TOWN OF UNDERHILL
APPLICATION OF EDWIN T. MOORE, II AND ELIZABETH W. MOORE, AND
EDWIN T. MOORE, III AND DEBORAH A. MOORE
FOR A 3-LOT PLANNED RESIDENTIAL DEVELOPMENT AND
BOUNDARY LINE ADJUSTMENT
FINAL FINDINGS AND DECISION

In re: Edwin T. Moore, II and Elizabeth W. Moore
118 Stevensville Road / P.O. Box 63
Underhill (Center), VT

Edwin T. Moore, III and Deborah A. Moore
118 Stevensville Road / P.O. Box 131
Underhill (Center), VT

Docket No. DRB-10-02: Moore

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Edwin T. Moore, II and Elizabeth W. Moore's and Edwin T. Moore, III and Deborah A. Moore's final hearing application for a boundary line adjustment and 3-lot planned residential development of property located at 118 Stevensville Road in Underhill, VT.

1. On February 24, 2010, Elizabeth W. Moore filed an application for subdivision for the project on behalf of Edwin T. Moore, II and Elizabeth W. Moore and Edwin T. Moore, III and Deborah A. Moore. A copy of the application and supporting materials are available at the Underhill Town Hall. A preliminary hearing was held on March 15, 2010 and approved.

2. On April 26, 2010 a copy of the notice of a final public hearing was mailed to the applicants, Edwin T. Moore, II and Elizabeth W. Moore, P.O. Box 63, Underhill Center, VT 05490 and Edwin T. Moore, III and Deborah A. Moore, P.O. Box 131, Underhill Center, VT 05490, and via Certified Mail to the following owners of properties adjoining the property subject to the application:

   a. Moore, P.O. Box 24, Underhill Center, VT 05490
   b. Abbott, 119 Stevensville Rd., Underhill, VT 05489
   c. Duffek, Rosen, Wozencraft, TTEEs, 607 Wake Robin Dr., Shelburne, VT 05482
   d. McClellan, 126 Stevensville Rd., Underhill, VT 05489
   e. Kusserow, P.O. Box 125, Underhill Center, VT 05490
   f. Lamphere, 178 Beartown Rd., Underhill, VT 05489
   g. Pedrotty, 177 Beartown Rd., Underhill, VT 05489

   A copy of the notice was also emailed to Justin Willis, Willis Design Associates, Inc. at willisdesignvt@comcast.net and to Brad Holden at bholdenvt@gmail.com.

3. On April 28, 2010, notice of a final public hearing was published in *Seven Days*.

4. By May 1, 2010, notice of the site visit and the preliminary hearing on the proposed Moore subdivision were posted at the following places:

    a. The property to be developed, ST118;
    b. The Underhill Town Clerk's office;
    c. The Underhill Country Store;
    d. Jacobs IGA;
    e. Wells Corner Market;
    f. Jacobs IGA;
    g. The Town of Underhill website.

5. The final hearing was scheduled to be the last of three hearings scheduled for May 17, 2010. The first hearing was scheduled to begin at 7:00 PM.

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

    - Will Towle (recused)
    - Matt Chapek (recused)
    - Penny Miller
    - Deb Shannon
    - Charlie Van Winkle (recused)
    - Peter Seybolt
    - Stan Hamlet
    - Scott Tobin, Chair

    Kari Papelbon, Zoning Administrator, Justin Willis, Brad Holden, Edwin T. Moore, II and Elizabeth W. Moore, and Edwin T. Moore, III (Tom) also attended the meeting.

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:

    - Edwin T. Moore, II, P.O. Box 63, Underhill Center, VT 05490

    Consultants who spoke on behalf of the Applicants were:

    - Justin Willis, Willis Design Associates, Inc., P.O. Box 98, Richmond, VT 05477
    - Brad Holden, 60 Covey Rd., Underhill, VT 05489

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, Edwin T. Moore, II and Elizabeth W. Moore, Edwin T. Moore, III and Deborah A. Moore, and Justin Willis of Willis Design Associates, Inc.;
    b. A copy of Edwin T. Moore, II and Elizabeth W. Moore's Application for Subdivision: Final (dated 4-19-10);
    c. A copy of the completed Subdivision Checklist: Final Hearing;

d. A copy of the plans prepared by Justin Willis of Willis Design Assoc., Inc. for Moore (Sheets S1 and D2 revised 3-22-10 and Sheet D2 dated 2-25-10);
e. A copy of the Final Plat prepared by Bradford Holden for Edwin T. & Elizabeth W. Moore, II and Edwin T. and Deborah Anne Moore, III (dated March 22, 2010);
f. A copy of the B-71 Standard from the Vermont Agency of Transportation;
g. A copy of the letter from Ernestine Chevrier of the VT Wastewater Management Division (dated 3-30-10);
h. A copy of the Wastewater System and Potable Water Supply Permit (dated 4-20-10);
i. A copy of the Waiver Request List;
j. A copy of the preliminary decision.

These exhibits are available in the Moore, ST118, PRD 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

1. The applicants seek a permit to subdivide land. The subject property is a ±16.3-acre parcel located at 118 Stevensville Road in Underhill, VT (ST118).

2. The applicants also seek a permit to adjust a common boundary line between their property at 118 Stevensville Road and Stephen McClellan's property at 126 Stevensville Road.

3. The properties at 118 Stevensville Road and 126 Stevensville Road are located in the Water Conservation zoning district as defined in §VII of the Underhill Zoning Regulations.

4. Subdivision and boundary line adjustment approval is requested for the project pursuant to review under the following sections of the Town of Underhill Zoning Regulations and Subdivision Regulations:

   - §III(R): Planned Residential Development
   - Final plat submission requirements, pages 9-11, "Final Plat for Subdivisions"
   - Planning Standards, pages 11-12, "Evaluation Considerations"
   - §VII (D): Water Conservation District, "Lot Area, Dimensions and Coverage"

4. §III(R) of the Underhill Zoning Regulations provides for the following: In accordance with the provisions of 24 VSA, Planned Residential Development may be permitted. The purpose is to enable and encourage flexibility of design and development of land based on the unique characteristics of a particular site. The advantage to the community is that the goal of promoting the most appropriate use of land consistent with the Underhill Town Plan and the Underhill Capital plan can better be met. It will help to preserve and maintain agricultural and forest land, wetlands or scenic views and to facilitate the adequate and the economical provision of roads and utility. Accordingly, the [DRB] may modify the area and dimensional

requirements of the applicable zoning regulations simultaneously with the approval of a subdivision plat. Planned Residential Development proposals will be reviewed as subdivisions under the Underhill Subdivision Regulations.

(1) Application requirements – An application for a planned residential development approval shall include a site plan showing the location, height and spacing of buildings, open spaces and their landscaping, roads, driveways and off-road parking, and all other physical features of the proposed design. In addition, the application shall be accompanied by a statement setting forth the nature of all proposed modifications, changes or supplementation of the area and dimensional requirements of the existing zoning regulations.

(2) Design standards – All planned residential development proposals shall be evaluated according to the following standards:

a. The permitted number of dwellings shall in no case exceed the number which would be permitted, in the [DRB]'s judgment, if the land were subdivided into lots in conformance with the zoning regulations applicable to the designated district. One-family, two-family, three-family or four-family construction may be permitted in the area serviced by the Underhill Jericho water district and located in the residential district at the discretion of the [DRB], while one family construction is permitted in the other districts.

b. The proposed Planned Residential Development must be an effective and unified treatment of the development possibilities on the project site, and the proposed development plan must make appropriate provisions for the preservation of streams and streambanks, steep slopes, wet areas, soils unsuitable for development, forested areas and unique natural and man-made features.

c. The proposed Planned Residential Development must be consistent with the Town's Comprehensive Plan and all applicable by-laws.

d. The proposed Planned Residential Development must be consistent with all of the evaluation standards set forth in the Town's Subdivision Regulations.

e. The proposed Planned Residential Development must provide for the preservation of open space.

f. Open space or common land will be in a location or locations, size and shape approved by the [DRB], and will be protected by appropriate legal devices to insure the continued use of such lands for the purposes of agriculture, forestry, recreation, park or conservation. Such mechanisms may include, but will not be limited to, dedication of restrictive covenants or other appropriate grants or restrictions approved by the [DRB] after consultation with the Town Attorney.

g. All lots created under these rules may not be subdivided further in the future. This restriction will be attached to the deed and filed in the town records.

h. The proposed Residential Development will provide for safe and efficient pedestrian and vehicular circulation, parking and service areas.

i. The proposed Planned Residential Development will safeguard the value and appropriate use of adjacent properties.

j. The proposed Planned Residential Development will include access from existing public highways and will not cause undue congestion or interference with normal traffic flow.

k. The applicant must submit to the legislative body a complete list of all waivers from the Zoning and Subdivision Regulations for review and comment before a final plat approval is granted. Waivers shall include any modifications to the requirements of any by-law, regulation or town policy, excluding modifications made to lot area or dimensional requirements.

5. Application Submission Requirements, Final Plat for Subdivisions – The final Subdivision Plat shall consist of one or more sheets of drawings which conform to the following requirements: One copy shall be on mylar clearly and legibly drawn, and the size of the sheets shall be either 18" X 24" or a multiple thereof. Four paper copies shall complete the submission. Such sheets shall have a margin of 2" outside of the borderlines on the left side for binding and a 1" margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by all appropriate agencies. The final plat for a subdivision shall conform in all respects to the preliminary plat as approved by the [DRB]. One such drawing shall be a survey of the affected property, drawn to meet the requirement for plat plans filed with the Town Clerk (Title 27, V.S.A., Chapter 117). The final plat shall be drawn to a scale of not more than two hundred (200) feet to the inch, and shall show:

a. Proposed subdivision name or identifying title, the parcel code of the original lot, the name of the municipality, the name and address of the record owner and sub divider, the name, license number and seal of the licensed land surveyor and/or professional engineer, the boundaries of the subdivision and its general location in relation to existing roads or other landmarks and scale, date, true north point, and legend.

b. Road names and lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.

c. Sufficient data acceptable to the [DRB] to determine readily the location, bearing and length of every road line, lot line, boundary line and to reproduce such lines upon the ground. When practicable these should be tied to reference points previously established by a public authority.

d. The length of all straight lines, the deflection angles, radii, length of curves, tangent distances and bearings for each road.

e. By proper designation on such Plat, all public open space for which offers of dedication are made by the sub divider and those spaces title to which is reserved by the sub divider.

f. Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order.

g. The location of all of the improvements referred to in Article VIII and in addition thereto the location of all utility poles, sewage disposal systems, and rough grading and other devices and methods of draining the area within the subdivision.

h. The location and results of all percolation tests for each lot of the subdivision, the location of all proposed sanitary sewage systems, and a statement that all such systems will be designed and constructed in conformance with the Sewage Ordinance for the Town of Underhill, as well as to applicable state regulations and standards.

i. The location of all existing and proposed sources of potable water, along with evidence that such will not contaminated by the proposed sewage systems.

j. Monuments - Monuments shall be set at all R.O.W. intersections, and at all points of curvance (P.C.), points of tangency (P.T.), on both sides of the right-of-way and any other critical points in the road lines as will enable a land surveyor to correctly stake out any lot in the subdivision. In addition, monuments will be set on all corners of the boundary. Each monument shall have identification on the top, so that the marked center shall be the point of reference. The tops of such monuments shall project above the surrounding ground surface at least four (4) inches. The monuments shall be set in place after all other road improvements are completed.

k. There shall be submitted to the [DRB] with the final plat the following supporting documents:

   i. A certificate from an engineer or other consultant approved by the Town as to the satisfactory completion of all improvements required by the [DRB], or, in lieu thereof, a performance bond to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the Board of Selectmen that it is satisfied either with the bonding or surety company, or with security furnished by the sub divider.

   ii. The sub divider shall provide letters from the Chittenden East School District Superintendent and the Underhill-Jericho Fire Department, addressing the impact of the proposed subdivision under criterion (10) of Section 600.

   iii. For lots less than 10 acres in size, the applicant must provide a subdivision permit from the Vermont Agency of Environmental Conservation, Department of Water Resources.

   iv. The sub divider shall provide written acknowledgement from the Selectmen that all plans for road construction have been reviewed by the Selectmen and are in compliance with the road policy for the Town of Underhill.

   v. Any other documents required by the [DRB] as a result of preliminary plat approval.

6. Planning Standards, "Evaluation Considerations"

   a. Whether land is unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas.

   b. Whether the proposal includes due regard for the preservation and protection of existing features, trees, scenic points, brooks, streams, wetlands, rock outcroppings, water bodies, deer yards and other wildlife habitat, and other natural and historical resources.

c. Whether the proposal includes sufficient open space for active and passive recreation.

d. Whether the proposal includes adequate provision for the control of runoff and erosion during and after construction.

e. Whether the proposed development is in compliance with the Comprehensive Plan, Zoning Ordinance and any other By-Laws then in effect.

f. Whether any portion of the proposed development is located in a flood plain.

g. Whether the proposed development is compatible with surrounding properties.

h. Whether the site is suitable for the proposed density.

i. Whether the proposal contains adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination and attractiveness.

j. Whether the proposed development when viewed in the context of other developments in the town, will place an unreasonable burden on the ability of local governmental units to provide municipal or governmental services and facilities.

k. Whether there is sufficient water available for the reasonably foreseeable needs of the proposed development.

l. Whether the proposed development will cause unreasonable highway congestion or unsafe conditions with respect to the use of roads and highways in the Town.

m. Whether the proposed development will cause a significant increase in visual, air, noise or water pollution.

7. §VII (D) of the Underhill Zoning Regulations applies to this application. The relevant section states: "No lot shall be less than 5 acres."

8. The property at 126 Stevensville Road will decrease in size by 10,500 square feet. The lot will retain more than 5 acres after the adjustment.

9. Wastewater permits are regulated by the State of Vermont. Section 1-304(a)(11)A of the Wastewater System and Potable Water Supply Rules states that "boundary line adjustments that affect either improved or unimproved lots [are exempt from permit requirements] provided that:

A. each lot being adjusted meets one or more of the following standards:

i. A lot being reduced in size is being reduced by no more than two percent;

ii. A lot is increased in size;

iii. The boundary line being adjusted is located, after adjustment, at least 500 feet from the footprint of the building or structure on an improved lot; or

iv. The Secretary, on a case by case basis, makes a written determination that the proposed adjustment will not have an adverse effect on any potable water supply or wastewater system on the affected lots.

B. a diagram is submitted to the Secretary that shows the existing and revised lot boundaries; and

C. a copy of the diagram and, if applicable the Secretary's written determination, is recorded and indexed in the land records for the municipality where the lots are located by the landowner."

III. DECISION AND ADDITIONAL FINAL HEARING REQUIREMENTS

Based upon the findings above, and subject to the conditions set forth below, the Development Review Board grants final approval for the PRD and boundary line adjustment application as presented at the final hearing.

§III(R) of the Underhill Zoning Regulations

(1) The Board finds that the application included a site plan showing the location, height and spacing of buildings, open spaces, driveways, well information, septic system location and design, and waiver requests. The open space extends to the rear property lines of all three lots, includes Clay Brook and 100 feet north of the northerly edge of Clay Brook, and shall not be disturbed. Waiver requests for the frontage and side setback requirement for the driveway on Lot 3, the setbacks for the existing buildings on Lots 1 and 2, and the driveway design have been submitted.

(2)

a. The Board finds that the proposed number of dwellings does not exceed the number which would be permitted if the land were subdivided into conforming lots. A density plan indicating the conformance with the district density requirements was reviewed and discussed at the sketch plan meeting. Two of the proposed lots are currently served by private drilled wells, and the proposed new lot will be served by a private drilled well.

b. The Board finds that the proposed plans show an effective unified treatment of the development possibilities as the plans provide the best available option for creating the most compliant subdivision with the existing conditions. The plans also preserve approximately 5.6 acres of land at the rear of all lots to include the brook, 100 feet northerly of the northern edge of the brook, streambanks, steep slopes, and other natural features on the property.

c. The Board finds that the proposed plans are consistent with the Town's Comprehensive Plan as it calls for preserving open space and natural features. Where the plans do not meet the requirements of the by-laws, waivers have been requested.

d. Please see the Planning Standards, "Evaluation Criteria" – Final Findings section.

e. The Board finds that the proposed plans preserve approximately 5.6 acres (1/3 of the property) for open space.

f. The Board approves the location, size, and shape of the open space as discussed at the preliminary hearing and shown on the plans—100 feet northerly of the northern edge of Clay Brook extending south to the southern boundary lines of

all three lots. The open space shall not be developed and this restriction shall appear in the deeds to the lots. The Board finds that this restriction will appear in the deeds to the lots and the applicants have been made aware of such requirement.

g. The Board finds that the proposed development will create 1 new residential lot for private use. The existing driveway serving Lots 1 and 2 has adequate sight distances and sufficient parking. The proposed driveway for Lot 3 has adequate site distances and parking will be on the lots themselves. One new curb cut onto Stevensville Road for Lot 3 will not hinder the use of Stevensville Road for pedestrians and vehicles.

h. The Board finds that the proposed plan is to divide the existing developed residential lot into 3 residential lots in a residential neighborhood. Surrounding properties are of similar sizes.

i. The Board finds that the proposed curb cut for the driveway to Lot 3 will be on Stevensville Road, an existing Town road. The additional lot is expected to generate traffic that is typical of residential lots in this neighborhood.

j. The Board finds that the following waiver requests have been submitted for the project:

   i. Lot 1 – 11 feet for the existing house to the proposed side lot line (setback is 39 feet)
   ii. Lot 2 – 59 feet for the exiting garage to the proposed side lot line (setback is 16 feet)
   iii. Lot 2 – 32 feet for the existing house ("Barse") to the proposed front lot line (setback is 43 feet)
   iv. Lot 2 – 10 feet for the existing shed ("Shed A") to the proposed side lot line (setback is 10 feet)
   v. Lot 3 – 220 feet for the frontage requirement (frontage is 80 feet)
   vi. Lot 3 – 20 feet for the existing curb cut (curb cut is on the proposed property line)

k. The Board finds that this restriction will appear in the deeds to the lots and the applicants have been made aware of such requirement.

Application Submission Requirements, Final Plat for Subdivisions, Underhill Subdivision Regulations

a. The Board finds that the application satisfies the requirement as all of the requirements are identified on the plans.

b. The Board finds that the application satisfies the requirement as Stevensville Road, the proposed lots, and easements are identified on the plans.

c. The Board finds that the application satisfies the requirement as the bearings and distances for the lot lines and frontage along Stevensville Road are shown on the plans.

d. The Board finds that this requirement is not applicable as there are no proposed roads.

e. The Board finds that this requirement is not applicable as there are no proposed open spaces to be dedicated for public use.

f. The Board finds that the application satisfies the requirement as all lots are labeled in conformance with Town standards.

g. The Board finds that the application satisfies the requirement as utilities, septic systems, grading standards, and a reference to the *Low Risk Site Handbook for Erosion Prevention and Sediment Control* are contained on the plans.

h. The Board finds that the application satisfies the requirement as the percolation test results and locations of septic systems are contained in the plans. A Wastewater System and Potable Water Supply Permit has been issued by the State.

i. The Board finds that the application satisfies the requirement as the wells are depicted on the plans. A Wastewater System and Potable Water Supply Permit has been issued by the State.

j. The Board finds that the application satisfies the requirement as monumentation locations and notes are contained on the survey. The Board recognizes that the requirement for concrete monuments is obsolete and accepts the proposal for iron rebar.

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

l. The Board finds that the applicants have submitted a request for a waiver of the bonding requirement, and letters from the school district and fire department have been received and indicate their ability to provide services to the subdivision. The Selectboard will review the plans and waiver request for the bonding requirement. The Board recognizes that the State no longer requires subdivision permits for the creation of lots less than 10 acres in size.

Planning Standards, "Evaluation Criteria" – Final Findings

a. The area of proposed development is located in a well-drained, flat to moderately sloping area. There are no evident natural features that pose a threat to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas.

b. The overall area affected by new development is limited to approximately ½ acre. Existing natural features include a steep embankment and a large brook. The building envelope is properly isolated from the bank and watercourse.

c. Approximately 5.6 acres of land will be protected as open space, which is sufficient for recreation activities.

d. Lot improvements are proposed on well-drained, flat to moderately sloping land. Although this site would be considered a low-risk site with respect to potential erosion, the prospective owner of the parcel and their contractor will follow basic erosion control measures during construction as outlined in the Vermont Dept. of Environmental Conservation *Low Risk Site Handbook for Erosion Prevention and Sediment Control.*

e. The proposed house lot is compatible with intended development in the area. Placement and use are consistent with development patterns in this area. The proposed house site complies with zoning bylaws, and the water supply/wastewater system complies with current town and state regulations. Where the project does not conform to the Underhill Zoning Regulations, waiver requests have been submitted.

f. No portion of the proposed development lies within a floodplain.

g. The surrounding use in the vicinity is comprised primarily of single-family homes. The proposed construction of a single-family home in this area is compatible with such development.

h. The proposed house is suitable for the proposed density. The proposed home will be approximately 200 feet from the nearest, existing home.

i. The area lacks pedestrian infrastructure such as sidewalks. The road is subject to light vehicular traffic. Such traffic is unlikely to hinder pedestrian use along the roadside.

j. The proximity of the proposed house to the town-maintained road will allow easy access for emergency vehicles. The school district indicates their ability to provide services to students generated by such development. The fire department has provided recommendations and a checklist of items concerning construction and development of the property, and has indicated their ability to provide services to the subdivision.

k. According to the Vermont ANR private well mapping site, the drilled well on John Moore's adjoining lot is 398 feet deep with a yield of 20 gallons per minute (GPM), and the drilled well serving Lot 2 is 252 feet deep with a yield of 12 GPM. Three other wells in the vicinity produce yields ranging from 4 to 8 GPM. This data suggests that the ability to obtain sufficient water from a drilled well in this area is good.

l. Construction of one single family home will not adversely affect existing traffic conditions with respect to the use of Stevensville Roads.

m. The proposed house will be well-screened by existing vegetation. Single-family homes customarily do not generate significant increases in noise or air pollution. Furthermore, the properly designed wastewater system will not contribute to water pollution.

§VII (D) of the Underhill Zoning Regulations

a. The Board finds that both lots will conform to zoning district requirements for lot size after the adjustment.

Vermont Wastewater System and Potable Water Supply Rules

a. The Board finds that the application meets at least one of the State's criteria for exemptions under § 1-304(a)(11)A of the Wastewater System and Potable Water Supply Rules.

The Development Review Board approves the final PRD and boundary line adjustment subject to the following conditions:

1. The following waivers are approved:

a. Lot 1 – 11 feet for the existing house to the proposed side lot line (setback is 39 feet)
b. Lot 2 – 59 feet for the exiting garage to the proposed side lot line (setback is 16 feet)
c. Lot 2 – 32 feet for the existing house ("Barse") to the proposed front lot line (setback is 43 feet)
d. Lot 2 – 10 feet for the existing shed ("Shed A") to the proposed side lot line (setback is 10 feet)
e. Lot 3 – 220 feet for the frontage requirement (frontage is 80 feet)
f. Lot 3 – 20 feet for the existing curb cut (curb cut is on the proposed property line)

2. 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. No lot in this subdivision shall be further subdivided. This language shall appear in any deed to the lots in this subdivision.

4. The shared driveway maintenance agreement shall be recorded in the Land Records. A reference to this agreement shall appear in the deeds to Lots 1 and 2.

5. All required State and local permits shall be recorded in the Land Records.

6. 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.

7. A copy of the engineer's letter to the State certifying that the septic system for Lot 3 has been installed per the approved plans shall be filed with the Zoning Administrator.

8. Prior to recording the final Mylars, the applicant shall submit a copy of the plat and Sheet 1 in digital format. The format of the digital information shall require approval of the Zoning Administrator.

9. Lots 2 and 3 shall have their 911 codes posted prior to issuance of any building permit (Lot 2: ST116, Lot 3: ST122).

10. All subdivision fees shall be paid in full to the Zoning Administrator prior to filing of the final plat.

11. Applicant shall obtain approval of the curb cut and driveway design, underground utilities, and waiver request for the bonding requirement from the Selectboard prior to filing the final plat.

The Board also approved the recommendation to the Selectboard for approval of the existing curb cut and driveway design for Lot 3, the underground utilities, and the waiver request of the bonding requirement with the following standard condition:

Upon completion of construction of the driveway to Lot 3, the designer/engineer must certify by letter to the Zoning Administrator that the driveway has been constructed as designed (per B-71 Standards and the Underhill Road Policy).

Dated at Underhill, Vermont this 28th day of May, 2010.

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. No local permits shall be issued until 6-27-10, when the 30-day appeal period has expired.