



## Town of Underhill

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### Zoning Violation

#### Discrepancies in Warren Creek Extension Shared Infrastructure

*Sent via Certified Mail, Return Receipt Requested; and First Class Mail*

November 28, 2016

Courtney and Warren Palmer  
Saxon Oaks Co.  
122 Skunk Hollow Road  
Jericho, VT 05465

Dear Mr. and Mrs. Palmer:

Pursuant to Underhill Unified Land Use & Development Regulations (the "Regulations") § 10.6 and 24 V.S.A. § 4451, I am writing to advise you that the development of the subdivision at Warner Creek Extension (the "Development") in Underhill, Vermont (the "Town") is in violation of the Town of Underhill Development Review Board's approval of the Development, including the approved and recorded Development plans, Regulations § 10.1, which requires all land development to proceed under the applicable permits and approvals, and the 2002 Road Policy.

#### **I. Background**

The Town of Underhill Development Review Board ("DRB") approved the Warner Creek Extension subdivision and issued its decision on November 9, 2009 (Attachment A). In accordance with this approval, the following documents were approved and recorded in the Town of Underhill Land Records: Approved Final Plat ("Final Plat"), dated 11-2005, Revised 10-12-2006, recorded at Map Slide 254A; Approved Subdivision Plan ("Subdivision Plan"), dated 02-09-2004, revised 10-01-2009, recorded at Map Slide 254B; Approved Site Plan ("Site Plan"), dated 02-09-2004, revised 04-21-2009, recorded at Map Slide 255A. These approved plans are attached as Attachments B through D (collectively, "Development Plans"). Shortly thereafter, a subdivision permit was issued by Kari Papelbon, the Zoning Administrator at the time, which became effective on February 1, 2010 (Attachment E).

We understand that prior to the buildout of the Development by Saxon Oaks Co. ("Saxon Oaks"), Marty Baslow conveyed the subject property to Saxon Oaks by Warranty Deed dated January 17, 2014 and recorded in Volume 208 at Page 005 of the Town of Underhill Land Records.

On November 18, 2014, your engineer, Paul O'Leary Jr., wrote to the Town Zoning Administrator, certifying:

- a. That the shared infrastructure has been installed to the lot per the phasing schedule in the

- approved plans;
- b. That the approved curb cut has been installed per the plan; and
- c. That the driveway has been “roughed in” per the approved plan.

(Exhibit F).

On May 5, 2015, Mr. O’Leary again wrote to the Zoning Administrator, stating:

“I certify that the shared infrastructure and driveways have been constructed as designed and shown on a five (5) sheet set of plans dated February 9, 2004, titled ‘Isabel Baslow – Five Lot Subdivision’, prepared by McCain Consulting, Inc.”

(Exhibit G).

Relying primarily on Mr. O’Leary’s certifications, at least as to the shared infrastructure, the Zoning Administrator issued Certificates of Occupancy for Lots 3 and 4 of the Development in late 2015.

## **II. Investigation**

As you are aware from Brian Bigelow’s May 27, 2016 correspondence, the Underhill Planning & Zoning Office (“Planning & Zoning”) sought your input regarding multiple complaints about discrepancies between the Development Plans and what was ultimately built. Based on an initial overlay inquiry, we found several likely discrepancies warranting further investigation.

In October 2016, Planning & Zoning commissioned Brad Holden, L.S. to survey Lots 3 and 4 of the Warner Creek Extension subdivision to determine the extent of the discrepancies. On October 31, 2016, Mr. Holden submitted his findings to Planning & Zoning (Attachment H). Based on Mr. Holden’s survey, the Town confirmed its prior understanding that there are multiple discrepancies between the approved and as-built Development: the orientation of the road, the road termini, the size of culverts, the addition of a culvert, and the location of the wastewater system, as described more fully below.

## **III. Violations**

The following features of the Development are in violation of the approved and recorded Development Plans, on which the DRB’s approval was based, Regulation § 10.1, which requires all land development to proceed under the applicable permits and approvals, and the 2002 Road Policy.

### Road Termination

As illustrated in Attachment H, the road comes to a sudden end on Lot 4, with no turn-around. As a result, the as-built road terminus violates the 2002 Road Policy that was in effect at the time of construction. The 2002 Road Policy states:

“Dead-end roads will terminate in a ‘Y’ turn-a-round. The width of the legs of the turn-a-round must be the same as that specified for the road.”

(Attachment I).

Please note that the sudden terminus of the road significantly decreases the Underhill-Jericho Fire Department's ability to serve the Development, thus creating a significant safety concern for those residents. The Underhill-Jericho Fire Department ("UJFD") has outlined their concerns regarding the Warner Creek Subdivision in Attachment J. Specifically, UJFD has outlined their rationale behind the minimum standards they requested to see as part of construction.

Therefore, at a minimum, a "Y" turn-around shall be constructed to satisfy the 2002 Road Policy. Two alternatives would also bring the road terminus into conformance: either construct the remainder of the road exactly as approved and recorded, or construct a turn-around that meets the alternate road termination standards provided by the 2015 Road Ordinance. If you choose to construct the remainder of the road to the specifications as approved and recorded in the Site Plan, then the driveways shall also include turnarounds as proposed, approved, and recorded in the Site Plan.

### Culverts

The Site Plan (Attachment D) illustrates that Lot 3 should contain three culverts: two 24-inch culverts to be installed under the Warner Creek Extension road and one 18-inch culvert to be installed under the proposed driveway. No culverts were proposed or approved for Lot 4. As shown in Mr. Holden's survey (Attachment H), two 18-inch culverts, rather than 24-inch culverts, were installed on Lot 3 under the Warner Creed Extension. A 15-inch culvert, rather than an 18-inch culvert, was installed under the proposed driveway on Lot 3. Furthermore, an unapproved 12-inch culvert was installed under the Warner Creek Extension road on Lot 4.

The 15-inch culvert on Lot 3 and the Lot 4 culvert violate the minimum size requirements of the 2002 Road Policy, which states:

"All transverse driveway and road culverts will be a minimum of eighteen (18) inches in diameter unless a different size is recommended by the road foreman based on natural limitations."

Thus, all of the abovementioned culverts are in violation of the Site Plan, and more specifically, the Lot 3 driveway culvert and the Lot 4 road culvert are also in violation of the 2002 Road Policy. Therefore, the Lot 3 culverts shall be replaced as per the Site Plan, and the Lot 4 culvert shall be removed.

### Road Orientation

While the road is situated within the right-of-way per Mr. Holden's survey (Attachment H), the roadway clearly deviates from what was shown in the Site Plan (Attachment D). In the Site Plan, the road was oriented to traverse the right-of-way directly in the center; however, the as-built road skews from the center of the right-of-way starting on Lot 3, and continues to be out of place on Lot 4.

Although the DRB's approval notes that shared infrastructure would be installed **to the lot** (per condition III.4.a of the DRB's decision in Attachment A), upon the development of Lot 4, the infrastructure was required to be built in accordance with the DRB-approved and recorded plans. While it is common practice to delay lot development following subdivision approval, Lot 4 is now developed and must therefore be completed per the approved plans. As a result, a subdivision revision is required to address the orientation of the road.

### Location of Wastewater System

The Final Plat (Attachment B) illustrates a septic easement on Lot 4, which is further supported by the Site Plan (Attachment D). The septic easement on Lot 4 should contain the sewer pipe coming from Lot 3 and the leach field for Lot 3. While the leach field for Lot 3 is within the septic easement on Lot 4, the sewer line was found to be misplaced, and not located within the easement (see Attachment H).

Similarly, a subdivision revision is required to address the as-built location of the sewer pipe on Lot 4. In addition, we have referred the issue to the Vermont Agency of Natural Resources, Drinking Water and Groundwater Protection Division (“ANR”).

### Stormwater

On November 8, 2016, Kevin Burke, an Environmental Analyst for the Vermont Department of Environmental Conservation (DEC), issued a letter noting the following issues that are non-compliant with the approved stormwater plans and permits:

1. “Failure to disconnect stormwater from rooftops per the approved plans.
2. Failure to route stormwater runoff from impervious surfaces to swales and dry detention basis per the approved plans.
3. Failure to construct dry detention basin, including outlet control structures, per the approved plans.”

(Attachment K).

The Town of Underhill defers to DEC to resolve these stormwater issues. When considering the subdivision application, the DRB relied on the State issued stormwater permits when granting approval of the Development Plans (see § II.A.13 of the DRB Findings & Decision in Attachment A). Any changes that result from resolving the stormwater issues identified by DEC will require a subdivision revision and DRB review, as the changes will alter the Developments Plans that the DRB previously approved.

### Other Issues

In addition, please note the following differences between the as-built survey (Attachment H) and the Site Plan (Attachment D) as approved by the DRB and recorded in the Land Records:

1. The as-built septic tank is located on the south side of the house instead of the north side of the house as proposed in the Site Plan (Attachment D and Attachment H);
2. The as-built drilled well on Lot 3 is located in a different site than the design location (Attachment H);
3. The as-built drilled well on Lot 4 is located in a different site than the design location (Attachment H); and
4. The right-of-way on Lot 3 is slightly askew from what was proposed in the Final Plat (Attachment B and Attachment H).

A subdivision revision application shall be submitted to allow the DRB to review these changes as part of an amended Site Plan. Furthermore, we have referred these issues to ANR.

#### IV. Summary of Violations

In sum, the following conditions within the Warner Creek Extension Subdivision, all of which are identified in Mr. Holden’s survey, **are in violation** of the approved Development Plans, the 2002 Road Policy, or the 2015 Road Ordinance, and shall be cured by taking the following actions:

Immediate Correction Required	Subdivision Revision Required	State Permit Amendments May be Required
<p><b>Violation 1:</b> The terminus of Warner Creek is not constructed per the Site Plan and lacks a turn-around, and therefore, is in violation of the Site Plan, 2002 Road Policy and 2015 Road Ordinance.</p> <p><b>Correction:</b> Construct a turn-around in accordance with either the 2002 Road Policy or 2015 Road Ordinance, or construct the road in accordance to the Site Plan.</p>	<p><b>Violation 6:</b> Warner Creek Road is not oriented in the Center of the right-of-way on Lots 3 &amp; 4 per the Site Plan.</p> <p><b>Correction:</b> Revise the Site Plan and submit to the Town for the Development Review Board to review and approve, and for the Selectboard to review and approve.</p>	<p>The Water/Wastewater Permits for the Lot 3 Drilled Well, the Lot 4 Drilled Well, and the Lot 4 Septic Tank locations.</p> <p><b>Note:</b> Any updates made will require the Site Plan to be revised and submitted to the Town for the Development Review Board to review &amp; approve.</p>
<p><b>Violation 1A:</b> If the corrective action taken is constructing the road to be in conformance with the site plan, turn-arounds for the driveways shall also be constructed.</p> <p><b>Correction:</b> Construct turn-arounds for the Lot 3 and Lot 4 driveways.</p>	<p><b>Violation 7:</b> The Sewer Pipe for Lot 3 is located outside of Lot 4’s Septic Easement.</p> <p><b>Correction:</b> Update State Permit per ANR Requirements; Revise the Site Plan and submit to the Town for the Development Review Board to review and approve.</p>	<p>Stormwater Permits that address non-compliant issues identified by Mr. Burke (Attachment K).</p> <p><b>Note:</b> If any updates are required, the Site Plan will need to be revised and submitted to the Town for the Development Review Board to review &amp; approve.</p>
<p><b>Violations 2-4:</b> Lot 3 Culverts are undersized and in violation of the Site Plan and the 2002 Road Policy.</p> <p><b>Correction:</b> Replace existing culverts with correctly sized culverts in accordance with Site Plan.</p>	<p><b>Violation 8:</b> The Right-of-Way on Lot 3 is misaligned.</p> <p><b>Correction:</b> Realign the existing right-of-way or revise the Development Plans and submit to the Town for the Development Review Board to review and approve.</p>	
<p><b>Violation 5:</b> The existence of a culvert on Lot 4 is not identified in the Site Plan.</p> <p><b>Correction:</b> Remove the Lot 4 Culvert.</p>	<p><b>Violations 9-11:</b> The Lot 3 Drilled Well, Lot 4 Drilled Well, and Lot 4 Septic Tank deviate from the approved and recorded Site Plan.</p> <p><b>Correction:</b> Update State Permits per ANR Requirements; Revise the Site Plan and Submit to the Town for the Development Review Board to review and approve.</p>	

## V. Next Steps

Saxon Oaks and you, as its two sole Principals, remain responsible for ensuring that the shared infrastructure is installed according to the Approval. Therefore, in conformance with 24 V.S.A § 4451, you have seven days from the receipt of this notice to correct the abovementioned violations by curing the violations related to the road terminus, undersized culverts, the extra culvert, as well as taking steps to cure State permits and the Site Plan. Upon resolving the issues with the State permits, a subdivision revision application shall be submitted to the DRB to address any deviations from the approved and recorded Development Plans.

The Town expects you, the developer, to resolve these violations. **Please note that the construction of a turn-around is an urgent matter**, as several safety concerns have been identified by the Underhill-Jericho Fire Department.

Please understand that if you fail to take corrective action towards these violations within seven days, a fine of up to \$100 **per violation** may be assessed **each day** the violation continues. Note that eleven violations have been identified. Each day the violations continue constitutes a separate offense. You will not be entitled to an additional warning notice for a violation occurring after the seventh day.

It may also be necessary to turn the matter over to the Town Attorney to institute in the name of the municipality any action deemed appropriate by the municipality, such as an injunction or other proceeding to prevent, restrain, correct, or abate that construction or use, or to prevent, in or about those premises, any act, conduct, business, or use constituting a violation. Such court action may be initiated in the environmental court as provided in 24 V.S.A. §1974a.

You should be aware that further action may be taken without the seven-day notice and opportunity to correct the violation if the violation of the bylaw or ordinance is repeated after the seven-day notice period and within the next succeeding 12 months.

In accordance with 24 V.S.A. §4465, should you disagree with this Notice of Violation, you may appeal to the Development Review Board within 15 days of the date of this letter. A copy of the appeal must also be provided to the Zoning & Planning Administrator. The appeal must include the appellant's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested, and the alleged grounds for the requested relief.

The appeal must also be accompanied by a hearing, posting, and Certified Mail notice fee. Additional fees include the cost of notice in the newspaper as required per 24 V.S.A §4464 (1)(A), \$10/page for recording of the decision, the cost of mailing via Certified Mail the final decision to you and all interested parties, and any applicable permitting costs.

Please contact me should you have any questions.

Sincerely,



Andrew Strniste  
Planning Director & Zoning Administrator

cc: File  
Liam Murphy, Esq.  
Katelyn Ellermann, Esq.  
Carl Lisman, Esq.  
Paul O'Leary Jr., P.E.  
Alex & Alexis Karner  
Albert Abdinoor

encl: Attachment A - DRB Warner Creek Extension Findings & Decision (Approved 11-09-2009)  
Attachment B - Approved Final Plat (Dated 11-2005, Revised 10-12-2006)[Slide 254A]  
Attachment C - Approved Subdivision Plan (Dated 02-09-2004, Revised 10-01-2009)[Slide 254B]  
Attachment D - Approved Site Plan (Dated 02-09-2004, Revised 04-21-2009)[Slide 255A]  
Attachment E - Subdivision Permit (Effective Date 02-01-2010)  
Attachment F - O'Leary Certification Letter (Dated 11-18-2014)  
Attachment G - O'Leary Certification Letter (Dated 05-05-2015)  
Attachment H - Holden As-built Survey of Warner Creek Extension  
Attachment I - 2002 Road Policy  
Attachment J - 2016 UJFD Memorandum  
Attachment K - Stormwater Violations

Certified Mailing Tracking #: 7016 0750 0000 8933 2632

**TOWN OF UNDERHILL  
APPLICATION OF ISABEL BASLOW  
FOR A 5-LOT SUBDIVISION  
FINAL HEARING FINDINGS AND DECISION**

In re: Isabel Baslow  
13 Baslow Lane  
Underhill, VT 05489

Docket No. DRB-09-02: Isabel Baslow

**I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns Isabel Baslow's final hearing application for a 5-Lot subdivision of property located at 13 Baslow Lane in Underhill, VT.

1. On August 13, 2009, Michael Baslow, Power of Attorney, filed an application for subdivision on behalf of Isabel Baslow for the project. A copy of the application and plans are available at the Underhill Town Hall.
2. On September 28, 2009, a copy of the notice of a public site visit and hearing was mailed via Certified Mail to the applicant, Isabel Baslow, c/o Mike & Deb Baslow, 19 Baslow Ln., Underhill, VT 05489 and to the following owners of properties adjoining the property subject to the application:
  - a. Bosley, P.O. Box 253, Underhill, VT 05489
  - b. Raineault, 28 Gerts Knob, Underhill, VT 05489
  - c. Coia, P.O. Box 212, Underhill, VT 05489
  - d. Lamphere, 27 North Underhill Station Rd., Underhill, VT 05489
  - e. Luce, 50 North Underhill Station Rd., Underhill, VT 05489
  - f. Langsenkamp, 60 North Underhill Station Rd., Underhill, VT 05489
  - g. Netelkos/Boquel, 295 Poker Hill Rd., Underhill, VT 05489
  - h. Francis, 305 Poker Hill Rd., Underhill, VT 05489
  - i. Varney, 329 Poker Hill Rd., Underhill, VT 05489
  - j. Tatro, 1617 VT Rte. 15, Morrisville, VT 05661
  - k. Sminkey/Nadeau, 769 VT Rte. 15, Underhill, VT 05489
  - l. Woods, 772 VT Rte. 15, Underhill, VT 05489
  - m. Dehart, 779 VT Rte. 15, Underhill, VT 05489
  - n. Baslow, 780 VT Rte. 15, Underhill, VT 05489
  - o. Russin, P.O. Box 417, Underhill, VT 05489
  - p. Lunn, 13 Warner Creek Rd., Underhill, VT 05489
  - q. Bugbee/Robenstein, P.O. Box 221, Underhill, VT 05489
  - r. Trull, 17 Warner Creek Rd., Underhill, VT 05489
  - s. Glenn, P.O. Box 336, Underhill, VT 05489
  - t. Smith, 38 Gerts Knob, Underhill, VT 05489
  - u. Tatro-Lavigne, 799 VT Rte. 15, Underhill, VT 05489

Notice was also provided via email to Gunner McCain, McCain Consulting.

3. On October 1, 2009, notice of the final hearing was published in the Burlington Free Press.

4. By September 30, 2009, notice of the site visit and the preliminary hearing on the proposed Baslow subdivision were posted at the following places:
  - a. The property to be developed, BS013;
  - b. The Underhill Town Clerk's office;
  - c. The Underhill Center Post Office;
  - d. The Underhill Flats Post Office;
  - e. The Deborah Rawson Memorial Library;
  - f. The Town of Underhill website.
5. The final hearing was scheduled to begin immediately following the second sketch plan meeting on October 19, 2009.
6. Present at the final hearing were the following members of the Development Review Board:
  - Chuck Brooks
  - Penny Miller
  - Deb Shannon
  - Stan Hamlet
  - Scott Tobin, Chair
  - Charlie Van Winkle

Kari Papelbon, Zoning Administrator, Stephen Walkerman, Selectboard Chair, and a guest also attended the meeting. Board Member Charlie Van Winkle did not cast a vote as he did not participate in the preliminary hearing. Board Member Deb Shannon's vote was not counted as she did not participate in the preliminary hearing.

7. At the outset of the hearing, Chairperson Scott Tobin explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." Interested parties who spoke at the hearing were:
  - Gunner McCain, McCain Consulting, 93 South Main Street, Waterbury, VT 05676
  - Mike and Deb Baslow, 19 Baslow Lane, Underhill, VT
  - Mike Lunn, 18 Warner Creek, Underhill, VT (mailing address in 2 above)
8. During the course of the hearing the following exhibits were submitted to the Development Review Board:
  - a. A staff report sent by Zoning Administrator Kari Papelbon to the Development Review Board, Mike and Deb Baslow, and Gunner McCain of McCain Consulting;
  - b. Isabel Baslow's Application for Subdivision: Final Hearing (8-9-09);
  - c. A copy of the completed Subdivision Checklist: Final Hearing;
  - d. A copy of plans prepared by Gunner McCain of McCain Consulting for Isabel Baslow (Sheet 1 of 5 revised 7-29-09; Sheet 2 of 5, Sheet 4 of 5, and Sheet 5 of 5 revised 4-21-09; Sheet 3 of 5 revised 11-10-05; Sheets SW-1 through SW-3 dated 6-1-09);
  - e. A copy of the Final Plat prepared by Lynn Ribolini for Isabel Baslow (revised 10-12-06);
  - f. A copy of the Access and Utilities Right-of-Way Survey prepared by Keith Van Iderstine of McCain Consulting for Isabel Baslow (dated 8-7-09);

- g. A copy of the letter from Ernest Christianson regarding the boundary adjustment for Lots 2 and 5 (dated 6-3-09);
- h. A copy of the Construction General Permit # 6154-9020 (dated 7-17-09);
- i. A copy of the Stormwater Permit #6154-9015 (dated 8-10-09);
- j. A copy of the letter from the Underhill-Jericho Fire Department (dated 7-1-09);
- k. A copy of the Private Roadway Agreement;
- l. A waiver request for the bonding requirement and Lot 1 wetland setback (dated 8-12-09);
- m. A copy of the minutes from the May 11, 2009 hearing;
- n. A copy of the Preliminary Decision (dated 6-1-09);
- o. A copy of the hearing notice published in the Burlington Free Press (dated 10-1-09);
- p. Draft Declaration of the Warner Creek Planned Community;
- q. Proposed Conditions for Subdivision;
- r. Sheet 1 of 5 revised 10-1-09.

These exhibits are available in the Isabel Baslow, BS013 Subdivision file at the Underhill Zoning Office.

## II. FINDINGS

### Background

The Minutes of the meetings written by Kari Papelbon are incorporated by reference into this decision. Please refer to these Minutes for a summary of the testimony.

Based on the application, testimony, exhibits, and other evidence, the Development Review Board makes the following findings on the final plat submission requirements as delineated on pages 9-11 of the Underhill Subdivision Regulations, "Final Plat for Subdivisions:"

#### A. Submission Requirements

##### Final Hearing Requirements:

1. Survey and Engineering Plan Elements: The Board finds that the engineering drawings and survey show the identifying title, parcel codes, name of the municipality, name and address of the record owner and sub divider, the seal of the registered land surveyor, the boundaries of the subdivision, scale, date, north point, and legend. The seals of the registered engineer on the engineering drawings and surveyor on the Access and Utilities Right-of-Way Survey are missing. These are not errors as the plans and survey are stamped after receiving final approval and the Applicants' consultant has indicated that the final plans and survey will be stamped and signed. The seals and signatures shall appear on the Mylars. The Board also finds that the acreage on the western side of VT Route 15 was not included in the overall acreage for Lot 5. A determination of such acreage or evidence of conveyance of the acreage shall be submitted to the Zoning Administrator prior to filing the final plat.
2. Road/Pedestrian Ways/Easements/Reservations: The Board finds that the application satisfies the requirement as the proposed road extension, the lots, and easements are shown on the plans. No areas are proposed for public use beyond the roadway extension.
3. Lot Lines/Bearings/Distances: The Board finds that the application satisfies the requirement as the lot lines, bearings, and distances are shown on the plans.

4. Road Details: The Board finds that no new roads are proposed and the details for the extension of Warner Creek are contained in the plans.
5. Public Space/Reserved Space: The Board finds that this requirement is not applicable as there are no dedicated open spaces in the subdivision.
6. Lot Numbering: The Board finds that the application satisfies the requirement as the lots are numerically numbered on the proposed plan.
7. Infrastructure: The Board finds that the application satisfies the requirement as septic systems, proposed utility locations, grading, and stormwater details are contained in the plans.
8. Wastewater System Design: The Board finds that the application satisfies the requirement as the location and results of all test pits and septic system areas are shown on the plans. Two State of Vermont Wastewater System and Potable Water Supply Permits were issued for the project on October 4, 2004 and July 25, 2006. A letter from Regional Engineer Ernest Christianson on June 3, 2009 states that these two permits are still valid.
9. Existing and Proposed Water Supplies: The Board finds that the application satisfies the requirement as the location and results of all test pits and septic system areas are shown on the plans. The State of Vermont has jurisdiction over isolation distances between potable water supplies and wastewater disposal systems. Two State of Vermont Wastewater System and Potable Water Supply Permits were issued for the project on October 4, 2004 and July 25, 2006. A letter from Regional Engineer Ernest Christianson on June 3, 2009 states that these two permits are still valid.
10. Monumentation: The Board finds that the application satisfies the requirement as monumentation locations and details are contained in the plans.
11. Installation of Infrastructure or Bonding: A waiver request from the requirement that an engineer provide a letter certifying that all required improvements have been satisfactorily completed or, in lieu thereof, supply a Selectboard-approved 2-year performance bond for the improvements at the time of filing the final plat has been submitted. See (B) below.
12. UJFD/CESU Letters: The Board finds that the application satisfies the requirement as letters from the Underhill-Jericho Fire Department and Chittenden East Supervisory Union have been submitted.
13. State Permits: The Board finds that the application satisfies the requirement as Construction General Permit # 6154-9020 dated 7-17-09, Stormwater Permit #6154-9015 dated 8-10-09, and two State of Vermont Wastewater System and Potable Water Supply Permits dated October 4, 2004 and July 25, 2006 have been issued. A letter from Regional Engineer Ernest Christianson on June 3, 2009 states that the two Wastewater System and Potable Water Supply Permits are still valid.
14. Curb Cut/Selectboard Approval of Driveways and Road: The Selectboard has final jurisdiction over approval of curb cuts, road/driveway designs, and improvements on existing Town roads.

The Board recommends to the Selectboard that they approve the proposed driveway/roadway extension designs, the underground utilities, and waivers in B (2) below.

B. **Waivers:** The Board makes recommendations on waiver requests of any Road Policy requirement, bonding requirement, underground utilities, and other requirements that are the jurisdiction of the Selectboard. The following requests have been submitted:

1. Engineer's Certification or Bond for Improvements with the Final Mylar: The Board recommends approval with the condition that prior to issuance of a building permit to any lot out of this subdivision, an engineer shall provide a letter to the Zoning Administrator certifying
  - a. that the shared infrastructure has been installed to the lot per the phasing schedule in the approved plans;
  - b. that the approved curb cut has been installed per the plan; and
  - c. that the driveway has been "roughed in" per the approved plan.

Driveway top treatment may be installed at the end of the construction period. All erosion prevention, sediment control, and stormwater measures shall be installed per the phasing schedule in the approved plans. Approved driveways shall be the only points of ingress and egress during the construction period so as to minimize:

- a. compaction of site soils; and
- b. the effect on the submitted stormwater plans.

Upon completion of construction, the designer/engineer must certify by letter to the Zoning Administrator that the shared infrastructure and driveways have been constructed as designed.

2. 10% Maximum Grade: The plans depict a maximum grade of approximately 13%. The Board recommends approval.
3. Underground Utilities: The Board recommends approval.
4. Roadway Extension/Driveway Design: The Board recommends approval.

C. **Variances:** The Board finds that two variances were granted in the 2006 decision.

1. Lot 2: 50-foot variance of the wetland setback requirement for the north side of the building envelope.
2. Lot 3: 50-foot variance of the wetland setback requirement for the north and south sides of the building envelope.

These variances remain valid. A request for a 50-foot variance of the wetland setback requirement for the east-southeast side of the building envelope on Lot 1 was also submitted. Variances must meet the following requirements per 24 V.S.A. §4469:

1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.

The Board finds that the lot to be developed contains multiple Class III wetlands and steep embankments that limit potential building locations.

2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

The Board finds that due to the presence of Class III wetlands and the steep embankments behind the wetlands that the property could not be developed in strict conformity with the provisions of the bylaw. Approval of the variance request allows the Applicant to develop the property in a reasonable manner.

3. Unnecessary hardship has not been created by the appellant.

The Board finds that the presence of natural features such as the Class III wetlands and steep embankments on the property have not been created by the Applicant.

4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

The Board finds that approval of the variance will not alter the essential character of the neighborhood as a buffer zone around the wetland will still exist and the proposed development is residential in a residential neighborhood, will not substantially or permanently impair the appropriate use or development of the adjacent property as a buffer zone around the wetland will still exist to protect its functions for stormwater control, will not reduce access to renewable energy resources, and a reduction in the wetland buffer will not be detrimental to the public welfare as the buffer will still exist. The Board also recognizes that the State requires a 50-foot buffer around Class II wetlands; therefore, a 50-foot variance of the Town's 100-foot buffer requirement around Class III wetlands seems reasonable.

5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

The Board finds that authorization of this variance will allow the Applicant to reasonably develop the land in a way that best conforms to the Town requirements. The Board also recognizes that the State requires a 50-foot buffer around Class II wetlands; therefore, a 50-foot variance of the Town's 100-foot buffer requirement around Class III wetlands seems reasonable.

The 50-foot variance for the wetland setback requirement on the east-southeast side of the building envelope on Lot 1 is approved.

#### D. Planning Standards: Evaluation Considerations

The Board finds that the Planning Standards: Evaluation Considerations in the preliminary decision remain valid.

Based on the fulfillment of the above subdivision requirements subject to final conditions, granted conditional waivers and variances, findings, and evaluation considerations, the Board finds that the application satisfies the requirements for a subdivision.

### III. DECISION AND ADDITIONAL FINAL HEARING REQUIREMENTS

Based upon the findings above, and subject to any of the conditions set forth below, the Development Review Board grants approval for the 5-lot subdivision as presented at the final hearing. The Development Review Board recommends approval of the roadway extension/driveway design, underground utilities, and the waiver requests with the suggested condition listed in §II (B) above.

#### A. **Conditions for Subdivision:**

1. Determination of Ownership of Bulk Land: Applicant shall provide a determination to the Zoning Administrator on the remaining land on the western side of VT Rte. 15 prior to filing the final plat. The determination shall either
  - a. confirm that the land is owned by Isabel Baslow and will be a part of Lot 5; or
  - b. provide evidence of conveyance of the land.
2. Recording Requirement: Per the Underhill Subdivision Regulations, final approval of the subdivision is granted upon filing of the final subdivision plat in the Underhill Land Records. No transfer or sale of property may occur prior to recording the final plat and all applicable permits in the Town of Underhill Land Records.
3. State and Federal Permits: All required permits shall be recorded in the Land Records.
4. Driveway and Erosion Control Measures: Prior to issuance of a building permit to any lot out of this subdivision, an engineer shall provide a letter to the Zoning Administrator certifying
  - a. that the shared infrastructure has been installed to the lot per the phasing schedule in the approved plans;
  - b. that the approved curb cut has been installed per the plan; and
  - c. that the driveway has been "roughed in" per the approved plan.

Driveway top treatment may be installed at the end of the construction period. All erosion prevention, sediment control, and stormwater measures shall be installed per the phasing schedule in the approved plans. Approved driveways shall be the only points of ingress and egress during the construction period so as to minimize:

- a. compaction of site soils; and
- b. the effect on the submitted stormwater plans.

Upon completion of construction, the designer/engineer must certify by letter to the Zoning Administrator that the shared infrastructure and driveways have been constructed as designed.

5. Stake-out of Improvements: All building envelopes and septic areas shall be staked out by the surveyor/engineer prior to any construction, and off-set stakes shall be held in place until completion of construction.
6. Septic Certification Letter: A copy of the engineer's letter to the State certifying that the septic system for any lot out of this subdivision has been installed per the approved plans shall be filed with the Zoning Administrator.

Baslow Final Decision  
23 October 2009

7. Inspection Reports and Certifications: A copy of all inspection reports and certification reports sent to the State for the stormwater infrastructure shall be copied to the Zoning Administrator.
8. Homeowners Association Document: Reference to the Homeowners Association agreement shall appear in any deed in this subdivision. Failure to maintain a Homeowners Association and required agreements shall be considered a violation of the subdivision permit.
9. Road Maintenance Agreement: The Private Roadway Agreement shall include the correct revised dates. This agreement may appear in the Homeowners Association agreement.
10. Digital Submission of Plat and Plans: Prior to recording the final Mylars, the applicant shall submit a copy of the certified plats and Sheet 1 of 5 and Sheet 2 of 5 in digital format. The format of the digital information shall require approval of the Zoning Administrator.
11. 911 Codes: All lots shall have their 911 codes posted prior to issuance of any building permit (Lot 1: WC023, Lot 2: WC021, Lot 3: WC022, Lot 4: WC024).
12. Fees: All subdivision fees shall be paid in full to the Zoning Administrator prior to filing of the final plat.
13. Selectboard Approval: Applicant shall obtain approval of the roadway extension and driveways, underground utilities, and waiver requests for the bonding requirement and 10% grade requirement from the Selectboard prior to filing the final plat (see 10-29-09 minutes).

Dated at Underhill, Vermont this 9<sup>th</sup> day of NOVEMBER, 2009.

*Scott Tobin*

Scott Tobin, Chair, Development Review Board

**UNDERHILL TOWN CLERK'S OFFICE**  
 Received For Record 2:3 A.D., 20 10  
 At 11 O'clock — minutes A M. & Recorded  
 In Book 179 Page 131-132 of Underhill Records  
 Attest [Signature]  
 Town Clerk

NOTICE: This decision may be appealed to the Vermont Environmental 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. No documents shall be recorded until December 9, 2009, when the 30-day appeal period has expired.

Received 2.3.10 2.8 AM Sturtevant

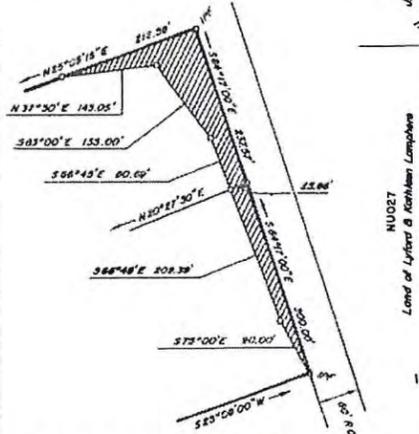
5254A

NOTES:

1. THIS SURVEY WAS DONE BY MEANS OF A TOTAL STATION E.D.M.
2. THE BEARINGS SHOWN REFER TO MAGNETIC NORTH.
3. THIS SURVEY WAS BASED ON DEEDS OF RECORD, PHYSICAL EVIDENCE AS FOUND AND THE FOLLOWING PRIOR SURVEYS:
  - (A) "PLAT OF SURVEY FOR CHRISTOPHER PRATT & PATRICK MALLOW" BY JOHN A. MARSH DATED AUGUST 24, 1843.
  - (B) "PLAT OF SURVEY FOR MICHAEL & CATHY BASLOW" BY JOHN A. MARSH DATED AUGUST 11, 1877.
  - (C) "PROPERTY TRANSFER NORMAN AND ISABEL BASLOW TO THOMAS BOBLEY" DATED NOV. 1872.
  - (D) "A SURVEY OF A PORTION OF LAND OF NORMAN BASLOW" BY PROPERTY DESIGN PROJECT NO. 186-94.
  - (E) "A SURVEY OF A PORTION OF LANDS NOW OR FORMERLY OF NORMAN C. BASLOW" BY PROPERTY DESIGN DATED MAY 1996 AND BEARING PROJECT NO. 186-94B.

SEPTIC EASEMENTS:

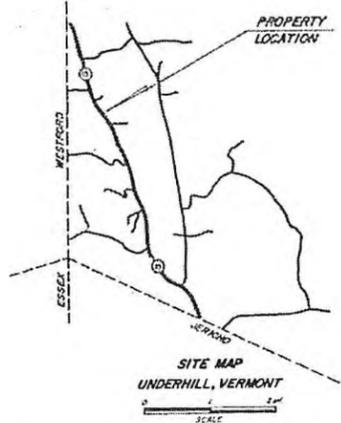
LOT 2			LOT 4		
COURSE	BRG	DIST.	COURSE	BRG.	DIST.
J	S03°30'00"W	131.71'	T	S84°30'00"W	136.06'
K	S36°00'00"E	84.84'	U	S89°07'00"W	126.21'
L	N16°30'00"E	23.00'	V	N47°00'00"W	33.61'
M	S84°17'00"E	112.00'	W	N25°07'00"E	99.84'
N	S18°30'00"W	97.00'	X	N64°30'00"E	109.84'
O	N64°17'00"W	112.00'	Y	S63°58'30"E	22.75'
P	N16°30'00"E	47.43'			
Q	N36°00'00"W	106.48'			
R	N03°40'00"E	110.37'			
S	N38°10'00"E	36.16'			



LEGEND:

- IPF IRON PIN FOUND
- IPS IRON PIN SET
- PROPERTY LINE
- HIGHWAY RIGHT-OF-WAY
- WIRE FENCE
- STONE WALL
- PROPOSED RIGHT-OF-WAY

COURSE	BEARING	DISTANCE
a	N53°57'15"W	210.30'
b	S24°39'45"W	100.00'
c	S40°32'15"W	113.74'
d	S33°42'30"W	172.00'
e	S48°02'30"W	152.58'
f	S45°35'15"W	182.04'
g	S03°03'15"W	169.85'
A	S50°42'00"E	64.46'



REVISIONS:

- 09/28/08 THE PARCEL OF LAND LOCATED BETWEEN LAND OF RUSSIN AND LAND OF LUNN WAS ADDED TO LOT 2. THE LAND OF RUSSIN WAS DESCRIBED IN A DEED RECORDED BY BK 84, PG 281 AND WAS BASED ON A SURVEY BY JOHN A. MARSH. THE SURVEY IS NOT RECORDED, THE DEED REFERRED TO CONTAINS SOME ERRORS AND NO MONUMENTATION OF THE CORNERS OF LAND OF RUSSIN WERE FOUND. THE PROPERTY LINE BETWEEN BASLOW & RUSSIN IS BASED SOLELY ON THE EXISTENCE OF PORTIONS OF WIRE FENCE BELIEVED TO DELINEATE A PORTION OF THE LAND OF RUSSIN.
- 10/12/08 SMALL PARCEL OF LAND SOUTHERLY OF BERTS KNOW ROAD WAS ADDED TO LOT 5.

ZONING DATA

DISTRICT	RURAL RESIDENTIAL
LOT SIZE	3 ACRES
ROAD FRONTAGE	250'
FRONT YARD SETBACK	75'
SIDE YARD SETBACK	50'
REAR YARD SETBACK	50'
BUILDING HEIGHT	35'

FINAL PLAT

Approved by the Underhill Development Review Board  
 Chair: [Signature] Date: 11/20/10

A SURVEY & SUBDIVISION OF LAND OF  
**ISABEL L. BASLOW**  
 P.O. BOX 398  
 UNDERHILL, VERMONT (05489)  
 BY  
 PROPERTY DESIGN — MONTPELIER, VERMONT  
 NOVEMBER 2008

SCALE: 1 INCH = 150 FEET



I hereby certify that this survey was performed by me or under my supervision and to the best of my knowledge is correct and accurate.

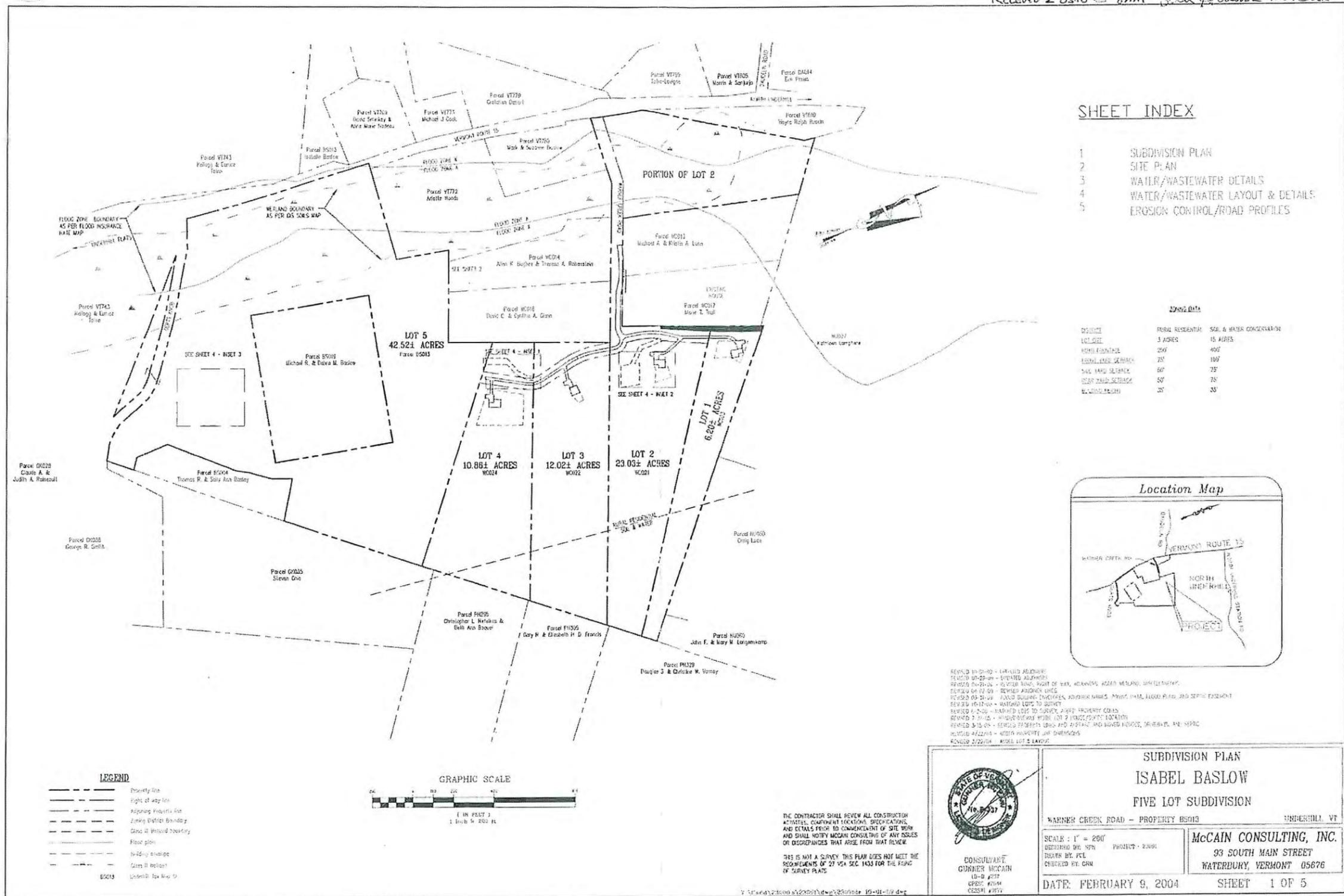
RIGHT-OF-WAY CURVE DATA:

A	R	L
C1	83°00'00"	75.00' 82.47'
C2	40°10'00"	180.00' 106.16'
C3	84°41'00"	360.00' 188.08'
C4	42°54'00"	180.00' 119.80'
C5	28°54'17"	100.00' 59.88'
C6	18°28'18"	100.00' 34.68'
C7	24°41'00"	480.00' 180.94'

Reprint of New England, Winslow, VT hereby certifies that this map was reproduced by the fixed line photographic process.

Received 2-03-10 @ 8am Sun. [Signature] Tom Clark

52548



Remapping of Non-England Vermont territory certifies that  
 this map was prepared by the Great Bear Photogrammetric process.  
 [Signature]



179 139

## TOWN OF UNDERHILL

P.O. Box 32  
Underhill Center, VT 05490

Phone: (802) 899-4434 x106 Fax: (802) 899-2137

## SUBDIVISION PERMIT

THIS PERMIT IS VALID UPON FULFILLMENT OF SUBDIVISION CONDITIONS  
AND SIGNATURE OF THE ZONING ADMINISTRATOR.

Permit #: SUB-10-02

Date Effective: 2-1-2010

Applicant(s): Isabel Baslow c/o Mike & Deb Baslow

Property Code: BS013

Property Location: 13 Baslow Lane

DRB Docket # DRB-09-02

Number of Lots Permitted: 5

Date of Final Hearing: 10-19-09

Zoning District(s): Rural Res. / Soil & Water Conservation

Date of Decision: 11-9-09

## PERMIT CONDITIONS:

1. Determination of Ownership of Bulk Land: Applicant shall provide a determination to the Zoning Administrator on the remaining land on the western side of VT Rte. 15 prior to filing the final plat. The determination shall either
  - a. confirm that the land is owned by Isabel Baslow and will be a part of Lot 5; or
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  - a. that the shared infrastructure has been installed to the lot per the phasing schedule in the approved plans;
  - b. that the approved curb cut has been installed per the plan; and
  - c. that the driveway has been "roughed in" per the approved plan.

Driveway top treatment may be installed at the end of the construction period. All erosion prevention, sediment control, and stormwater measures shall be installed per the phasing schedule in the approved plans. Approved driveways shall be the only points of ingress and egress during the construction period so as to minimize:

- a. compaction of site soils; and
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Upon completion of construction, the designer/engineer must certify by letter to the Zoning Administrator that the shared infrastructure and driveways have been constructed as designed.

5. Stake-out of Improvements: All building envelopes and septic areas shall be staked out by the surveyor/engineer prior to any construction, and off-set stakes shall be held in place until completion of construction.
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CONTINUED ON NEXT PAGE

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### PERMIT CONDITIONS:

7. Inspection Reports and Certifications: A copy of all inspection reports and certification reports sent to the State for the stormwater infrastructure shall be copied to the Zoning Administrator.
8. Homeowners Association Document: Reference to the Homeowners Association agreement shall appear in any deed in this subdivision. Failure to maintain a Homeowners Association and required agreements shall be considered a violation of the subdivision permit.
9. Road Maintenance Agreement: The Private Roadway Agreement shall include the correct revised dates. This agreement may appear in the Homeowners Association agreement.
10. Digital Submission of Plat and Plans: Prior to recording the final Mylars, the applicant shall submit a copy of the certified plats and Sheet 1 of 5 and Sheet 2 of 5 in digital format. The format of the digital information shall require approval of the Zoning Administrator.
11. 911 Codes: All lots shall have their 911 codes posted prior to issuance of any building permit (Lot 1: WC023, Lot 2: WC021, Lot 3: WC022, Lot 4: WC024).
12. Fees: All subdivision fees shall be paid in full to the Zoning Administrator prior to filing of the final plat.
13. Selectboard Approval: Applicant shall obtain approval of the roadway extension and driveways, underground utilities, and waiver requests for the bonding requirement and 10% grade requirement from the Selectboard prior to filing the final plat (see 10-29-09 minutes).

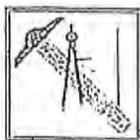
ZONING ADMINISTRATOR SIGNATURE

ADMINISTRATIVE OFFICE USE ONLY

TOWN CLERK RECORDING

UNDERHILL TOWN CLERK'S OFFICE

Received For Record 2/3 A.D., 20 10  
 At 11 O'clock 15 minutes A M. & Recorded  
 In Book 179 Page 139-140 of Underhill Records  
 Attest [Signature] Town Clerk



# O'Leary-Burke Civil Associates, PLC

CIVIL ENGINEERING | REGULATORY AND PERMIT PREPARATION | LAND SURVEYING | CONSTRUCTION SERVICES | LAND USE PLANNING

November 18, 2014

Sarah McShane, Zoning Administrator  
Town of Underhill  
P.O. Box 32  
Underhill Center, VT 05490

RE: Subdivision Permit #SUB-10-02  
Permit Condition 4a, 4b & 4c

Dear Sarah,

On November 18, 2014 I performed a site inspection with Warren Palmer at the Baslow Subdivision beginning at roadway station 3+00 on Warner Creek Road. The inspection included the extension of Warner Creek Road and the driveways for Lot #1 thru #4.

Per the requirements of Subdivision Permit #SUB-10-02, condition 4a, 4b, and 4c, I certify that:

- a. that the shared infrastructure has been installed to the lot per the phasing schedule in the approved plans;
- b. that the approved curb cut has been installed per the plan; and
- c. that the driveway has been "roughed in" per the approved plan.

Please call if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'P. O'Leary Jr.', written in a cursive style.

Paul O'Leary Jr., P.E.



# O'Leary-Burke Civil Associates, PLC

CIVIL ENGINEERING | REGULATORY AND PERMIT PREPARATION | LAND SURVEYING | CONSTRUCTION SERVICES | LAND USE PLANNING

May 5, 2015

Sarah McShane, Zoning Administrator  
Town of Underhill  
P.O. Box 32  
Underhill Center, VT 05490

RE: Subdivision Permit #SUB-10-02  
Permit Condition 4

Dear Sarah,

On November 18, 2014 I performed a site inspection with Warren Palmer at the Baslow Subdivision beginning at roadway station 3+00 on Warner Creek Road. The inspection included the extension of Warner Creek Road and the driveways for Lot #1 thru #4.

Per the requirements of Subdivision Permit #SUB-10-02, condition 4, I certify that the shared infrastructure and driveways have been constructed as designed and shown on a five (5) sheet set of plans dated February 9, 2004, titled "Isabel Baslow – Five Lot Subdivision", prepared by McCain Consulting Inc.

Please call if you have any questions.

Sincerely,

Paul O'Leary Jr., P.E.

**Bradford L. Holden**  
LAND SURVEYOR

60 COVEY ROAD  
UNDERHILL, VERMONT  
05489

Andrew Strniste  
Planning Coordinator  
Town of Underhill  
PO Box 120  
Underhill, VT 05489

October 31, 2016

RE: Warner Creek As-Built. Lots 3&4

Dear Andrew,

I have completed an as-built survey of the improvements on lots 3&4 of the Warner Creek Subdivision and prepared a map dated October 29, 2016, attached.

The as-built is based upon the approved Final Plat prepared by Property Design and drawings submitted by McCain Consulting, Inc. The drawings used are referenced in the Final Hearing Findings and Decision dated November 9, 2009 and recorded in Volume 179 Pages 131-137.

I agree with the location of the disposal fields as depicted on the site plan dated June 27, 2016 prepared by McCain Consulting, Inc. However it appears that the sewer pipe coming from Lot 3 to the disposal field was not constructed within the easement area. I have based this upon the direction of the cleanout, which is near the Lot 3 and 4 boundary, and the direction of the pipe coming into the distribution box as well as the evident path through the woods. See photographs attached. The only sure way to know would be to run a locator beacon down the pipe.

I located the existing well locations, as shown. The design locations were scaled from the McCain drawings. There are irregularities in the McCain drawings, as far as the scale is concerned, so those are shown as approximate only.

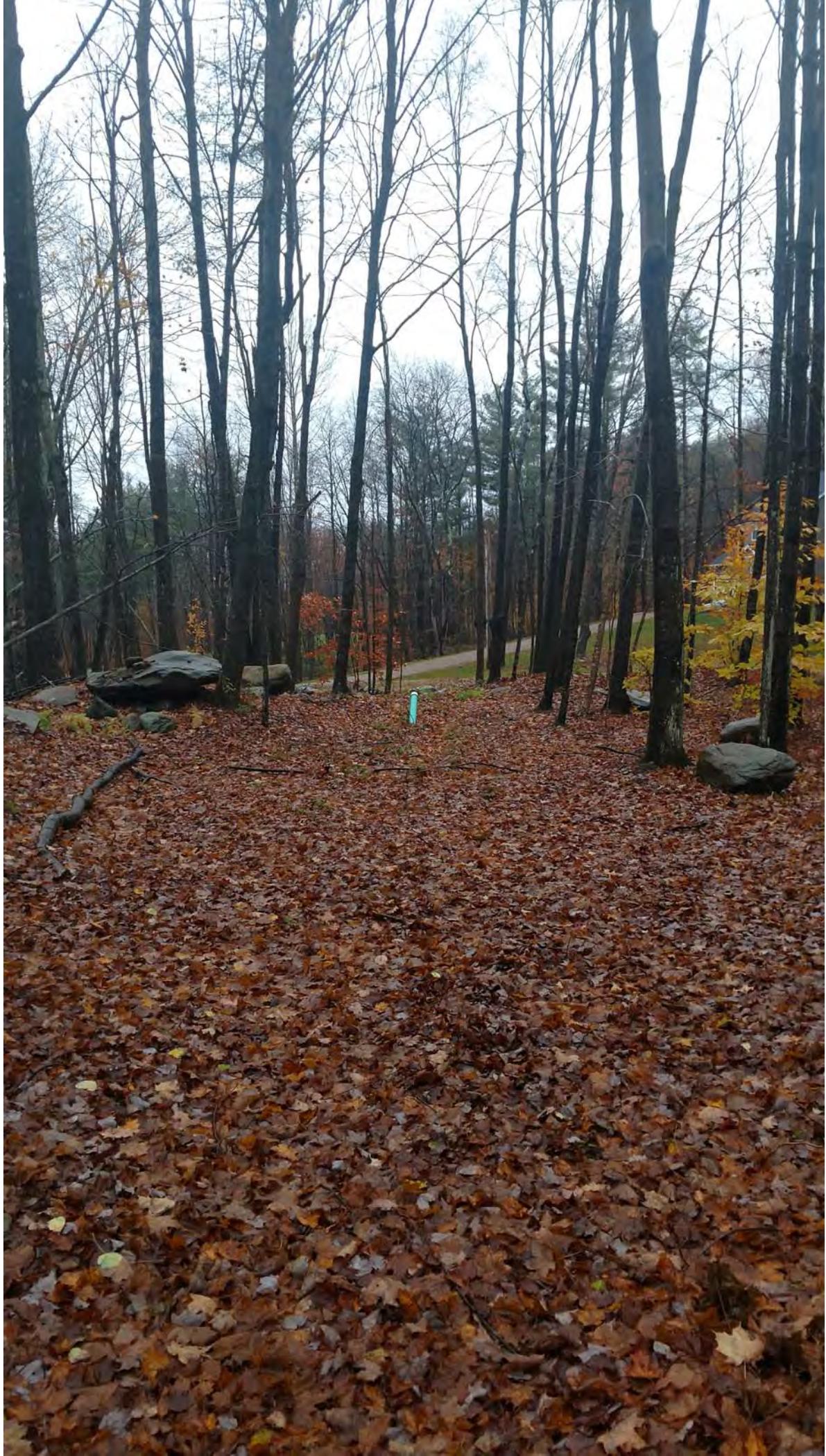
These issues all appear to be fairly minor in nature and could be easily resolved by submitting amended drawings to the State, if necessary, and by exchanging deeds between the owners of Lot 3 and Lot 4 to reflect a revised easement location.

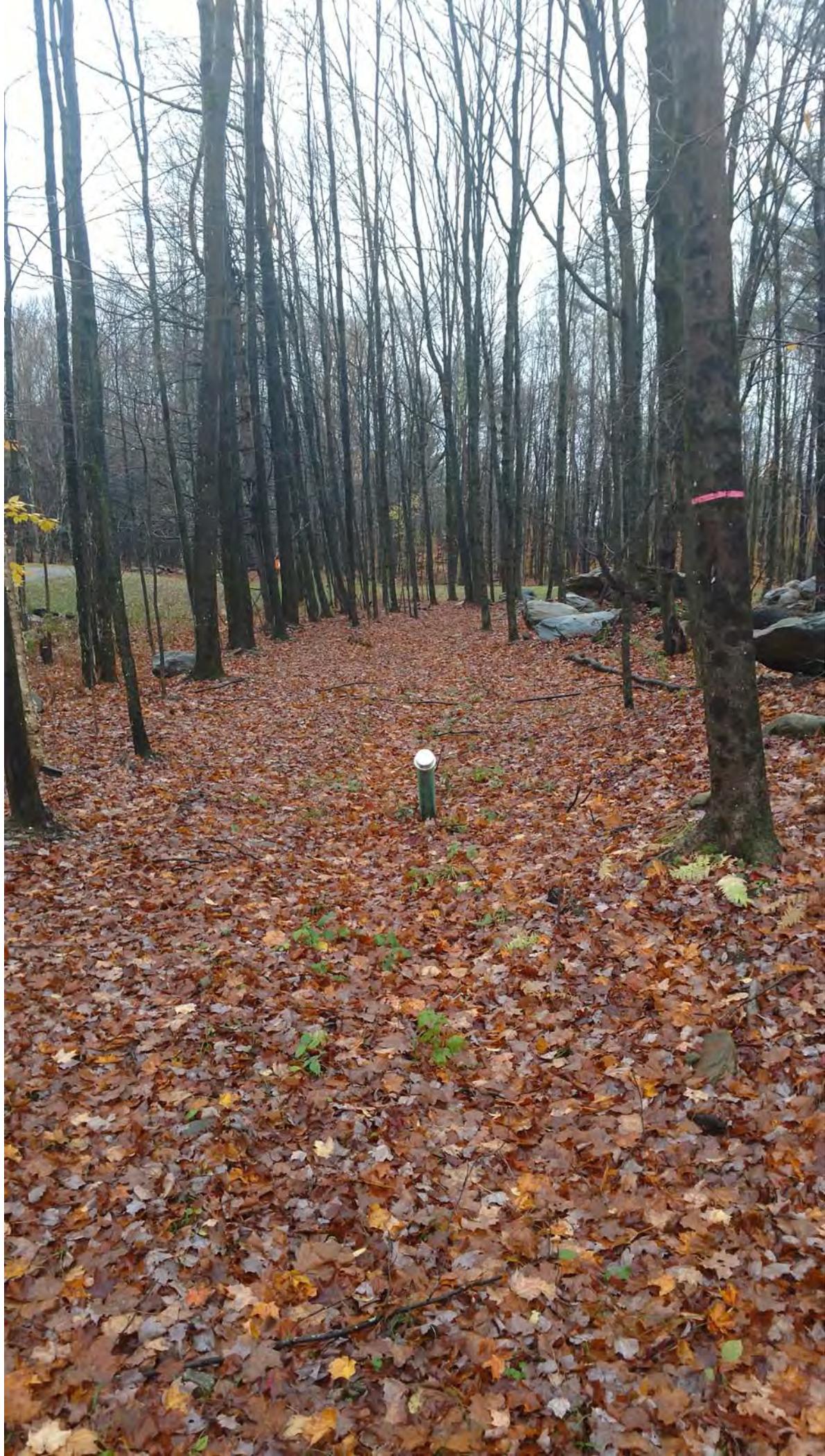
Please let me know if you have any questions or need further clarification.

Respectfully Yours,



Brad Holden, L.S.









BEARINGS ARE BASED UPON  
VT. GRID NORTH DERIVED FROM  
SURVEY GRADE GPS OBSERVATIONS  
PROCESSED THROUGH OPUS

NAD 83 (2011)

RIGHT OF WAY REVISION  
JANUARY 27, 2010  
McCAIN PLAT SLIDE 256A

6" SDR  
OVERFLOW  
D.POND

EXISTING  
D.WELL  
APPROX.  
DESIGN  
LOCATION

EXISTING  
HOUSE  
LOT 3 HOUSE  
BUILT IN APPROVED  
LOCATION

EXISTING  
S.TANK

BOUNDARIES, RIGHT OF WAY AND  
SEPTIC EASEMENT BASED UPON  
FINAL PLAT PREPARED BY PROPERTY DESIGN  
DATED NOV. 2005, REVISED 10-12-06  
RECORDED IN SLIDE 254A

4" SDR CLEANOUT

SEPTIC EASEMENT  
PER PLAT-DESIGN

10" SDR  
OVERFLOW  
D.POND

EXISTING  
D-BOX(S)  
APPROX.  
LEACH LINES

APROX  
SEWER  
PIPE

BUILDING ENVELOPE

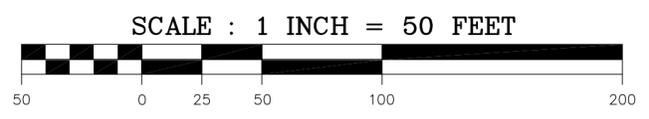
LOT 4

EXISTING  
HOUSE

EXISTING  
S.TANK

EXISTING  
D.WELL

APPROX.  
DESIGN  
LOCATION



AS-BUILT SURVEY  
FOR  
**TOWN OF UNDERHILL**  
BASLOW-WARNER CREEK SUBDIVISION  
UNDERHILL, VERMONT  
OCTOBER 29, 2016

PREPARED BY  
**BRADFORD L. HOLDEN**  
LAND SURVEYOR  
60 COVEY ROAD  
UNDERHILL, VERMONT

OLD

**UNDERHILL ROAD POLICY**  
**UNDERHILL, VERMONT**

Adopted March 200~~2~~

Underhill Selectboard

\_\_\_\_\_  
Stanton Hamlet

\_\_\_\_\_  
Ted Tedford

\_\_\_\_\_  
Peter T. Brooks

Adopted November 1986

Amended:

November 8, 1989

February 28, 1990

December 8, 1993

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Appendix I: Definitions for Underhill Regulations, Ordinances and Policies  
 Appendix II: Road specs

11/27/2001

## INTRODUCTION

The 2002 Town of Underhill Road Policy is based on the 1999 Underhill Town Plan, the current Underhill Road Study by the Chittenden County Metropolitan Planning Organization, and the Vermont Statutes Annotated.

It is the responsibility of the Selectboard to ensure that the construction specifications and standards of this road policy are designed in order that all roads are constructed such that they can be properly maintained to provide reasonable access for emergency and service vehicles.

## DEFINITIONS

See Appendix I, "Definitions for Underhill Regulations, Ordinances and Policies".

## ROAD CLASSIFICATION

The Vermont town highway classification system (19 V SA 302) classifies town roads as follows:

Class I: Town highways which form an extension of a state highway route and which carry a state route number. The Vermont Agency of Transportation (VTTrans) determines which highways are class I.

Class II: Those town highways selected as the most important highways in each town. The Selectboard, with the approval of VTTrans, determines which highways are class II.

Class III: All traveled town highways that are not class I or II highways. The Selectboard, after a conference with a representative of the Vermont Transportation Board, determines which highways are class III.

Class IV: All other town highways. The Selectboard determines which highways are class IV.

A trail: is a public right of way that is not a highway. The right of way for a trail is three rods unless otherwise properly recorded.

A pent road: is a town highway which, after written authorization of the Selectboard, is gated but not locked.

RECLASSIFICATION, DISCONTINUANCE, AND ACCEPTANCE OF A HIGHWAY

The procedure is essentially the same in each case and is as follows:

1. PETITION- The Selectboard may be petitioned by the freeholders (property owners) of a town to reclassify or discontinue a road. The petition must be signed by at least five (5) percent of the freeholders of the town (19VSA708). (In the case of a petition for a road acceptance, a developer or adjoining landowner may petition the Selectboard).
2. It is the policy of the Town not to reclassify private roads as public roads.
3. The receipt of any petition requires the Selectboard to hold a public hearing to discuss the proposal. The public hearing must be held forthwith after receiving the petition and requires thirty (30) days notice to all affected property owners (19VSA709).
4. The Selectboard can call a hearing without the receipt of a petition if they deem the need to be in the best interest of the town.
5. At the public hearing the Selectboard will receive testimony and participate in the discussion regarding the proposed change. They are not required to defend or support the proposal nor are they prohibited from doing so. They are required, after hearing testimony etc., to make a written decision on the subject of the petition including the reasons therefore. The decision will be made at a duly called meeting of the board of selectmen and will be announced promptly.
6. In the case of a petition to accept a road, the Selectboard will, prior to making the written decision, inspect the road and cite any inadequacy. The applicant must correct all inadequacies before the process can continue. Inadequacies must be corrected within six (6) months of the inspection or the process is terminated and must be petitioned again. (19VSA710)
7. A decision to accept a road means that the Selectboard will accept and operate the road for a trial period of no less than one-year. During the trial period, the applicant will be responsible for correcting any inadequacy over and above routine maintenance. At the end of the trial period, provided the applicant has corrected any and all inadequacies in road construction, the road will be classified and become a part of the town highway system.
8. Any person aggrieved by the decision can bring an appeal of the decision via the court system.

## POLICIES AND PROCEDURES

### PUBLIC ROAD MAINTENANCE

The Town must keep Class I, II, and III highways 'in good and sufficient repair during all seasons of the year'. The Selectboard may decide not to plow a class II or III road in winter based on the safety considerations for the traveling public and municipal employees. A class IV highway may be maintained to the extent required by the necessity of the town, the public good and the convenience of the inhabitants of the town. Accordingly, the town is not required to regularly maintain a class IV highway. The town shall not be responsible for any maintenance of a trail. (19 VSA 302 (a)(5))

#### Summer Activities -

In order to provide safe and convenient passage, maintenance and repair of town roads is the first priority of the Underhill road crew. Reconstruction and road upgrades will be scheduled, subordinate to maintenance and repair activities. Town resources for reconstruction and road upgrades will be allocated considering such factors as safety and average daily traffic,

#### Winter Activities -

All class II and III roads will be plowed as often as possible in order to provide safe passage of standard passenger vehicles. The Town cannot guarantee the time of day that a road will be plowed.

Road sand and salt will be applied only as required to provide safe passage for vehicles. Underhill does not have a "Bare Road" policy and expects travelers to drive with respect for winter conditions.

### TRAFFIC CONTROL

The Selectboard of the town of Underhill shall adopt speed limits and provide traffic control signs as needed for safety for town highways.

### USE OF HIGHWAY RIGHT-OF-WAY

Any proposed use of any portion of a town road right-of-way must receive written approval from the Selectboard. This includes, but is not limited to, the installation of fences or poles, or the installation of public or private utilities. No use of the town road right-of-way may be approved if it will reduce road sight lines, obstruct pedestrian traffic, create a potential obstruction for vehicles traveling within the right-of-way or is deemed to be detrimental to the general health, safety and welfare of the public. No material of any kind that will obstruct culverts or reduce drainage ditch capacity will be deposited in or near the town road right-of-way.

### ACCESS APPROVAL

Before any site work or construction begins on a proposed road or driveway, the Selectboard must approve an access permit. On State Route 15 the Vermont Agency of Transportation shall handle the permit.

11/27/2001

### DESIGN

All driveway and road designs must comply with the standards and specifications outlined in this Road Policy. All roads must be designed by a registered surveyor, engineer, or qualified individual as approved by the Selectboard.

When, in the judgment of the Selectboard, an applicant and/or a qualified driveway/road designer has demonstrated that a proposed driveway/road cannot meet one or more of the standards of this policy, the Selectboard may grant a waiver of a particular design standard. The Selectboard will conduct a site visit and consult with the Road Foreman, Zoning Administrator, Planning Commission, and fire and safety departments as appropriate. The Selectboard may request that local fire protection and safety agencies be asked to submit a written statement of their concerns regarding the appropriateness of the proposed driveway/road for the safe passage of their vehicles.

### DRAINAGE

All proposed drainage facilities shall be sufficient to carry runoff from the road surface and divert water away from the road without causing sedimentation, erosion, or result in the impounding of water. Any change in drainage patterns as a result of driveway/road construction or other excavating work associated with development must not adversely affect existing roads, road drainage facilities or any other property in the area and may include the grassing over of banks that border roadways. A builder or developer shall be responsible for supplying an accurate and detailed plan of the topography and drainage patterns as a part of the road design approval process. The builder or developer shall also be responsible for correcting any problems that occur as a result of road construction. Bonding for that purpose may be required.

### UTILITIES

A plan of the utility line burial must be approved and filed with the Selectboard prior to construction. Installation of proper conduit is required under a town road. Notification of any excavation of town roads must be given to all emergency services. Work must be scheduled so as to have a minimal impact on normal traffic flow. All underground utility lines, such as electric, telephone, television, water etc., that are installed within the road right-of-way must be at sufficient depth as to allow ditching and culvert replacement.

### PAVING POLICY

The Selectboard may limit the paving requirement to portions of the road exceeding 8% grade. All roads that are to be taken over by the town and classified Class III or better, as well as roads with a projected Average Daily Trips of 500 or more trips, must be reviewed by the Selectboard in order to determine if road paving will be required. Determination of a road-paving requirement will be based on road construction and drainage, estimated maintenance costs, and public opinion. A bond or some other funding device may be required.

### UPGRADE OF DRIVEWAY OR ROAD

When a driveway or existing road is extended to accommodate a second or third dwelling on a lot formed after 2002, the shared traveled way must be constructed or upgraded to the standards of this Road policy. This does not apply to single lots in existence and recorded prior to adoption date.

## ROAD DESIGN/CONSTRUCTION APPROVAL PROCESS

### Layout Drawing / Sketch

An applicant must submit a sketch of the plot indicating lot lines and the proposed driveway/road right-of-way. The sketch must include landmarks and dimensions such that the path of the proposed driveway/road can be easily identified.

### Site Visit

An applicant must flag, at 50-foot intervals, the centerline of a proposed driveway or road and schedule a site visit by the Zoning Administrator and Road Foreman. For a new road the Planning Commission will also conduct a site visit.

### Correspondence

The Zoning Administrator and /or the Planning Commission will write a report within two weeks of the site visit. The review of the site visit will identify specific requirements such as design, width and construction requirements. It will also identify site limitations and issues regarding construction timing and scheduling.

The Selectboard will review the report with the Zoning Administrator and conduct a site visit. If it appears that there are significant site limitations, the Selectboard may require engineering sketches that define the site topography and proposed driveway grades.

### Design Approval -

A letter indicating road design approval/rejection will be sent to the applicant. Road approval will include an access permit.

### Road Design Drawings

A set of design drawings by a registered engineer or surveyor shall be filed with the town. It shall include a road right-of-way and layout showing all radii of curvature, a slope profile, road cross sections indicating road construction and drainage management, with grade readings (100 foot intervals unless a smaller interval is requested by the Planning Commission), location of utilities and details of road termination and/or intersection.

### Construction Inspection -

A member of the Selectboard or their agent may inspect road construction at any time. Should the inspection result in questions or concerns regarding the construction methods, quality or the amounts of material, the Selectboard will send written notice to the parties involved and, if necessary, order work stopped. No additional work shall commence until all concerns have been addressed.

### Final Inspection -

Prior to commencement of use of the property the Zoning Administrator and Road Foreman shall make an inspection of the driveway or road and issue a report to the Selectboard. Upon favorable inspection of the quality and amounts of material the developer or property owner will be issued a "letter of compliance" stating that the road was installed to all applicable specifications and standards.

### ROAD AND DRIVEWAY STANDARDS AND SPECIFICATIONS

This is a set of criteria to be used in the construction, maintenance and/or reconstruction of all roads within the town of Underhill. These specifications are designed to provide driveways and roads that are serviced year-round, safe for the passage of private and public service vehicles that will be economically reasonable to maintain and driveways that will intersect with roads in such a way as to cause minimum negative impact. All driveways shall be constructed to comply with the VAOT Standard 8-71 (as amended).

#### BRIDGES / LARGE CULVERTS

All bridges and large culverts (greater than four (4) feet in diameter) must be approved by the Vermont Agency of Transportation and designed or approved by a registered professional engineer. All bridges and/or culverts must be rated to support a load of at least 35,000 lbs.

#### CROWN

The crown or cross slope should be 1/3 to 1/2 inch for each foot of width measured from the center of the road to the outside edge of the shoulder.

#### CULVERTS

All transverse driveway and road culverts will be a minimum of eighteen (18) inches in diameter unless a different size is recommended by the road foreman based on natural limitations. Culverts must extend to the center of the ditch on each side of the road. All driveway access culverts shall be sized no smaller than 18 inches in diameter by 30 feet in length. The Selectboard may, in writing, defer the installation of a culvert until a specific need is evident. Culverts must be spaced no greater than four hundred (400) feet apart in one continuous ditch line unless, after inspection the Selectboard specifies a greater distance. All culverts shall be: corrugated, riveted, galvanized steel with a minimum of sixteen (16) gauge or corrugated polyethylene (smooth inner wall) of equivalent strength and properly bedded. Corrugated polyethylene pipes must be covered with a minimum of two (2) feet of approved granular road base material. All culverts larger than two feet in diameter must be covered with a minimum of one inch (1") of material for each inch of pipe diameter. Stone or concrete headers shall be built on all culverts.

#### CURVATURE

The radii of curvature of all roads shall be a minimum of one hundred (100) feet.

#### DITCHES

Ditches must be constructed according to Vermont Department of Highways Standards A-21 or A-22 (as amended). The Selectboard may require other construction details such as rip rap or paving.

#### GRADES

The maximum grade on any driveway or road constructed in the town of Underhill shall not exceed 10%. A 10% grade shall not extend over a distance greater than five hundred (500) feet. Exceptions to this policy will be reviewed by the Selectboard. The Selectboard may require the paving of portions of a road exceeding 8%.

11/27/2001

### GEOTEXTILES

Geotextiles shall be used for separation, reinforcement, filtration, drainage, and moisture control in road and driveway construction. The use of geotextiles does not relax or reduce any road or driveway standard or specification.

### INTERSECTION

Intersection of a driveway with any road will be constructed in accordance with the rural driveway specifications and VTrans Standard 8-71 (as amended). Intersections of roads will be constructed in accordance with the VTrans Standard 8-12 dated 12/71, (as amended).

### RIGHT-OF-WAY

The minimum width of Right-of-Way, in which a driveway will fall, shall not be less than thirty (30) feet. The minimum width of Right-of-Way, in which a road will fall, shall not be less than sixty (60) feet.

### ROAD TERMINATIONS AND INTERSECTIONS

Dead-end roads will terminate in a "Y" turn-a-round. The width of the legs of the turn-a-round must be the same as that specified for the road.

### SURFACE

Driveways will have a minimum of twelve (12) inches of compacted sub-base on the traveled portion.

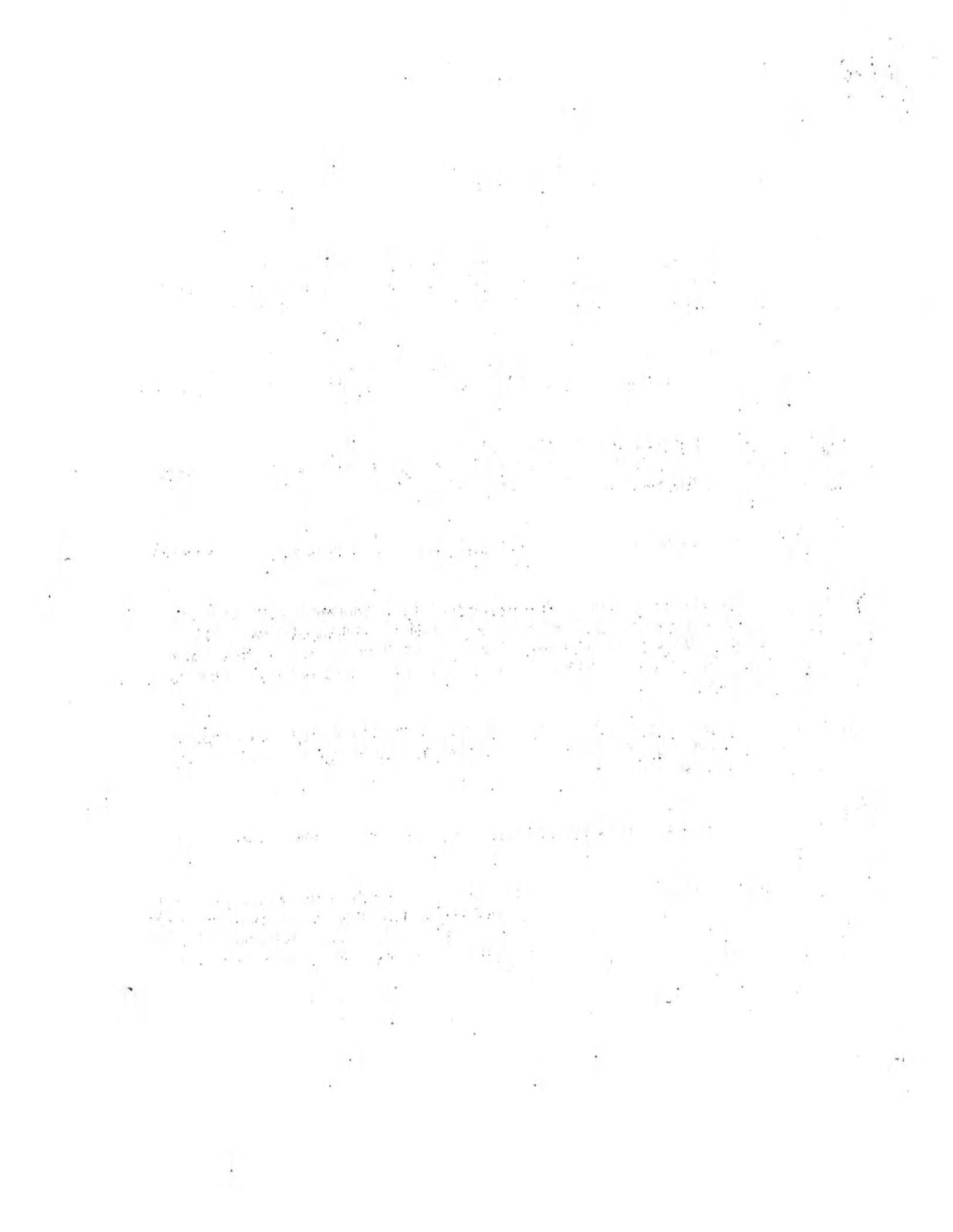
Gravel roads will conform to Vermont Department of Highways Standard A-22 (as amended) with a minimum base of twelve (12) inches (compacted) of clean, coarse, aggregate with a maximum stone size of four (4) inches. Roads must have a minimum top layer of six (6) inch (compacted) layer of top dressing of crusher run gravel with a maximum stone size of one and one-half (1 ½) inches.

Paved roads will be surfaced with a base coat or two and one half (2 1/2) inches of bituminous concrete (hot mix). Roads must be finished with an additional layer of one and one quarter (1 1/4) inches of top course hot mix.

### WIDTH

All driveways will be constructed with a minimum of twelve (12) feet available surface for vehicle travel.

All roads will be constructed in accordance with the standard typical section drawings for town highways (Vermont Agency of Transportation Standard A-21 dated 06/82 (as amended) for Class III gravel roads, or Standard A-22 dated 06/82 (as amended) for Class III paved roads). The Selectboard, consulting with the Planning Commission, will determine the projected average daily traffic (ADT) and hence the minimum road width and sub base depth. For residential developments, the ADT has been determined to be 10.1 trips per household. The town may utilize the regional planning commission or any other recognized and suitable source for determining potential road impacts.





Town of Underhill Zoning

October 11, 2016

Dear Andrew Strniste,

At your request here is a detailed explanation as to why we requested the list of items in our "ability to serve" letter provided July 1, 2009. I have placed the explanations directly in that letter below and can be found in Red. The Chief's wanted me to let you know that we don't consider it the Fire Department's role to go out and determine what conditions have or have not been met by the developer, but rather the town zoning person who has that responsible, and code enforcement authority.

Please let me know if you have any other questions.

Thanks,

Harry  
Duty Captain

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Nicole Fitch  
McCain Consulting, Inc.  
93 South Main Street (Suite 1)  
Waterbury, Vermont 05676

July 1, 2009

Re: Proposed 5 Lot Subdivision, Baslow Property  
Warner Creek Road, Underhill Vermont

Dear Nicole:

We have reviewed your company's site plan (dated February 9, 2004 and last revised April 21, 2009) for a 5 Lot subdivision located at the end of Warner Creek Road in Underhill. Enclosed please find our UJFD Checklist- One or Two Family Residences Criteria. We ask that this be used as a minimum standard with regard to construction specifications. After reviewing your request, in order to be able to provide adequate fire protection for this project we continue to be concerned with the following items; which were initially addressed, in a letter we sent to you back on November 16, 2005.

- Roadways and Driveways must not exceed a 10% grade.  
*The 10 % grade is the standard that is used nationally. It has to do with making sure that the apparatus can get to the house. Most Fire apparatus are only 2 wheel drive and extremely heavy especially if they are carrying water. Add in any inclement weather and it becomes extremely unsafe for the members on that apparatus, and should it slide off or roll over it would not make it to the house and also prevent other apparatus from getting to the house as well.*
- We are concerned that if Warner Creek Road were to flood these houses would be inaccessible.

**UNDERHILL-JERICHO FIRE DEPARTMENT, INC.**

P.O. Box 150 • Underhill, Vermont 05489 • Station: 802-899-4025

If the road was to flood it could washout, or become extremely soft. Again due to the weight of the apparatus it becomes very unsafe and getting to the structure can't be guaranteed under flood conditions.

- Upgrade Warner Creek Road-From Vermont Route 15 to the "Y" at Lot 2. This is to be 20' wide plus 2' shoulders and into the "Y's" each way at least 50'.  
When there is a fire or emergency, homeowners and neighbors will typically try and move vehicles to prevent them from becoming damaged or blocked in.  
There needs to be enough room for them to safely pass the incoming fire apparatus. Otherwise there would be a long delay waiting for either the personal vehicle or fire apparatus to back all the way to a driveway.  
More importantly is that in most of our coverage area there is no hydrants and water is limited to what we bring with us. We use what we call a Tanker Shuttle to accomplish getting water to a fire. So if the road width is not adequate, as tankers are coming to the scene to dump water and then leaving the scene heading to water sources to fill up they need to be able to safely pass each other. Again not being able to pass could result in delays that prevent the fire from being properly extinguished and this puts firefighter inside or on scene fighting the fire at increased risk of injury.
- Shared driveways for lots 1&2 and 3&4 to be a minimum of 14' wide plus shoulders. There needs to be adequate turnarounds at the ends.  
This again is to address passing of vehicles and ability to position fire apparatus and equipment needed. As for the Turnarounds, most fire apparatus are extremely long and turning around is difficult, having turnarounds allows for safe turning around, and avoids unsafe backing up of apparatus for long distances, and especially in the dark and inclement weather. Important note, turnarounds benefit far more than just fire apparatus such as ambulances and delivery vehicles.
- All trees, limbs and overhead wires shall have a clearance of 13'6" for the width of the road, shoulders and driveways.  
Fire apparatus are tall and some have lights or ladders mounted on top. To prevent damage to the apparatus or the equipment keeping a clearance of 13'6" should help prevent such incidents.
- Driveway for lot 2 off from shared drive has a poor angle and needs to have a 30' inside curve radius minimum.  
With the long length of fire apparatus not having a large enough inside curve radius, it increases the chance of not being able to position the apparatus close enough to the structure or worst case the rear tire does not stay on the road and ends up in the ditch causing the truck to roll over.

Provided all conditions are met, this project will not cause an undo burden on the Underhill-Jericho Fire Department. This property however is located in an area where there is not a water supply for firefighting and water is limited to what we bring with us. Therefore we are requesting that a dry hydrant be installed on the east side of Warner Creek Road near the culvert. The Underhill Jericho Fire Department will help with the design.

Lastly 911 address numbers must be posted at the end of the driveway with the numbers being a minimum of 4" in height (larger is better) and of contrasting colors i.e. white on green. Each driveway should be labeled appropriately at the intersection where the driveways split off in different directions.

If you have any questions I can be reached at 899-4025 or via e-mail at [Harry@ujfd.org](mailto:Harry@ujfd.org)

Sincerely,



Harry Schoppmann III  
Duty Officer  
Cc: Town of Underhill

UNDERHILL-JERICHO FIRE DEPARTMENT, INC.  
CHECKLIST  
ONE OR TWO FAMILY RESIDENCES CRITERIA

1. Town Road Specs shall be used for the construction of any access road.
2. Driveways and entry road must meet the following minimums:
  - 1 residence 12' wide
  - 2 residences 14' wide
  - 3 to 4 residences 20' wide
  - 5 residences or more 24' wide
3. Driveways to each house from the point of town road or access road shall be the following:
  - minimum of 12 feet wide
  - not less than 12 inches of gravel base
  - driveways shall have slopes no greater than 10%
  - maintained and kept clear 12 months per year
  - all bridges shall have a rating capacity of 35,000 pounds or more
  - all curves and grades shall meet town road specifications
  - driveways shall have clear height unobstructed of 13'-6"
  - curve radius – 30' inside radius minimum
4. Distance between dwellings:

If the available fire flow is less than 500 gallons per minute, or the nearest hydrant, if any, is more than 500 feet away, the distance between dwellings must be greater than 100 feet. For less than 100 feet Separation, ISO Standard 6/80 must be met.
5. Identification of dwelling:

Residents shall have their names posted conspicuously on mailbox or sign at the intersection of the driveway.
6. Early warning devices:

All dwelling units shall be protected with a minimum of 1 U.L. approved smoke detection device at or Near the heating apparatus and one protecting all sleeping quarters.
7. Fire department access to dwellings:
  - Exterior access must be provided to all basements, which should be accomplished by one of the following; (1) bulk-head with stairs, (2) window w/minimum dimension of 3', (3) or a passage door.
  - All concealed spaces with a clear dimension of more than 24" shall be provided with a 3' x 3' access door; this shall include attic and crawl spaces.
8. Heating devices:

Installation of all solid fuel (wood/coal burning) heating devices shall be approved by the fire department before such devices become operational.
9. Notification of occupancy:

A Fire Department Home Owner's Form must be filed within one week of occupancy.