



**Town of Underhill**  
Development Review Board  
Final Subdivision Findings and Decision

**SUBDIVISION AMENDMENT REVIEW APPLICATION OF PHILIP JACOBS TO AMEND A PREVIOUSLY APPROVED  
SUBDIVISION TO CREATE AN ADDITIONAL LOT (SUBDIVIDING A LOT INTO TWO LOTS)**

In re: Philip Jacobs  
17 Jacobs Hill Road (JB017), Formerly 16 Harvest Run (HR016)  
Underhill, VT 05489

Docket No. DRB-18-11

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

**I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns the subdivision amendment review application submitted by Philip Jacobs pertaining to a subdivision amendment of a previously approved subdivision. The subdivision amendment application is for the creation of an additional lot (subdividing 17 Jacobs Hill Road into two lots). The subject property owned by Mr. Jacobs is located at 17 Jacobs Hill Road (formerly 16 Harvest Run) in Underhill, Vermont.

- A. On January 8, 2018, the applicant, Philip Jacobs, filed a sketch plan review application (DRB-18-03) for a two-lot subdivision of land he owns at 17 Jacobs Hill Road (JB017) in Underhill, Vermont. A sketch plan review meeting to review the application was held on February 26, 2018. At the meeting, the application was dismissed by the Board, and the applicant was informed that the project would be better classified as a subdivision amendment of the previously approved subdivision at 16 Harvest Run (HR016) – heard as DRB Docket #: DRB-16-01. Subsequently, the reclassification of the applicant's project was memorialized in a memorandum by the Planning & Zoning Administrator on March 5, 2018.
- B. On March 29, 2018, the applicant filed a subdivision amendment review application for the abovementioned project. Planning & Zoning Administrator, Andrew Strniste, received the application and determined that it was complete prior to warning the hearing on Wednesday, May 2, 2018 for the Saturday, May 5, 2018 issue of the *Burlington Free Press*. A site visit was scheduled for 6:00 PM on Monday, May 21, 2018 at the project's location, and a hearing date was scheduled for 7:35 PM on Monday, May 21, 2018 at Underhill Town Hall.
- C. On May 2, 2018, notice regarding the subdivision amendment review hearing was mailed via certified mail to the following property owners adjoining the property subject to the application, as well as to those property owners whose property abuts the original parcel of land that was subject to subdivision in the original DRB-16-01 application and those who were interested parties to the original proceeding:

1. Applicant: JB017 (Formerly Part of HR016) – Philip Jacobs, 73 Upper English Settlement Road, Underhill, VT 05489
2. Consultant: O’Leary-Burke Civil Associates, 13 Corporate Drive, Essex Junction, VT 05452
3. DP004 – Marguerite Walsh, 4 Depot Street, Underhill, VT 05489
4. DP006 – Matthew D. Gombrich, 6 Depot Street, Underhill, VT 05489
5. HR002 – Alonna E. Bolio Trustee, 219 Stone Hill Road, Williston, VT 05495
6. HR004 – Deborah Shannon, P.O. Box 202, Underhill, VT 05489
7. HR006 – Danielle & Christine Viau, 6 Harvest Run, Underhill, VT 05489
8. HR010 – Eugene R. & Teresa R. Bogaczyk, 10 Harvest Run, Underhill, VT 05489
9. HR012 – David & Dorothy Richiede, P.O. Box 278, Underhill, VT 05489
10. HR014 – Robert L. & Kathleen A. Covey Trustees, P.O. Box 5, Underhill, VT 05489
11. JB008 – William E. & Christina L. Widlund, 8 Jacobs Hill Road, Underhill, VT 05489
12. JB014 – Randy E. & Kelley Y. Jewell, 14 Jacobs Hill Road, Underhill, VT 05489
13. JB016 – Aaron & Jamie Brillhart, 16 Jacobs Hill Road, Underhill, VT 05489
14. JB018 – Tobin M. & Rebecca B. Clough, P.O. Box 112, Underhill, VT 05489
15. JB022 – Jason R. Ferreira, 22 Jacobs Hill Road, Underhill, VT 05489
16. JB024 – John C. & Christina Pepi, 24 Jacobs Hill Road, Underhill, VT 05489
17. MD018 – Alan R. Morse Trustee, 18B Meadow Lane, Underhill, VT 05489
18. MN005 – Theodore & Elena Alexander, P.O. Box 8, Underhill, VT 05489
19. MN007 – Carole Magoffin, 271 Poker Hill Road, Underhill, VT 05489
20. MN009 – Matthew & Alicia Martelle, 9 Min’s Lane, Underhill, VT 05489
21. PA007X – United Church of Underhill, P.O. Box 265, Underhill, VT 05489
22. PA021 – Gertrube Hunt, 159 Orr Road, Jericho, VT 05465
23. PA023 – Jamie D. Eisenberg, 23 Park Street, Underhill, VT 05489
24. SU002 – Joseph C. & Ruth C. Nelson, 2 Sugar Hill, Underhill, VT 05489
25. SU004 – Robert J. & Louise L. Nichols, 4 Sugar Hill, Underhill, VT 05489
26. VT408 – Vermont Route 15, Brett A. Decker, 408 Vermont Route 15, Underhill, VT 05489
27. VT418 – Underhill Garage, Inc., P.O. Box 7, Underhill, VT 05489
28. VT420X – Underhill-Jericho Fire Department, P.O. Box 150, Underhill, VT 05489
29. VT421 – Robert & Paige Manning, 421 Vermont Route 15, Underhill, VT 05489
30. VT424 – Malachi & Shannon McCaulley, 424 Vermont Route 15, Underhill, VT 05489
31. Town of Jericho – Town of Jericho, Attn: Jessica Alexander, Town Clerk, P.O. Box 39, Jericho, VT 05465

D. During the week of April 29, 2018, notice of the public hearing for the proposed Jacobs subdivision amendment review hearing was posted at the following places:

1. The Underhill Town Clerk’s office;
2. The Underhill Center Post Office; and
3. Jacobs & Son Market.

E. On May 5, 2018 the notice of public hearing was published in the *Burlington Free Press*.

F. A site visit at the property’s location (17 Jacobs Hill Road, Underhill, Vermont, formerly 16 Harvest Run, Underhill, Vermont) commenced at 6:00 PM on Monday, May 21, 2018.

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, Matt Chapek
3. Board Member, Mark Green
4. Board Member, Daniel Lee
5. Board Member, Karen McKnight
6. Board Member, Penny Miller
7. Board Member, Stacey Turkos

Municipal representatives and members of the public present during the site visit were:

8. Planning & Zoning Administrator, Andrew Strniste
9. Applicant, Philip Jacobs (73 Lower English Settlement Road, Underhill, VT 05489)
10. Abutting Neighbor, Matthew Martelle (9 Min's Lane, Underhill, VT 05489)
11. Abutting Neighbor, Alicia Martelle (9 Min's Lane, Underhill, VT 05489)
12. Consultant, Paul O'Leary (O'Leary-Burke Civil Associates, 13 Corporate Drive, Essex Junction, VT 05452)
13. Consultant, Shawn Cunningham (O'Leary-Burke Civil Associates, 13 Corporate Drive, Essex Junction, VT 05452)

H. The subdivision amendment review hearing began at 7:32 PM on Monday, May 21, 2018 at the Town of Underhill Town Hall, 12 Pleasant Valley Road, Underhill, Vermont.

I. Present at the subdivision amendment review hearing were the following members of the Development Review Board:

1. Board Member, Charles Van Winkle, Chairperson
2. Board Member, Matt Chapek
3. Board Member, Mark Green
4. Board Member, Daniel Lee
5. Board Member, Karen McKnight
6. Board Member, Penny Miller
7. Board Member, Stacey Turkos

Also in attendance was Staff Member, Andrew Strniste, Planning Director & Zoning Administrator.

Others present at the hearing were:

1. Applicant, Philip Jacobs (73 Lower English Settlement Road, Underhill, VT 05489)
2. Applicant's Consultant, Paul O'Leary (O'Leary-Burke Civil Associates, 13 Corporate Drive, Essex Junction, VT 05452)
3. Abutting Neighbor, Aaron Brillhart (16 Jacobs Hill Road, Underhill, VT 05489)

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. Applicant's Consultant, Paul O'Leary
2. Applicant, Philip Jacobs

Also qualifying as an interested party is Dorothy Richiede, who did not attend the hearing; however, submitted correspondence stating concerns.

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

1. Exhibit A - HR016 Jacobs Staff Report - Subdivision Amendment Review
2. Exhibit B - Jacobs (HR016) Subdivision Amendment Review Hearing Procedures
3. Exhibit C - Application for Subdivision Amendment Review
4. Exhibit D - Correspondence from Consultant
5. Exhibit E - Certificate of Service
6. Exhibit F - Proposed Amendments to Homeowners Association
7. Exhibit G - Wastewater System & Potable Water Supply Permit (WW-4-4679-1)
8. Exhibit H - Preliminary Access Permit (A-18-05)
9. Exhibit I - DRB-07-06 Conditions of Approval
10. Exhibit J - DRB-12-10 Conditions of Approval
11. Exhibit K - DRB -13-02 Conditions of Approval
12. Exhibit L - DRB-16-01 Conditions of Approval
13. Exhibit M - ANR Habitat Blocks Map
14. Exhibit N - ANR Slopes Map
15. Exhibit O - 5106-PHASE 3 3-22-18 Phase 3 Plan (1)
16. Duplicate Exhibit O - Phase 3 Plan
17. Exhibit P - 5106-PHASE 3 3-22-18 Min's Lane Plan View (2)
18. Duplicate Exhibit P - Min's Lane Plan View
19. Exhibit Q - 5106-PHASE 3 3-22-18 Plan & Profile (3)
20. Duplicate Exhibit Q - Driveway Plan & Profile
21. Exhibit R - 5106-PHASE 3 3-22-18 Water and Wastewater (4)
22. Duplicate Exhibit R - Water & Wastewater Plan
23. Exhibit S - 5106-PHASE 3 3-22-18 Water and Wastewater Details (5)
24. Duplicate Exhibit S - Water & Wastewater Details
25. Exhibit T - 5106-PHASE 3 3-22-18 Stormwater and Erosion Control Plan (6)
26. Duplicate Exhibit T - Stormwater & Erosion Control Plan
27. Exhibit U - 5106-PHASE 3 3-22-18 Roadway Landscaping and Erosion Control Details (7)
28. Duplicate Exhibit U - Stormwater & Erosion Control Details

No other exhibits were distributed prior to the start of the hearing. During the hearing, however, the following exhibits were submitted into the record:

29. Exhibit V – Mt. Mansfield Ability to Service Letter
30. Exhibit W – Correspondence from Dori Richiede

While the minutes of May 21, 2018 state that a third exhibit – the Wastewater System & Potable Water Supply Permit – was submitted into the record, this would be a duplicate entry, and therefore, not considered an additional exhibit.

All exhibits are available for public review in the HR016 (JB017) Jacobs Subdivision Amendment Review file (HR016 (JB017) / DRB-18-11) and the JB017 Jacobs Sketch Plan Review file (JB017 / DRB-18-03) at the Underhill Zoning & Planning office.

## **II. FACTUAL FINDINGS & CONCLUSIONS**

The Minutes of the February 26, 2018 and May 21, 2018 meetings, written by Andrew Strniste, 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 2018 *Underhill Unified Land Use and Development Regulations* (ULUDR):

### ***PROJECT SYNOPSIS***

The applicant, Philip Jacobs, record owner of the property located at 17 Jacobs Hill Road, formerly 16 Harvest Run, in Underhill, VT, is seeking to amend his previously approved subdivision application (reviewed as DRB Docket #: DRB-16-01) to create an additional lot (effectively splitting the land at 17 Jacobs Hill Road into two separate lots). The property is located in the Underhill Flats Village Center zoning district as defined in Article II, Tables 2.2 of the 2018 *Underhill Unified Land Use & Development Regulations*.

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

#### **A. ARTICLE II, TABLE 2.2 – UNDERHILL FLATS VILLAGE CENTER DISTRICT**

The Board finds that the proposed subdivision will occur entirely within the Underhill Flats Village Center District. The applicant is proposing to build single-family dwellings on both lots. The proposed project conforms to the district requirements and the purpose of this district, as the layout is consistent with a compact, historic village settlement pattern.

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

#### **A. SECTION 3.2 – ACCESS**

The Board finds that the applicant obtained a preliminary access permit from the Selectboard on April 10, 2018 (Access Permit #: A-18-08). The applicant has depicted a 12 ft. driveway for each lot (Lots 8 & 9) that satisfied the requirements of this subsection.

Under the 2015 Underhill Road Ordinance, the applicant is required to obtain a final access permit for the project. If modifications to the driveways, as presented, are made during the final access permitting process, further review by this Board is not required so long as those modifications are consistent with this decision, as determined by the Zoning Administrator.

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

The Board finds that the proposed lots will each contain one principal use or structure: both lots will contain single-family dwellings for residential purposes. Additionally, each lot will meet the 150-foot frontage requirements for the Underhill Flats Village Center District. All other dimensional requirements are satisfied, noting that the single-family dwellings depicted on the site plan and submitted survey are for illustration purposes only and may be altered during the building permitting process.

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

The Board finds that there is sufficient evidence to believe that the applicants will meet the parking requirement of two spaces as required per Table 3.1.

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

The Board finds the existing property is not within any source protection areas, and therefore,

review and analysis 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 is proposing to construct the single-family dwellings outside of these areas.

**F. SECTION 3.19 – SURFACE WATERS & WETLANDS**

The Board finds that the applicant has identified an unnamed stream that will bisect both Lots 8 & 9 through a ravine – also on both lots. In addition, the applicant has identified a Class III Wetland on Lot 9, which is in the general vicinity of Jacobs Hill Road. Since the stream is unnamed and the wetland is a Class III Wetland, both features contain a 25-foot buffer that shall remain undisturbed. The Board finds that the applicant is not proposing any development within this 25-foot buffer, thus satisfying the requirements of this section.

**G. SECTION 3.23 – WATER SUPPLY & WASTEWATER SYSTEMS**

The Board finds that the applicant has obtained a Wastewater System & Potable Water Supply Permit from the State of Vermont, Department of Conservation (Permit #: WW-4-4679-1). The permit allows for a four-bedroom, single-family dwelling with a drilled well for each lot. The proposed wastewater system for Lot 8 is to be primarily in-ground on the lot, while the proposed wastewater system for Lot 9 is to be an off-site pressured in-ground disposal system sized at 150% design flow. The proposed wastewater system for Lot 9 will require an easement. All locations are identified on the site plan.

**ARTICLE VI – FLOOD HAZARD AREA REVIEW**

The Board finds that there are floodplains on the original 16 Harvest Run lot; however, floodplains have not been identified on the 17 Jacobs Hill Road lot (the project location), and therefore, review and analysis under this Article is not required.

**ARTICLE VII – SUBDIVISION REVIEW**

**A. SECTION 7.2 – APPLICABILITY**

The Board finds that the applicant's proposed subdivision amendment is subject to the requirements of the 2018 *Underhill Unified Land Use & Development Regulations* per § 7.2, and was classified as a "major subdivision" during the sketch plan review meeting on February 1, 2016. Since the applicant is proposing to amend a previously approved subdivision (DRB Decision #: DRB-16-01, approved on November 16, 2016), sketch plan review and preliminary subdivision review are not required.

The Board notes that 16 Harvest Run has been the subject of previous subdivision approvals (DRB-07-06, DRB-12-10, DRB-13-02 and DRB-16-01), and the conditions of approval from those decisions are to remain in effect unless a condition from this decision conflicts with a previous condition, at which point the particular condition from this decision supersedes.

**B. SECTION 7.8 – REVISIONS TO AN APPROVED SUBDIVISION**

Modifications or revisions to an already approved subdivision plan require a subdivision amendment by this Board if the proposed amendment is not listed under § 7.8.B, Administrative Amendments. The Board finds that the Zoning Administrator has not been given the authority to issue an administrative amendment for the creation of an additional lot under § 7.8.B, thus requiring approval from this Board.

In addition, the applicant will be expected to record a Mylar that reflects the subdivision of the 17 Jacobs Road lot.

**ARTICLE VIII – SUBDIVISION STANDARDS**

**A. SECTION 8.1 – APPLICABILITY**

The Board finds that no technical review was needed for this proposed project, nor were any waivers explicitly or implicitly requested by the applicant.

**B. SECTION 8.2 – GENERAL STANDARDS**

**SECTION 8.2.A – DEVELOPMENT SUITABILITY**

The Board finds that the proposed subdivision will not result in undue adverse impacts to the public health and safety, the natural environment, neighboring properties and uses, or the character of the area in which it is located. The Board finds that the applicant is not proposing to set aside any land as open space.

**SECTION 8.2.B – DEVELOPMENT DENSITY**

The Board finds that the proposed subdivision meets the density requirements per this section.

**SECTION 8.2.C – EXISTING CONDITIONS**

The Board finds that the proposed subdivision of the 17 Jacobs Hill Road lot and correlating development will not adversely impact the existing site features and natural amenities enumerated in this section. Additionally, the Board finds that the layout appears to conserve the natural topography and drainage patterns.

**SECTION 8.2.D – UNDERHILL TOWN PLAN & DEVELOPMENT REGULATIONS**

The Board finds that the proposed subdivision of the 17 Jacobs Hill Road lot and correlating development conform to the 2015 *Underhill Town Plan* and the 2018 *Underhill Unified Land Use and Development Regulations*.

**SECTION 8.2.E – DISTRICT SETTLEMENT PATTERNS**

The Board finds that the proposed subdivision of the 17 Jacobs Hill Road lot & correlating development are consistent with the characteristics of the Underhill Village Center zoning districts as described in Section 8.2.E.1.

**SECTION 8.2.F – LOT LAYOUT**

The Board finds that the proposed subdivision of the 17 Jacobs Hill Road lot & correlating development are consistent with the lot layout requirements of this section.

**SECTION 8.2.G – BUILDING ENVELOPE**

The Board finds that the applicant has depicted building envelopes on Lots 8 & 9 that meet the requirements of this subsection; however, are significantly reduced from what is permitted under the 2018 *Underhill Unified Land Use & Development Regulations*. The Board does not observe a policy reason for the more restrictive building envelope, and therefore, permits the Zoning Administrator to modify the building envelope under Section 7.8.1.b, so long as the modification is consistent with this decision and the zoning regulations in effect at the time of the proposal.

**SECTION 8.2.H – SURVEY MONUMENTS**

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

**SECTION 8.2.I – LANDSCAPING & SCREENING**

The Board anticipates the proposed development will meet the intention of this subsection.

**SECTION 8.2.J – ENERGY CONSERVATION**

The Board makes no finding in regards to this subsection.

**C. SECTION 8.3 – NATURAL & CULTURAL RESOURCES**

**SECTION 8.3.A – RESOURCE IDENTIFICATION & PROTECTION**

Neither the Board, nor the applicant, is aware of cultural and natural resources/features on the existing lot.

**SECTION 8.3.B – SURFACE WATERS, WETLANDS & FLOODPLAINS**

The Board finds that the proposed Lot 8 & 9 contain an unnamed stream that bisect the proposed lots through a ravine. In addition, the applicant has identified Class III Wetlands on Lot 9 in close proximity to Jacobs Hill Road. The Board finds that these features and their associated buffers will not be adversely affected by the subdivision of 17 Jacobs Hill Road and the corresponding development. While a floodplain has been identified on 16 Harvest Run, which 17 Jacobs Hill Road was formerly a part of, the floodplain is not located in close proximity to the project location.

**SECTION 8.3.C – ROCK OUTCROPS, STEEP SLOPES, HILLSIDES & RIDGELINES**

The Board finds that the subdivision had been configured to minimize impact to the various areas of steep slopes and very steep slopes. The applicant advised during the hearing that he anticipates some ledge being discovered in the house location for Lot 8.

**SECTION 8.3.D – NATURAL AREAS & WILDLIFE HABITAT**

The Board finds that a priority level 4 habitat block is located on the property and will inevitably be impacted. No wintering deer yard were identified to be located on the subject parcel of land (17 Jacobs Hill Road).

**SECTION 8.3.E – HISTORIC & CULTURAL RESOURCES**

The Board is unaware of any historic and cultural resources located on the subject lot (17 Jacobs Hill Road), and therefore, makes no finding in regards to this subsection.

**SECTION 8.3.F – FARMLAND**

The Board finds that there are no prime or state agricultural soils located on the subject lot (17 Jacobs Hill Road).

**SECTION 8.3.G – FORESTLAND**

The Board finds that the applicant will be disturbing forestland that currently exists on the subject property – 17 Jacobs Hill Road. Specifically, the applicant has advised that about 50% of Lot 8 will be cleared, while 33% of Lot 9 will be cleared. However, the applicant has advised that this is the maximum clearing needed to install the infrastructure and development.

**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 that the applicant has submitted a stormwater management and erosion control plan, and shall conform to the plans that were submitted and reviewed by this Board, as well as conform to the anticipated stormwater permits to be issued by the State of Vermont, Department of Conservation. In addition, the applicant shall also follow 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.

**F. SECTION 8.6 – TRANSPORTATION FACILITIES**

**SECTION 8.6.A – ACCESS & DRIVEWAYS**

The Board finds that each lot will be served by its own individual driveway, and therefore, this application is only required to be reviewed under Section 8.6.A. The applicant obtained a preliminary access permit from the Selectboard on April 10, 2018 (Access Permit #: A-18-08) and will be required to obtain final access permits prior to commencing with the project.

**SECTION 8.6.B – DEVELOPMENT ROADS**

The Board finds that this subsection does not apply since each lot will be accessed by its own driveway from an existing private, development road.

**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 will not create an undue burden on the existing and/or planned public facilities. The Board finds there will be no adverse impact on the school district.

**SECTION 8.7.B – FIRE PROTECTION**

The Board finds that the Underhill-Jericho Fire Department did not provide comments during the preliminary access permitting process. The Board directs Staff or encourages the applicant to solicit comments from the Underhill-Jericho Fire Department during the final access permitting process. The Board acknowledges that the Staff has advised the applicant of the Fire Department's typical recommendations and finds that the applicant has generally accommodated those recommendations. The Board anticipates that the Fire Department may have reservations about the driveway serving Lot 8; however, as proposed, it appears to meet the minimum requirements.

**SECTION 8.7.C – WATER SYSTEMS**

The Board finds that the applicant has already obtained a Wastewater System and Potable Water Supply Permit (Permit #: WW-4-4679-1), and that drilled wells are planned for both lots and have been identified on the site plan.

**SECTION 8.7.D – WASTEWATER SYSTEMS**

The Board finds that the applicant has already obtained a Wastewater System and Potable Water Supply Permit (Permit #: WW-4-4679-1). The proposed wastewater system for Lot 8 is to be primarily in-ground on the lot, while the proposed wastewater system for Lot 9 is to be an off-site (Lot 8) pressured in-ground disposal system sized at 150% design flow.

**SECTION 8.7.E – UTILITIES**

The Board finds the applicant shall depict the location of the utilities and submit an updated site plan reflecting those locations.

**H. SECTION 8.8 – LEGAL REQUIREMENTS**

The Board finds that the applicant has submitted draft documentation illustrating that the new lots will be incorporated into the existing Road Maintenance Agreement and Homeowner's Association for Min's Lane and Jacobs Hill Road. The Board encourages the applicant to reach out to the residents of Harvest Run to join the abovementioned Road Maintenance Agreement and Homeowner's Association.

**III. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS**

The Board grants the following waivers/modifications:

1. Per Sections 7.8.B.2 and 10.7.F.5, the Development Review Board may authorize administrative review by the Zoning Administrator to make subsequent changes or amendments to an approved project as outlined in the referenced Section. The Board does not find an overwhelming policy reason for the building envelopes to remain as depicted indefinitely, and therefore, authorizes the Zoning Administrator to amend the Lot 8 & 9 building envelopes so long as it is consistent with this decision and conforms to the regulations in place at the time of the proposed modification.
2. Neither the applicant, nor future landowner, is required to come before the Board if he or she wishes to relocate the driveway or relocate associated parking areas within the building envelope. The Board recognizes that the identified location on the engineering plans submitted as a part of this application is for illustration purposes only.
3. Neither the applicant, nor future landowner, is required to come before the Board if he or she wishes to relocate the single-family dwelling within the building envelope. The Board recognizes that the identified location of this structure on the engineering plans submitted

as a part of this application is for illustration purposes only and does not reflect the final footprint of the single-family dwelling.

#### **IV. DECISIONS AND CONDITIONS OF APPROVAL**

The Board is satisfied with the level of investigation, engineering, and evaluation conducted in the application submittal and review process concerning the above-mentioned project. The Board thoroughly reviewed all aspects of the proposal under the evaluation of the 2018 *Underhill Land Use & Development Regulations* and concludes that based on the evidence submitted and the above findings, the proposed subdivision and development generally conforms to the aforementioned Regulations.

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

1. All conditions of prior approvals issued by the Town of Underhill Development Review Board, unless specifically amended herein, remain in effect.
2. 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 the final subdivision has been approved by this Board, and the final Mylar (the subdivision plat) has been recorded in the Underhill Land Records per Section 7.2.C.
3. 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.
4. The Board requires the project to be constructed in accordance with the drawing set submitted as part of the review process and as amended accordingly to address the requirements herein and which are to be recorded, listed as follows:
  - a. Phase 3 Plan (Prepared by O'Leary-Burke Civil Associates, PLC and Dated March 21, 2018), or subsequent revision to the existing plan required as part of this approval.
  - b. Min's Lane Plan View (Prepared by O'Leary-Burke Civil Associates, PLC and Dated March 21, 2018), or subsequent revisions to the existing plan required as part of this approval.
  - c. Plan & Profile (Prepared by O'Leary-Burke Civil Associates, PLC and Dated March 21, 2018), or subsequent revisions to the existing plan required as part of this approval.
  - d. Water and Wastewater Plan (Prepared by O'Leary-Burke Civil Associates, PLC and Dated March 21, 2018), or subsequent revisions to the existing plan required as part of this approval.
  - e. Water & Wastewater Details (Prepared by O'Leary-Burke Civil Associates, PLC and Dated March 21, 2018), or subsequent revisions to the existing details required as part of this approval.
  - f. Stormwater and Erosion Control Plan (Prepared by O'Leary-Burke Civil Associates, PLC and Dated March 21, 2018), or subsequent revisions to the existing plan required as part of this approval.



as well as conform to the anticipated stormwater permits to be issued by the State of Vermont, Department of Conservation.

15. The applicants 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.
16. New property boundary monumentation referenced on the survey plat shall be installed as a condition of approval.
17. Notwithstanding the conditions above, prior to issuing a building permit, the applicant shall comply with applicable aspects of the Underhill Land Use and Development Regulations in effect at the time of the application

Dated at Underhill, Vermont this 25<sup>th</sup> day of June, 2018.

*Charles Van Winkle*

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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 July 25, 2018.