TOWN OF UNDERHILL
AMENDMENT TO THE FINAL PLANNED RESIDENTIAL DEVELOPMENT
HEARING FINDINGS AND DECISION
FOR SHELDON BARKER, TRUSTEE OF THE
MARTHA MONTGOMERY TRUST

In re: Sheldon Barker, Trustee
Martha Montgomery Trust
60 Maple Leaf Road
Underhill, VT 05489

Docket No. DRB-07-17: Sheldon Barker, Trustee

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns an amendment to Sheldon Barker's (Trustee for the Martha Montgomery Trust) final hearing decision for an 8-Lot Planned Residential Development (PRD) for property located at 60 Maple Leaf Road in Underhill, VT.

1. A duly warned final hearing was held on July 21, 2008. The Development Review Board granted conditional approval to the 8-lot PRD as presented.

2. On October 31, 2008, Sheldon Barker informed Zoning Administrator Kari Papelbon that the final decision contained a condition requiring a road maintenance agreement between Lots 2 and 3 for the shared traveled portion of Montgomery Road. This road is a Class III Town Road, not a private road. A hearing to correct this error was scheduled.

3. By November 14, 2008, notice of the final hearing on the proposed revision to the Montgomery Trust PRD final decision were posted at the following places:

   a. The property to be developed, 60 Maple Leaf Road;
   b. The Underhill Town Clerk's office;
   c. The Underhill Center Post Office;
   d. The Underhill Flats Post Office;
   e. The Town of Underhill website.

4. On November 14, 2008, a copy of the notice of a final hearing was mailed via certified mail to the applicant, Sheldon Barker, P.O. Box 655, Albian, CA 95410, and to the following owners of properties adjoining the property subject to the application:

   a. Infields, LLC, 1438 Ridge Rd., Laurel Hollow, NY 11791
   b. Smith/Mellencamp, 110 Summit St., Burlington, VT 05401
   c. Willmuth, 125 Cliff St., Burlington, VT 05401
   d. Chittenden Trust Co, TTEE, 2 Burlington Sq., Burlington, VT 05401
   e. Grossman, P.O. Box 202, Underhill Center, VT 05490
   f. Curran, 81 Maple Leaf Rd., Underhill, VT 05489

g. Luck/Wilson, 163 Riverview Ave., Little Silver, NJ 07739
h. Maple Leaf Farm, 14 Maple Leaf Rd., Underhill, VT 05489
i. Montgomery, 60 Maple Leaf Road, Underhill, VT 05489
j. Hanowski, P.O. Box 186, Underhill Center, VT 05490

Notice was provided to:

- Panner, 55 Maple Leaf Rd., Underhill, VT 05489 via hand delivery on November 14, 2008
- Gunner McCain, McCain Consulting, via email on November 14, 2008
- Lori Ruple, Peterson & Ruple, LLC, via email on November 14, 2008

5. On November 15, 2008, notice of the hearing was published in the Burlington Free Press.

6. The hearing was scheduled to begin immediately following the hearing scheduled for 6:15 PM on December 1, 2008.

7. Present at the hearing were the following members of the Development Review Board:

   - Penny Miller
   - Chuck Brooks
   - Deb Shannon
   - Stan Hamlet
   - Scott Tobin, Chair

   Kari Papelbon, Zoning Administrator, also attended the meeting.

   No interested parties were in attendance.

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 and to Sheldon Barker;
   b. A copy of the final decision;
   c. A copy of the Vermont General Highway Map for Underhill;
   d. A copy of the Underhill Road Policy.

   These exhibits are available in the ML060 Martha Montgomery Trust Planned Residential Development 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.

Chairperson Tobin provided details of the situation and explained the condition revision to the Board. The Board finds that Montgomery Road is a Class III Town Highway and therefore the condition requiring a road maintenance agreement is not valid.

III. DECISION AND CONDITIONS

Based upon the finding above, Condition #7 of the Martha Montgomery Trust Final Hearing Decision is stricken from the decision.

Amended at Underhill, Vermont this 12th day of December, 2008.

Scott Tobin

Scott Tobin, Chair, Development Review Board

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.

UNDERHILL TOWN CLERK'S OFFICE
Received For Record 1-19 A.D., 2009
At 12 O'clock minutes PM
In Book 169 Page 232-234 of Und
Attest
Town Clerk