

TOWN OF UNDERHILL
APPLICATION OF PHIL JACOBS
FOR A 2-LOT SUBDIVISION
FINAL FINDINGS AND DECISION

In re: Phil Jacobs
73 Upper English Settlement Rd.
Underhill, VT 05489
(16 Harvest Run, Underhill, VT 05489)

Docket No. DRB-13-02: Jacobs

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Phil Jacobs' combined preliminary and final hearing application for a 2-lot subdivision of property located at 16 Harvest Run in Underhill, VT.

- A. On May 13, 2013, O'Leary-Burke Civil Associates, on behalf of Phil Jacobs, filed an application for subdivision for the project. A copy of the application materials and additional information are available at the Underhill Town Hall. A sketch plan meeting was held on February 4, 2013.

- B. On May 15, 2013, a copy of the notice of the combined preliminary and final hearing was mailed via Certified Mail to the Applicant, Phil Jacobs, 73 Upper English Settlement Rd., Underhill, VT 05489, and to the following owners of properties adjoining the property subject to the application:
 - 1. Jewell, P.O. Box 125, Underhill, VT 05489
 - 2. Williamson, P.O. Box 66, Underhill, VT 05489
 - 3. United Church of Underhill, P.O. Box 265, Underhill, VT 05489
 - 4. Brillhart, 16 Jacobs Hill, Underhill, VT 05489
 - 5. Eisenberg, 23 Park St., Underhill, VT 05489
 - 6. McCaulley, 424 VT Rte. 15, Underhill, VT 05489
 - 7. Morse, 18 Meadow Ln., Underhill, VT 05489
 - 8. Viau, 6 Harvest Run, Underhill, VT 05489
 - 9. Hunt, 159 Orr Rd., Jericho, VT 05465
 - 10. Bogaczyk, P.O. Box 416, Underhill, VT 05489
 - 11. Walsh, 4 Depot St., Underhill, VT 05489
 - 12. Richiede, P.O. Box 278, Underhill, VT 05489
 - 13. Gombrich, 6 Depot St., Underhill, VT 05489
 - 14. Covey, TTEEs, 14 Harvest Run, Underhill, VT 05489
 - 15. Clough, P.O. Box 112, Underhill, VT 05489
 - 16. Ferreira, P.O. Box 386, Underhill, VT 05489
 - 17. Decker, 408 VT Rte. 15, Underhill, VT 05489
 - 18. Jacobs, 40 Sugar Hill, Underhill, VT 05489
 - 19. Underhill Garage, Inc., P.O. Box 7, Underhill, VT 05489

20. Jurkiewicz/Salzer, 34 Sugar Hill, Underhill, VT 05489
21. UJFD, P.O. Box 150, Underhill, VT 05489
22. Manning, 421 VT Rte. 15, Underhill, VT 05489
23. Shannon, P.O. Box 202, Underhill, VT 05489
24. Bolio, 219 Stone Hill Rd., Williston, VT 05495
25. Tripp, 17 Meadow Ln., Underhill, VT 05489
26. Nichols, 4 Sugar Hill, Underhill, VT 05489
27. Nelson, 2 Sugar Hill, Underhill, VT 05489

A copy of the notice was also emailed to the Jericho Town Clerk, Jessica Alexander, on May 15, 2013.

- C. Notice of the combined preliminary and final hearing on the proposed Jacobs subdivision was posted at the following places:

1. The property to be developed, HR016 (5-15-13);
2. The Underhill Town Clerk's office (5-14-13) ;
3. The Underhill Country Store (5-14-13);
4. Wells Corner Market (5-14-13);
5. The Underhill Center Post Office (5-14-13);
6. The Underhill Flats Post Office (5-14-13);
7. Jacobs IGA (5-14-13);
8. Front Porch Forum (5-17-13);
9. The Town of Underhill website (5-15-13).

- D. On May 15, 2013, notice of a final hearing was published in *Seven Days*.

- E. The final hearing began at 7:32 PM on June 3, 2013.

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

- Will Towle, Acting/Vice Chairperson
- Matt Chapek
- Penny Miller
- Karen McKnight
- Shanie Bartlett
- Mark Hamelin

Zoning & Planning Administrator Kari Papelbon and Consultant Paul O'Leary also attended the hearing.

- G. At the outset of the hearing, Acting/Vice Chairperson Will Towle explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." Those who spoke at the hearing were:

- Phil Jacobs, 73 Upper English Settlement Rd., Underhill, VT 05489
(Applicant/Landowner, 16 Harvest Run)

Consultant(s) who spoke on behalf of the Applicant:

- Paul O'Leary, O'Leary-Burke Civil Associates, PLC, 1 Corporate Dr., Ste. 1, Essex Junction, VT 05452

H. During the course of the hearing the following exhibits were submitted to the Development Review Board:

1. A staff report sent by Zoning and Planning Administrator Kari Papelbon to the Development Review Board, the Applicant, the Underhill Selectboard, the Underhill Town Administrator; the Underhill Conservation Commission Chair, the Underhill-Jericho Fire Department, and the Jericho Underhill Water District;
2. Phil Jacobs' Application for Subdivision: Preliminary (dated 5-9-13);
3. A copy of the completed Subdivision Checklist: Preliminary Hearing;
4. Phil Jacobs' Application for Subdivision: Final (dated 5-9-13);
5. A copy of the completed Subdivision Checklist: Final Hearing;
6. Phil Jacobs' Application for Boundary Line Adjustment (dated 5-9-13);
7. A copy of the completed Boundary Line Adjustment Checklist;
8. A copy of the plans for Philip Jacobs, prepared by O'Leary-Burke Civil Associates, PLC (Sheets 1-3 dated 5-23-13);
9. A copy of the survey for Philip Jacobs, prepared by O'Leary-Burke Civil Associates, PLC (Sheet PL dated X/XX/2013);
10. A copy of the completed Subdivision Standards Findings Checklist;
11. A copy of the letter from Bryan Currier, EI of O'Leary-Burke Civil Associates, PLC, to ZA/PA Kari Papelbon (dated 5-10-13);
12. A copy of the email correspondence between ZA/PA Kari Papelbon and Bryan Currier of O'Leary-Burke Civil Associates, PLC (dated 5-15-13 and 5-23-13);
13. A copy of the draft Declaration of Covenants, Conditions and Restrictions for the Jacobs Subdivision;
14. A copy of the draft Jacobs Hill Road Maintenance Agreement;
15. A copy of the Lands of Philip Jacobs Waiver Request;
16. A copy of the letter from Bob and Kathie Covey (dated 5-23-13);
17. A copy of the hearing requirements letter from ZA/PA Papelbon to Phil Jacobs (dated 2-11-13);
18. A copy of the minutes from the February 4, 2013 sketch plan meeting;
19. A copy of the tax map for HR016;
20. A copy of the hearing notice published in *Seven Days* on May 15, 2013;
21. A copy of the email from Dori Richiedei (dated 6-3-13).

These exhibits are available in the Jacobs, HR016, subdivision file at the Underhill Zoning Office.

II. **FINDINGS**

Factual Findings

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:

- A. The Applicant seeks a permit to subdivide land. The subject property is a ±33.65-acre parcel located at 16 Harvest Run in Underhill, VT (HR016).
- B. The property is located in the Underhill Flats Village Residential and Rural Residential zoning districts as defined in Article II, Table 2.2 and Article II, Table 2.3 of the 2012 Unified Land Use and Development Regulations.
- C. Subdivision approval is requested for the project pursuant to review under the following sections of the 2012 Unified Land Use and Development Regulations:
 - Section 2.2(E) – Boundary Interpretations
 - Article II, Table 2.2 – Underhill Flats Village Residential District
 - Article II, Table 2.3 – Rural Residential District
 - Section 3.2 – Access
 - Section 3.7 – Lot, Yard & Setback Requirements
 - Section 3.13 – Parking, Loading & Service Areas
 - Section 3.18 – Steep Slopes
 - Section 3.19 – Surface Waters & Wetlands
 - Section 3.22 – Water Supply & Wastewater Systems
 - Section 7.5 – Subdivision Review, Preliminary Subdivision Review
 - Section 7.6 – Subdivision Review, Final Subdivision Review
 - Section 7.7 – Plat Recording Requirements
 - Article VIII – Subdivision Standards
- D. Testimony was received during the combined preliminary and final hearing from Phil Jacobs and his consultant, Paul O’Leary. Written testimony was received from Bob and Kathie Covey, and Dori Richiedi. Verbal comments were received during the sketch plan review from Jamie and Paula Eisenberg. See the meeting minutes for details.

III. CONCLUSIONS

Applicable Regulation Standards

Section 2.2(E) – Boundary Interpretations

The Board makes the following conclusions:

- A. The proposed subdivision is allowed in the Underhill Flats Village Center District and the Rural Residential District [Section 2.2(E)(1)].

- B. The minimum frontage requirement is not met [Section 2.2(E)(2)]. See Conclusions for Section 3.2 below.
- C. The minimum setback requirement is met with the revision to locate the entire proposed building envelope within the Underhill Flats Village Center District as discussed at the hearing [Section 2.2(E)(2)].

Article II, Table 2.2, Dimensional Standards

The Board makes the following conclusions:

- A. The proposed subdivision will result in two lots: Lot 7 will be ±4.42 acres and Lot 6 will be ±29.13 acres. Both lots meet the minimum lot size requirement [Table 2.2 (D)].
- B. Lot 6 contains no proposed development. Lot 7 is proposed to have 110 feet of frontage at the end of Jacobs Hill, which does not meet the minimum frontage requirement [Table 2.2(D)]. A waiver has been requested. See Conclusions for Section 3.7 and Section 8.6 below.
- C. The proposed building envelope for Lot 7 meets the setback requirements for principal and accessory structures [Section 2.2(D)].
- D. The proposed driveway for Lot 7 meets the 12-foot setback requirement to the property line [Section 2.2(D)].

Article II, Table 2.3, Dimensional Standards

The Board concludes that the application as discussed at the hearing will not include development in the Rural Residential zoning district as the proposed building envelope will be located entirely within the Underhill Flats Village Center District. The proposed acreage of ± 4.42 for Lot 7 meets minimum lot size requirement for the Rural Residential District as well as the minimum lot size requirement for the Underhill Flats Village Center District.

Section 3.2, Access

The Board makes the following conclusions:

- A. The proposed subdivision is accessed via the existing Harvest Run and Jacobs Hill private roads. A waiver of the frontage requirement for Lot 7 has been submitted [Section 3.2(A)]. See Conclusions for Section 3.7 and Section 8.6 below.
- B. No nonconforming lots are proposed or existing with the proposed subdivision [Section 3.2(B)].
- C. No additional access to town highways is proposed for the subdivision [Section 3.2(C) and Section 3.2(D)(1)].
- D. Lot 7 will be served by a driveway off the cul-de-sac at the end of Jacobs Hill. No additional curb cuts are proposed [Section 3.2(D)(2)].
- E. The width of the proposed access for Lot 7 does not extend along the length of the road frontage at the end of Jacobs Hill. No additional access is proposed for Lot 6 [Section 3.2(D)(5)].
- F. The proposed subdivision is allowed in both the Underhill Flats Village Center District and the Rural Residential District [Section 3.2(D)(6)].

- G. Lot 7 is not a corner or through lot. Lot 6 will remain open space at this time [Section 3.2(D)(7)].
- H. Lot 7 is the final lot at the end of a dead-end road (Jacobs Hill) and no access is proposed for Lot 6 [Section 3.2(D)(8)].
- I. The driveway for Lot 7 will be a minimum of 12 feet in width and not less than 12 feet from the side lot line [Section 3.2(D)(9)(a)]. See Decision and Conditions below.
- J. The driveway for Lot 7 will disturb an area between 15% and 20% slope. Testimony was provided at the hearing that the driveway follows natural contours to minimize the amount of disturbance to those slopes and to maintain a maximum grade of 11.5% [Section 3.2(D)(9)(c)].
- K. The driveway for Lot 7 includes a 10' x 30' emergency pull-off area and will have a "Y" turnaround at the end per discussion at the hearing [Section 3.2(D)(9)(d)]. See Decision and Conditions below.
- L. No upgrades to Jacobs Hill or Harvest Run are proposed with the subdivision [Section 3.2(D)(10)].
- M. No Class IV roads are proposed or affected by this subdivision [Section 3.2(D)(11)].

Section 3.7, Lot, Yard & Setback Requirements

The Board makes the following conclusions on the application as proposed:

- A. The proposal is for the creation of a ±4.42 acre lot (Lot 7) for residential use. The remaining land (Lot 6) will remain open at this time. No adaptive reuse, mixed use, planned unit development, or planned residential development is proposed with the application [Section 3.7(A)].
- B. All dimensional requirements, with the exception of frontage, are met as proposed at the hearing. A waiver of the frontage requirement was submitted [Section 3.7(B), (C)]. See Conclusions for Section 3.2 above and Section 8.6 below.
- C. Lot 6 is considered a corner lot such that it has potential frontage along VT Rte. 15, Harvest Run, and Jacobs Hill. No new development or accesses have been proposed with this application for Lot 6 [Section 3.7(D)].
- D. A waiver of the frontage requirement for Lot 7 was received as Lot 7 will have 110' along the cul-de-sac of Jacobs Hill rather than the required 150' of road frontage. Testimony was received by the project engineer during the hearing that the lot could be reconfigured to meet the frontage requirement [Section 3.7 (E)]. See Decision and Conditions below.

Section 3.13, Parking, Loading & Service Areas

The Board concludes that sufficient area exists in accordance with Section 3.7 for off-street parking to serve Lot 7.

Section 3.18, Steep Slopes

The Board makes the following conclusions:

- A. The proposal includes disturbance on areas of 15%-20% slope.
- B. The proposal does not qualify as an exempt activity per Section 3.18(B)(1).

- C. Plans include contour lines, details for the Lot 7 driveway and septic system, surface waters, existing vegetation and vegetation to remain on Lot 7, the Lot 7 building envelope, and a stormwater system. A 75-foot undisturbed buffer extends along the previously-subdivided lots, and testimony was provided at the hearing that the buffer will be extended to the location of the proposed boundary line adjustment with 22 Jacobs Hill [Section 3.18(C)]. See Decision and Conditions below.
- D. Testimony was provided at the hearing by the engineer that the proposal includes minimal disturbance to steep slopes by following natural contours to avoid large cuts and fills. Clearing limits are included on the plans. The proposed building envelope is sited on the flat portion of the proposed Lot 7. A State Stormwater Discharge Permit is required [Section 3.18(D)]. See Decision and Conditions below.
- E. Section 3.18(E) is not applicable as slopes in excess of 25% will not be disturbed as part of the proposed subdivision.
- F. Section 3.18(G) will be noted to the Applicant and to subsequent property owners.
- G. Per Section 3.18(B)(3), the Board waives all standards and requirements considered not applicable to the proposal.

Section 3.19, Surface Waters & Wetlands

The Board makes the following conclusions:

- A. No stream alterations or crossings are proposed in the application [Section 3.19(C)].
- B. Seasonal streams exist on the property. Proposed structures and impervious surfaces are located at least 25 feet from the seasonal streams [Section 3.19(D)]. See Decision and Conditions below.
- C. No new encroachments are proposed in the application [Section 3.19(E)].

Section 3.22, Water Supply & Wastewater Systems

The Board makes the following conclusions:

- A. The proposed septic system and well for Lot 7 are being reviewed by the Vermont Department of Environmental Conservation Wastewater Management Division. The Underhill-Jericho Water District does not provide service to the area of the proposed subdivision. Submission of an approved Wastewater System and Potable Water Supply Permit will be considered in fulfillment of this section [Sections 3.22 (A), (C)]. See Decision and Conditions below.
- B. Section 3.22(C)(3) is not applicable as no mapped Special Flood Hazard Areas exist in the vicinity of the proposed subdivision.
- C. Proposed septic areas are located outside of the minimum setback requirements from the seasonal streams [Section 3.22(C)(4)].
- D. Section 3.22(C)(5) is not applicable as the subdivision is not located within a designated source protection area.
- E. Section 3.22(D) is not applicable as no off-site septic systems are proposed.

Section 7.5, Subdivision Review, Preliminary Subdivision Review

The Board makes the following conclusions:

- A. The preliminary subdivision review requirement was not waived at the sketch plan review meeting on February 4, 2013 [Section 7.5(B)]. The Board allowed the combination of the preliminary subdivision review requirement and the final subdivision review requirement.
- B. The consultants submitted the materials in Section 7.5(C) on behalf of the Applicant.
- C. A hearing was held on June 3, 2013 in accordance with Section 7.5(D).
- D. This decision is written to fulfill the requirements of Section 7.5(E).

Section 7.6, Subdivision Review, Final Subdivision Review

The Board makes the following conclusions:

- A. At the sketch plan review meeting on February 4, 2013, the Board allowed the preliminary subdivision review requirement and the final subdivision review requirement to be combined.
- B. The submission requirements of Section 7.6(B) were fulfilled.
- C. A hearing was held on June 3, 2013 in accordance with Section 7.6(C).
- D. This decision is written in fulfillment of Section 7.6(D).

Section 7.7, Plat Recording Requirements

The requirements of Section 7.7 will be conditions of approval. See Decision and Conditions below.

Article VIII, Subdivision Standards

The Board makes the following conclusions:

- A. The Applicants provided responses to applicable sections of Article VIII on the Findings Checklist. The Board accepts these responses and makes supplemental findings where applicable [Section 8.1(C)].
- B. A written waiver request for the frontage requirement for Lot 7 was received. Testimony was provided by the engineer during the hearing that the property boundary for Lot 7 could be configured to meet the frontage requirement, but such configuration would result in an irregularly-shaped lot [Section 8.1(D)]. See Conclusions for Section 8.6 below.
- C. The land, as evidenced by the submission of plans compliant with all district dimensional standards with the exception of frontage, is suitable for the intended use and proposed density of development, and will not result in undue adverse impacts to public health and safety, the natural environment, neighboring properties and uses, or the character of the area with the submission of approved State permits for water, wastewater, and stormwater [Section 8.2(A)]. See Decision and Conditions below.
- D. The proposal is for the subdivision of one new residential lot of ± 4.42 acres out of ± 33.65 acres. No new roads or road extensions are proposed. The proposal is within the allowed density calculations for the land [Section 8.2(B)].
- E. The proposal includes the driveway that follows existing contours; stormwater infrastructure is incorporated for Lot 7 that will require a State permit; there are no wetlands on the property and seasonal stream buffers located on Lot 6 will be maintained; the lot is not in a Special Flood Hazard Area; the plans include limits of clearing; A 75-foot

undisturbed buffer extends along the previously-subdivided lots and continues to the location of the proposed boundary line adjustment with 22 Jacobs Hill; and there are no identified unique topographic or geologic features, primary agricultural soils, or historic sites and structures on the property [Section 8.2(C)].

- F. The proposed subdivision is located primarily within the Underhill Flats Village Center District, an area identified in the Town Plan as an anticipated area of growth within the traditional village [Section 8.2(D)].
- G. The proposed subdivision of Lot 7 is at the far northeastern corner of the property, located primarily in the Underhill Flats Village Center District. Lot 7 is served by an existing private road (Jacobs Hill) accessed off of another existing private road (Harvest Run). No formal pedestrian infrastructure exists in the area; however the private roads were constructed to sufficient widths for pedestrian use. No development is proposed in the small portion of the lot in the Rural Residential District [Section 8.2(E)].
- H. Lot 7 is configured for one residential building lot with a building envelope that complies with the setback requirements of the Underhill Flats Village Center District [Sections 8.2(F), (G)]. See Conclusions for Sections 8.2(B), (E), and Section 8.6 below.
- I. Survey monument locations are shown on the submitted survey [Section 8.2(H)].
- J. The proposal includes limits of clearing for Lot 7. A 75-foot undisturbed buffer extends along the previously-subdivided lots and continues to the location of the proposed boundary line adjustment with 22 Jacobs Hill [Section 8.2(I)].
- K. Both the proposed lot and building envelope are of sufficient size that the applicable provisions of Section 8.2(J) could be met by the purchaser of the lot.
- L. No comments have been received from the Underhill Conservation Commission regarding the proposed subdivision. No new development is proposed within the seasonal stream buffers. No wetlands, animal corridors, mapped Special Flood Hazard Areas, designated Source Protection Areas, or deer wintering areas are located on the parcel. Proposed lot lines and the path for the driveway on Lot 7 have been configured such that steep slopes will be minimally disturbed by following existing contours. There are no exposed rock outcrops, ledges, or visually prominent hilltops and ridgelines in the area of the proposed subdivision. The proposed subdivision does not prevent the continued use of the remaining land on Lot 6 for farmland or forestry activities [Section 8.3].
- M. Seasonal streams exist on Lot 6. No development is proposed on Lot 6 and development on Lot 7 is proposed outside of the buffer and setback requirements for the seasonal streams.
- N. Development has been proposed to minimize disturbance to steep slopes of 15-20% on Lot 7 in accordance with Section 8.3(C).
- O. Section 8.4(B) is not applicable as no common land is proposed.
- P. Stormwater infrastructure for Lot 7 is shown on the plans and requires a permit from the State [Section 8.5].
- Q. One driveway to serve Lot 7 is proposed off of the existing Jacobs Hill cul-de-sac. A waiver of the frontage requirement was requested. Per Section 8.6(A)(2)(c), the DRB accepts the proposed frontage of 110 feet of Lot 7 and waives the requirement for 150 feet as the driveway to serve Lot 7 is off of the cul-de-sac. See Conclusions for Section 3.2 above for additional details regarding the driveway.
- R. Sections 8.6(B) through (E) are not applicable as the application does not include the creation or extension of a private development road, no common or shared parking areas are proposed, no transit or bus stop shelters are required, and no pedestrian access has been proposed for the private development.

- S. The application meets the requirements of Section 8.7 as the proposed development is off of existing private roads, a private drilled well and septic system will serve Lot 7, and utilities will follow the proposed driveway. See Decision and Conditions below.
- T. Submission and recording of deeds incorporating all Homeowners Association, road maintenance, stormwater maintenance, and related requirements will be a condition of final approval [Section 8.8]. See Decision and Conditions below.
- U. Per Section 8.1(D), all Sections above considered not applicable are waived. The Board finds that waiving such requirements will not nullify the intent and purpose of the 2012 Unified Land Use and Development Regulations or the Underhill Town Plan, and such waivers are not requisite in the interest of the public health, safety and general welfare. Sufficient evidence, in the form of submitted testimony and plan layout, has been submitted to justify the waiver.

IV. DECISION AND CONDITIONS

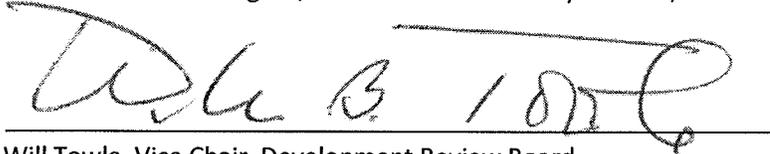
Based upon the findings above, the Development Review Board unanimously grants approval for the 2-lot subdivision as described at the hearing and in the submitted application documents, with the following conditions:

- A. The northern corner of the building envelope on Lot 7 shall be revised as discussed at the hearing to be located entirely within the Underhill Flats Village Center District. The driveway for Lot 7 shall be no closer to the side and rear lot lines than 12 feet [Section 2.2(E) and Table 2.2].
- B. The plans shall be revised to include a “Y” turnaround at the end of the driveway on Lot 7 [Section 3.2(D)(9)(d)].
- C. The waiver of the frontage requirement is approved as Lot 7 is proposed at the end of a cul-de-sac, and testimony received during the hearing indicates that frontage requirements can be met through a less desirable and irregular lot configuration [Sections 3.7(E)(3)(c) and 8.6(A)(2)(c)].
- D. The limits of clearing are approved as shown on the plans.
- E. The survey shall be revised to show the building envelope on Lot 7, all property codes for properties abutting 16 Harvest Run, the zoning district boundaries, and the 75-foot undisturbed buffer at the rear of Lots 1-5 of the previously-approved subdivision.
- F. The site plan shall be revised to show the seasonal streams on the property.
- G. The site plan and survey shall be revised to include the parcel code for Lot 7 (JB024), and the 75-foot buffer shall be shown through the proposed boundary line adjustment area to the shared property line with Lot 7 and 22 Jacobs Hill. The word “proposed” shall be removed from the site plan and survey for the limits of clearing, septic, well, and building envelope.
- H. The proposed boundary line adjustment with parcel JB022 is approved. Both property owners shall submit a signed application form to the Zoning and Planning Administrator prior to recording the final Mylars.
- I. A State Project Review Sheet shall be submitted to the Zoning and Planning Administrator prior to recording the final Mylars. Copies of all required State permits and approvals, including, but not limited to, Wastewater System and Potable Water Supply Permit and stormwater, shall be submitted to the Zoning and

Planning Administrator prior to issuance of a Certificate of Occupancy [Section 10.1(B)(4)].

- J. The Board is sensitive to and carefully considered the concerns of the neighbors with regard to water runoff; however, the Board also recognizes that the State will review the proposed stormwater infrastructure. A condition of this approval for the subdivision is that the stormwater infrastructure shall be maintained in accordance with the State-issued stormwater permit conditions. Local enforcement of this condition is approved.
- K. No transfer, sale or long-term lease of title to property as defined under 32 VSA §9601 of any portion of an existing lot; predevelopment site work; or issuance of zoning permits to develop a subdivided lot shall occur until final subdivision approval has been obtained from the DRB and the final Mylars have been recorded in the Underhill Land Records [Section 7.2(C)].
- L. The final plat and engineering site plan shall be submitted in accordance with Section 7.7.
- M. All subdivision and recording fees shall be paid in full prior to recording a subdivision plat in accordance with Section 7.7(B).
- N. The Homeowners Association, Road Maintenance Agreement, and all other legal documents and deeds shall be recorded in the Land Records in accordance with Section 8.8.

Dated at South Burlington, Vermont this 28th day of June , 2013.



Will Towle, Vice 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. Appeal period ends 7-28-13.