



Town of Underhill

Development Review Board

Findings and Decision

**FINAL SUBDIVISION APPLICATION OF BETSY EVANS (ON BEHALF OF EDMONT HOUSE, LLC)
REGARDING A 2-LOT SUBDIVISION**

In re: Edgmont House, LLC
8 Edgemont Road (ED008)
Underhill, VT 05489

November 4, 2021

Docket No. DRB-20-03

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, Betsy Evans (hereafter Applicant), on behalf of Edgmont House, LLC., regarding a 2-lot subdivision of property they own located at 8 Edgemont Road in Underhill, Vermont.

- A. On January 9, 2020, the Applicant, on behalf of Edgmont House, LLC, filed a sketch plan review application for the abovementioned project. A sketch plan review meeting for the project was held on February 3, 2020 and a letter of acceptance was issued on February 20, 2020.
- B. On April 9, 2021, the Applicant, on behalf of Edgmont House, LLC, filed an application for preliminary approval for the abovementioned project, requesting a waiver of the rehearing of sketch plan review given the effects of the COVID-19 pandemic on the planning process and the proximity of the application to the expiration date of the previous sketch plan acceptance letter. Planning Director & Zoning Administrator, Andrew Strniste, received the application and determined that it was complete shortly thereafter. A site visit was held on Saturday, May 15, 2021 at 8:30 AM, while the hearing date was held remotely via the Go-To-Meeting platform on Monday, May 17, 2021 at 6:30 PM. No public gathering place was provided.
 1. *Due to the COVID-19 pandemic, the Vermont legislature enacted Act 92 that permits public hearings to be held remotely (without a public gathering place) as long as the remote meeting can be accessed by the public. As a public hearing, the meeting was recorded.*
 2. The Monday, May 17, 2021 meeting agenda contained both a hyperlink to attend the meeting by computer, table or smartphone, as well as a dial-in phone number and access code allowing participation via telephone.

A combined sketch plan and preliminary subdivision findings and decision was issued on June 28, 2021.

- C. On August 30, 2021, the Applicant, on behalf of Edgmont House, LLC, 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, September 20, 2021 at 7:20 PM.
- D. On September 3, 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. **(ED008)** – Applicant: Edgmont House, LLC, c/o Betsy Evans, 54 Wood Avenue, Gill, MA 01354
 - 2. **(ED002)** – Peter T. & Caroline Bennett, PO Box 95, Underhill Center, VT 05490
 - 3. **(MG006)** – Montgomery Subdivision Landowners Association, c/o Ryan Ochs, 6 Wheeler Road, Underhill, VT 05489
 - 4. **(MT087)** – William G. & Roxanne Wolcott, 87 Mountain Road, Underhill, VT 05489
 - 5. **(MT095)** – Douglas H. & Kate S. Spafford, 95 Mountain Road, Underhill, VT 05489
 - 6. **(MT104)** – Nicholas V. Krywka, 104 Mountain Road, Underhill, VT 05489
 - 7. **(MT122)** – John O. & Amberly R. Leasure, 122 Mountain Road, Underhill, VT 05489
 - 8. **(MT165)** – Timothy & Martha McLaughlin, 323 Lost Nation Road, Essex, VT 05452
 - 9. **(MT235)** – Beth Russell, c/o Caleb McMurphy, 428 East Wooster Street, Bowling Green, OH 43402
 - 10. **(MT352)** – State of Vermont, Agency of Natural Resources, 103 South Main Street, Waterbury, VT 05676
- E. During the week of August 30, 2021, notice of the public hearing for the proposed Evans 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.
- F. On Saturday, September 4, 2021, notice of the public hearing was published in the *Burlington Free Press*.
- G. The final subdivision review hearing began at 6:58 PM on September 20, 2021 at the Town of Underhill Town Hall, 12 Pleasant Valley Road, Underhill, Vermont.
- H. 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
 - 3. Board Member, Mark Green
 - 4. Board Member, Karen McKnight
 - 5. Board Member, Dan Lee
 - 6. Alternate Board Member, Mark Hamelin

7. Alternate Board Member, Brian Bertsch

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

Others physically present at the hearing were:

1. Trafton Crandall, Trafton Engineering Associates, LLC., Applicant's Engineer and Representative (343 Orchard Road, Charlotte, VT 05445)

Others present at the hearing attending remotely on the Go-To-Meeting platform were:

1. Applicant, Betsy Evans (ED008)
2. Jeff Colson (54 Wood Avenue, Gill, MA)
3. Peter Bennet (ED020)
4. Caroline Bennett (ED020)

I. 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. Trafton Crandall, Trafton Engineering Associates, LLC., Applicant's Engineer and Representative
2. Applicant, Betsy Evans

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

- Exhibit A – Evans Preliminary Subdivision Review Staff Report
- Exhibit B – Evans (ED008) Preliminary Subdivision Review Meeting Procedures
- Exhibit C – Subdivision Review Application
- Exhibit D – Project Narrative
- Exhibit E – BFP Notice
- Exhibit F – Certificate of Service
- Exhibit G – Access Permit Application
- Exhibit H – Wastewater System and Potable Water Supply Permit
- Exhibit I – Wildlife Use & Habitat Assessment for Edgmont House, LLC.
- Exhibit J – Forest Management Plan for Edgmont House, LLC.
- Exhibit K – Subdivision Plat
- Exhibit L – Two-Lot Subdivision Site Plan
- Exhibit M – Two-Lot Subdivision Overall Property Plan
- Exhibit N – At-Grade Wastewater Details
- Exhibit O – Wastewater Tank & Well Details
- Exhibit P – Edgmont House LLC., Road Design – Driveway
- Exhibit Q – MMUSD Ability to Serve Letter
- Exhibit R – UJFD Ability to Serve Request Letter

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

All exhibits are available for public review in the ED008 Final Subdivision Review file (DRB 20-03) at the Underhill Zoning & Planning office.

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

The Minutes of the September 20, 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, the Edgmont House, LLC., c/o Betsy Evans, record owner of the property located at 8 Edgmont Road in Underhill, VT, is seeking a subdivision permit to subdivide the abovementioned land. The property is located in the Water Conservation and the Soil & Water Conservation zoning districts as defined in Article II, Tables 2.5 & 2.6 of the 2020 Underhill Unified Land Use & Development Regulations.

ARTICLE II – ZONING DISTRICTS

A. ARTICLE II, TABLE 2.5 – WATER CONSERVATION DISTRICT

The Board finds that the newly created lot will meet the zoning requirements of the Water Conservation District.

B. ARTICLE II, TABLE 2.6 – SOIL & WATER CONSERVATION DISTRICT

The Board finds that the focus of the proposed subdivision and proposed development are not located in the Soil & Water Conservation District.

ARTICLE III – GENERAL REGULATIONS

A. SECTION 3.2 – ACCESS

The Board finds that an Access Permit application was submitted with the Subdivision application materials. However, it was determined, upon review by the Interim Zoning Administrator, J. Kail Romanoff, and Town Road Foreman, Nate Sullivan, that the proposed point of access onto Mountain Road has the potential to create a stormwater issue on Mountain Road. In addition, the Board finds that once a proper point of access is determined, the access would satisfy the requirements of this Section and the *Underhill Road, Driveway and Trail Ordinance*. The Board notes that the Applicant shall work with Staff to obtain a final access permit prior to obtaining a building permit.

B. SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS

The Board finds that both lots and the proposed development will satisfy the requirements of both the Water Conservation and the Soil & Water Conservation zoning districts. Lot 2 will contain the existing single-family dwelling and the accessory dwelling, while the proposed Lot 1 will contain one proposed single-family dwelling. A single-family dwelling on the proposed lot is permitted per Table 2.4(B)(6) and Table 2.5(B)(6). Both lots meet the more stringent requirements of the Soil & Water Conservation zoning district: minimum frontage requirement of 400 feet, minimum acreage requirement of 10.0 acres, as well as satisfying all of the identified setbacks.

The Board notes that the Applicant has depicted a building envelope that is more restrictive than required, thus satisfying the requirements of the zoning districts.

C. SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

The Board finds that both lots will contain single-family dwellings, as Lot 2 already contains an existing single-family dwelling and accessory dwelling, and Lot 1 is proposed to include a single-family dwelling. Lot 2 already satisfies the parking requirements outlined in Table 3.1, which are two parking spaces per dwelling unit, and the plan for Lot 1 likewise satisfies the requirements.

D. SECTION 3.17 – SOURCE PROTECTION AREAS

The Board finds that both proposed lots are contained entirely within a Groundwater Source Protection Area. Therefore, avoiding the siting of the single-family dwelling outside of this Source Protection Area is not feasible. Moreover, single-family dwellings are exempt from requiring additional review under this Section per § 3.17(B).

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 stream exists on the proposed Lot 1, which is depicted on the Two-Lot Subdivision Overall Plan (Exhibit M) 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. The Board further finds that the same unnamed stream, as well as a pond and associated Class II Wetlands exist on Lot 2, which are depicted on the Two-Lot Subdivision Overall Plan (Exhibit M). The development depicted on the Two-Lot Subdivision Overall Plan, however, is located on Lot 1—out of the surface water buffers, wetlands, and their associated buffers referenced.

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. 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, ARTICLE VII

A. 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 February 20, 2020.

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 February 20, 2021.

C. SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW

The Board finds that the applicant received and satisfied the conditions of Preliminary Subdivision approval as outlined in their decision issued on June 28, 2021.

D. SECTION 7.6 – FINAL SUBDIVISION REVIEW

As part of the final subdivision review application, the Applicant submitted an application that addressed the conditions identified as part of the combined sketch plan and preliminary subdivision review findings & 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.

SUBDIVISION STANDARDS, ARTICLE VIII

A. SECTION 8.1 – APPLICABILITY

The Board finds that the Applicant satisfied the Board’s request for technical review. 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 Board is satisfied with the applicant’s submission of Wildlife Use and Habitat Assessment (Exhibit I) and, should the recommendations contained in that report be followed, anticipates the impact on the highest priority habitat and wildlife blocks in the area of the proposed house and wastewater system will be minimal.

SECTION 8.2.(B) – DEVELOPMENT DENSITY

The Board finds that the proposed subdivision meets the density requirements of both the Water Conservation and the Soil & Water Conservation zoning districts.

SECTION 8.2(C) – EXISTING SITE CONDITIONS

The Board finds that the impact to existing site conditions will be minimal provided development is made in accordance with the proposed 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 Lot 1, as depicted on the Two-Lot Subdivision Site Plan (Exhibit L) & the Two-Lot Subdivision Overall Plan (Exhibit M), conforms with the requirements of both the Water Conservation and Soil & Water Conservation zoning districts as well as the resource protection standards under Section 8.3.

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 existing dwelling units on both proposed lots and Mountain Road, which is consistent with other residential development in the area. Therefore, no adverse impact to the existing landscaping and vegetation is expected to occur.

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 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 the proposed subdivision/development contains an unnamed stream that bisects the southeast corner of Lot 1, and the extreme eastern side of Lot 2. In addition, a pond and areas of associated Class II Wetlands have been identified on proposed Lot 2 towards the western portion of the property. No 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 areas of steep slopes (15-25%) and very steep slopes (>25%) exist on both proposed lots (see page 5, Exhibit A). The Applicant has depicted a building envelope that minimizes impacts in these areas, and therefore, there is no foreseen adverse impact. 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 10 habit block located on both lots. The board was concerned about impacts to the habitat block as it contains the highest use rating. The Board finds the habitat block has already been minimally impacted with existing development.

The Board finds that there is a priority level 10 habit block located on both lots which has been minimally impacted by existing development. At the request of the Board, the Applicant submitted a 'Wildlife Use and Habitat Assessment,' prepared by Gilman & Briggs Environmental (Exhibit I). The Assessment included a number of recommendations from a Natural Resource Scientist intended to prevent any additional adverse impacts to the existing natural areas and wildlife habitat. The Board finds that the implementation of those recommendations is critical to the issuance of this approval.

No deer wintering 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:

- Priority Natural Community (located towards the northern end of Lot 2);
- Highest Priority Aquatic Habitats (located towards the northern end of Lot 2);
- Highest Priority Wetland (located where the identified pond on Lot 2);
- Highest Priority Terrestrial Wildlife Crossing (located along Mountain Road);
- Priority Terrestrial Wildlife Crossing (located at the intersection of Edgemont Road and Mountain Road);
- Highest Priority Wildlife Road Crossings (located along Mountain Road and along the driveway serving 20 Edgemont);
- Priority Rare & Uncommon Species (located in the vicinity of where Brown's River and the Unnamed Stream intersect Mountain Road);
- Highest Priority Forest Block (same location as the identified Habitat Block);
- Highest Priority Connectivity Block (same location as the identified Habitat Block);
- Highest Priority Surface Water and Riparian Area (located in the vicinity of where Brown's River and the Unnamed Stream intersect with Mountain Road, as well as the pond and the unnamed stream connecting to the pond);
- Riparian Wildlife Connectivity (located in the vicinity of where Brown's River and the Unnamed Stream intersect with Mountain Road, as well as the pond and the unnamed stream connecting to the pond);
- Representative and Responsibility Physical Landscape Diversity (same location as the identified Habitat Block);

SECTION 8.3(E) – HISTORIC & CULTURAL RESOURCES

The Board is unaware of any historic or cultural resources that require preservation, and therefore, makes no finding regarding this Section.

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 vast swaths of forestland. Lot 2 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 1 that is more restrictive than the district minimum setbacks, which may help minimize the impact to forestlands. The Board also finds that the management strategies outlined in the Wildlife Use & Habitat Assessment (Exhibit I), and the Forest Management Plan (Exhibit J) will further minimize impacts to forestlands.

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 2 is served by its own driveway, which accesses Mountain Road, a Class III Highway, via Edgemont Road, a private road. Lot 1 will be served by a driveway which accesses Mountain 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 2 existed long before the subject subdivision application and that proposed Lot 1 will receive access approval via this subdivision. The Applicant shall provide an ability-to-serve letter from the Jericho-Underhill Fire Department within 45 days of this approval.

SECTION 8.7(C) – WATER SYSTEMS

The Board finds that for proposed Lot 2, the Applicant obtained a Wastewater System & Potable Water Supply Permit (Permit #: WW-4-2829) from the Agency of Natural Resources, Department of Environmental Conservation, on July 13, 2007 to serve 5-bedrooms with a drilled well. The Board finds that for proposed Lot 1, the Applicant obtained a Wastewater System & Potable Water Supply Permit (Permit #: WW-4-2829-1)(see Exhibit H) from the Agency of Natural Resources, Department of Environmental Conservation, on April 23, 2021 to serve 3-bedrooms with a drilled well.

SECTION 8.7(D) – WASTEWATER SYSTEMS

The Board finds that the Applicant has obtained a Wastewater System & Potable Water Supply Permit (Permit #: WW-4-2829-1) (see Exhibit H) from the Agency of Natural Resources, Department of Environmental Conservation, on April 23, 2021. The permit allows for an at-grade wastewater system to serve the proposed three-bedroom dwelling on the proposed 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)

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, at the direction of Staff, has submitted an access permit application (Exhibit G; A-21-06). The Board agrees that an access permit is required, however they note that a request by the Road Foreman for modifications to the driveway design at its point of access onto Mountain to address stormwater runoff and site distance concerns causes the application to no longer be ripe for review. The Board, therefore, delegates final access permit review to the Zoning Administrator. Upon the submission of satisfactory engineering plans addressing the stormwater and site distance concerns, 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 K) 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 4, 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 May 3, 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 Button Professional Land Surveyors, PC., and Trafton Engineering Associates, LLC., and as relate to the Edgmont House, LLC. subdivision for Parcel ED008. The drawings shall be revised in conformance with this Decision and shall be consistent across all of the submitted drawings.
 - a. Subdivision Plat (dated 04/03/2021), to be revised and given a new revision date, as required to be in conformance with this approval.
 - b. Two-Lot Subdivision Site Plan (dated 08/26/2021), 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;

- d. Wastewater Tank & Well Details (dated 04/08/2021), to be revised and given a new revision date, as required to be in conformance with this approval;
- e. Edgmont House, LLC., Road Design – Driveway, Plan & Profile (dated 08/23/2021), 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 2 parcel code – MT139 (139 Mountain Road); Lot 1 – ED008 (8 Edgmont Road).
 - f. Location of anticipated underground utilities.
7. **Approved Plans & Construction.** The driveway, water supply and wastewater disposal system shall be constructed in accordance with the drawing set submitted as part of the review process – or 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. **Delegation of authority.** The Board hereby delegates authority to the Zoning Administrator regarding the fulfillment of the proposed project. The Board empowers the Zoning Administrator to act on behalf of the Board regarding any proposed changes in the approval or proposed design. These changes are not limited in scope but are left to the discretion of the Zoning Administrator when to defer changes or modifications to the Board. Exception: See item # 11 & 12 below.

Substantive Land Use & Development Regulations Conditions

11. **Future Modification of Building Envelopes.** The Board finds the building envelope depicted in Exhibits L and M, 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.
12. **Clearing Restriction.** The Board finds that, in order to control excessive clearing and minimize disturbance to steep slopes required by Section 3.18 of the *Underhill Unified Land Use & Development Regulations*, the Applicant shall limit clearing for both lots to areas of slope less than 15% within their respective building envelopes. The exception to this condition shall be implementation of recommendations provided by the forestry management plan, or updated versions of said plan as conditions may require.
13. **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.
14. **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.
 15. **Conformance with State Permits.** The conditions of the ANR Wastewater System and Potable Water Supply Permit shall be incorporated herein.

Substantive Road, Driveway & Trail Ordinance Conditions

16. **Access Permit Approval.** The Board defers approval of the submitted access permit application (Exhibit G; Access Permit #: A-21-06) due to the outstanding stormwater runoff and sight distance issues. The Board, therefore, empowers the Zoning Administrator to act on behalf of the Board regarding final access permit review. Upon the submission of satisfactory engineering plans addressing the stormwater runoff and sight distance concerns, and verification that the provisions of the *Underhill Road, Driveway & Trail Ordinance* have been satisfied, the Zoning Administrator shall grant an Access Permit.
17. **Drainage.** In the event that drainage issues occur, the Board reserves the right to review the project for corrective measures as it relates to drainage.

Dated at Underhill, Vermont this 4th day of **November, 2021.**



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 4, 2021.**