



Town of Underhill

Development Review Board

Findings and Decision

FINAL SUBDIVISION APPLICATION OF JAMES DRISCOLL REGARDING A 2-LOT SUBDIVISION

In re: James Driscoll
179 Upper English Settlement Road (UE179)
Underhill, VT 05489

December 6, 2021

Docket No. DRB-21-01

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 Applicant, James Driscoll, regarding a 2-lot subdivision of property he owns located at 179 Upper English Settlement Road in Underhill, Vermont.

- A. On January 20, 2021, the Applicant filed a sketch plan review application for the abovementioned project. A sketch plan review meeting for the project was held on February 15, 2021 and a letter of acceptance was issued on March 2, 2021. At the February 15, 2021 meeting, the Development Review Board classified the application as a “minor” subdivision, which allowed for the preliminary subdivision review to be waived.
- B. On October 8, 2021, the Applicant filed an application for final subdivision approval for the abovementioned project. Interim Zoning Administrator, J. Kail Romanoff, received the application and determined that it was complete shortly thereafter. A hearing date was scheduled to commence at the Town of Underhill Town Hall, 12 Pleasant Valley Road, Underhill, Vermont on Monday, November 1, 2021 at 6:35 PM including a site visit scheduled to commence at 179 Upper English Settlement Road at 8:00 AM on Saturday, October 30, 2021.
- C. During the week of October 11, 2021, notice of the public hearing for the proposed Driscoll Final Subdivision hearing was posted at the following places:
 1. The Underhill Town Clerk’s office;
 2. The Underhill Center Post Office; and
 3. The Underhill Flats Post Office.
- D. On October 15, 2021, 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:

1. **(UE179)** – *Applicant:* James Driscoll, 179 Upper English Settlement Road, Underhill, VT 05489
 2. *Applicant’s Engineer:* O’Leary-Burke Civil Associates, PLC, Attn: David Burke, 13 Corporate Drive, Essex Junction, VT 05452
 3. **(UE141)** – John and Jill Blewjas, 12 Grant’s Pass, Poughquag, NY 12570
 4. **(UE167)** – Lee and Megan Davis, 167 Upper English Settlement Road, Underhill, VT 05489
 5. **(UE189)** – Lee Davis, 189 Upper English Settlement Road, Underhill, VT 05489
 6. **(UE191)** – Alicia Weber, 191 Upper English Settlement Road, Underhill, VT 05489
 7. **(UE198)** – Timothy and Cynthia Stotz, 53 McClellan Farm Road, Underhill, VT 05489
 8. **(MC053)** – Timothy and Cynthia Stotz, 53 McClellan Farm Road, Underhill, VT 05489
- E. On Saturday, October 16, 2021, notice of the public hearing was published in the *Burlington Free Press*.
- F. The site visit began at approximately 8:00 AM on October 30, 2021 at 179 Upper English Settlement Road, Underhill, Vermont.
- G. Present at the site visit were the following members of the Development Review Board:
1. Board Member, Charles Van Winkle, Chairperson
 2. Board Member, Penny Miller, Vice Chair
 3. Board Member, Karen McKnight
 4. Board Member, Dan Lee

Also present was Staff Member, J. Kail Romanoff, Zoning Administrator.

Others physically present at the site visit were:

1. Joe Flynn, O’Leary-Burke Civil Associates, PLC., Applicant’s Surveyor and Representative (13 Corporate Drive, Essex Junction, VT 05452)
- H. The final subdivision review hearing began at 6:36 PM on November 1, 2021 at the Town of Underhill Town Hall, 12 Pleasant Valley Road, Underhill, Vermont.
- I. Present at the final subdivision hearing were the following members of the Development Review Board:
1. Board Member, Charles Van Winkle, Chairperson
 2. Board Member, Penny Miller, Vice Chair
 3. Board Member, Matt Chapek
 4. Board Member, Karen McKnight
 5. Board Member, Dan Lee
 6. Board Member, Shanie Bartlett

Also present was Staff Member, J. Kail Romanoff, Zoning Administrator. All Board Members and Staff were physically present at the hearing

Others physically present at the hearing were:

1. Applicant, James Driscoll (UE179)
2. David Burke, O'Leary-Burke Civil Associates, PLC., Applicant's Engineer and Representative (13 Corporate Drive, Essex Junction, VT 05452)
2. Alicia Weber (UE191)
3. Lee Davis (UE189)

J. 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. David Burke, O'Leary-Burke Civil Associates, PLC., Applicant's Engineer and Representative (13 Corporate Drive, Essex Junction, VT 05452)
2. Alicia Weber (UE191)

K. In support of the final subdivision application, the following exhibits were submitted to the Development Review Board:

- Exhibit A - Driscoll Final Subdivision Review Staff Report
- Exhibit B - Driscoll (UE179) Final Subdivision Review Meeting Procedures
- Exhibit C - Driscoll Sketch Acceptance Letter
- Exhibit D - Subdivision Review Application
- Exhibit E - Subdivision Plan
- Exhibit F - Subdivision Plat
- Exhibit G - Survey Stakeout Sketch
- Exhibit H - Driveway Dimensions Sketch
- Exhibit I - Subdivision Permit EC-4-1270
- Exhibit J - Certificate of Service
- Exhibit K - BFP Notice
- Exhibit L - MMUUSD Ability to Serve Letter

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

All exhibits are available for public review in the UE179 Final Subdivision Review file (DRB 21-01) at the Underhill Zoning & Planning office.

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

The Minutes of the November 1, 2021 meeting, written by J. Kail Romanoff, 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 Applicant, James Driscoll, record owner of the property located at 179 Upper English Settlement Road in Underhill, VT, is 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

A. 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

A. 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*.

B. 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 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 permitted, thus satisfying the requirements of the zoning district.

C. 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 there is sufficient evidence for subdivision approval and that Staff will ultimately review the requirements of this section upon the submission of an access permit application to ensure both lots satisfy the parking requirements outlined in Table 3.1.

D. 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.

E. SECTION 3.18 – STEEP SLOPES

The Board finds that the existing lot contains areas of steep slopes (15-25%) and very steep slopes (>25%); however, the applicant has identified a building envelope that allows development to be constructed outside of these areas.

F. SECTION 3.19 – SURFACE WATERS & WETLANDS

The Board finds that one unnamed seasonal stream exists at the southwest corner on the proposed Lot 2, which is depicted on the Subdivision Plan (Exhibit E) submitted as part of this application. Since the water body is an unnamed stream with no associated floodplains, a 25 ft. buffer is required, which has been satisfied here.

G. SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS

The Board finds that the applicant has obtained a Wastewater System and Potable Water Supply Permit from the Agency of Natural Resources—See Exhibit I. 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 Special Flood Hazard Area does not exist on the subject property, and therefore, review under this Article of the regulations is not required.

ARTICLE VII – SUBDIVISION REVIEW

A. SECTION 7.2 – APPLICABILITY

The Board finds that the Applicant's proposed subdivision is subject to the requirements of the current *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 March 2, 2021—See Exhibit C.

B. SECTION 7.3 – SKETCH PLAN REVIEW

The Board finds that the Applicant adequately satisfied the conditions of approval provided in the Sketch Plan Review Letter issued on March 2, 2020.

C. SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW

The Board finds that, having previously waived a separate preliminary subdivision review hearing (see Exhibit C), the Applicant is permitted to combine preliminary and final subdivision review. As a result, the Applicant submitted an application that addressed many of the requirements that are typically part of a preliminary subdivision review hearing.

D. SECTION 7.6 – FINAL SUBDIVISION REVIEW

As part of the combined preliminary & final subdivision review application, the Applicant generally addressed many of the comments and concerns identified in the sketch plan review decision. Therefore, the Board finds that the Applicant satisfied the intent of this section and provided the necessary materials to make a determination on the final subdivision review application.

ARTICLE VIII – SUBDIVISION STANDARDS

A. 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.

B. 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 Applicant has 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.

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 Lot 1 contains a small area of prime agricultural soils. The Board notes there is minimal concern of impact on the prime agricultural soil since the prime agricultural soils will be retained on the proposed Lot 1 where no development is currently proposed. Additionally, the subdivision layout appears to integrate and conserve other existing site features and natural amenities listed in this subsection. 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 above for more analysis relating to this subsection.

SECTION 8.2(G) – BUILDING ENVELOPE

The Board finds that the Applicant has depicted a building envelope on proposed Lot 2, as depicted on the Subdivision Plan (Exhibit E), that is smaller than the least restrictive building envelope allowed in the Rural Residential zoning district. The Board acknowledges that the reduced building envelope is self-imposed, and that the Board has not explicitly advised of a policy reason for the more restrictive building envelope. Therefore, the Board authorizes the Zoning Administrator to subsequently modify the building envelope in the future should the applicant, or a future applicant, wish to enlarge the building envelope as long as the modification is consistent with this decision and the zoning regulations in effect at the time of the application.

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 dense vegetation exists between the proposed dwelling unit on proposed Lot 2 and Upper English Settlement Road, which is consistent with other residential development in the area and satisfies the intent of this section. To the greatest extent possible,

the proposed clearing limits shall be adhered to and the wooded buffer between proposed Lots 1 and 2 shall be preserved in accordance with Section 8.2(I) of the Regulations.

SECTION 8.2(J) – ENERGY CONSERVATION

The Board makes no finding regarding this subsection.

C. SECTION 8.3 – NATURAL & CULTURAL RESOURCES

SECTION 8.3(A) – RESOURCE IDENTIFICATION & PROTECTION

The Board is not aware of, nor has it 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 the proposed subdivision/development contains an unnamed seasonal stream that bisects Lot 1 from the east to west before crossing into the southwest corner of proposed Lot 2 and entering the roadside drainage ditch. No wetlands or special flood hazard areas have been identified 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 areas of steep slopes (15-25%) exist on both proposed Lots, and very steep slopes (>25%) exist on proposed Lot 1 (see page 5, Exhibit A). However, no existing development is in, nor is any anticipated development expected to be in, the vicinity of these areas. See Section 3.18 above for more information.

SECTION 8.3(D) – NATURAL AREAS & WILDLIFE HABITAT

The Board finds that there is a priority level 7 habit block located on both lots (see page 10, Exhibit A). The habitat block has already been minimally impacted with existing development.

No wintering deer yards have been identified on the existing lot; however, the 2016 Vermont Agency of Natural Resources BioFinder has identified the following features that are located generally on the property:

- Highest Priority Terrestrial Wildlife Road Crossing (located along Upper English Settlement Rd.);
- Highest Priority Interior Forest Blocks (same location as the identified Habitat Block);
- Highest Priority Connectivity Block (same location as the identified Habitat Block);
- Representative Physical Landscape Diversity (same location as the identified Habitat Block);

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 finds that there is an historic cellar hole located on proposed Lot 2 (see Subdivision Plan, Exhibit E). To the greatest extent possible, development should be cited so as to avoid disturbance of this historic feature.

SECTION 8.3(F) – FARMLAND

The Board is unaware of any prime agricultural land located on either Lot 1 or 2.

SECTION 8.3(G) – FORESTLAND

The Board finds, according to satellite imagery and their site visit, that both proposed lots contain forestland. Lot 1 contains existing development, and, upon subdividing, additional impact to forestland is anticipated on Lot 1. The Board finds that that the Applicant is proposing a building envelope for Lot 2 that is more restrictive than the district minimum setbacks, which may help minimize the impact to forestlands. The Board also finds that the proposed development's proximity to the front of Lot 2 near Upper English Settlement Road will minimize the impact on the interior forest to the rear of the property.

D. 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.

E. 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.

F. SECTION 8.6 – TRANSPORTATION FACILITIES

SECTION 8.6(A) – ACCESS & DRIVEWAYS

Lot 1 is served by its own driveway, which accesses Upper English Settlement Road, a Class III Highway. Lot 2 will be served by a driveway which accesses Upper English Settlement Road, a Class III Highway. 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.

G. 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. The Road Foreman did not provide any comments indicating that the proposed development would create an adverse impact on the Town's roadway network.

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 Board finds that the driveway serving the residence on Lot 1 existed long before the subject subdivision application and that proposed Lot 2 will receive access approval from the Zoning Administrator prior to receiving a building permit. The Applicant shall provide an ability-to-serve letter from the Jericho-Underhill Fire Department prior to issuance of an Access Permit.

SECTION 8.7(C) – WATER SYSTEMS

The Board finds that for proposed Lot 1, the Applicant has an exempt pre-existing wastewater system and potable water supply. The Board finds that for proposed Lot 2, the Applicant obtained a Subdivision Permit (Permit #: EC-4-1279) from the Agency of Natural Resources, Department of Environmental Conservation, on April 18, 1988 which includes an approved potable water supply design to serve a single-family residence.

SECTION 8.7(D) – WASTEWATER SYSTEMS

The Board finds that for proposed Lot 1, the Applicant has an exempt pre-existing wastewater system and potable water supply. The Board finds that for proposed Lot 2, the Applicant obtained a Subdivision Permit (Permit #: EC-4-1279) from the Agency of Natural Resources, Department of Environmental Conservation, on April 18, 1988 which includes an approved potable wastewater system design to serve a single-family residence.

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). Therefore, upon installation, the Applicant(s), or future applicant(s), shall submit an updated site plan documenting the location of those utilities.

H. 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 not submitted an access permit application. The Board

notes that an access permit is required, however they note that, based on the submitted materials, a satisfactory design is likely. The Board, therefore, delegates final access permit review to the Zoning Administrator. Upon the submission of an access permit application, satisfactory engineering plans, a site visit by the Road Foreman, and verification that the provisions of the *Underhill Road, Driveway & Trail Ordinance* have been satisfied, the Zoning Administrator shall grant an 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 (December 6, 2021) 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 June 4, 2022.
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 17 inch 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 relate to the Driscoll subdivision for Parcel UE179. The drawings shall be revised in conformance with this Decision and shall be consistent across all of the submitted drawings.

- a. Subdivision Plat (dated 08/08/2021), to be revised and given a new revision date, as required to be in conformance with this approval;
- b. Subdivision Plan (dated 10/01/2021), to be revised and given a new revision date, as required to be in conformance with this approval;
- c. Two-Lot Subdivision Overall Site Plan (dated 08/26/2021), 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 – UE179 (179 Upper English Settlement Road); Lot 2 – UE165 (165 Upper English Settlement Road).
 - c. Location of anticipated underground utilities.
 - d. The Subdivision Plat shall be revised to depict the retained 9.78 acre lot containing the existing single family dwelling as Lot 1 and the proposed 3.22 acre lot as Lot 2 as depicted on the Subdivision Plan.
 - e. The Subdivision Plan shall be revised to remove the district minimum setback line and to make the proposed building envelope line more noticeable.
 - f. The Subdivision Plan shall be revised to include the dimensions of the proposed building envelope and / or dimensions from the building envelope to the property lines.
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. Any deviations to the approved project prior to or during construction shall be immediately brought to the attention of the Zoning Administrator.
8. **Infrastructure Certification.** Prior to the issuance of the Certificates of Occupancy Permit, the Applicant 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 lot shall be posted per the Underhill-Jericho Fire Department specifications.
10. **Renewal.** The Board hereby delegates authority to the Zoning Administrator to renew this approval should the project not begin substantial construction within the initial permit year.

Substantive Land Use & Development Regulations Conditions

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.
13. **Conformance with State Permits.** The conditions of the ANR Subdivision Permit (EC-4-1270) shall be incorporated herein.

Substantive Road, Driveway & Trail Ordinance Conditions

14. **Access Permit Approval.** The Board defers approval of the access permit due to resolvable outstanding issues. The Board, therefore, empowers the Zoning Administrator to act on behalf of the Board regarding final access permit review. Upon the submission of an access permit application, satisfactory engineering plans, a site visit by the Road Foreman, 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 6th day of December, 2021.

Charles Van Winkle

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 **January 5, 2022.**