale or long-term lease, of title to property as defined under 32 V.S.A. § 9601 of any portion of an existing lot; predevelopment site work; or issuance of zoning permits to develop a subdivided lot shall occur until final subdivision approval has been obtained from this Board, and the final Mylar (the subdivision plat) has been recorded in the Underhill Land Records per Section 7.2(C).
5. ***Subdivision of Land.*** Per Section 7.2(B), no land shall be subdivided until final subdivision approval has been obtained from this Board, and the approved subdivision plat is recorded in the Town of Underhill Land Records.

6. **Subdivision Drawings – Revisions & Submission.** The Applicant shall submit two full-size and two 11 inch by 17inch hardcopies of the drawing set, in addition to digital pdf copies, to the Zoning Administrator to be filed in the corresponding zoning file. The Applicant is responsible for submitting the following drawings as prepared by O’Leary Burke Civil Associates, PLC., and as related to the Mathieu subdivision for Parcel PH497. The drawings shall be revised in conformance with this Decision and shall be consistent across all of the submitted drawings.
  - a. Subdivision Plat (dated 06/09/2022), to be revised and given a new revision date, as required to be in conformance with this approval;Revisions to the drawing set shall include the following, along with other requirements set forth in the body of this Decision:
  - a. All drawings shall have a graphic scale.
  - b. The survey shall include E-911 parcel codes: Lot 1 parcel code – PH497 (497 Poker Hill Road); Lot 2 – PH489 (489 Poker Hill Road). Please verify both codes with the Town of Underhill before printing these materials.
  - f. Location of anticipated underground utilities.
7. **Approved Plans & Construction.** The Project shall be constructed in accordance with the drawing set submitted as part of the review process - revised in conformance with this Decision. No deviations to the approved project prior to or during construction are allowed without approval from the Underhill development review board.
8. **Infrastructure Certification.** Prior to the issuance of the Certificates of Occupancy Permit, the Permittee shall provide a certification letter from a Vermont Licensed Professional Engineer or qualified consultant indicating that all infrastructure improvements identified in the subdivision plans under Condition 6 above, and what is required by this Decision, have been constructed according to what was proposed as part of this review.
9. **E-911 Codes.** Prior to the issuance of the Certificates of Occupancy, the E-911 signage for the respective lots shall be posted per the Underhill-Jericho Fire Department specifications.

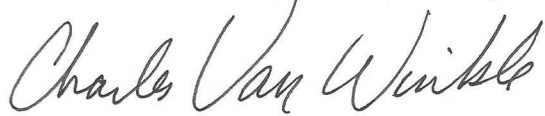
Substantive Land Use & Development Regulations Conditions

10. **Future Modification of Building Envelopes.** The Board finds the building envelope depicted in Exhibit D, as controlling, and does NOT delegate authority to the Zoning Administrator to subsequently alter or modify the building envelopes. Only the Board reserves the authority to amend the depicted building envelopes.
11. **Erosion Prevention & Sediment Control.** The Applicant and their successors shall conform to the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control, published by the Watershed Management Division of the Vermont Department of Environmental Conservation, when performing future excavation and site work for any proposed projects.
12. **Conformance With Regulations.** Notwithstanding the conditions above, prior to being issued a zoning permit, the Applicant shall comply with applicable aspects of the *Underhill Unified Land Use and Development Regulations* in effect at the time of the application for a zoning permit. The Applicant shall submit verification from a qualified consultant, attesting to the degree of environmental impact of the proposed driveway residing within the boundary of Class 2 Wetland.

Substantive Road, Driveway & Trail Ordinance Conditions

13. **Access Permit Approval.** The Board approves the submitted access permit (Exhibit K). The Board, therefore, directs the Zoning Administrator to issue the access permit. Upon the payment of required fees and verification that the provisions of the *Underhill Road, Driveway & Trail Ordinance* have been satisfied, the Zoning Administrator shall grant an Access Permit.

Dated at Underhill, Vermont this 16<sup>th</sup> day of November, 2022.



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Charles Van Winkle, Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environment Court by an interested person who participated in the proceedings before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings. Appeal period ends **December 16, 2022.**