

Town of Underhill

Development Review Board

Final Findings and Decision

FINAL 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 final 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 above mentioned 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 review for the above-mentioned project. Planning Director & Zoning Administrator, Andrew Strniste, received the application and determined that it was complete shortly thereafter. A site visit was scheduled for, and held on, 6:00 PM on May 15, 2017. The public hearing was scheduled for, and held on, 6:00 PM on May 22, 2017 at Underhill Town Hall.
- C. On June 1, 2017, the Underhill Development Review Board issued its Findings & Decision, which granted preliminary subdivision approval.
- D. On June 29, 2017, Roland & Rachel Burroughs formally filed an application for final subdivision review for the abovementioned project. Planning Director & Zoning Administrator, Andrew Strniste, received the application and determined that it was complete shortly thereafter. A hearing was scheduled for, and commenced at, 6:45 PM at Underhill Town Hall on July 17, 2017.
- E. On June 28, 2017, a copy of the notice of the final 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

F. During the week of June 25, 2017, notice of the public hearing for the proposed Burroughs final 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.

G. On Saturday, July 1, 2017, the notice of public hearing was published in the *Burlington Free Press*.

H. The final subdivision review hearing began at 6:45 pm on July 17, 2017 at the Town of Underhill Town Hall.

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

- A. Board Member, Penny Miller, Acting Chairperson
- B. Board Member, Matt Chapek
- C. Board Member, Mark Green
- D. Board Member, Karen McKnight
- E. Board Member, Stacey Turkos

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. Feters, 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. *[Applicants' Consultant]* David Burke, 13 Corporate Drive, Essex Junction, VT 05452

J. At the outset of the hearing, Acting Chairperson Penny Miller 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

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 – BE046 Burroughs Staff Report - Final Review
Exhibit B –BE046 Rules of Procedure - Final Subdivision Review
Exhibit C –Final Subdivision Review Application
Exhibit D –Memorandum from Applicant to Board
Exhibit E –Burlington Free Press Public Notice
Exhibit F –Certificate of Service
Exhibit G –Site Plan
Exhibit H –Subdivision Plat
Exhibit I –Soils & Sewage Disposal Information
Exhibit J –Water, Drive & Erosion Control Information

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

Exhibit K – Water-Wastewater Permit WW-4-4825

No exhibits were submitted during the hearing.

The exhibits submitted as part of the sketch plan application and preliminary subdivision review application, except as amended above, are also incorporated into this decision.

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

II. FINDINGS

The Minutes of the July 17, 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 2014 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 the applicants have satisfied the requirements of this section, including the frontage requirement per Article II, Table 2.4. Furthermore, 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 should request a modification of their access permit with the Selectboard if they wish to construct a driveway without an emergency vehicle turnaround due to the proposed single-family dwelling’s close proximity to Beartown Road.

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 applicants 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 on Lot 2 meets the setback requirements, and the proposed structure and driveway are for illustration purposes only, and subject to change upon the applicants' submission of the building permit application and final access permit application. 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; however, the submission and obtainment of a State Wastewater System and Potable Water Supply Permit implicitly confirms that these areas will not be negatively impacted.

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, as indicated on the subdivision plans. All other features (i.e. wastewater system) are 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 Wastewater System and Potable Water Supply Permit (WW-4-4825) issued by the Agency of Natural Resources, Vermont Department of Environmental Conservation. The submission of this permit satisfies the presumption 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 applicants' engineers have represented to the Board that the proposed development is to be located outside of this area, and as such, the Board finds 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. The applicants were granted preliminary subdivision approval with conditions on June 1, 2017.

D. SECTION 7.6 – FINAL 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 final subdivision review application. The Board finds that the applicants shall incorporate the open space covenants into the deeds with the modifications provided in Section 8.4.C below.

SUBDIVISION STANDARDS, ARTICLE VIII

A. SECTION 8.1 – APPLICABILITY

The Board found that no technical review was needed for this proposed project. 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. The Board grants a 7.8% bonus density, thereby waiving the minimum acreage requirement for the Planned Residential Development.

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 containing steep slopes, are proposed to be designated as open space in order to attain a density bonus 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 acres; 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 acres; however, the Board grants a waiver of the minimum lot size requirement by applying an 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 is the least restrictive as permitted per the Underhill Unified Land Use and Development Regulations, and 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 finds that the applicant shall implement survey monuments as mentioned as part of the preliminary subdivision findings & decision.

SECTION 8.2.I – LANDSCAPING & SCREENING

The Board finds that the applicants are proposing to minimize the disturbance to the existing trees, tree lines, and 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, it has been represented to the Board in the engineering plans that Mill Brook and a large portion of the Flood Hazard Area are located in the designated open space area.

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 this area. Furthermore, this area will be located within the designated open space area as depicted on the subdivision 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 constraints on the lot that make construction in another location less 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 density bonus 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 applicants have 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. The Board finds the applicants shall make the following changes to paragraph 2 of the restrictive covenants document submitted during preliminary subdivision review (Preliminary Subdivision Review Exhibit F):

- Item 2 – non-motorized, non-consumptive passive use only, except as required to exercise the rights granted to extract wood in item 4.
- Item 5 – the word permanent be eliminated
- Item 6 – no alteration of the existing grade or construction of roadways, with the exception of a temporary access pathways required to exercise wood rights.

E. SECTION 8.5 – STORMWATER MANAGEMENT & EROSION CONTROL

The Board finds that the applicants 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.

Staff solicited comments from the Underhill-Jericho Fire Department's (UJFD), however, never received any feedback. The applicants have expressed their desire to refrain from constructing a turnaround, which is typically recommended from UJFD. Not constructing the turnaround will result in the applicants failing to meet the conditions provided in the Selectboard's preliminary access permit. If the applicants wish to alter the proposed driveway layout so that it does not conform to the Selectboard's conditions, they will have to obtain approval from the Selectboard as part of the final access review process. The Board recommends that the applicants obtain input from the Underhill-Jericho Fire Department during that process.

Any modifications made to the driveway as part of the final access review process do not require additional review from this Board.

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 did not provide any comments and recommends the applicants seek recommendations from them as part of the final access permit review process.

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 has been obtained and submitted as part of this application, thus satisfying the presumption that the soils, waters, and groundwater will not be contaminated.

SECTION 8.7.D – WASTEWATER SYSTEMS

The Board finds that the applicants are proposing that the lot be served by a private wastewater system. A water/wastewater permit has been obtained and submitted as part of this application, thus satisfying the presumption that the soils, waters, and groundwater will not be contaminated.

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 shall conform to the requirements provided in Section 8.4.C

above, and that the final plat shall contain a statement that all open space proposed in this application shall be restricted from further subdivision or development.

SUBDIVISION STANDARDS, ARTICLE IX

A. SECTION 9.2 – APPLICABILITY

The Board finds 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 applicants 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.C – DENSITY CALCULATIONS

The Board finds that the applicants are proposing to designate 63.8% of the existing lot as 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 density bonus under Section 9.6.A by proposing a designation of 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 density bonus 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 abovementioned 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 2014 Underhill Unified Land Use & Development Regulations.

IV. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS

The Board grants the following waivers/modifications:

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 required to subdivide the existing lot into two separate lots. Therefore, the minimum lot size for Lot 2 may be reduced from 5.0 acres to 4.08 per Section 3.7 & Article IX.

2. The Board waives the final subdivision review application requirement under Section 9.3.A.4, which requires the applicants to submit building elevations and exterior design specifications.
3. The setback requirements are waived for the pre-existing, nonconforming buildings on Lot 1.
4. Per Section 10.7.F.5, the Development Review Board may authorize administrative review by the Zoning Administrator to make subsequent changes or amendments to an approved project as outlined in the referenced Section. Applicants are typically required to amend their Planned Residential Development if they wish to construct subsequent structures not identified on the site plan. However, the Board waives this requirement, and therefore, the applicants are not required to amend the subdivision plans for the construction of any out buildings, ancillary buildings, or accessory buildings, and instead, building permits for these ancillary-type buildings can be administratively reviewed and approved. However, the abovementioned structures must conform to the Regulations in effect at the time of the proposed project(s). Accessory dwellings requiring the construction of an additional structure or the expansion of the proposed single-family dwelling may require additional Development Review Board review.
5. The applicants are not required to come before the Board if they wish to relocate the single-family dwelling within the building envelope. The Board recognizes that the identified location on the engineering plans submitted as a part of this application is for illustration purposes only, and may not reflect the final footprint of the single-family dwelling.

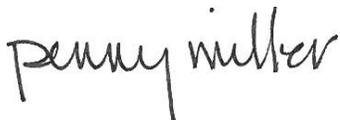
V. DECISIONS AND CONDITIONS OF APPROVAL

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

1. The Board requires the project to be constructed in accordance with the drawing set submitted as part of the final subdivision review process, and as amended accordingly to address the requisite changes herein and those to be recorded, which are listed as follows:
 - a. Subdivision Plat (Plan Sheet PL1, Dated 4/10/2017, Revised 6/29/2017)
 - b. Final Plan – 2 Lot PRD (Plan Sheet 1, Dated 4/10/2017, Revised 6/29/2017)
 - c. Soil & Sewage Disposal (Plan Sheet 2, Dated 4/10/2017)
 - d. Water, Drive & Erosion Control (Plan Sheet 3, Dated 4/10/2017)
2. Only the Subdivision Plat (identified as a. directly above) is required to be recorded in the Underhill Land Records.
3. The applicants shall obtain final access approval from the Selectboard. Any changes the Selectboard may impose to the currently proposed access way do not require Board approval. If the applicants wish to alter the proposed driveway layout so that it does not conform to the Selectboard's conditions, they will have to obtain approval from the Selectboard as part of the final access review process. The Board recommends that the applicants obtain input from the Underhill-Jericho Fire Department during that process.
4. The applicants shall submit elevations and exterior design specifications to the Zoning Administrator for him or her to review as part of the building permit review process.
5. Prior to the issuance of a Certificate of Occupancy, the applicants shall provide a certification letter from a Vermont Licensed Professional Engineer or Licensed designer per Section 10.4.A.2.b that the wastewater system and water supply have been constructed according to the approved ANR permits.

6. The E-911 Codes for the lots shall be posted per the Underhill-Jericho Fire Department specifications prior to the issuance of a Certificate of Occupancy permit.
7. Per Section 7.2.B, no land shall be subdivided until final subdivision approval has been obtained from this Board, and the approved subdivision plat is recorded in the Town of Underhill Land Records.
8. No transfer, sale or long-term lease, of title to property as defined under 32 V.S.A § 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 has been approved from this Board, and the final Mylar (the subdivision plat) has been recorded in the Underhill Land Records per Section 7.2.C.
9. The final plat shall include parcel codes, and shall be submitted for recording within 180 days of the date of this approval (January 27, 2018) in accordance with Section 7.7 of the Underhill Unified Land Use & Development Regulations.
10. The final plat shall contain the statement that all open space proposed in this application shall be restricted from further subdivision or development and include the restrictive covenants submitted as Exhibit F during the Preliminary Subdivision Review, as amended accordingly to address the requirements of this Decision.
11. All subdivision and recording fees must be paid in full prior to recording a subdivision plat in accordance with Section 7.7.B of the Underhill Unified Land Use and Development Regulations.
12. Prior to the issuance of a Certificate of Occupancy, the applicants shall provide a certificate letter from a Vermont Licensed Professional Engineer indicating that all infrastructure (e.g. driveways) identified in the plans listed under Condition 1 above, and what is required by this decision, have been constructed accordingly.
13. New property boundary monumentation referenced on the survey plat shall be installed accordingly.
14. Notwithstanding the conditions above, prior to issuing a building permit, the applicants shall comply with applicable aspects of the Underhill Land Use and Development Regulations in effect at the time of the application.

Dated at Underhill, Vermont this 31 day of July, 2017.



Penny Miller, Acting Chairperson, 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 August 30, 2017.