

**Town of Underhill**  
Development Review Board Minutes  
Chairperson Scott Tobin

January 4, 2010

**Board Members Present:**

Scott Tobin, Chair  
Penny Miller  
Stan Hamlet  
Will Towle  
Chuck Brooks  
Matt Chapek  
Peter Seybolt

**Also Present:**

Kari Papelbon, Zoning Administrator

**6:32 PM:** Chairperson Scott Tobin called the MacDonough preliminary subdivision hearing to order.

**Applicants Present:**

William and Lynn MacDonough  
P.O. Box 21 (42 Krug Rd.)  
Underhill Center, VT

**Consultant Present:**

Jeff Olesky, P.E.  
Civil Engineering Associates, Inc.  
10 Mansfield View Ln.  
South Burlington, VT 05403

**Others Present:**

Gunner McCain (consultant for next hearing)  
McCain Consulting  
93 S. Main St.  
Waterbury, VT

Robert Danis (applicant for next hearing)  
898 VT Rte. 15  
Underhill, VT

**Identifier:    Contents:**

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ZA-1	William and Lynn MacDonough's Application for Subdivision: Preliminary Hearing (dated 11-20-09)
ZA-2	A copy of the completed Subdivision Checklist: Preliminary Hearing

- ZA-3 A copy of plans prepared by Jeff Olesky of Civil Engineering Associates, Inc. for William and Lynn MacDonough (Sheets C1.0 and C1.3 dated October 2009 and Sheets C1.1 and C1.2 revised 11-18-09)
- ZA-4 A copy of the Plat of Survey - Proposed prepared by Timothy R. Cowan of Civil Engineering Associates, Inc. for William and Lynn MacDonough (revised 11-18-09)
- ZA-5 A copy of the tax map for KR042
- ZA-6 A copy of the hearing notice published in the *Mountain Gazette* (dated 12-3-09)
- ZA-7 Staff report prepared by ZA Papelbon
- S-1 Letter from James Massingham of Chittenden East Supervisory Union #12 (dated 1-4-2010)

- Chairperson Tobin began the meeting by explaining the procedure for the preliminary subdivision hearing and swore in all interested parties. Chair Tobin acknowledged that Board Member Matt Chapek was recused for this hearing. He then entered the above items into record.
- Jeff Olesky provided an overview of the plans and explained that the items ZA Papelbon flagged in an email would be addressed. Revised plans, while they incorporate such comments from ZA Papelbon, were not provided for the hearing as they could not meet such a deadline. They will be part of the final submission.
- William MacDonough explained that a significant change from the sketch plan meeting was that the variance request for the side lot line setback for the driveway is no longer needed as the plans have been revised to show a conforming driveway location. He further explained that he will still continue talks with his neighbor to negotiate sharing the existing curb cut (KR032).
- Mr. Olesky explained the changes that have been made to the plans, including changing the title block with the correct address of the property, adding the correct zoning district to the plans and survey, revising building envelopes to exclude the open space, and updating the driveway location. Additionally, the proposed well will be removed as the existing well has been tested and shown to have enough supply for both lots (~6 gpm). A 25-foot-wide easement will cross Lot 1 in favor of Lot 2. Such will be included in the deeds with the septic easement language.
- Board Member Peter Seybolt asked how far the sewage would need to be pumped. Mr. Olesky replied that it was about 150 feet at the most, and that there was approximately 10-15 feet of vertical head associated with it. Lot 2 will have its own 1000-gallon pump station.
- Board Member Will Towle asked for clarification on Sheet C1.3. Mr. Olesky explained that it was a density plan showing the feasibility of the proposed

project (density) and the frontage requirement could be met through a shared access between the lots. The proposed project begins on Sheet C1.1 and as part of the PRD, the applicant is requesting a waiver of the frontage requirement for the proposed lots.

- Chairperson Tobin asked if the back of the project was still the Common Land. Mr. Olesky responded that it was and a note on the plans explains where the open space is located.
- Chairperson Tobin stated that a 22-foot waiver for each lot was requested, and that the proposed driveway now meets setback requirements. Mr. Olesky agreed and stated the only other variance request was for the existing house which does not meet the front setback. Chairperson Tobin stated that the Board would expect that the front plane of the house would not be exceeded if an addition was constructed.
- Chairperson Tobin asked if the septic system had been permitted. Mr. Olesky and Mr. MacDonough explained that Ernie Christianson from the State had been to the site and indicated that the septic system would be approved.
- ZA Papelbon spoke, stating that her concerns were being addressed by the revisions to the plans in process. She stated that the proposed Findings of Fact and easements were still outstanding, and explained that a wildlife corridor delineation/determination and permit from the Army Corps of Engineers were not required—those were errors on the checklist.
- Mr. Olesky stated that a representative from the State wetlands office had conducted a site visit and confirmed that all proposed development would be outside of the Class II wetland buffer.
- Board Member Peter Seybolt asked if letters from the School District and Fire Department had been received. Mr. MacDonough stated that a letter from the School District had been received, but that they are still waiting for a letter from the Fire Department.
- ZA Papelbon stated that she had invited the Selectboard to the hearing to review the proposed driveway but that they did not respond.
- Chairperson Tobin reviewed the 13 Evaluation Considerations under the Planning Standards in the Subdivision Regulations, and explained that the proposed Findings of Fact would address such. Mr. Olesky stated that notes for standards and specifications for erosion control would be included on the plans. Board Member Chuck Brooks requested that a statement appear on the plans stating that the erosion control plans would be followed. Chairperson Tobin stated that the Proposed Findings of Fact would include the anticipated trip ends. Mr. Olesky responded that they would, and added

that site distances, which have been determined to be adequate for the driveway, would also be included.

- Chairperson Tobin asked for final comments and stated that there were no interested parties present. Board Member Penny Miller stated that the waiver request for the existing house in the notes on Sheet C1.3 was not necessary. Chairperson Tobin added that the waivers for the frontage were still valid and that the driveway location was revised to meet setbacks.

**6:58 PM:** Chairperson Tobin asked if the Board felt they had enough information to make a decision on whether the application fulfills the preliminary requirements for subdivision. The Board stated that they had enough information to proceed. Board Member Stan Hamlet made a motion, seconded by Board Member Chuck Brooks, to enter deliberative session. The motion was passed by all Board Members present.

**7:04 PM:** Chairperson Tobin called the Danis preliminary subdivision hearing to order.

**Applicant Present:**

Robert Danis  
898 VT Rte. 15  
Underhill, VT 05489

**Consultant Present:**

Gunner McCain  
McCain Consulting  
93 S. Main St.  
Waterbury, VT

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	Robert Danis' Application for Subdivision: Preliminary (dated 11-8-09);
ZA-2	A copy of the completed Subdivision Checklist: Preliminary Hearing;
ZA-3	A copy of the plans prepared by Gunner McCain of McCain Consulting for Robert and Patti Danis (Sheets S-1 and C-1 revised 11-17-09, Sheets S-2 through S-4 and EC-1 dated 10-13-09);
ZA-4	A copy of the Survey prepared by Keith Van Iderstine of McCain Consulting for Robert and Patti Danis (dated 10-7-09);
ZA-5	A copy of the letter to Bill Zabiloski, Agency of Natural Resources regarding a State permit (dated 11-20-09);
ZA-6	A copy of the email from Rob Evans, State Floodplain Manager, to Gunner McCain regarding the requirements for development in Zone A of a FEMA mapped floodplain (dated 9-28-09);
ZA-7	A copy of the letter to Rob Evans, State Floodplain Manager, regarding the floodplain on the property (dated 11-20-09);
ZA-8	A copy of the email from Rob Evans to ZA Kari Papelbon regarding the submitted Base Flood Elevation calculations submitted by McCain Consulting (dated 12-3-09);
ZA-9	A copy of the HEC-RAS and HY-8 Culvert Analysis Reports;

ZA-10	A copy of the Flood Insurance Rate Map firmette for the property;
ZA-11	A copy of the letter to Mike Adams, U.S. Army Corps of Engineers, regarding the proposed stream crossing and wetlands impacts (dated 11-20-09);
ZA-12	A copy of the letter to Kevin Burke, Environmental Analyst at the State Stormwater Section, regarding a Construction General Permit (dated 11-20-09);
ZA-13	A copy of the letter to Randy Clark, Chief of the UJFD (dated 11-20-09);
ZA-14	A copy of the hearing notice published in the Burlington Free Press (dated 10-29-09)
ZA-15	A copy of the letter to James Massingham, Superintendent for Chittenden East (dated 11-20-09)
ZA-16	A copy of the School Impact Questionnaire (dated 11-23-09)
ZA-17	A copy of the Notice of Intent for Low Risk Sites
ZA-18	A copy of the Proposed Findings of Fact
ZA-19	A copy of the letter from Joseph Colby to ZA Papelbon regarding the proposed subdivision (dated 10-21-09)
ZA-20	A copy of the tax map for VT898
ZA-21	A copy of the minutes from the September 21, 2009 Sketch Plan meeting
ZA-22	A copy of the hearing notice published in the <i>Mountain Gazette</i> (dated 12-17-09)
ZA-23	Staff report prepared by ZA Papelbon
S-1	Black Dog Lane Road Maintenance Agreement
S-2	Sheet S-1 revised 12-29-09

- Chairperson Tobin began the meeting by explaining the procedure for the preliminary subdivision hearing. Chairperson Tobin then swore in all interested parties and entered the above items into record.
- Chairperson Tobin asked ZA Papelbon to explain the letter from Joseph Colby, 2 Roy Drive. She stated that when she initially read the letter she thought that Mr. Colby had looked at the map wrong, but she also thought that his letter detailed some concern for the traffic on VT Rte. 15. After speaking with Mr. McCain and re-reading the letter she realized that it did not. She proposed to write a letter to Mr. Colby explaining the project further, addressing some concerns in his letter unrelated to the project, explaining to the Board that Mr. Colby was mistaken and that he would be an interested party in that he would receive notice of the hearing as an abutting neighbor. She also stated that she would mail a copy of the minutes to Mr. Colby and that a draft of the letter was available for the Board to review. Ultimately his concerns do not relate to the proposed subdivision.
- Gunner McCain, McCain Consulting, stated that final development for the septic and culvert designs have been submitted to the State and Army Corps of Engineers. The 100-year floodplain boundary and Class II wetlands have

been added to the plans. Additional wetlands impact numbers have been included on the plans.

- Board Member Penny Miller stated that the plans showed the wetland buffer impact area as the building envelope. Mr. McCain explained that the building envelopes were almost entirely within the Class III Town buffers.
- ZA Papelbon asked Chairperson Tobin to enter the revised Sheet S-1 into record. Chairperson Tobin did so.
- Mr. McCain further explained that submissions for required permits have been made, and a letter has been received from the Wastewater Management Division regarding the septic plans.
- Chairperson Tobin asked if the proposed septic systems had conventional leachfields. Mr. McCain explained that Lot 2 has a conventional primary area with a mound system replacement area, Lot 3 has a mound system, Lot 4 has a pretreatment at-grade system.
- Board Member Peter Seybolt asked if there were problems with mud flows and water on the Danis side of VT Rte. 15. Mr. McCain explained that there were not and that the types of concerns Mr. Colby raised in his letter on his side of VT Rte. 15 have been addressed in the plans for the Danis project.
- Chairperson Tobin asked if the curb cut on VT Rte. 15 for the proposed Black Dog Lane would be widened. Mr. McCain stated that it was already sufficiently wide and that the existing driveway would be widened to a 16-foot-wide traveled way to the split to Lots 3 and 4 and Lot 2.
- Board Member Matt Chapek asked if the “finger” at the rear of Lot 4 was to obtain the minimum acreage required. Mr. McCain stated that it was to obtain acreage and to provide an access to the stream. Board Member Chapek stated that the property line was the centerline of the proposed road to a point. Mr. McCain stated that such was true and then the deviation was to make reasonable-looking lots.
- Chairperson Tobin asked what the grade of the driveway to Lot 2 would be. Mr. McCain explained that all driveways and the private road are 10% or less.
- Board Member Miller asked if there were Class II wetlands on the property. Mr. McCain explained that while they are shown on the latest revised Sheet S-1, there are no impacts to such wetlands.
- Board Member Miller asked where the front lot line would be. ZA Papelbon stated it would be where the driveway enters the lot. A discussion of where the front lot lines would be and corresponding setbacks ensued.

- Board Member Will Towle stated that the plans call for a 60-foot-wide easement along the road. Mr. McCain explained that the road maintenance agreement will be for all lots utilizing the shared road and Lots 3 and 4 for the shared driveway. Board Member Towle asked if there was proposed deed language for such. Mr. McCain stated that while a draft deed was not available, a reference to the agreement will be in the deeds to the lots. Board Member Towle asked if there would be an Association, to which Mr. McCain replied there would not. He added that authorization had been received for the Construction General Permit.
- Chairperson Tobin stated that there was a steel corrugated culvert for the stream crossing with stone and driveway material above the culvert, and asked if there was an outstanding question from the state on the crossing. Mr. McCain stated that he was still waiting for a response to the submission.
- Board Member Matt Chapek asked if there was a requirement to have the driveway above the 100-year floodplain, to which Mr. McCain replied that there was not.
- Board Member Tobin asked if there were variance requests. Mr. McCain explained that there were variance requests for the wetland setbacks to the building envelopes.
- Board Member Towle asked if the plans contained the specs for the driveway. Mr. McCain replied that they did and stated where the specs were: Sheet C-1 and Sheet S-1. He explained that a driveway section is on the bottom left corner of Sheet S-1, that the plans state that the first section will be widened to 16 feet, from 0.00 where the driveway splits off by Lot 1 the first 100 feet is 16 feet wide, the shared driveway for Lots 3 and 4 will be 14 feet wide, and the driveway for Lot 2 will be 10 feet wide. All will have 1 foot shoulders.
- Board Member Stan Hamlet asked about the culvert. Mr. McCain explained that it was a squashed culvert 9 feet wide and 6 feet tall, galvanized steel, 30 feet long. Chairperson Tobin asked if the driveway would be 10 feet wide to which Mr. McCain responded that it would be 12 feet wide with the shoulders. Board Member Hamlet asked how active the stream was where the culvert was proposed, to which Mr. McCain responded that it was a perennial stream. Chairperson Tobin stated that there was roughly 9 feet on either side of the shoulders and asked what happened to that area. Mr. McCain stated that after the installation of the culvert headwalls there would be an approximately 3- or 4-foot strip of grass.
- ZA Papelbon spoke, stating that the corrections she requested had been made. She then explained that she suggested obtaining a Letter of Map Amendment for Lot 2 since the proposed development would be above the calculated Base Flood Elevations, and obtaining such a letter would lower insurance rates since the lending institutions must use the maps to determine floodplain locations per the NFIP regulations. A discussion of this ensued.

- Board Member Miller suggested adding the line type for the limit of disturbance on Sheet EC-1 to the legend. Mr. McCain responded that he would do so.
- Chairperson Tobin asked ZA Papelbon about the requirement for a wildlife corridor delineation on the checklist. ZA Papelbon replied that such was not necessary.
- Board Member Miller asked where the front property line for Lot 3 was. A discussion of the setbacks and the front property line ensued. Mr. McCain offered to move either the property line or the driveway line to ensure that the driveway entrance is entirely on Lot 3. The discussion of options and setbacks ensued. ZA Papelbon suggested moving the driveway entrance to clear up any issues. She explained that the front setback is measured from the closest point of the building envelope to the front lot line—where the driveway enters the lot. The discussion continued.
- Chairperson Tobin asked for clarification on the distances for the variance requests. ZA Papelbon read the variance requests: 10 feet from the building envelope to the wetland on Lot 4 and 15 feet from the building envelope to the wetland on Lot 3. Chairperson Tobin clarified that the request was for 90 feet and 85 feet respectively, which Mr. McCain confirmed. A brief discussion of the wetland locations and setbacks ensued.
- Board Member Peter Seybolt asked if the building envelope was set considerably above the wetland. He stated that he was not at the site visit and commented that the variance request was quite large. Board Member Will Towle provided an explanation of the wetland location and land conditions as seen during the site visit. Mr. Danis provided further details on drainage.
- Board Member Chuck Brooks asked if there were any State restrictions on Class III wetlands. ZA Papelbon stated that there are none. Mr. McCain added that the Army Corps of Engineers regulates Class III wetlands, but they have no setback requirements.
- Board Member Seybolt asked what the water table was on Lots 3 and 4. Mr. McCain stated that Lot 4 has ledge outcrops and there might be some ledge on Lot 3 as well.
- Chairperson Tobin asked Mr. McCain to address the Findings of Fact. Board Member Seybolt asked if the water analysis was based on surrounding properties. Mr. McCain replied that a survey of drilled well information on surrounding properties is done to determine if the area will have sufficient water.

- Chairperson Tobin asked if there were further questions from the Board. There were none.

**8:03 PM:** Chairperson Tobin asked if the Board felt they had enough information to make a decision on whether the application fulfills the preliminary requirements for subdivision. The Board stated that they had enough information to proceed. Chairperson Tobin stated that the evidentiary portion of the hearing was closed. Chairperson Tobin made a motion, seconded by Board Member Stan Hamlet, to enter deliberative session. The motion was passed by all Board Members present.

**9:31 PM:** Chairperson Tobin moved the meeting into open session on the Danis preliminary subdivision application.

**9:33 PM:** Chairperson Scott Tobin made a motion, seconded by Board Member Stan Hamlet, to approve the preliminary application for subdivision as discussed with the following conditions:

1. The variance request of 85 feet for the western side of the building envelope (near flag A4 as depicted on the plans) on Lot 3 to the Class III wetland is approved.
2. A variance of 50 feet for the northwestern side of the building envelope (near flag A12 as depicted on the plans) to the Class III wetland on Lot 4 is approved. Revised plans shall include revisions to either the building envelope or the lot line to achieve such setback.
3. The final plans shall be revised to show a 12-foot traveled way for the driveway to Lot 2 as per the requirements of the Road Policy.
4. Draft deed language referencing the Road Maintenance Agreement shall be submitted with the final application.
5. The driveway location or the property line on Lot 3 shall be revised on the final plans to clarify the location of the front lot line.
6. The final plans shall include the curve radii for the traveled way.

The motion was passed by a majority of the Board (5 in favor, 1 opposed, and 1 abstention).

**9:45 PM:** Chairperson Tobin moved the meeting into open session on the MacDonough preliminary PRD application.

**9:47 PM:** Chairperson Scott Tobin made a motion, seconded by Board Member Will Towle, to approve the preliminary PRD application with the following conditions:

1. The waiver request of 22 feet for the frontage on each lot is approved.
2. The final plans shall depict the driveway as conforming to the setback requirements.
3. Erosion control standards or a reference thereto shall appear on the final plans.

The motion was passed by all Board Members present.

The Board discussed their upcoming schedule, and received an update on the Selectboard's progress regarding the MU038 bridge. Chairperson Tobin signed minutes and the Mylar for the MU050 subdivision, and reviewed the letter to Mr. Colby and ZA Papelbon's report for the annual Town Report.

**10:00 PM:** Meeting adjourned.

These minutes of the 1-4-10 meeting of the DRB were accepted

This \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Chairperson Scott Tobin

***These minutes are subject to correction by the Underhill Developmental Review Board. Changes, if any, will be recorded in the minutes of the meeting of the DRB.***