



# Town of Underhill

## Development Review Board

### Findings and Decision

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#### PRELIMINARY SUBDIVISION APPLICATION OF ROLAND & RACHEL BURROUGHS FOR A 2-LOT PLANNED RESIDENTIAL DEVELOPMENT

In re: Roland & Rachel Burroughs  
46 Beartown Road (BE046)  
Underhill, VT 05489

Docket No. DRB-17-03

**Decision:** Approved with conditions (see Section V – Decisions and Conditions of Approval)

#### I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a preliminary subdivision application submitted by Roland & Rachel Burroughs regarding a 2-Lot Planned Residential Development (PRD) of property they own located at 46 Beartown Road in Underhill, Vermont.

- A. On January 4, 2017, Roland & Rachel Burroughs filed a sketch plan review application for the subdivision regarding the abovementioned project. A sketch plan review meeting of the project was held on February 20, 2017, and was accepted on March 2, 2017.
- B. On April 10, 2017, Roland & Rachel Burroughs filed an application for preliminary subdivision approval for the abovementioned project. Planning Director & Zoning Administrator, Andrew Strniste received the application and determined that it was complete shortly thereafter. A site visit was scheduled for 6:00 PM on May 15, 2017, and a hearing date was scheduled for 6:00 PM at Underhill Town Hall on May 22, 2017.
- C. On April 26, 2017, a copy of the notice of the preliminary subdivision review hearing was mailed via certified mail to the following property owners adjoining the property subject to the application:
  - A. BE020 – Marie A. & Walter E. Tedford Trustees, P.O. Box 26, Underhill Center, VT 05490
  - B. BE031 – Christopher M. & Christine N. Dillon, 31 Beartown Road, Underhill, VT 05489
  - C. BE049 – Thomas P. Fetters, 49 Beartown Road, Underhill, VT 05489
  - D. BE056 – Jeffrey M. Look, 56 Beartown Road, Underhill, VT 05489
  - E. BE067 – Brenda P. Hamel-Bissell, 67 Beartown Road, Underhill, VT 05489
  - F. BE078 – Michael Reilly, 78 Beartown Road, Underhill, VT 05489
  - G. AR003 – Michael F. & Eliza R. Kramer, 3 Acer Ridge, Underhill, VT 05489
  - H. AR004 – Suzanne K. Kusserow Trustee, P.O. Box 125, Underhill Center, VT 05490
  - I. AR005 – John B. & Colleen A. Gay, 5 Acer Ridge, Underhill, VT 05489
  - J. BE051 – Phyllis J. & Joseph J. Vanhorn, 51 Beartown Road, Underhill, VT 05489

- K. KR064 – Steven D. Webster Trustee & Barbara A. Yerrick Trustee, 64 Krug Road, Underhill, VT 05489
  - L. SP015 – Edward M. & Kathleen W. Grimley, P.O. Box 137, Underhill Center, VT 05490
  - M. [Applicant] BE046– Roland & Rachel Burroughs, P.O. Box 84, Underhill Center, VT 05490
  - N. [Consultant] – O’Leary-Burke Civil Associates, P.L.C., 13 Corporate Drive, Essex Junction, VT 05452
- D. During the week of April 23, 2017, notice of the public hearing for the proposed Burroughs preliminary subdivision was posted at the following places:
- A. The Underhill Town Clerk’s office;
  - B. The Underhill Center Post Office; and
  - C. The Underhill Flats Post Office.
- E. On Saturday, April 29, 2017, the notice of public hearing was published in the *Burlington Free Press*.
- F. The site visit commenced at 6:00 pm on May 15, 2017 at 46 Beartown Road, Underhill, Vermont.
- G. Present at the site visit were the following members of the Development Review Board, as well as the public:
- A. Board Member, Matt Chapek
  - B. Board Member, Mark Green
  - C. Board Member, Karen McKnight
  - D. Board Member, Penny Miller
  - E. Board Member, Charles Van Winkle, Chairperson
- Others present at the site visit were:
- F. Applicant, Roland Burroughs
  - G. Co-Applicant, Al Simard
  - H. Developer, Mike Gravelin
  - I. Abutting Landowner, Tom Fetters
- H. The preliminary subdivision review hearing began at 6:30 pm on March 22, 2017 at the Town of Underhill Town Hall.
- I. Present at the preliminary subdivision hearing were the following members of the Development Review Board:
- A. Board Member, Charles Van Winkle, Chairperson
  - B. Board Member, Matt Chapek
  - C. Board Member, Mark Green
  - D. Board Member, Karen McKnight
  - E. Board Member, Penny Miller

Also in attendance was Staff Member, Andrew Strniste, Planning Director & Zoning Administrator.

Others present at the hearing were:

1. *[Applicants' Consultant]*, Mike Gravelin, 4592 Dorset Street, Shelburne, VT 05482
2. *[Abutting Neighbor]* Thomas P. Fetters, 49 Beartown Road, Underhill, VT 05489
3. *[Applicant]* Roland Burroughs, 46 Beartown Road, Underhill, VT 05489
4. *[Co-Applicant]* Allen Simard, 1016 Main Street, Colchester, VT 05489
5. *[Co-Applicant]* Robin Simard, 1016 Main Street, Colchester, VT 05446
6. *[Consultant]* David Burke, 13 Corporate Drive, Essex Junction, VT 05452

J. At the outset of the hearing, Chair 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. David Burke
2. Roland Burroughs
3. Thomas Fetters

K. In support of the final subdivision application, and as part of the staff report, the following exhibits were submitted to the Development Review Board:

- Exhibit A – Burroughs Preliminary Subdivision Review Staff Report
- Exhibit B - Application for Preliminary Subdivision
- Exhibit C - Preliminary Subdivision Checklist
- Exhibit D - Preliminary Subdivision Checklist (Non-Relevant Portions)
- Exhibit E - Correspondence from Applicant to Board
- Exhibit F - Draft Restrictive Covenants
- Exhibit G - Draft Warranty Deeds
- Exhibit H - Burlington Free Press Notice
- Exhibit I - Certificate of Service
- Exhibit J - Site Plan
- Exhibit K - Soils & Sewage Disposal Plan
- Exhibit L - Water, Drive & Erosion Control Plan
- Exhibit M - Subdivision Plat
- Exhibit M - Subdivision Plat
- Exhibit O - ANR Habitat Block Map
- Exhibit P - ANR Prime Agricultural Soils Map
- Exhibit Q - ANR Slopes Map
- Exhibit R - ANR Stream & Waterbodies Map

The following exhibits were subsequently submitted and distributed prior to the start of the hearing:

- Exhibit S – Preliminary Subdivision Review Rules of Procedure
- Exhibit T – ANR Project Review Sheet
- Exhibit U – MMU Ability to Service Letter

No exhibits were submitted during the hearing.

The Exhibits submitted as part of the sketch plan application, except as amended above, are also incorporated into this decision.

All exhibits are available for public review in the BE046 Preliminary Subdivision Review file (DRB 17-03) at the Underhill Zoning & Planning office.

## **II. FINDINGS**

The Minutes of the May 22, 2017 meeting, written by Andrew Strniste, are incorporated by reference into this decision. Please refer to the Minutes for a summary of the testimony.

Based on the submitted application, testimony, exhibits, and evidence, the Development Review Board makes the following findings under the requirements of the Underhill Unified Land Use and Development Regulations (ULUDR):

### ***FACTUAL FINDINGS***

The applicants, Roland & Rachel Burroughs, record owner of the property located at 46 Beartown Road in Underhill, VT, are seeking a subdivision permit to subdivide land. The property is located in the Water Conservation zoning district as defined in Article II, Table 2.4 of the 2014 Underhill Unified Land Use & Development Regulations.

### ***ARTICLE II – ZONING DISTRICTS***

#### **A. ARTICLE II, TABLE 2.4 – WATER CONSERVATION DISTRICT**

The Board finds that the newly created lots will meet the requirements of the Underhill Water Conservation District after applying an open space density bonus permitted under ULUDR Section 9.6.A.1.

### ***ARTICLE III – GENERAL REGULATIONS***

#### **A. SECTION 3.2 – ACCESS**

The Board finds that a preliminary access permit (Access Permit #: A-17-03) for the 2-Lot subdivision was received from the Selectboard on January 31, 2017, and was submitted prior to the sketch plan review meeting. The Board supports the findings of the Selectboard's decision, acknowledging that the Selectboard required an emergency vehicle turnaround pursuant to § 6.4.C of the 2015 Underhill Road Ordinance. The Board notes that the applicants have provided the emergency vehicle turnaround on the plans submitted as part of this application.

In addition, the Board finds that the applicants have satisfied the requirements of this section, including the frontage requirement per Article II, Table 2.4.

#### **B. SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS**

The Board finds that the proposed subdivision and development does not meet the acreage requirement per section 2.4.D. The Water Conservation District requires newly subdivided lots to have a minimum acreage of 5.0 acres; while the existing lot to be subdivided is 9.28 acres (Lot 1 to be 5.20 acres and Lot 2 to be 4.08 acres). The Board finds that the minimum lot size requirement may be waived using the open space bonus density allowed under Section 9.6.A.1 and thereby permits the applicant to subdivide.

The Board also finds that the existing buildings on Lot 1 will not meet the minimum setback requirements; however, the buildings are preexisting, and therefore, the Board waives the setback requirements for those buildings. Any newly proposed structures on lot 2 will have to

meet the Regulations in place at the time of proposal. The Board finds that the proposed building envelope meets the setback requirements, and the proposed structure is for illustration purposes only, and subject to change upon submission of the applicants' building permits. Both proposed lots meet the frontage requirements.

**C. SECTION 3.13 – PARKING, LOADING & SERVICE AREAS**

The Board finds that the applicants have provided the minimum number of parking spaces (two per dwelling) as required under Table 3.1.

**D. SECTION 3.17 – SOURCE PROTECTION AREAS**

The Board finds that the proposed subdivision is located within a source protection area. The board requires that the applicant confirm with the Agency of Natural Resource, Department of Environmental Conservation that the proposed development will not negatively impact the source protection area.

**E. SECTION 3.18 – STEEP SLOPES**

The Board finds that the subdivision contains areas of steep slopes (15-25%) and very steep slopes (>25%); however, the proposed development on Lot 2 will be located in an area considered “flat.” Furthermore, the Board finds that the areas of steep slope will be located in the designated open space areas as shown on the engineering and survey plans.

**F. SECTION 3.19 – SURFACE WATERS & WETLANDS**

The Board finds that there are no wetlands located on the property; however, Mill Brook is located on the southern portion of the lot. The proposed development is to occur approximately 140 feet from the brook, thus meeting the minimum setback requirement of 50 feet from the top of the slope, which should be indicated on the engineering plans submitted as part of final subdivision review. All other features (i.e. wastewater system) are also proposed to be located out of the 50-foot setback area.

**G. SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS**

The Board finds that the applicants have submitted a Project Review Sheet from the Agency of Natural Resources, and are in the process of obtaining the requisite water supply and wastewater system permits (WW-4825) from the Vermont Department of Environmental Conservation. These permits are a requirement of final subdivision approval. These permits show that the applicants will have met the burden of proof regarding a safe water supply and the safe disposal of wastewater. While the wastewater system will inevitably be located in statewide prime agricultural soils, there is no other feasible location due to other constraints on the property (e.g. steep slopes and a flood hazard area).

**ARTICLE VI – FLOOD HAZARD AREA REVIEW**

The Board finds that a 100-year Flood Hazard Area is located on the existing and proposed lots; however, the applicant’s engineers have represented to the Board that the proposed development is to be located outside of this area, and as such the Board accepts that this Article does not apply.

**ARTICLE VII – SUBDIVISION REVIEW, ARTICLE VII**

**A. SECTION 7.2 – APPLICABILITY**

The Board finds that the applicants’ proposed subdivision is subject to the requirements of the 2014 Underhill Unified Land Use & Development Regulations per Section 7.2, and has been classified as a “major subdivision” under Sections 7.2.E.2.c & 7.2.F during the sketch plan review

meeting and decision issued on March 2, 2017.

**B. SECTION 7.3 – SKETCH PLAN REVIEW**

The Board finds that the applicants reasonably satisfied the conditions provided in the Sketch Plan Review Letter issued on March 2, 2017.

**C. SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW**

The Board finds that the applicants satisfied the intent of this section and provided the necessary materials to make a determination on the preliminary subdivision application.

***SUBDIVISION STANDARDS, ARTICLE VIII***

**A. SECTION 8.1 – APPLICABILITY**

The Board finds that no technical review is needed at this time. The applicants have requested that the Board waive the minimum lot size requirement per Table 2.4.D, and apply the open space density bonus provisions under Section 9.6.A.1.

**B. GENERAL STANDARDS, SECTION 8.2**

**SECTION 8.2.A – DEVELOPMENT SUITABILITY**

The Board finds that there are no foreseen undue adverse impacts to the public health and safety, the natural environment, neighboring properties and uses, or the character of the area in which the proposed development is located. Much of the land that is susceptible to periodic flooding and poor drainage, as well as land that contains steep slopes are proposed to be designated as open space in order to attain the density bonus requirement under Section 9.6.

**SECTION 8.2.B – DEVELOPMENT DENSITY**

The Board finds that the proposed subdivision does not meet the minimum lot size requirements for Lot 2, which is proposed to be 4.08; however, the Board waives the minimum lot size requirements and applies the open space bonus density per Section 9.6.A.1. Furthermore, the Board finds that the pre-existing buildings on Lot 1 do not meet the minimum setback requirements; however, since the buildings are pre-existing, they are legally nonconforming.

**SECTION 8.2.C – EXISTING CONDITIONS**

The Board finds that the proposed layout of the development will affect statewide prime agricultural soils; however, due to other constraints, there is no other feasible location to situate the proposed development that will have less of an impact. While Mill Brook, steep slopes, and flood hazard areas exist on the lot, the applicants are not proposing any development in these areas or their associated buffers.

**SECTION 8.2.D – UNDERHILL TOWN PLAN & DEVELOPMENT REGULATIONS**

The Board finds that the proposed subdivision & development conform to the Underhill Town Plan & the Underhill Unified Land Use and Development Regulations, with the application of the open space bonus density per Section 9.6.A.1.

**SECTION 8.2.E – DISTRICT SETTLEMENT PATTERNS**

The Board finds that the proposed subdivision & development are consistent with the characteristics of the rural zoning districts, as described in Section 8.2.E.2.

**SECTION 8.2.F – LOT LAYOUT**

The Board finds that the proposed subdivision does not meet the minimum lot size requirements for Lot 2, which is proposed to be 4.08; however, the Board waives the minimum lot size requirements and applies the open space bonus density per Section 9.6.A.1. Furthermore, the Board finds that the pre-existing buildings on Lot 1 do not meet the minimum setback requirements; however, since the buildings are pre-existing, they are legally nonconforming. All other lot layout requirements under this subsection have been satisfied. The Board notes that, while the existing lot is already irregularly shaped, the applicants created a perpendicular property line separating the two proposed lots to create, at a minimum, one lot with a regular shape.

**SECTION 8.2.G – BUILDING ENVELOPE**

The Board finds that the proposed building envelope on Lot 2 meets the requirements of this subsection. The Board notes that the existing buildings on the proposed Lot 1 do not meet the minimum setback requirements, and any newly proposed structures on either lot shall meet the requirements of the Regulations that are effective at the time of the project's proposal.

**SECTION 8.2.H – SURVEY MONUMENTS**

The Board makes no finding regarding this subsection, but shall require survey monuments be placed as a condition of approval.

**SECTION 8.2.I – LANDSCAPING & SCREENING**

The Board finds that the applicants are proposing to minimize the disturbance to the existing trees, tree lines, wooded areas, thus meeting the requirements of this subsection.

**SECTION 8.2.J – ENERGY CONSERVATION**

The Board makes no finding regarding this subsection.

**C. SECTION 8.3 – NATURAL & CULTURAL RESOURCES**

**SECTION 8.3.A – RESOURCE IDENTIFICATION & PROTECTION**

The Board is unaware of any cultural or natural features that should be conserved, and therefore, makes no finding regarding this subsection.

**SECTION 8.3.B – SURFACE, WATERS, WETLANDS & FLOODPLAINS**

The Board finds that there are no perceived adverse impacts to Mill Brook or the Flood Hazard Area that have been identified as a result of the proposed subdivision and development. Furthermore, Mill Brook and a large portion of the Flood Hazard Area are to be located in the designated open space area as depicted on the engineering plans.

**SECTION 8.3.C – ROCK OUTCROPS, STEEP SLOPES, HILLSIDES & RIDGELINES**

The Board finds that the existing lot contains areas of steep slopes and very steep slopes towards the southern portion of the proposed lots, however, since the applicants' proposed building envelope is outside of these areas, the Board concludes there will be no impact under this section. Furthermore, the areas of steep slope and very steep slope are to be located in the area designated as open space as depicted on the engineering plans.

**SECTION 8.3.D – NATURAL AREAS & WILDLIFE HABITAT**

The Board finds that there is a priority level 10 habitat block located on the southern portion of the existing lot; however, the applicants are not proposing any development in that area.

Furthermore, this area will be located within the designated open space area as depicted on the engineering plans.

**SECTION 8.3.E – HISTORIC & CULTURAL RESOURCES**

The Board is unaware of any historic and cultural resources located on the existing lot, and therefore, makes no finding regarding this subsection.

**SECTION 8.3.F – FARMLAND**

The Board finds that the proposed development on the proposed Lot 2 will fragment the statewide prime agricultural soil, as the development is located in the center of this area. However, the proposed construction in statewide prime agricultural soils is unavoidable due to the other constraints on the lot that make construction in another location non-feasible.

**SECTION 8.3.G – FORESTLAND**

The Board finds that the applicants are not proposing to disturb any of the forestland on the existing or proposed lots at this time.

**D. SECTION 8.4 – OPEN SPACE & COMMON LAND**

**SECTION 8.4.A – OPEN SPACE**

The Board finds that the applicants have proposed to designate 63.8% of the existing lot as open space in order to utilize the open space bonus density under Section 9.6.A.1. The proposed open space area includes the priority 10 habitat block, steep slopes, Mill Brook and portions of the flood hazard area. The open space area is contiguous between the two lots. While the applicants have identified a drilled well in this area, this is not a prohibited use in an open space designation.

**SECTION 8.4.B – COMMON LAND**

The Board finds that the applicant has not proposed to designate any land as common land.

**SECTION 8.4.C – LEGAL REQUIREMENTS**

The Board finds that the applicants have submitted the requisite open space management agreements and draft deed language as required per Section 8.4.C.3.

**E. SECTION 8.5 – STORMWATER MANAGEMENT & EROSION CONTROL**

The Board finds that the applicant shall install a silt fence on the downhill slope of all disturbed areas and implement the erosion control specifications as presented in this application.

**F. SECTION 8.6 – TRANSPORTATION FACILITIES**

**SECTION 8.6.A – ACCESS & DRIVEWAYS**

The Board finds that, since the only driveway to be constructed is proposed for Lot 2, only the standards of Sections 3.2 & 8.6.A apply. The Board finds that the applicants obtained a preliminary access permit (Permit #: A-17-03) on January 31, 2017, and supports the findings of the Selectboard. The applicants have updated their plans to address the conditions required by the Selectboard as a result of that meeting.

Furthermore, the Board notes that Staff has reached out to the Underhill-Jericho Fire Department's (UJFD) for comments, which will be forwarded to the applicants upon receipt.

**SECTION 8.6.B – DEVELOPMENT ROADS**

The Board finds that since the proposed access way is only going to serve Lot 2, no further review under this subsection is required.

**SECTION 8.6.B.6 – NAMES, SIGNS AND 911 LOCATOR NUMBERS**

The Board finds that names, signs, and 911 locator numbers shall be required as a condition of final approval.

**SECTION 8.6.C – PARKING FACILITIES**

The Board finds that no parking facilities, other than those to be expected with single-family residences, are proposed.

**SECTION 8.6.D – TRANSIT FACILITIES**

The Board finds that no transit facilities are proposed.

**SECTION 8.6.E – PEDESTRIAN ACCESS**

The Board makes no finding regarding this subsection.

**G. SECTION 8.7 – PUBLIC FACILITIES & UTILITIES**

**SECTION 8.7.A – PUBLIC FACILITIES**

The Board finds the proposed subdivision and development will not create an undue burden on the existing and/or planned public facilities. The Board finds there will be no adverse impact on the school district.

**SECTION 8.7.B – FIRE PROTECTION**

The Board finds the Underhill Jericho Fire Department will be providing an ability to serve letter, and reserves the right to implement any recommendations deemed necessary to maintain the safety and welfare of the applicants and future occupants at this residence.

**SECTION 8.7.C – WATER SYSTEMS**

The Board finds that the applicants are proposing to supply potable water via a drilled well on the subdivided lot. A water/wastewater permit will be required as part of the final subdivision review application/approval.

**SECTION 8.7.D – WASTEWATER SYSTEMS**

The Board finds that the applicants are proposing that the lots be served by private wastewater systems. A water/wastewater permit will be required as part of the final subdivision review application/ approval.

**SECTION 8.7.E – UTILITIES**

The Board finds electrical, communication, and media utilities shall be located below grade.

**H. SECTION 8.8 – LEGAL REQUIREMENTS**

The Board finds that the applicants have provided the requisite legal documents. The Board requires that the final plat shall contain a restriction that all open space proposed in this application shall be restricted from further subdivision or development.

***SUBDIVISION STANDARDS, ARTICLE VIII***

**A. SECTION 9.2 – APPLICABILITY**

The Board finds that Planned Residential Developments are permitted in all zoning districts.

**B. SECTION 9.3 – APPLICATION REQUIREMENTS**

**SECTION 9.3.A.1 – UNTITLED**

The Board finds that the applicants have submitted a survey plat.

**SECTION 9.3.A.2 – UNTITLED**

The Board finds that a master plan is not required since the Planned Residential Development is only for two lots.

**SECTION 9.3.A.3 – UNTITLED**

The Board finds that the applicants submitted a statement setting forth the nature of all the requested modifications, changes, or supplementations to the zoning provisions.

**SECTION 9.3.A.4 – UNTITLED**

The Board finds that both lots will contain a single-family dwelling, and while building elevations and exterior design specifications are required per this section, the Board requires these documents/plans to be submitted as part of the building permit process for review and approval by Staff.

**SECTION 9.3.A.5 – UNTITLED**

The Board finds that the applicant provided the required density calculations needed to determine the overall density of the development.

**SECTION 9.3.A.6 – UNTITLED**

The Board finds that the applicants have provided the required management plans for the designated open space area.

**SECTION 9.3.A.7 – UNTITLED**

The Board finds that this subsection does not apply.

**SECTION 9.3.A.7 – UNTITLED**

The Board finds that this subsection does not apply.

**C. SECTION 9.4 – REVIEW PROCESS**

**SECTION 9.4.A.1 – UNTITLED**

The Board has specifically identified the approved modifications and other conditions of approval in this decision.

**SECTION 9.4.A.2 – UNTITLED**

The Board finds that the applicants have submitted the draft legal documents for the Board to consider.

**SECTION 9.4.A.3 – UNTITLED**

The Board finds that this subsection does not apply

**SECTION 9.4.A.3 – UNTITLED**

The Board finds that this subsection does not apply.

**D. SECTION 9.5 – GENERAL STANDARDS**

**SECTION 9.5.A – UNTITLED**

The Board finds that the proposed Planned Residential Development is consistent with the goals and policies of the Underhill Town Plan currently in effect, as well as the purpose of the Water Conservation zoning district.

**SECTION 9.5.B – ALLOWED USES**

The Board finds that the proposed Planned Residential Development is an allowed use under this subsection, and is only being used for residential purposes.

**SECTION 9.5.B – DENSITY CALCULATIONS**

The Board finds that the applicants are proposing to designate 63.8% of the existing lot as designated open space. When 60% (or more) of the land is designated as open space, the applicants can be awarded up to a 50% density bonus, thus increasing the lot's "yield."

**E. SECTION 9.6 – DENSITY BONUSES**

The Board finds that the applicants are proposing to utilize the open space bonus density under Section 9.6.A, as they have proposed to designate 63.8% of the existing land as open space. By designating more than 60% of the land as open space, the applicants can be awarded a bonus density of up to 50%, thus increasing the yield of the lot. The Board is awarding the applicant the minimum bonus density of 7.8% in order for the applicants to attain a yield of 10.0 acres.

**III. CONCLUSION**

The Board is satisfied with the level of investigation, engineering and evaluation conducted in the application submittal and review process concerning the above-mentioned project. The Board thoroughly reviewed all aspects of the proposal under the evaluation criteria in the ULUDR.

The Board concludes that based on the evidence submitted and the above findings, the proposed subdivision/development generally conforms to the Underhill Unified Land Use & Development Regulations.

**IV. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS**

The Board grants the following waivers/modifications:

1. The minimum size for Lot 2 may be reduced from 5.0 acres to 4.08 per Section 3.7 & Article IX.
2. The setback requirements for the pre-existing, nonconforming buildings on Lot 1.

**V. DECISIONS AND CONDITIONS OF APPROVAL**

Based upon the findings above, and subject to the conditions below, the Development Review Board grants preliminary approval for the subdivision as presented at the hearing with the following conditions:

1. The Board grants a 7.8% open space bonus density per Section 9.6.A, thus allowing the applicants to attain the minimum yield need to subdivide the existing lot into two separate lots.
2. The Board requires the relevant permits pertaining to the source protection area to be submitted during the final subdivision review application process.
3. The Board requires the applicants to submit evidence that they have obtained a Wastewater System & Potable Water Supply permit, issued by the Vermont Department of Environmental Conservation as part of Final Subdivision Approval.
4. The Board requires the applicants to change the "Top of Bank" notation on the engineering plans and survey plans (if applicable) to "Top of Slope."
5. The Board requires the applicants to obtain final access approval from the Selectboard upon final subdivision review.
6. The Board requires the applicants to include parcel codes on the final plat.
7. The Board requires that the final plat properly convey all subdivision and development restrictions as required to protect the open space area designated in the application.

Dated at Underhill, Vermont this 1<sup>st</sup> day of June, 2017.

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Charles Van Winkle, Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environment 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 7/1/2017.