TOWN OF UNDERHILL
APPLICATION OF BRIAN AND JANICE CHRISTIE
FOR A 2-LOT SUBDIVISION
PRELIMINARY FINDINGS AND DECISION

In re: Brian and Janice Christie
50 Mullen Road
Underhill, VT 05489

Docket No. DRB-09-01: Christie

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Brian and Janice Christie's preliminary hearing application for a 2-Lot subdivision of property located at 50 Mullen Road in Underhill, VT.

1. On May 11, 2009, Gunner McCain filed an application for subdivision on behalf of Brian and Janice Christie for the project. A copy of the application and site plan are available at the Underhill Town Hall. A sketch plan hearing was held on May 23, 2009 and accepted.

2. On May 21, 2009, notice of a public site visit and hearing was published in the Mountain Gazette.

3. On May 21, 2009, a copy of the notice of a public site visit and hearing was mailed to the applicants, Brian and Janice Christie, 50 Mullen Road, Underhill, VT 05489. 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. Clark, P.O. Box 7, Underhill, VT 05489
   b. Clark, 31 Clark Rd., Underhill, VT 05489
   c. Kelliher, 37 Mullen Rd., Underhill, VT 05489
   d. Tatro, 535 Main St., Dalton, MA 01226
   e. Weber, P.O. Box 25, Underhill, VT 05489
   f. Lang, 238 River Rd., Underhill, VT 05489

   A copy of the notice was also emailed to Gunner McCain, McCain Consulting at gmccain@mccainconsulting.com.

4. By May 21, 2009, notice of the site visit and the preliminary hearing on the proposed Tatro preliminary subdivision were posted at the following places:

   a. The property to be developed, MU050;
   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 held at the property on June 15, 2009 at 6:00 PM. Present the site visit were:

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

    Zoning Administrator Kari Papelbon, Gunner McCain (consultant for Brian Christie), Brian and Janice Christie, and Mrs. Weber also attended the site visit.

6. The preliminary hearing was scheduled to begin immediately following the preceding hearing on June 15, 2009.

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

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

    Kari Papelbon, Zoning Administrator, Gunner McCain, and Brian Christie 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:

    - Gunner McCain, McCain Consulting, 93 South Main Street, Waterbury, VT 05676
    - Brian Christie, 50 Mullen 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, Brian and Janice Christie, and Gunner McCain of McCain Consulting;
    b. Brian and Janice Christie's Application for Subdivision: Preliminary;
    c. A copy of the completed Subdivision Checklist: Preliminary;
    d. Plans prepared by Gunner McCain of McCain Consulting for Brian and Janice Christie (Sheets 1-2 of 2, revised 5-6-09);

e. A copy of the survey by Keith Van Iderstine for Brian and Janice Christie (dated 5-11-09);
f. A copy of the Amended Construction General Permit and Authorization of Notice of Intent from Heather Mack (dated 3-31-09);
g. A copy of the draft Private Roadway Agreement (dated 4-13-09);
h. A copy of the School Impact Questionnaire (dated 4-15-09);
i. A copy of the letter from Underhill-Jericho Fire Department Duty Officer Harry Schoppmann (dated 5-11-09);
j. A copy of the letter from Wastewater Management Division Regional Engineer Ernest Christianson (dated 5-28-09);
k. A copy of the Attorney's Report and Opinion on Title;
l. A copy of the draft Proposed Findings of Fact;
m. A copy of the hearing notice published in the Mountain Gazette (dated 5-21-09);
n. A copy of the parcel map for MU050;
o. A copy of the FEMA Flood Insurance Rate Map for the property.

These exhibits are available in the Christie, MU050, 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 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 preliminary application satisfies the requirement as the acreage, property lines, existing easements, existing buildings, and brook are shown on the plans.

4. The Board finds that the preliminary application satisfies the requirement as the brook and Limited Cut Zone are depicted on the plans.

5. The Board finds that the preliminary application satisfies the requirement as the names of adjacent landowners are shown on the plans. The Board finds that a typographical error on the survey does not constitute a material error that would prevent the application from

receiving preliminary approval. The parcel shown as MO049 on the survey shall be revised to the correct parcel code of MU049.

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

7. The Board finds that the preliminary application satisfies the requirement as the location and size of septic systems, wells, and proposed culverts are shown on the plans.

8. The Board finds that the preliminary application satisfies the requirement as the location, names, and widths of all easements and rights-of-ways 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 the preliminary application satisfies the requirement as a typical cross-section for the new driveway is contained in the plans.

11. The Board finds that the preliminary application satisfies the requirement as the date, north point and orientation, scale, and legend are contained on the plans.

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

13. The Board finds that the preliminary application satisfies the requirement as drilled wells are contained on the plans.

14. The Board finds that the preliminary application satisfies the requirement as septic system locations and details are contained in the plans. The Applicants' consultant has indicated that the system will comply with all State requirements and the letter dated 5-28-09.

15. The Board finds that the preliminary application satisfies the requirement as details for stone-lined ditches, culvert headwalls, grass channels, and silt fencing are contained in the plans. An Amended Construction General Permit and Authorization of Notice of Intent from the State have also been submitted. Per request of the Town Road Foreman, the stone-lined ditch detail shall be revised to include ditches at grades 5% and above. This is not an error and the Applicants' consultant has indicated that the final plans will comply with Town Road Foreman requests.

16. The Board finds that the preliminary application satisfies the requirement as the plans contain details for the culvert and culvert headwall. Per request of the Town Road Foreman, the culvert headwall detail shall be revised to include 5" – 7" stone. This is not an error and the Applicants' consultant has indicated that the final plans will comply with Town Road Foreman requests. Details regarding the existing bridge approved in the previous subdivision in 2006 shall be submitted with the final plans. The DRB will make recommendations regarding the driveway and bridge to the Selectboard for their approval.

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

18. The Board finds that the site visit conducted June 15, 2009 satisfied the requirement.

19. The Board finds that this requirement is not applicable as no land is to be dedicated to public use.

20. The Board finds that the preliminary application satisfies the requirement as the shared right-of-way meets the required width in the road policy; that there are no parks or playgrounds for public use proposed; and that the application complies with required setbacks to protect the brook, that a limited cut zone will remain in place to protect natural features and neighbor views, and that the subdivision conforms to the subdivision and zoning regulations.

21. The Board finds that the preliminary application satisfies the requirement as proposed buildings are single-family homes and residential outbuildings. No proposed buildings are dedicated for public use.

22. The Board finds that the preliminary application satisfies the requirement as proposed overhead power line locations are contained in the plans.

23. The Board finds that this requirement is not applicable as neither waivers nor variances have been requested.

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. Planning Standards: Evaluation Considerations—Provisional Findings

1. Suitability for Development: The Board finds that the land is suitable for development as evidenced by the submitted plans, Sheets 1 and 2 of 2, prepared by McCain Consulting, Inc. The area to be developed does not lie in a flood plain and does not contain steep slopes, rock formations, adverse earth formations, or other features that will impair the health, safety, and general welfare of present or future inhabitants of the subdivision or its surrounding areas.

2. Preservation and Protection of Existing Features: A buffer will be preserved along the brook on the site. No development will occur within 100 feet of this feature. There are no mapped deer wintering areas or other critical wildlife habitats in the vicinity of the proposed development as evidenced by the previously submitted GIS map depicting nearby deer wintering areas.

3. Recreation: The undeveloped portions of the lots will provide sufficient open space for recreational use by the lot owners.

4. Runoff and Erosion Control: The total new disturbed area for the project will be approximately 1.48 acres. Coverage under the Construction General Permit (CGP) has been obtained.

5. Compliance with the Town Plan, Ordinances, and By-Laws: As evidenced by the plans submitted, the project conforms to the Zoning Regulations, which indicates compliance with the Town Plan as well.

6. Flood Plain: As shown on the attached Flood Insurance Rate Map (FIRM), Panel 5000420010B, the project parcel does not lie in a flood plain.

7. Compatibility with Surrounding Properties: The neighboring properties along Mullen Road contain existing residences. The proposed subdivision is in keeping with the pattern of development that has taken place in this area.

8. Suitability for Density: The plans which have been submitted with the subdivision application demonstrate that the site is suitable for the proposed density.

9. Pedestrian Traffic: Mullen Road is sufficiently wide enough to accommodate diverse forms or transportation including automobile, pedestrian, and bicycle traffic.

10. Provision of Municipal and Governmental Services: Since 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 project. Similarly, school bus service is available without the need to modify or extend bus routes.

11. Water Availability: The new lot will be served by an individual, on-site drilled well. The addition of one new house in the area will not adversely affect water availability.

12. Highway Congestion: Mullen Road currently serves other residences. The new residence is expected to generate 10 vehicle trip ends per day.

13. Visual, Air, Noise, Water Pollution: The proposed residence will be substantially screened from travelers on Mullen Road. 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. Water pollution concerns are addressed by erosion control and wastewater disposal plans.

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.

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 shall be submitted to the Zoning Administrator prior to scheduling the final hearing.

2. New parcel codes will be provided by the Zoning Administrator prior to scheduling the final hearing. The new parcel codes for the lots shall appear on the final plans.

3. Details for the bridge from the previously-approved Tatro subdivision in 2006 shall be submitted to the Zoning Administrator prior to scheduling the final hearing.

4. The survey shall be revised to include the correct parcel code for the Lang lot, MU049.

5. The amended stone size of 5"- 7" for the culvert headwall detail, and a revised detail requiring stone-lined ditches for grades 5% and above per the Town Road Foreman's requests shall be shown on the final plans.

6. All draft easement deeds/revisions to the draft maintenance agreement shall be submitted to the Zoning Administrator prior to scheduling the final hearing.

Dated at Underhill, Vermont this 29th day of June, 2009.

Scott Tobin

Scott Tobin, Chair, Development Review Board