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October 2, 2020

Mr. Andrew Strniste
Zoning and Planning Administrator
Town of Underhill
PO Box 120
Underhill, Vermont 05489

Re: Final Subdivision Review, Marty Baslow Subdivision of Warner Creek, Lot 5, WC037
Request for Additional Information

Mr. Strniste:

Thank you for your observations and analysis contained in your email of September 22, 2020 regarding Mr. Baslow's application hearing. We offer the following in response:

Step Slopes

Your note seeks additional information regarding 1) the impact to steep slopes relating to the septic system, specifically the pipe that will traverse the terrain, and 2) the driveway serving Lot 5B.

Septic System - Under Section 3.18 B(1)(c), "*Utilities, including telecommunications facilities, power generation facilities, and transmission lines regulated by the Vermont Public Service Board.*" are specifically exempt from the Steep Slope Regulations. While the ULUDR does not include a definition of "utilities" it is clear that its meaning includes water and sewer systems, as found in the following references:

"Utilities. Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations." (pg. 83 and 84)

"All utilities and facilities, such as sewer, gas, electrical, and water systems serving the subdivision shall be located and constructed to minimize or eliminate flooding." (pg. 133)

"which lacks one or more of the basic amenities, services or utilities required for year-round or all weather occupancy, including but not limited to a winterized water system, insulated walls and roof, heating source, adequate water or wastewater disposal systems, or utility line connection.." (pg. 192)

"which may include but not be limited to roads, sidewalks and other transportation facilities; water, wastewater, and stormwater management systems; communications, electrical and other utilities;..." (pg. 200)

In any event, the primary components of the proposed septic system, the leach field and the septic tank are located on slopes of less than 15%. The pipeline connecting them will be HDPE pipe, which is well suited for this proposed use. The use of continuous, and flexible piping will allow the pipe to take the route that will cause the least disturbance. After re-vegetation there will be little evidence of its location. We believe we meet the following applicable goals of the Steep Slope regulations:

- *Maintain existing topography, including natural (pre-development) elevations, grades and drainage patterns.*
- *Minimize the adverse visual impacts of steep slope development, as viewed from public vantage points.*
- *Maintain and re-establish vegetation on steep slopes to stabilize soils, and to maintain riparian buffers.*

as well as meeting all the relevant requirements of 3.18(D) including 1, 2a, b, c, d, f, g, h, and I.

Lot 5B Driveway –

Regarding the driveway serving Lot 5B, and how section 3.18 is satisfied, 3.18 D(3) states that:

“An existing farm or logging road with a gradient of 25% or less may be converted and upgraded for recreational use or to access development if it meets all applicable requirements of these regulations. However, if an alternative route exists that results in less slope or site disturbance, the DRB may require the installation of a new driveway or access road and the stabilization, re vegetation and abandonment of the farm or logging road.”

As the woods road is existing and there is no alternative route that results in less slope or site disturbance, we believe this portion of the rules allows the woods road to be utilized as the access route. In addition, Section 1, E(3) of the Underhill Road, Driveway and Trail Ordinance (URDTO) states that the ordinance does not apply to:

“activity incidental to regular road and driveway maintenance, including minor fill, grading, ditching or excavation, repairing, adding to or enhancing the top surface, resurfacing an existing road or driveway that does not result in widening or relocation or relocation[sic], and culvert replacement”

The URDTO permits Mr. Baslow to do minor filling, grading, ditching, excavation, repairing, or enhancing the top surface of the existing woods road. In addition, specifically exempt from regulation under 10.2 A(4) and (5) the ULUDR are:

4. Minor fill, grading or excavation that is incidental to regular road and driveway maintenance (including culvert replacements and ditching), and to residential lawn and yard maintenance (e.g., for septic systems, gardens or landscaping) and which does not change the existing elevation of land by more than two feet over a total area of no more than 10,000 square feet.

5. Resurfacing an existing driveway, or a road within an existing or approved right-of-way, that does not result in driveway or road widening or relocation.

Finally, the submitted plans show that a driveway grade of no greater than 10% is possible. We also note that the Warner Creek approval of 2009 approved grades of up to 13%.

Slope Analysis –

Your note indicates that slopes of 15% to 25% are not shown on the plans. The plan sheets depict the entire parcel and enlarged areas specific to each lot. Contours are shown on Sheets O-1, S-1 and S-2 at intervals of either 5' or at 1' intervals, allowing the slope of any portion of the land to be determined. With exception of the sewer pipe and Lot 5B drive discussed above, no construction is proposed on slopes of greater than 15%.

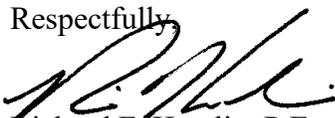
Roadway and Driveway Improvements

With regard to the condition of the existing road and driveways, we believe that question has been asked and answered by the “Zoning Violation Discrepancies in Warren [sic] Creek Extension Shared Infrastructure” issued by the Town of Underhill on November 28, 2016 and the “Town of Underhill – Zoning Violation Discrepancies in Warner Creek Extension Shared Infrastructure Findings and Decision” dated February 20, 2017, both of which are attached to this correspondence. The first document identifies numerous deficiencies, some of which include the road. The second document absolves the developer of any need to make corrections as the Town of Underhill had issued Certificates of Occupancy to all the homes. We believe that the Town of Underhill has spoken clearly on this matter by accepting the roads and driveways as built. No new lots are being proposed to be accessed from Warner Creek extension. Therefore, we believe that no new review of the existing roads and drives is required under the ULUDR or the URDTO. Mr. Baslow has also received an access permit to construct the portion of the driveway that was supposed to have been built under the original development approval that matched the width of the existing, accepted, construction. As I understand your view on this matter, 8A(1)3) of the URDTO applies as Mr. Baslow is proposing a ‘change of use’ from forestry to residential use. The definition of “change of use” of a development road or driveway may be found under 1E(4)(a) of the URDTO, and does not speak to “use” in the zoning sense of the word, but rather focuses on roadway geometry or number of lots served.

As Mr. Baslow is not proposing to increase the length or alignment of an existing traveled way and is not increasing the number of lots served from that traveled way, we believe that he is not proposing a change in use as considered under the URDTO with regard to the existing road and driveway network.

We look forward to further discussions with you and the DRB on these matters.

Respectfully,



Richard F. Hamlin, P.E.
Chief of Engineering

c: Marty Baslow

