TOWN OF UNDERHILL
APPLICATION OF STEVEN AND WENDY GUAY
FOR A PLANNED RESIDENTIAL DEVELOPMENT
SKETCH PLAN/PRELIMINARY FINDINGS AND DECISION

In re: Steven and Wendy Guay
63 River Road
Underhill, VT 05489

Docket No. DRB-08-09: Steven and Wendy Guay

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Steven and Wendy Guay's combined sketch plan/preliminary hearing application for a 2-Lot Planned Residential Development (PRD) for property they own located at 63 River Road in Underhill, VT.

1. On May 4, 2009, Steven and Wendy Guay filed an application for subdivision. A copy of the application and site plan are available at the Underhill Town Hall. A sketch plan meeting for the project was held on September 15, 2008. The sketch plan was accepted; however, an application for preliminary was not filed within the six-month timeframe required by the subdivision regulations. As such, a combined sketch plan/preliminary hearing was scheduled.

2. On April 16, 2009, notice of a public site visit and hearing on the proposed Guay planned residential development was published in the Mountain Gazette.

3. On April 16, 2009, a copy of the notice of a public site visit and hearing was emailed to the applicants, Steven and Wendy Guay. A copy of the notice of public site visit and hearing was mailed to the following owners of properties adjoining the property subject to the application:

    a. Quinn/Mundy, P.O. Box 92, Underhill Center, VT 05490
    b. Derouchie, 12 Maple Ridge, Underhill, VT 05489
    c. Tower, 73 River Rd., Underhill, VT 05489
    d. Sullivan, 91 River Rd., Underhill, VT 05849
    e. Jericho-Underhill Park District, P.O. Box 164, Underhill, VT 05489
    f. Jericho-Underhill Water District, P.O. Box 174, Underhill, VT 05489
    g. Underhill Cemetery Association, P.O. Box 81, Jericho, VT 05465
    h. Hudson, 48 River Rd., Jericho, VT 05465

4. By May 1, 2009, notice of the site visit and combined sketch plan/preliminary hearing on the proposed Guay PRD were posted at the following places:

    a. The Applicants' property at 63 River Road;
    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. A site visit was scheduled to begin following the site visit scheduled for 6:00 PM on May 18, 2009. Present the site visit were:

- Chuck Brooks
- Matt Chapek
- Stan Hamlet
- Peter Seybolt
- Scott Tobin, Chair
- Charlie Van Winkle

Zoning Administrator Kari Papelbon also attended the site visit.

6. The preliminary hearing was scheduled to begin immediately following the preceding hearing on May 18, 2009.

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

- Chuck Brooks
- Stan Hamlet
- Peter Seybolt
- Matt Chapek
- Charlie Van Winkle
- Scott Tobin, Chair

Kari Papelbon, Zoning Administrator, also attended the meeting.

8. 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:

- Steven and Wendy Guay, 63 River Road, Underhill, VT 05489

9. 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 Steven and Wendy Guay;
b. A copy of Steven and Wendy Guay's Application;
c. A copy of the Checklist for Subdivision: Preliminary;
d. Plans prepared by David Fuqua of Ridge Consulting Engineers for Steven and Wendy Guay (Sheets 1-3 of 3, dated 4-30-09);
e. A copy of the survey by Mark Ward of Vermont Land Surveyors for Steven and Wendy Guay (dated 4-29-09);
f. A copy of the soil testing results from March 11, 2009;
g. A copy of the soil map from the USDA Natural Resources Conservation Service (pages 1-3 of 3 dated 9-23-08);

h. A copy of the Wastewater System and Potable Water Supply Permit dated 3-13-08);
i. A copy of the letter from Attorney Gregg Wilson regarding acreage (dated 12-12-08);
j. A copy of the Applications for Water Allocation (dated 4-2-07 and 4-6-09);
k. A copy of the letter from Chittenden East Supervisory Union (dated 4-27-09);
l. A copy of the email from ZA Papelbon to Steve Guay (dated 5-4-09);
m. A copy of the letter from the Underhill-Jericho Fire Department (dated 5-11-09);
n. A copy of the parcel map for RV063;
o. A copy of the hearing notice published in the Mountain Gazette (dated 4-16-09);
p. A copy of the letter from the Underhill-Jericho Fire Department (dated 5-18-09);
q. A copy of the revised engineering drawing prepared by David Fuqua of Ridge Consulting Engineers for Steven and Wendy Guay (Sheet 1 of 3 revised 5-18-09);
r. A copy of the letter from Dennis Nealon of the Water Supply Division regarding the proposed septic system for Lot 1(dated 3-11-08);
s. A copy of the wellhead protection report from Kenneth Bannister of Bannister Research and Consulting (dated 7-25-95);
t. A copy of the proposed easements details for the PRD;
u. A copy of the waiver requests for Lots 1 and 2 (with corresponding sketches);
v. A copy of the Proposed Findings of Fact (dated 5-18-09).

These exhibits are available in the Steven Guay, RV063T, 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.

Based on the application, testimony, exhibits, and other evidence, the Development Review Board makes the following findings on the preliminary plat submission requirements as delineated on pages 7-9 of the Underhill Subdivision Regulations, "Preliminary Plat for Subdivisions:"

A. Submission Requirements

1. The Board finds that the preliminary application satisfies the requirement as the proposed subdivision and Town are identified on the plans.

2. The Board finds that the preliminary application satisfies the requirement as the record owner's and designer's information is contained on the plans.

3. The Board finds that the wetland identified in the field on May 18, 2009 by Alan Quackenbush of the Vermont Wetlands Office is not shown on the survey or engineering

drawings. This is not a material error that would prevent the application from receiving preliminary plat approval from the Board. The wetland shall appear on the final survey and engineering site plan.

4. The Board finds that the preliminary application satisfies the requirement as the open space is depicted on the plans.

5. The Board finds that the preliminary application satisfies the requirement as the abutting property owners and parcel codes are shown on the plans.

6. The Board finds that the preliminary application satisfies the requirement as the applicable zoning regulations are contained in the plans.

7. The Board finds that the preliminary application satisfies the requirement as the proposed septic systems, water supplies, and underground utilities are shown on the plans.

8. The Board finds that the preliminary application satisfies the requirement as the proposed widths of proposed easements and open spaces are shown on the plans.

9. The Board finds that the preliminary application satisfies the requirement as the contours are depicted on the plans.

10. The Board finds that additional information regarding the cross-sections for the driveways is required. This is not a material error that would prevent the application from receiving preliminary plat approval from the Board as basic cross-sections for the proposed driveways were included with the plan. More detailed cross-sections shall be included with the final plans.

11. The Board finds that the preliminary application satisfies the requirement as the information is contained on the plans.

12. The Board finds that the preliminary application meets the requirement as a survey has been submitted.

13. The Board finds that the preliminary application satisfies the requirement as water will be supplied by the Jericho-Underhill Water District per the allocations dated 4-6-09 and 4-2-07.

14. The Board finds that the preliminary application satisfies the requirement as septic system locations and details are contained in the plans.

15. The Board finds that the preliminary application satisfies the requirement as the plans reference the Vermont Department of Environmental Conservation's *Low-Risk Site Handbook for Erosion Prevention and Sediment Control*. Due to the relatively flat nature of the parcel, stormwater is predicted to infiltrate into the ground.

16. The Board finds that the plans do not show the existing culverts on River Road. This is not a material error that would prevent the application from receiving preliminary plat approval from the Board. All culverts shall be shown on the final plans.

17. The Board finds that the preliminary application satisfies the requirement as the plans contain proposed lot lines with dimensions, and suggested locations of buildings.

18. The Board finds that the site visit conducted May 18, 2009 satisfied the requirement.

19. The Board finds that the preliminary application satisfies the requirement as the plans depict a 0.06-acre parcel of land that is proposed to be transferred to the Jericho-Underhill Water District through a boundary line adjustment with the adjoining parcel.

20. The Board finds that this requirement is not applicable as no new roads or parks are proposed. The submitted Proposed Findings of Fact address the project's relation to the goals in the Town Plan.

21. The Board finds that the preliminary application satisfies the requirement as the proposed accessory apartment is shown on the plans.

22. The Board finds that the preliminary application satisfies the requirement as the proposed underground cables are shown on the plans.

23. The Board finds that the preliminary application satisfies the requirement as a list of waivers and justification has been submitted.

24. The Board finds that the preliminary application satisfies the requirement as the plans contain a vicinity map.

25. The Board finds that the preliminary application satisfies the requirement as the plans show the entire parcel and road.

B. Waivers of the dimensional requirements for the development, subject to appropriate conditions, may be granted by the Board per Planned Residential Development regulations. The Board grants approval to the following waivers as allowed under the planned residential development scheme as they will not adversely affect public health, safety, or general welfare:

1. Dimensional Requirements

   a. Lot 1: 20-foot waiver for the front lot line setback for the building envelope (The building envelope will be 55 feet from the centerline of River Road)

   A waiver for the front lot line setback for the proposed pergola was submitted, however the Board finds that additional information on the setbacks, including a site plan, is required.

   b. Lot 2: 40-foot waiver for the front lot line setback for the building envelope
   15-foot waiver for both side lot line setbacks for the building envelope
   15-foot waiver for the rear lot line setback for the building envelope
   129-foot waiver for the frontage requirement

   The waivers for Lot 2 are conditioned on obtaining approval from the Jericho-Underhill Water District for access over their existing drive.

2. A waiver request was submitted for the current home occupation. The Board finds that they cannot provide a decision on this request as this was not contained in the original application nor was it contained in the warning and notice for this hearing. The Board recognizes that Zoning Administrator Kari Papelbon will assist the Guays with this situation.

C. Planning Standards: Evaluation Considerations—Provisional Findings

1. Suitability for Development: The Board finds that the land is suitable for development according to the submitted plans Sheets 1-3 (Sheet 1 last revised 5-18-09, Sheets 2-3 dated 4-30-09), prepared by David Fuqua of Ridge Consulting Engineers. The land is served by the Jericho-Underhill Water District. Adequate soils have been found by Ridge Consulting Engineers for a leachfield for Lot 2 outside of the water recharge area, floodplain, and the wetland identified approximately 20 feet from the Brown's River by Alan Quackenbush of the Vermont Wetlands Office. The septic system on Lot 1 was designed by Trudell Consulting Engineers and issued a state septic permit. A study of the water recharge area by Ken Bannister of Bannister Research and Consulting has also been submitted and shows adequate protection of the recharge area through natural features and barriers.

2. Preservation and Protection of Existing Features: The land is currently used as farmland and the intent of the proposed PRD is to keep as much of the land for continued farming purposes as possible. A conventional subdivision would remove 5 acres from the arable land and would not allow for the continued and viable use of the land for farming purposes. The plans have configured building envelopes in ways to preserve open space, the river habitat, and the wetland. Where setbacks could not be met and where preservation of the land for farming is proposed, waiver requests have been submitted.

3. Recreation: Undeveloped portions of the property will provide sufficient open space for recreation; however, no public recreation spaces are proposed.

4. Runoff and Erosion Control: Less than 1 acre of soil disturbance and less than 1 acre of impervious surface is proposed in this development, which negates the need for a Construction General Permit. Due to the relatively flat nature of the ground (approximately 3% slope or less) and the types of soils, runoff is anticipated to be at a minimum. The erosion control measures contained on Sheet 3 of the submitted plans call for the use of the VT DEC's "Low-Risk Site Handbook for Erosion Prevention and Sediment Control."

5. Compliance with the Town Plan, Ordinances, and By-Laws: The proposed development complies with the planned residential development regulations found in the Town of Underhill Zoning Regulations, and the submitted planned residential development plans achieve the goals of the Town Plan by protecting the environment through the use of proper erosion prevention and sediment control measures, encouraging the continued use of the land as farmland, and preserving local natural resources by siting development outside of town watercourse buffer zones and protecting open space.

6. Flood Plain: While there is an area of the property in the FEMA-mapped floodplain, it is located in the designated open space area. All proposed buildings and building envelopes are located well-outside of the floodplain area.

7. Compatibility with Surrounding Properties: The property is at the intersection of the Residential, Rural Residential, and Water Conservation zoning districts. The proposed 0.5-acre lot is closest to the Residential district, where lot sizes and setbacks are reduced. Neighboring properties along River Road contain existing residences and the proposed development is in keeping with the pattern of development that has taken place in this area.

8. Suitability for Density: The submitted plans demonstrate that the proposed development is suitable for the proposed density as the parcel in its current state contains over 10 acres in a 5-acre district.

9. Pedestrian Traffic: River Road is sufficiently wide enough to accommodate diverse forms of transportation including automobile, pedestrian, and bicycle traffic. The Board finds that the addition of two new house sites to the area will not have the effect of preventing access to points of destination and will not remove the convenience of access to River Road or properties in the area. Only one new curb cut is proposed to serve Lot 1. Lot 2 will be served by the existing drive owned by the Jericho-Underhill Water District.

10. Provision of Municipal and Governmental Services: The proposed development is within an existing developed portion of the town. Governmental services, including fire protection and police services, do not have to be extended to serve the development. Similarly, school bus service is available without the need to modify or extend bus routes. Letters from the Underhill Jericho Fire Department and Chittenden East Supervisory Union regarding their abilities to provide services to the proposed development state that they will be able to provide services for the proposed development.

11. Water Availability: The lots will be served by Jericho-Underhill Water District. Approved allocations for Lots 1 and 2, dated 4-6-09 and 4-2-07, have been submitted.

12. Highway Congestion: River Road currently serves other residences in the area. Each new residence is expected to generate 10 vehicle trip ends per day. As the new lots are at the edge of Town, traffic is not expected to significantly increase on River Road beyond current levels.

13. Visual, Air, Noise, Water Pollution: River Road is the main corridor into Underhill Center from Jericho and Underhill Flats. Houses along the road are typical and two new dwellings are in keeping with the pattern of development for this area. Air pollution, including dust from drives and exhaust from heating sources, will not exceed levels generated by typical single-family residences. Similarly, the noise generated by the proposed development will not exceed noise levels generated by single-family residences after construction has ended. Water pollution concerns are addressed by erosion control and wastewater disposal plans, as well as the water recharge area study by Ken Bannister of Bannister Research and Consulting.

III. DECISION AND ADDITIONAL FINAL HEARING REQUIREMENTS

Based upon the findings above, and subject to any of the additional final hearing requirements and conditions set forth below, the Development Review Board grants provisional preliminary approval for the subdivision as presented at the preliminary hearing. The Board recommends approval to the Selectboard of the approved waivers.

Final Hearing Requirements in Addition to the Subdivision Requirements on Pages 9-11 of the Underhill Subdivision Regulations:

1. A copy of the State Wastewater System and Potable Water Supply Permit for each lot shall be submitted to the Zoning Administrator prior to the final hearing.

2. The wetland at the rear of Lot 1 identified in the field on May 18, 2009 by Vermont Wetland Ecologist Alan Quackenbush shall be shown on the final site plan and survey.

3. A draft easement deed including any maintenance agreements and deed language to the lots stating that they cannot be further subdivided shall be submitted prior to scheduling the final hearing.

4. All existing culverts on River Road shall be shown on the final plans.

5. Details for the driveway cross-sections shall be submitted with the final plans.

6. A site plan and setbacks for the pergola shall be submitted with the final plans.

7. The final plans shall contain a note for Lot 2 stating that the word "duplex" is for State septic permitting purposes only.

8. The new property codes shall be shown on the final plans and survey. The Zoning Administrator shall provide these codes prior to scheduling the final hearing.

9. The final engineering drawing must be tied to the final survey for final subdivision approval. Approval blocks for Town Clerk recording and Development Review Board Approval shall be shown on the final survey. Revised copies of the engineering drawings and survey shall be submitted to the Zoning Administrator prior to scheduling the final hearing.

Dated at Underhill, Vermont this 15th day of June, 2009.

Scott Tobin

Scott Tobin, Chair, Development Review Board