

TOWN OF UNDERHILL  
APPLICATION OF LUELLA LAMPHERE ESTATE (C/O PAT LAMPHERE)  
FOR A 2-LOT SUBDIVISION  
PRELIMINARY FINDINGS AND DECISION

In re: Lamphere  
116 Beartown Road (BE116)  
Underhill, VT 05489

TOWN CLERK'S OFFICE  
Received Mar 09, 2016 11:45A  
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ATTEST: Sherril Morin, Town Clerk

Docket No. DRB 15-05

**I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns lands owned by the Luella Lamphere Estate (c/o Pat Lamphere), and Pat Lamphere's preliminary hearing application for a 2-lot subdivision of property located at 116 Beartown Road in Underhill, VT.

- A. On 22 May 2015, Pat Lamphere filed an application for subdivision for the project. A sketch plan review of the project was held on 1 June 2015 and was accepted.
- B. Application for Preliminary Approval was made on 31 August 2015. A hearing was scheduled for 5 October 2015 at that time. The hearing was cancelled and rescheduled for 1 February, 2016. On 1/11/2016, a copy of the notice of preliminary hearing was mailed via Certified Mail to the following owners of properties adjoining the property subject to the application:
- 1.State of Vermont Military Department
  - 2.Karen McKnight
  - 3.Marcel Fortin
  - 4.Thomas Hartswick and Debra Shuma-Hartswick
  - 5.Town of Underhill Selectboard—Hand delivered by Town Administrator
  - 6.Pat Lamphere—Hand Delivered by Town Administrator
- C. On 1/7/2016, notice of the public hearing for the proposed Lamphere subdivision was posted at the following places:
1. The Underhill Town Clerk's office;
  2. The Underhill Center Post Office;
  3. The Underhill Flats Post Office.
- D. During the week of 1/13/2016, the notice of the public hearing was published in *Seven Days*.
- E. A site visit was held at the property at 8:30 AM on 30 January 2016, no testimony was taken on-site. The preliminary plat hearing convened at 7:00 PM on 1 February 2016 at the Underhill Town Hall.

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- F. Present at the preliminary hearing were the following voting members of the Development Review Board: Charles Van Winkle, Chairman, Penny Miller, Will Towle, Market Hamelin, Mark Green. Karen McKnight recused herself as an interested party and an adjoining property owner.

Brian Bigelow, acting as the Interim Zoning Administrator, also testified at the hearing.

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

1. Karen McKnight

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

1. Luella Lamphere Estate (c/o Pat Lamphere) Application for Subdivision: Preliminary (received 8/22/2015);
2. Site Plan Review Standards Findings Checklist, 34 pages;
3. Subdivision Site Plan Luella Lamphere Estate prepared by JH Stuart Associates, dwg 1 of 2, 10/28/2015;
4. At-grade Wastewater Plan, Luella Lamphere Estate, prepared by JH Stuart Associates, dwg 2 of 2, 8/11/2015;
5. A copy of the hearing notice as sent to the applicant and property abutters, publicized in three locations and published in the *Seven Days* the week of 1/18/16
6. A copy of the ability to serve letter from the UJFD (dated 6/1/2015)
7. A copy of the ability to serve letter from the MMMUSD (dated 12/1/2015)
8. A copy of the Wastewater Permit (WW-4-4473) dated 8/11/2015
9. A copy of Access Permit A15-17 granted by the Selectboard on 12/28/2015
10. A copy of the procedure checklist for this meeting;

These exhibits are available in the Lamphere (BE116) subdivision file (DRB- 15-05) at the Underhill Zoning & Planning Office.

## II. FINDINGS

### Factual Findings

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 residual 10 acre parcel from a previous subdivision approved by the Underhill Development Review board in a decision dated November, 2014. The parcel in question is located at 116 Beartown Road in Underhill, VT (BE116). The 10 acre parcel was identified as parcel #2 on the November 2014 decision. The land involved in this application is identified as lot #2 & lot #3.

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- B. The property is located in the Water Conservation zoning district as defined in Article II, Table 2.4 of the 2014 Updated 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, as amended on 6 March 2014.
- D. Access approval is requested pursuant to review under the 2012 Unified Land Use and Development Regulations, as amended in 6 March 2014. The Underhill Selectboard has jurisdiction over the access onto Beartown Road, and a separate curb cut permit is required.
- E. The Luella Lamphere Estate is the record owner of the property.
- F. The board finds that Lot #2 of the subdivision contains lands that consist of Steep Slopes as defined by the ULUDR as amended, but no development is proposed on this lot.

The board did not have any concerns in regards to stormwater management as required in Section 3.18-C-5.

The board is confident that a fully complying building envelope is possible on Lot #2. Per Table 2.4(D), the rear setback must comply with the zoning ordinance at the time of application.

The board did not find that the subdivision as proposed would cause undue adverse visual impacts as outlined in section 3.18-D-2-i.

- G. The board finds that Lot #3 of the proposed subdivision conforms to access requirements as outlined in section 3.2-D-10. An access permit for Lot #3 was received from the Selectboard on 12/22/2015 (Permit A15-17). Because no development is proposed for Lot #2 at this time, no curb cut or access permit has been sought. However, a permanent access easement for ingress and egress must be documented for Lot #2. The site plan for the final application should show that easement and the associated 30' right-of-way for ingress and egress access to Lot #2.
- H. The board finds that the proposed development will not cause any adverse effects on traffic.
- I. The board finds that the proposed development will not cause any adverse effects on natural or cultural resources.

### III. CONCLUSION

The board finds that the application is in conformance with the following sections of the 2014 Unified Land Use and Development Regulations:

- Article II, Table 2.4 Water Conservation District (pg. 15)
- Section 3.2 – Access (pg. 27)

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- Section 3.7 – Lot, Yard & Setback Requirements (pg. 35)
- Section 3.17 – Source Protection Areas (pg. 52)
- Section 3.19 – Surface Waters & Wetlands (pg. 60)
- Section 3.22 – Water Supply & Wastewater Systems (pg. 65)
- Section 7.2 – Applicability (pg. 132)
- Section 7.5 – Preliminary Subdivision Review (pg. 137)
- Article VIII – Subdivision Standards (pg. 143)

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 Unified Land Use and Development Regulations and the Underhill Town Plan, and such waivers are not requisite in the interest of 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 FINAL HEARING REQUIREMENTS

Based upon the findings above, and subject to the supplemental final hearing conditions below, the Development Review Board grants preliminary approval for the subdivision as presented at the preliminary hearing.

- A. A survey plat created by a licensed surveyor will be required as part of the final application.
- B. The applicant must submit an updated site plan showing
  - a. The proposed access and utility easement for Lot #2
  - b. A building envelope on Lot #3 that meets the applicable setback requirements

Dated at Underhill, Vermont this 7 day of March, 2016.

**Charles Van  
Winkle**

Digitally signed by Charles Van Winkle  
DN: cn=Charles Van Winkle, o=Northern  
Reliability, Inc, ou=Chief Operations Officer,  
email=charlievanwinkle@outlook.com,  
c=US  
Date: 2016.03.07 19:43:02 -05'00'

Charles Van Winkle, 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 8 April 2016 .