Town of Underhill

Development Review Board
Conditional Use Review Findings and Decision

CONDITIONAL USE REVIEW APPLICATION BY JULIA MARTIN, ON BEHALF OF MAPLE LEAF FARM ASSOCIATES, INC., WHICH IS BEING ADMINISTERED BY DOUGLAS J. WOLINSKY, CHAPTER 7 TRUSTEE, FOR THE PROPOSED CONVERSION OF THE FORMER MAPLE LEAF FARM CAMPUS INTO A MIXED-USE FACILITY CONTAINING MULTIPLE USES, SPECIFICALLY: TWO SINGLE-FAMILY DWELLINGS, FORESTRY, WILDLIFE MANAGEMENT AREA, SCHOOL, INN, HEALTH CLINIC, OUTDOOR RECREATION, NATURE CENTER, AND CULTURAL FACILITY

In re: Julia Martin
8, 10, 12, 14 & 20 Maple Leaf Road (ML008X, ML010X, ML012X, ML014X, ML020)
Underhill, VT 05489

Docket No. DRB-18-05

Decision: Approved with Conditions (see Section V for More Details)

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a conditional use application for the conversion of the former Maple Leaf Farm Campus into a mixed-use facility containing multiple uses, specifically: two single-family dwellings, forestry, wildlife management area, school, inn, health clinic, outdoor recreation, nature facility, and cultural facility at 8, 10, 12, 14, & 20 Maple Leaf Road (ML010X, ML012X, ML014X, ML020) in Underhill, Vermont, owned by Maple Leaf Farm Associates, Inc, which is being administered by Douglas J. Wolinsky, Chapter 7 Trustee.

A. On February 9, 2018, Julia Martin, and on behalf of Maple Leaf Farm Associates, Inc., which is being administered by Douglas J. Wolinsky, Chapter 7 Trustee, filed an application for a conditional use for the abovementioned project. The application was accepted and determined to be complete shortly thereafter. A site visit was scheduled for March 19, 2018 at 6:00 PM, and the hearing was scheduled for Monday, March 19, 2018 at 7:30 PM.

B. On March 2, 2018, notice of the conditional use review hearing was mailed via Certified Mail to the following property owners adjoining the property subject to the application:

1. *ML008X – Primmer Piper Eggleston & Cramer, P.C., Attn: Douglas J. Wolinsky, Trustee, P.O. Box 1489, Burlington, VT 05402-1489
2. *ML010X – Primmer Piper Eggleston & Cramer, P.C., Attn: Douglas J. Wolinsky, Trustee, P.O. Box 1489, Burlington, VT 05402-1489
3. *ML012X – Primmer Piper Eggleston & Cramer, P.C., Attn: Douglas J. Wolinsky, Trustee, P.O. Box 1489, Burlington, VT 05402-1489
4. *ML014X – Primmer Piper Eggleston & Cramer, P.C., Attn: Douglas J. Wolinsky, Trustee, P.O. Box 1489, Burlington, VT 05402-1489
5. *ML020 – Primmer Piper Eggleston & Cramer, P.C., Attn: Douglas J. Wolinsky, Trustee, P.O. Box 1489, Burlington, VT 05402-1489

* Note: All Maple Leaf Farm Associates, Inc. correspondence sent to Douglas J. Wolinsky, Trustee, in one letter in one mailing.

6. LH021 – Stephen W. Mahin, 21 Ledge Hill Road, Underhill, VT 05489
7. ML026 – James & Mary Leddy Estate, 14 Elsom Parkway, South Burlington, VT 05403
8. ML031 – Stephen M. & Tamara V. Pitmon, 31 Maple Leaf Road, Underhill, VT 05489
9. ML042 – Michael Luck Trustee, Barbara C. Wilson Trustee, of the Wilson-Luck Living Trust, 42 Maple Leaf Road, Underhill, VT 05489
10. ML055 – Frank Tyler Whitcomb, 55 Maple Leaf Road, Underhill, VT 05489
11. ST157 – John F. & Carole R. Doherty, 157 Stevensville Road, Underhill, VT 05489
12. ST168 – Christine McArthur, David & Frances Dube, Anna Leigh Horton, 266 Old Stage Road, Essex Junction, VT 05452
13. ST204 – Jeffrey L. & Karen C. Davis, P.O. Box 229, Underhill Center, VT 05490
14. ST217 – Elaine Herman Trustee, P.O. Box 116, Underhill Center, VT 05490
15. ST 219 – Jon Howard, P.O. Box 43, Underhill Center, VT 05490
16. ST221 – Livingston Howard, 199 Bayberry Lane, Westport, CT 06880
17. WH006 – Ryan & Julie A. Ochs, 6 Wheeler Road, Underhill, VT 05489
18. WH014 – Richard J. & Margaret E. Rushlow, P.O. Box 86, Underhill Center, VT 05490
19. WH026 – John & Angela M. Hermoain, 106 Kathleen Place, Yorktown, VA 23693
20. Applicant: VT413 – Julia Martin, 663 Guyette Road, Plainfield, VT 05667

C. During the week of February 25, 2018, notice of the public hearing for the proposed conditional use permit was posted at the following locations:

1. The Underhill Town Clerk's office;
2. The Underhill Center Post Office; and
3. The Underhill Flats Post Office.

D. On March 3, 2018, the notice of public hearing was published in the *Burlington Free Press*.

E. A site visit at the property location (8, 10, 12, 14 & 20 Maple Leaf Road, Underhill Vermont) commenced at 6:00 PM on March 19, 2018.

F. Present at the site visit were the following members of the Development Review Board:

1. Board Member, Charles Van Winkle, Chairperson
2. Board Member, Matt Chapek
3. Board Member, Daniel Lee
4. Board Member, Karen McKnight
5. Board Member, Stacey Turkos

Municipal representatives and members of the public present during the site visit were:

6. Planning & Zoning Administrator, Andrew Strniste
7. Co-Applicant, Julia Martin (663 Guyette Road, Plainfield, VT 05667)
8. Co-Applicant, John Hunt (663 Guyette Road, Plainfield, VT 05667)
9. Abutting Neighbor, Elaine Herman (217 Stevensville Road, Underhill, VT)
10. Abutting Neighbor, John Doherty (157 Stevensville Road, Underhill, VT)
11. Abutting Neighbor, Carole Doherty (157 Stevensville Road, Underhill, VT)
12. Abutting Neighbor, Ryan Ochs (6 Wheeler Road, Underhill, VT)
13. Abutting Neighbor, Frank Tyler Whitcomb (55 Maple Leaf Road, Underhill, VT)

14. Abutting Neighbor, Christine Dube (168 Stevensville Road, Underhill, VT)
15. Abutting Neighbor Representative, Lauren Dube (Representing: 168 Stevensville Road; Mailing Address: 119B LaFountain Street, Winooski, VT)
16. Abutting Neighbor Representative, Jake Palmer (Representing: 168 Stevensville Road; Mailing Address: 119B LaFountain Street, Winooski, VT)
17. Abutting Neighbor Representative, Sarah Leddy (Representing 26 Maple Leaf Road; Mailing Address: 434 North Street, Burlington, VT)
18. Abutting Neighbor Representative, Daniele Negro (Representing 26 Maple Leaf Road; Mailing Address: 434 North Street, Burlington, VT)
19. Attendee: Ellen Post, 64 Brainerd St, St. Albans, VT

G. The conditional use review hearing commenced at 7:47 PM on March 19, 2018 at the Town of Underhill Town Hall.

H. Present at the conditional use review hearing were the following members of the Development Review Board:

1. Board Member, Charles Van Winkle, Chairperson
2. Board Member, Matt Chapek
3. Board Member, Daniel Lee
4. Board Member, Karen McKnight
5. Board Member, Penny Miller
6. Board Member, Stacey Turkos

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

Others present at the hearing were:

1. Sue Ellen Walsh, Neighbor (29 Maple Leaf Farm, Underhill, VT)
2. Tamara Pitmon, Abutting Neighbor (31 Maple Leaf Farm, Underhill, VT)
3. Richard Rushlow, Abutting Neighbor (14 Wheeler Road, Underhill, VT)
4. Margaret Rushlow, Abutting Neighbor (14 Wheeler Road, Underhill, VT)
5. Sarah Leddy, Abutting Neighbor Representative (Representing 26 Maple Leaf Road, Underhill, VT; Mailing Address: 434 North Street, Burlington, VT)
6. Daniele Negro, Abutting Neighbor Representative (Representing 26 Maple Leaf Road, Underhill, VT; Mailing Address: 434 North Street, Burlington, VT)
7. Lauren Dube, Abutting Neighbor Representative (Representing 168 Maple Leaf Road, Underhill, VT; Mailing Address: 119B LaFountain, Street, Winooski, VT)
8. Jake Palmer, Abutting Neighbor Representative (Representing 168 Maple Leaf Road, Underhill, VT; Mailing Address: 119B LaFountain, Street, Winooski, VT)
9. Ellen Post, Attendee (Mailing Address: 64 Brainerd Street, St. Albans)
10. Christine Dube, Abutting Neighbor (168 Stevensville Road, Underhill, VT)
11. Kristin Humbargar, Attendee (142 River Road, Underhill, VT)
12. Sarah Hurley, Attendee (16 Spruce Lane, Underhill, VT)
13. Brian Hurley, Attendee (16 Spruce Lane, Underhill, VT)
14. Tonya Howard, Attendee (5 Black Dog Lane, Underhill, VT)
15. Tatyana Cady, Attendee (16 Covey Road, Underhill, VT)
16. Tom Cady, Attendee (16 Covey Road, Underhill, VT)
17. John Doherty, Abutting Neighbor (157 Stevensville Road, Underhill, VT)
18. Carole Doherty, Abutting Neighbor (157 Stevensville Road, Underhill, VT)

19. Thomas Montgomery, Attendee (3 Montgomery Road, Underhill)
20. Ryan Ochs, Abutting Neighbor (6 Wheeler, Underhill, VT)
21. Christine Dillon, Attendee (31 Beartown Road, Underhill, VT)
22. Gretil Dougherty, Attendee (142 River Road, Underhill, VT)
23. Julia Martin, Co-Applicant (663 Guyette Road, Plainfield, VT)
24. John Hunt, Co-Applicant (663 Guyette Road, Plainfield, VT)

I. At the outset of the hearing, Chair C. 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. Julia Martin
2. John Hunt
3. John Doherty
4. Carole Doherty
5. Sarah Hurley
6. Brian Hurley
7. Sarah Leddy
8. Tamara Pitmon
9. Richard Rushlow
10. Christine Dube
11. Laruen Dube
12. Tonya Howard
13. Elaine Herman
14. Jim Leddy

J. In support of the conditional use review application, the following exhibits were submitted to the Development Review Board:

Exhibit A – ML008 Martin Staff Report - Conditional Use Review
Exhibit B – Martin (ML008X) Conditional Use Review Hearing Procedures
Exhibit C – Application for Conditional Use and Site Plan Review
Exhibit D – Authorization Letter from Chapter 7 Trustee
Exhibit E – Conditional Use Review Findings Checklist
Exhibit F – Site Plan Review Findings Checklist
Exhibit G – Certificate of Service
Exhibit H – Burlington Free Press Notice
Exhibit I – Use Key for Site Plan
Exhibit J – Project Narrative
Exhibit K – Existing & Proposed Floor Plans
Exhibit L – Site Plan with Corresponding Use Key Numbers
Exhibit M – Anticipated Demographics Chart
Exhibit N – Survey
Exhibit O – Wastewater System Site Plan
Exhibit P – Project Review Sheet
Exhibit Q – Wastewater System & Potable Water Supply Permit
Exhibit R – Associated Wastewater Permit Documents
Exhibit S – Land Use Permit

No other exhibits were subsequently submitted and distributed prior to the start of the hearing. However, during the hearing, the following exhibits were submitted into the record:

Exhibit T – Correspondence from Elaine Herman Re: Application
Exhibit U – Correspondence from Jim Leddy Re: Application

All exhibits are available for public review in the ML008 Martin Conditional Use Review file (ML008 / DRB 18-05) at the Underhill Zoning & Planning office.

II. FACTUAL FINDINGS & CONCLUSIONS

The Minutes of the March 19, 2018 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 2011 *Underhill Unified Land Use and Development Regulations* (ULUDR) as amended March 6, 2012, March 4, 2014 and March 6, 2018:

PROJECT DESCRIPTION

The applicant, Julia Martin, and John Hunt, are both co-owners of their business ReTribe Transformations, which provides transformational programs for children, teens, young adults, and adults. The applicant, with the permission of the Maple Leaf Farm Associate Inc. Chapter 7 Trustee, Douglas Wolinsky, has submitted an application to convert the old Maple Leaf Farm campus, which was previously used as drug rehabilitation facility, to a mixed-use facility containing multiple uses thus requiring conditional use review under Article II, Table 2.1. Specifically, the proposed uses are: two single-family dwellings, forestry, wildlife management area, school, inn, health clinic, outdoor recreation, nature center, and cultural facility, which are outlined and defined (in accordance with Article XI) below.

For clarification purposes, as described during the hearing, ReTribe Transformations is similar to Poker Hill School, but for older students (typically between ages 6 and 14). The applicant has advised that they hold daily programs, typically up to three (3) times a week. There are also five weeks during the year when they hold five (5) weeklong, overnight programs, typically serving children, but with one of the weeks tailored towards adults. Hereafter, the daily program and weeklong program will be referred to as "transformational programs" or "programs." These programs are mostly associated with the outdoor related uses as provided above: forestry, wildlife management area, outdoor recreation, nature center, and cultural facility.

In reference to Exhibit L, which was submitted as part of the application, Ms. Martin proposes to:

- Convert identified buildings six (6) and seven (7) to single-family dwellings. As part of the old Maple Leaf Farm campus, building six (6) served as an administration building, while building seven (7) served as the women's dormitory. The applicant anticipates occupying building seven (7), while the applicant's mother, Jane Hunt, anticipates occupying building six.
- Maintain building one (1), labelled as the barn facility, as a multi-functional building. The Board acknowledges that this building currently contains a kitchen, dining hall, bathrooms, and offices; however, many of these rooms will be repurposed to fit the needs of the proposed uses. The proposed layout contains bedrooms as part of a hostel, kitchen, offices, bathrooms, and a dining hall. The applicant has expressed a desire to have the dining hall serve the children enrolled in the transformational programs, the hostel guests, and the students associated with the proposed school (addressed below).
- Repurpose building three (3), previously modular offices, as a health clinic for therapeutic

modalities, not for medical emergencies. The applicant's mother, will oversee the activities associated with the health clinic, which include seeing clientele during the day.

- Maintain building two (2), previously used as the men's dormitory, as a dormitory for the boarding school/transformational program.
- Retain building four (4) as a garage.
- Retain building five (5) as a shed.

The subject properties are located at 8, 10, 12, 14 and 20 Maple Leaf Road (ML008X, ML010X, ML012X, ML014X and ML020), which are in the Water Conservation District as defined in Article II, Table 2.5 and in the Soil & Water Conservation District as defined in Article II, Table 2.7.

To summarize the intended project, the applicant proposes to utilize the existing buildings and infrastructure as a mixed-use facility to operate her business – ReTribe Transformations, to operate her mother's business - a therapeutic health clinic, to operate a hostel, and to operate a school/boarding school. Two of the buildings will be converted to separate single-family dwellings, where one will be occupied by the applicant and the other will be occupied by the applicant's mother. The transformational programs will largely utilize the forest, fields, and environment for activity purposes, but will also utilize some of the facilities for dining and overnight purposes. The health clinic will be small in nature with a modest number of clientele visiting on a daily or bi-daily basis. The hostel is intended to serve hikers along the Long Trail, as well as cross country skiers, and may serve as a starting point for those individuals. The applicants intend to start a boarding school, which will utilize the dining and boarding facilities.

The Board finds the wastewater disposal capacity of the site to be the limiting factor in determining use. The Board makes the following findings and limitations based on the existing Agency of Natural Resources Wastewater Disposal and Water Supply Permit WW-4-0294-5 issued on 30 October 2013, and summarized in the following chart:

BLDG #	Building Name	Permitted Wastewater Usage	Wastewater GPD
1	Barn Facility	8 Beds, 5 Medical Staff, 15 Other Staff, 100 Visitors Per day	1,750
2	Men's Dorm	22 Beds	2,475
3	Office Building	10 Employees	135
4	Garage	-	0
5	SHED	-	0
6	Annex Building	2 Employees	27
7	Women's Dorm	11 Beds	770
		Approved Wastewater Capacity in (GPD)	5,157

A. ARTICLE II, TABLE 2.5 – WATER CONSERVATION DISTRICT

The Board finds that the existing structures, which are subject to this application, meet the minimum dimensional requirements, specifically pertaining to setbacks and frontage. The

applicant does not propose to construct any additions to the pre-existing buildings, nor does the applicant propose to construct any new buildings. In addition, the previous use conducted at the property, the now defunct Maple Leaf Farm drug rehabilitation center, was likely a nonconforming use, and the conversion of the campus to uses described below, with approval by this Board, brings the use into conformance with the Regulations.

The following chart identifies the proposed use, whether the use is a permitted use or conditional use, as well as the corresponding project aspect/description as summarized directly above in the "project description" section of this decision (Note – the definition of each use, as described in the 2018 *Underhill Unified Land Use & Development Regulations*, is incorporated into this decision by reference):

Proposed Use	Permitted or Conditional	Corresponding Project Aspect	Corresponding Description
Single-Family Dwellings	Permitted	Two separate residences	Building 6 – Residence for the Applicant's Mother Building 7 – Residence for the Applicant.
Forestry	Permitted	Transformational Program & Boarding School	The land accompanying the buildings. The applicant has informed the Board that she intends the land at 20 Maple Leaf Road to remain in Current Use.
Wildlife Habitat	Permitted	Transformational Program & Boarding School	See "Forestry."
School	Conditional Use	Boarding School	Building 1 – Provide bathroom facilities and dining for students. Building 2 – Dormitory for Boarding Students
Inn	Conditional Use	Hostel	Building 1 – Provide guest rooms, dining facilities and bathroom facilities for patrons.
Health Clinic	Conditional Use	Therapeutic Health Care Services	Building 3 – Provide therapeutic health care services to clients and students.
Recreation, Outdoor	Conditional Use	Transformational Program, Boarding School & Hostel	See "Forestry." The hostel patrons may use portions of the land to connect with other hiking and skiing trails.
Nature Center	Conditional Use	Transformational Program & Boarding School	See "Forestry."
Cultural Facility	Conditional Use	Transformational Program & Boarding School	See "Forestry."

As a result, the Board finds that the descriptions outlined above are consistent with their corresponding definitions; however, the Board finds that the school shall be considered an independent school and fall under the jurisdiction of the Vermont Department of Education. The

board shall require the school become either an "Approved" or "Recognized" Independent School as allowed by the Vermont Department of Education, either prior to, or within 10 months of the start of instructional curriculum on site. The board shall require verification that the health clinic and associated professionals are licensed in accordance with the services they are providing as defined by the Vermont Secretary of State.

Lastly, as indicated above under "project description," the Department of Environmental Conservation Wastewater System & Potable Water Supply Permit (Permit #: WW-4-0294-5) is the limiting factor in this Board's decision. Since the Board finds that a permit has already been issued by the State of Vermont, the Board requires the permit to be amended and a re-allocation of wastewater be updated in accordance with the proposed uses, not to exceed the gallons per day limitations in the original Wastewater System & Potable Water Supply Permit. The Board finds, that by amending the ANR permit regarding wastewater, the applicant will satisfy the purpose of the underlying zoning district – the Water Conservation District.

B. ARTICLE II, TABLE 2.7 – SOIL & WATER CONSERVATION DISTRICT

The Board finds that the pre-existing structures are not located in the Soil & Water Conservation District, and therefore, the uses directly associated with the buildings will not impact this district. However, similar to above, the chart directly below identifies the proposed uses that will occur in the Soil & Water Conservation District, whether the use is a permitted use or conditional use, as well as the corresponding project aspect/description as summarized directly above in the "project description" section of this decision (Note – the definition of each use, as described in the 2018 *Underhill Unified Land Use & Development Regulations*, is incorporated into this decision by reference):

Proposed Use	Permitted or Conditional	Corresponding Project Aspect	Description
Forestry	Permitted	Transformational Program & Boarding School	The land accompanying the buildings. The applicant has informed the Board that she intends the land at 20 Maple Leaf Road to remain in Current Use.
Wildlife Habitat	Permitted	Transformational Program & Boarding School	See "Forestry."
Recreation, Outdoor	Conditional Use	Transformational Program, Boarding School & Hostel	See "Forestry." The hostel patrons may use portions of the land to connect with other hiking and skiing trails.
Nature Center	Conditional Use	Transformational Program & Boarding School	See "Forestry."
Cultural Facility	Conditional Use	Transformational Program & Boarding School	See "Forestry."

Therefore, the Board finds that the descriptions outlined above are consistent with their corresponding definitions. The Board finds that the portion of the property that is located in the Soil & Water Conservation District is in the State's current use program, and that the applicant intends to keep these lands in that program. The abovementioned uses, in the Board's opinion, are not inconsistent with the current use program; however, the applicant is responsible for verifying

this information with the Vermont Department of Taxes.

ARTICLE III, GENERAL REGULATIONS

C. **SECTION 3.2 – ACCESS**

The Board finds that the existing lot contains a single access point off of Maple Leaf Farm Road, a regularly maintained Town Road. The Board finds that there is no evidence that an access permit has ever been obtained, most likely since the existing development predates the access permitting process. However, since a conversion of use is proposed, the Board finds that the applicant will need to obtain an access permit from the Selectboard prior to commencing with their project, as outlined under Section 3.B(iii) of the Underhill Road Ordinance.

The Board finds that the applicant does not propose to construct or extend the existing driveway or parking lot, and that she intends to utilize the existing driveway and parking lot. As currently configured, the parking lot directly abuts Maple Leaf Road, thus failing to meet the minimum setback requirements; however, since the applicant does not propose to make any changes to the driveway or parking lot, the applicant is not increasing the degree of nonconformance, and therefore, the driveway and parking can be used as currently configured.

Lastly, the Board finds that the lot conforms to both the Water Conservation and Soil & Water Conservation zoning districts' frontage requirements of at least 300 & 400 feet respectively.

D. **SECTION 3.3 – CONVERSION OR CHANGE OF USE**

The Board finds that conditional use review approval is required since the applicant is converting the old Maple Leaf Farm campus, formally a drug rehabilitation center that was likely nonconforming, to a mixed-use facility containing several uses, which include multiple permitted uses and multiple conditional uses, and are outlined above. Regardless of the configuration of uses, and whether they are permitted or conditional, any combination of uses qualifying the proposal as a mixed-use project requires conditional use review.

The Board finds that with the approval of this conditional use review application, the applicant will satisfy the conditions of this Section, noting that review under nonconforming uses is directly below under Section 3.10. Also to note, the Board is limiting the project to the already approved and installed wastewater system, and therefore, the Board does not anticipate an increase in wastewater generation. However, the applicant will be required to submit the necessary documentation from the State of Vermont, Department of Environmental Conservation regarding the Wastewater System & Potable Water Supply permit prior to obtaining their Certificate of Occupancy.

E. **SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS**

The Board finds that the existing structures appear to conform with lot, yard, and setback requirements; however, the parking lot, located on the west side of Maple Leaf Road, to be preexisting and nonconforming, as the lot directly abuts the town highway. The Board also finds that the proposed project conforms with the total building coverage and lot coverage requirements.

The combination of lots 8, 10, 12, 14 & 20 Maple Leaf Road yield a total area of approximately 78 acres (8, 10, 12 & 14 Maple Leaf Road total 10 total acres and 20 Maple Leaf Road total 68 acres), with approximately 1,790 feet of frontage along Maple Leaf Road and approximately 1,280 feet of frontage along Stevensville Road. The applicant does not propose to construct any additions or new buildings, and therefore, even if one of the buildings is nonconforming, the applicant would

not increase the degree of nonconformance due to the lack of exterior expansions of the existing buildings.

While Stevensville Brook bisects the 20 Maple Leaf Road parcel of land, in addition with a pond and Class II Wetland being located on 20 Maple Leaf Road, the applicant does not propose any new construction in the vicinity of these constraints. In addition, the existing structures more than satisfy the setback requirements (50-foot setback for Class II Wetlands; 25-foot setback for ponds and unnamed waterbodies; as well as the top of bank/top of slope requirement under Section 3.19).

The Board finds that applicant has satisfied the requirements of Sections 3.9 and 3.10, and will not be prevented from obtaining approval from the Board under this section.

F. **SECTION 3.8 – NONCONFORMING LOTS**
The Board finds that there is evidence to believe that 8 Maple Leaf Road (ML008X), 10 Maple Leaf Road (ML010X), 12 Maple Leaf Road (ML012X) and 14 Maple Leaf Road (ML014X) were separate lots at some time; however, no evidence has been submitted supporting that notion. Therefore, for the purposes of this application, the Board finds that the lots are deemed merged under Section 3.8.B, thus being treated as one lot, as the Board makes the assumption that some, if not all, of the lots were nonconforming and came under common ownership with one or more contiguous lots.

G. **SECTION 3.9 – NONCONFORMING STRUCTURES**
The Board finds that the existing structures were legally in existence as of the effective dates of the current *Underhill Unified Land Use & Development Regulations*, and are more than likely conforming; however, in the alternative, since the applicant did not submit evidence confirming that the structures conform to the abovementioned regulations, should the structures actually be nonconforming, the applicant may continue to occupy or use the buildings indefinitely since she does not propose to structurally enlarge, extend, expand, modify, or move any of the buildings.

The Board does find that the parking lot is nonconforming since it directly abuts Maple Leaf Road, thus failing to meet the setback requirements of the underlying district. However, the applicant may continue using the parking lot, as currently configured, to serve the facility since no alterations to the parking lot are proposed

H. **SECTION 3.10 – NONCONFORMING USES**
The Board finds that the previous use, a drug rehabilitation center, was likely a nonconforming use; however, the proposed mixed-use facility containing the various uses outlined above under Tables 2.5 and 2.7, with this approval, are conforming uses. This section is addressed as a formality in accordance with Section 3.3.

I. **SECTION 3.11 – OUTDOOR LIGHTING**
The Board finds that the applicant did not submit a lighting plan, but intends to keep the existing lighting in place. The Board finds that all lighting shall be downward facing, shield lighting and shall be installed with motion sensors. Each light shall not exceed 1800 lumens each (~100 watt incandescent bulb) and have no objectional spillover light to adjacent properties. Locations for new light fixtures shall be shown on the as-built site plan. Proposals for additional light fixtures or change of fixture style shall require review and approval by the Planning & Zoning Administrator and shall be referred to ~~the~~ this Board for additional review should the Planning & Zoning Administrator find that the proposed lighting is inconsistent with this decision.

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

PARKING SPACES: The Board finds that the applicant has advised that the proposed project will have adequate parking, indicated that they counted 60 to 80 parking spaces on aerial photography. The Board finds that there is no supporting evidence that the old Maple Leaf Farm Campus provided that many parking spaces; however, as outlined in detail below. The Board finds that a minimum of 70 parking spaces are required in order to accommodate the anticipated demand created by the approved uses. Due to the configuration of the parking lot directly abutting Maple Leaf Road, the Board finds that parking shall not obstruct or disturb two-way vehicular traffic circulation or town maintenance / snow removal operations. In addition, in accordance with ADA standards, the applicant shall provide the requisite number of labeled, handicapped parking spaces. Lastly, since the parking lot exceeds eight parking spaces, typically 10% of the total parking area is required to be landscaped, unless waived under by the Board under this Section. The Board finds that the applicant's proposal does not satisfy any of the exceptions provided in Section 3.13.C; however, the lot is pre-existing, and since the applicant does not propose to increase the degree of nonconformance, the parking can remain in its current state.

BICYCLE RACK: The Board finds that the applicant shall provide a bicycle rack prior to obtaining a Certificate of Occupancy permit. The location of the bike rack shall not impede vehicular or pedestrian traffic.

FENCING: Given the parking lot's dimensional limitations, the Board recognizes the infeasibility of requiring landscape screening at the parking lot's border with Maple Leaf Road; therefore, the Board waives the requirement that parking must be screened at this boundary under Section 3.13.A.3.

LOADING & SERVICE AREAS: The Board finds that the applicant shall provide loading and servicing areas in accordance with Section 3.13.B on the as-built site plan to be submitted prior to obtaining a Certificate of Occupancy permit. The location of these areas shall not impede with vehicular or pedestrian traffic.

PROPERTY MAINTENANCE: The Board finds that the applicant shall ensure that snow removal or snow storage does not interfere with parking capacity, pedestrian and vehicular circulation. The storage of snow shall not impede upon sight lines onto Maple Leaf Road, and in the event that excess snow interferes with the amount of parking spaces provided, the applicant shall arrange that the excess snow is removed from the site and located elsewhere.

In addition, the applicant shall ensure that trash is stored in a location that is enclosed and shielded from public view, which shall be located on the as-built site plan to be submitted prior to obtaining a Certificate of Occupancy permit and confirmed by the Planning and Zoning Administrator. The Board finds that the applicant is ultimately responsible for keeping the property free of debris and trash.

K. **ARTICLE III, TABLE 3.1 – MINIMUM OFF-STREET PARKING REQUIREMENTS**
The Board finds that Table 3.1 Minimum Off-Street Parking Requirements does not adequately address how to accommodate parking for the following uses associated with the proposed project: Forestry; Wildlife Habitat; Recreation, Outdoor; Nature Center; and Cultural Facility. The following chart outlines the parking requirement, broken down by use:

L.

Proposed Use	Parking Space Requirement	Required Number of Spaces
Single-Family Dwelling (x2)	2 per Dwelling Unit	4 spaces
Forestry	None Identified	4 spaces
Wildlife Habitat	None Identified	4 spaces
School (40 Children)	3 Spaces per Child	13 spaces
Inn (1 per Guest Room)	1 per Guest Room	21 spaces
Health Clinic	3 per Every Caregiver	12 spaces
Recreation, Outdoor	None Identified	4 spaces
Nature Center	None Identified	4 spaces
Cultural Facility	None Identified	4 spaces
	Total	70 spaces

The applicant advised that there is between 60 to 80 parking spaces allocated between the parking lot on the west side of Maple Leaf Road and on the main campus, on the east side of Maple Leaf Road. While there is no parking requirement for the Forestry, Wildlife Habit, Outdoor Recreation, Nature Center, and Cultural Facility uses, as illustrated above, the Board has set required minimums for each use and finds there is an adequate amount of parking to accommodate the parking demand associated with these uses – the transformational programs. The Board finds that the transformational programs do not require day-long parking, as the transformational programs largely involve the pick-up and drop-off of children – as described during the hearing. Therefore the transformational programs will not require a large number of parking spaces, but rather, involve an area for pick-up and drop-off. The Board requires that the applicant designate a safe area for pick-up and drop-off, which shall be shown on the as-built site plan and which will be reviewed on-site by the Zoning Administrator prior to obtaining a Certificate of Occupancy permit.

M. **SECTION 3.14 – PERFORMANCE STANDARDS**
The Board finds that testimony submitted during the hearing was concerned with the anticipated level of noise. The Board finds that evidence was not submitted supporting the claim that the proposed project would violate the performance standard under Section 3.14.B. In addition, given the nature of the applicant's business, children are to be expected to be noisy from time to time, and the Board encourages the applicant to try to minimum excessive and prolonged noise. In addition, the Board encourages the applicant and surrounding community to communicate with one another should noise become an issue. In regards to the other performance standards enumerated in this Section, the Board finds that the proposed project will conform to the requirements of this Section.

Nevertheless, the Board finds that the following conditions are imposed to help ensure that the requirements of this section are satisfied, acknowledging the conditions below may not explicitly apply to this Section of the zoning regulations:

- School (Boarding School)
    - The total number of bedrooms that are permitted at the site's location (number of bedrooms to serve the inn and the Boarding School) shall not exceed 30 beds and may be configured at the discretion of the applicant, noting that the number of beds for the hostel cannot exceed 22 as discussed under Section 4.5.
    - The boarding school shall not exceed more than 40 students – 20 commuting students and 20 boarding students (living on-site).
    - Since the school will be a boarding school, days of operation are implied to be Sunday thru Saturday.

- Inn (Hostel)
    - The total number of bedrooms that are permitted at the site's location (number of bedrooms to serve the inn and the Boarding School) shall not exceed 30 beds, and may be configured at the discretion of the applicant, noting that the number of bedrooms for the hostel cannot exceed 22 as discussed under Section 4.5.
    - Since the hostel will function similarly to an inn, days of operation are implied to be Sunday thru Saturday.

- Health Clinic (Therapeutic Healthcare Facility)
    - The total number of providers shall not exceed four (4).
    - The hours of operation shall occur between 7:00 am and 6:00 pm.
    - The days of operation shall occur between Monday and Friday.

- Daily Transformational Programs
    - The total number of participants shall not exceed 100 students and staff at any one time.
    - The days of operation shall occur between Monday and Saturday.

- Weekly Transformational Programs
    - The weekly transformational programs shall occur during vacations times within the traditional school year, summer vacation, or at those times when the on-site school is on break or vacation.
    - The total number of participants staying overnight in the Weekly Transformational Program shall be limited to the maximum boarding students allowed in the boarding school.
    - The total number of daily commuter participants in the Weekly Transformational Program shall be limited to the maximum of allowable commuter school students.
    - The days of operation are implied to be Sunday thru Saturday.
    - The applicants are permitted to perform five weekly transformation programs in a calendar year, as presented at the hearing (March 19, 2018).

A change to the hours of operation requires the applicant to contact the Planning and Zoning Administrator, and may require additional review by this Board.

N. **SECTION 3.16 – SIGNS**

The Board finds that the previous landowner had erected several signs in various located on the property. The applicant has advised she does not anticipate adding additional signage, and therefore, the Board finds that no new signage, or additional square footage of signage, shall be erected. However, the applicant is permitted to utilize the existing signage, not to exceed the cumulative square footage currently in place. Any change to signage size or location requires the

applicants to contact the Planning and Zoning Administrator for review and approval. Subsequently, if the applicant proposes additional sign square footage, she shall submit an application to the Zoning Administrator and will be required to comply with the zoning regulations in effect at the time of application.

O. **SECTION 3.17 – SOURCE PROTECTION AREAS**
The Board finds the project location is within an active groundwater source protection area, and as a result, the applicant is required to satisfy Section 3.17.B. The Board finds that the applicant does not propose any new structures or additions, and that the project will conform to requirements of this section. During the hearing, the applicant expressed a willingness to forgo the use of sodium chloride for de-icing and will instead consider environmentally-friendly alternatives (i.e. sand).

P. **SECTION 3.18 – STEEP SLOPES**
The Board finds that there are areas of steep slopes (15-25%) or very steep slopes (>25%) on the property under consideration; however, the applicants have not proposed to expand the building footprint, and therefore, there will be no impact to the existing slopes. The Board notes that activities associated with the transformational programs, the board school, and the hostel (i.e. hiking and skiing by the patrons) will likely occur in these areas; however, these activities are not prohibited, nor are they regulated, by this Section.

Q. **SECTION 3. 19 – SURFACE WATERS & WETLANDS**
Evidenced by the ANR Website, a Class II Wetland is located in the general vicinity of a pond located at 20 Maple Leaf Farm Road. In addition, Stevensville Brook bisects the same lot. The Board finds that the applicant does not propose to construct any new buildings or additions, and therefore, there will be no new adverse impacts to these features. Additionally, the predominant development located on the two properties (8 Maple Leaf Road and 20 Maple Leaf Road) is at the site of 8 Maple Leaf Road, thus reconfirming that there are no adverse impacts to the brook, wetland or pond. Therefore, the Board finds that the applicant has satisfied the setback requirements for both the Class II Wetland (50-foot setback requirement) and the pond (25-foot setback – unnamed waterbody and/or under Section 3.16), as well as the 100-foot top of bank setback from Stevensville Brook.

R. **SECTION 3.23 – WATER SUPPLY & WASTEWATER SYSTEMS**
The subject property contains a Wastewater System & Potable Water Supply Permit from the Vermont Department of Environmental Conservation (Permit #: WW-4-0294-5) which contains the following restriction:

BLDG #	Building Name	Permitted Wastewater Usage	Wastewater GPD
1	Barn Facility	8 Beds, 5 Medical Staff, 15 Other Staff, 100 Visitors Per day	1,750
2	Men's Dorm	22 Beds	2,475
3	Office Building	10 Employees	135
4	Garage	-	0
5	SHED	-	0
6	Annex Building	2 Employees	27

BLDG #	Building Name	Permitted Wastewater Usage	Wastewater GPD
7	Women's Dorm	11 Beds	770
		Approved Wastewater Capacity in (GPD)	5,157

The Board finds that the applicant shall not exceed the allowed wastewater capacity currently permitted under Permit #: WW-4-0294-5, though the applicant is permitted to reallocate the allowed capacity to her discretion. As noted above, the total number of beds between the boarding school and the hostel that this Board permits shall not exceed 30, and can be allocated how the applicant wishes, noting that the number of beds for the hostel cannot exceed 22 as discussed under Section 4.5. The applicant shall submit an updated Wastewater System & Potable Water Supply Permit for recordation or documentation advising that an updated permit is not required, prior to obtaining the first certificate of occupancy.

ARTICLE IV, SPECIFIC USE STANDARDS

A. **SECTION 4.5 – COMMERCIAL LODGING (BED & BREAKFAST, INN)**

The Board conditions approval on the total number of beds between the boarding school and the hostel (Inn) not exceeding 30 beds, noting that the number of bedrooms for the hostel cannot exceed 22 as allowed under this section. The Board finds that the applicant proposes to offer on-site meals for overnight guests, and will be consistent with the other requirements of this Section. All applicable documentation shall be obtained and submitted to the Zoning Administrator prior to obtaining the first Certificate of Occupancy.

B. **SECTION 4.13 – MIXED USE**

The Board finds that multi-use facilities are conditional uses under both the Water Conservation and Soil & Water Conservation zoning districts. The applicant proposes multiple uses that vary from permitted uses to conditional uses. These are outlined above under Article II, Tables 2.5 and 2.7. The Board finds that the requirements of this Section are satisfied: no prohibited uses in the underlying zoning districts are proposed; the combination of the uses meet the applicable standards in the district which it is proposed; and the uses meet the applicable regulations under Article III, discussed above.

In addition, the Board approves the application with the understanding that the proposed uses will operate as outlined in this decision. If the nature of any of the uses (as described under the Article II Tables above) changes , the applicant, or subsequent landowner/applicant, is required to submit a conditional use review application for review by this Board. Should the applicant abandon one of the uses approved as part of this decision, the regulations in effect at the time of the abandoned use shall apply.

ARTICLE V, DEVELOPMENT REVIEW

A. **SECTION 5.1 – APPLICABILITY**

The Board finds that as part of Conditional Use Review under Section 5.4, Site Plan Review is also required under Section 5.4.C of the *Unified Land Use and Development Regulations*.

B. **SECTION 5.3 – SITE PLAN REVIEW**

<u>Section 5.3.A – Purpose:</u> The Board finds that site plan review is required as part of conditional use

review per Section 5.4.C.

Section 5.3.B – Standards: The Board has considered the following standards, and imposes and/or comments about the following safeguards, modifications, and conditions:

SECTION 5.3.B.1 – Existing Site Features: The Board finds that the applicant provided a site plan that was submitted at a previous hearing involving the subject properties. The site plan illustrated all of the existing buildings in relation to the property's boundaries, driveways/Town Highways, and landscaping. While the site plan did not show site features enumerated under Section 5.3.B.1 with great specificity, the Board was able to obtain that information through other sources (the ANR Website) and determined that the proposed use would not adversely affect these features. The Board also determined that the proposed project will not negatively impact the enumerated site features, as the applicant will not construct any new buildings or additions. Therefore, no mitigation measures are required under Section 5.3.B.2.

Section 5.3.B.2 – Site Layout & Design: The Board finds that the structures and supporting infrastructure are already in place and existing. While the previous use was a drug rehabilitation center, the Board finds that the buildings are compatible with the setting and context of the surrounding area and neighborhood. Specifically, the buildings at the subject property, when viewed separately, are of similar scale to other development nearby. Board finds that more intense use (albeit only more intense due to the amount of traffic associated with the use) is buffered due to the substantial amount of acreage associated with the subject property (approximately 78.0 acres), thus shielding the residential community. Together, the scale of the pre-existing buildings and extent of the property mitigate any intensity issue and/or scale issue that may be associated with the project.

The Board also makes the finding that the pre-existing buildings (the development) are all within the Water Conservation District. As mentioned above, the buildings, when viewed individually, are of a scale that is compatible with the surrounding community, and thus reinforce the rural character and traditional working landscape of the Water Conservation District. The existing buildings are already sited to avoid site features mentioned under Section 5.3.B.2.b. Lastly, the proposed project will conform to the Soil & Water Conservation District's vision outlined under Section 5.3.B.2.c, as the applicant has expressed a desire to retain the presently enrolled land in the Current Use program.

Section 5.3.B.3 – Vehicle Access: The Board finds that the vehicular access points and parking lot are existing. The Board finds that the applicant will be required to obtain an access permit from the Selectboard. The Board does not find that any of the measures in Section 5.3.B.3 need to be taken. See Section 3.2 above for more information.

Section 5.3.B.4 – Parking, Loading & Service Areas: See Section 3.13 above for information regarding parking and service area requirements.

Section 5.3.B.5 – Site Circulation: The Board finds that existing infrastructure is in place to facilitate vehicular and pedestrian site circulations. As mentioned above, the applicant shall designate on the site plan: an area for loading and servicing on the property that does not interfere with the site circulation and a safe area for drop-off/pick-up of day students. In an effort to ensure pedestrian safety, the Board also encourages and recommends that the Selectboard to work with the applicant to designate a crosswalk in a preferred location that

would connect the parking lot to the main campus. The Board finds that the requirements of Section 5.3.B.5.b do not apply.

Section 5.3.B.6 – Landscaping and Screening: See Section 3.13 above for information regarding landscaping and screening requirements.

Section 5.3.B.7 – Outdoor Lighting: See Section 3.11 above for information regarding outdoor lighting requirements.

Section 5.3.B.8 – Stormwater Management and Erosion Control: The Board waives this requirement under Section 5.2.B.2 and 5.5.A as there will be no development phases since the application pertains to a conversion of use rather than an expansion of the existing structure or the construction of a new building. Furthermore, the Board finds that the applicant does not propose to increase the amount of impervious surface on the subject properties.

C. **SECTION 5.4 – CONDITIONAL USE REVIEW**

Section 5.4.A – Purpose: The Board finds that conditional use review is required because the project is mixed-use. While the mixed-use designation triggers conditional use review, in addition the Board also notes that the several of the proposed uses are designated as conditional uses under Article II (see Tables 2.5 and 2.7 above) and as such, require conditional use review. The Board finds that the conditions imposed and identified throughout this decision address the identified potential impacts, as well as help reduce, avoid, or mitigate those impacts.

Section 5.4.B – General Standards: The Board finds that the conditions imposed herein will mitigate any potential undue adverse effects.

Section 5.4.B.1 – The Capacity of Existing or Planned Community Services or Facilities: The Board finds that the proposed mixed-use facility will not result in an increase in community services or facilities since the buildings and infrastructure are existing. Emergency services were already providing service to the facility. In addition, the Board limits the proposed use to the constraints of the Wastewater System and Potable Water Permit, as explain above under Section 3.23 above. Lastly, since the proposed uses include educational services and programs, there will be a negligible impact on the public school system. At this time, the Board does not foresee any conditions that need to be imposed to ensure that the demand for community facilities or services does not exceed the available capacity.

Section 5.4.B.2 – The Character of the Area Affected: The Board notes that the purpose statements of both the Water Conservation District and the Soil & Water Conservation District do not help the Board in evaluating whether the proposed development conforms to the scale, type, density and intensity in relation to the character of the area affected. Therefore, the Board turns to relevant policies and standards of the Underhill Town Plan as well as the specific standards under Section 5.4.D below. In addition, in evaluating the character of the area, the definition of "character of the area" under Article XI states

> "For purposes of these regulations, the "character of the area" or character of a neighborhood is the planned type, density and pattern of development for a particular area or neighborhood, as defined by zoning district purpose statements and clearly stated goals, policies, and objects of the Underhill Town Plan that are specific to that area and/or the physical circumstances of

development. "

Since the Board finds that the purpose statements of the relevant zoning districts do not apply, the Board turns to the proposed development in a particular area or neighborhood. The Board defines the area/neighborhood as largely rural residential not inconsistent with other rural areas of the town. However, since the former facility has been in operation prior to the enactment of the zoning regulations, the board finds the "institutional use" of the property to be a defining character of the neighborhood.

First, the Board finds that there is no new "proposed development," as the applicant intends to utilize the existing buildings and not construct any new buildings or additions. The board finds the institutional use to be a continuation of a pre-existing use. As explained above, when considered separately, the scale of each existing building is similar to the scale of the buildings in the area affected, as defined above. While the type and intensity of the proposed project is at variance with the single-family dwellings in the area, the Board finds that vastness of the property creates a feeling of seclusion, shielding the facility from the surrounding area and neighborhood. As a result, this buffer serves as a mitigation measure, and therefore, the Board does not find any undue adverse impact to the character of the area. Lastly, the Board finds that density is not relevant to this analysis, over time the use has grown from the original structures and expanded with the former facility and therefore the Board finds the density to be consistent with the neighborhood.

See Section 5.4.D.1 below for information regarding the Town Plan.

<u>Section 5.4.B.3 – Traffic on Roads and Highways in the Vicinity:</u> The applicant presented that the proposed mixed-use facility would create less traffic on the roads and highways in the vicinity than the previous use – a drug rehabilitation center. The Board finds that there is no evidence supporting that assertion; however, the Board does not find any evidence to the contrary. Nevertheless, the Board finds that the difference of traffic from what was previously on the road when the facility was operating as a drug rehabilitation center compared to what is being proposed will not result in noticeable impact on the roads and highways in the vicinity, which includes condition, capacity, safety and efficiency. Additionally, the Board finds that the proposed use will not result in the creation of unsafe conditions for motorists or pedestrians. Lastly, the Board finds that the proposed project will not result in 75 or more peak hour trips, and therefore, a traffic impact analysis is not required under Section 5.4.B.3.b.

<u>Section 5.4.B.4 – Bylaws in Effect:</u> The Board finds that the previous use – a drug rehabilitation center – was likely nonconforming; however, the submission and approval of this application brings the use into conformance with the regulations in effect at this time.

<u>Section 5.4.B.5 – The Utilization of Renewable Energy Resources:</u> The Board finds that the proposed conversion of use will not interfere with any sustainable use of renewable energy resources.

<u>Section 5.4.C – Site Plan Review Standards:</u> The Board finds that the site plan review is required as a part of conditional use review. Analysis can be found under Section 5.3 above.

<u>Section 5.4.D – Specific Standards:</u> The Board finds that they may consider the Subsections 5.4.D.1 through 5.4.D.4 and impose conditions as necessary to reduce or mitigate any identified adverse impacts of a proposed development.

Section 5.4.D.1 – Conformance with the Town Plan: The Board finds that the Town Plan identifies managed forest lands as an important community goal, as it helps define the rural character of the Town (see Section 1.3, Page 3). The proposed project will, at this time, continue the conservation of the forested area since the applicant proposes to keep the land in Current Use, which minimizes potential subdivision. In addition, the Town Plan also supports the protection of wildlife habitat areas, which for the same reasons stated above, the proposed project will benefit.

In regards to the underlying zoning districts as described in the Town Plan, the Board finds that the proposed project meets the purpose of both districts. First, the proposed mixed-use facility would not be adverse to the gravel aquifer recharge area for Underhill Center, as the facility is already legally permitted by the State of Vermont, Department of Conservation. In addition, the proposed uses are either permitted uses or conditional uses, as outlined on page 23, Section 3.5 of the Town Plan. Second, the proposed project meets the purpose of the Soil & Water Conservation district, as the portion of land that lay in this zoning district will remain untouched, and will continue to be in the State's Current Use Program. Lastly, in reviewing the Town Plan, the Board finds the project is not contrary or inconsistent with the goal of past efforts to manage growth, protect scenic, historic, and natural resources and maintain a vibrant community..

Section 5.4.D.2 – Zoning District & Use Standards: The Board finds no evidence that the proposed project is noncompliant with the zoning district and use standards, and that the approval of the application by this Board will legally permit the project.

Section 5.4.D.3 – Performance Standards: See Section 3.14 above for more formation regarding performance standards requirements.

Section 5.4.D.4 – Legal Documentation: The Board finds that this section does not apply, as rights-of-way and easements, as well as other common lands or facilities, are not under review. The Board finds that there are is no other legal documentation that need to be reviewed.

D. **SECTION 5.5 – WAIVERS & VARIANCES**

Section 5.5.A – Applications & Review Standards: The Board finds that it has the authority to waive application requirements and site plan or conditional use review standards under Sections 5.3 and 5.4 that it determines are not relevant to a particular application. The Board has noted those conditions that have been waived throughout this decision. Any provision that was not explicitly waived, and has not been explicitly addressed, the Board makes no finding on.

ARTICLE VI, FLOOD HAZARD AREA REVIEW

The Board finds that there are no Flood Hazard Areas present on the lot, and therefore, review under Article VI is not required.

ARTICLE X, SPECIFIC USE STANDARDS

C. **SECTION 10.3 – ZONING PERMITS**

Section 10.3.D – Effective Dates and Permit Renewals:

SECTION 10.3.D.1 – ZONING PERMITS: The Board finds that the permits issued as part of

this decision will remain in effect for two years from the date of issuance. The applicant must substantially commence the permit within two years or the permit will become null and void. "Substantially commence" entails "initial site preparation; the installation of an access; and the installation of a foundation, water and/or wastewater system on-site." (See Article XI for definition of "Substantially Commenced")

SECTION 10.3.D.2 – DRB APPROVALS: The Board finds that conditional use approvals expire with the expiration of the zoning permit, and may only be extended as provided under Section 10.3.D.1. Once the approved uses or structures are established, the conditional use approval will remain in effect and run with the land. The Board finds that the applicant shall establish the uses within 24 months (2 years) of the approval date of this decision 30 April 2020.

III. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS

The Board grants the following waivers/modifications:

- Except for barns and detached garages, the applicant, or subsequent applicant(s)/landowner(s), are/is not required to come before the Board for the construction of any out buildings, ancillary buildings, or accessory buildings, which would typically be required for any projects obtaining site plan review approval; instead the application for a building permit for those accessory-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 projects.
- The applicant is not required to come before the Board for additional review should any modifications to the driveway be made during the access permit review process so long as those modifications are consistent with this decision, as determined by the Zoning Administrator.

IV. DECISIONS AND CONDITIONS OF APPROVAL

The Board feels the information presented as part of the review process was sub-par and scattered adding to the complexity and duration for issuing the decision. After thorough deliberation the Board is minimally satisfied with the level of investigation, research 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 of the *Underhill Unified Land Use & Development Regulations,* and concludes that based on the evidence submitted and the above findings, the proposed development generally conforms to the aforementioned Regulations.

Based upon the findings above, and subject to the conditions below, the Development Review Board grants conditional use approval for the project presented in the application and at the hearing with the following conditions:

1. The applicant shall submit an as-built site plan prior to obtaining the Certificate of Occupancy. Said site plan shall contain physical features of the site to include the location of any external lighting and signage.
2. The applicant shall submit a parking plan which identifies all of the available parking spaces, loading areas, service areas, and pedestrian crosswalks, prior to obtaining the Certificate of Occupancy.

3. The Board retains continuing jurisdiction over this property for the lifetime of this permit. Should the Board or the Zoning Administrator find the facility is being operated in such a way that is inconsistent with the representations made during this review, the Board after being referred to by the Zoning Administrator retains the ability to impose additional conditions.
4. The standard parking spaces shall be dimensioned per Section 3.13.A, and the handicapped parking spaces shall be dimensioned per the Vermont State Accessibility Code. In accordance with ADA standards, the applicant shall provide the requisite number of identified, handicapped parking spaces.
5. The applicant may obtain a separate Certificate of Occupancy permit for each building, and use, rather than obtaining one Certificate of Occupancy for the entire project; however, the applicable conditions relevant to each building as outlined in this decision shall be satisfied prior to obtaining a Certificate of Occupancy, as confirmed by the Zoning Administrator.
6. The Board is limiting the project to the already approved and installed wastewater system. The board acknowledges the wastewater allocation will need to be revised. The applicant is required to submit a revised permit from the State of Vermont, Department of Environmental Conservation regarding the Wastewater System & Potable Water Supply permit prior to obtaining their first Certificate of Occupancy.
7. Due to the configuration of the parking lot directly abutting Maple Leaf Road, the Board finds that parking shall not obstruct or disturb two-way vehicular traffic circulation.
8. The Board conditions this decision to limit traffic at 75 or less peak hour vehicle trip ends (VTE) as measured during the AM or PM peak hour. Should the facility exceed the designated 75 Vehicle Trip End peak limitation, the Board shall require a traffic impact analysis as defined under Section 5.4.B.3.b. The Board delegates the authority to require a traffic impact analysis to the Zoning Administrator.
9. The Board finds that the applicant shall provide loading and servicing areas in accordance with Section 3.13.B on the as-built site plan to be submitted prior to obtaining a Certificate of Occupancy permit. The location of these areas shall not impede with vehicular or pedestrian traffic.
10. The Board finds that all lighting shall be downward facing, shielded lighting and shall be installed with motion sensors. Each light shall not exceed 1800 lumens each (~100 watt incandescent bulb) and have no spillover light to adjacent properties. Locations for new light fixtures shall be shown on the as-built site plan.
11. Each single-family dwelling shall be occupied by someone connected with the daily activities of the permitted uses allowed by this decision. The single-family dwellings shall not be used as rental units for persons not involved with ReTribe, and in the event that one, or both, are used as rental units for unassociated parties, it will be considered contrary to this decision, and this permit shall become void.
12. The number of beds allowed for the boarding school and hostel shall not exceed 30, collectively, noting that the maximum number of beds allowed for the hostel cannot exceed 22, as allowed under Section 4.5.
13. The Board requires the school become either an “Approved” or “Recognized” Independent school as allowed by the Vermont Department of Education, either prior to, or within 10 months of the start of instructional curriculum on site.
14. The Board requires verification that the health clinic and associated professionals are licensed in accordance with the services they are providing as defined by the Vermont Secretary of State.
15. The Board requires that all applicable documentation related to the hostel shall be obtained

prior to obtaining the Certificate of Occupancy for the relevant building(s).

16. The Board requires that the uses permitted by this approval shall conform to the conditions outlined above under Section 3.14, Performance Standards, and are hereby incorporated into this section by reference.
17. The applicant shall submit an amended Wastewater System & Potable Water Supply Permit for recordation, or documentation advising that an updated permit is not required, prior to obtaining the first certificate of occupancy.
18. The Board conditions that no new signage, or additional square footage of signage, shall be erected; however, the applicant is permitted to utilize the existing signage, not to exceed the cumulative square footage currently in place. Any change to signage size or location requires the applicants to contact the Planning and Zoning Administrator for review and approval. Subsequently, if the applicant proposes additional signage square footage, she shall comply with the requirements of the zoning regulations in effect at the time of application.
19. The Board requires snow removal and parking operations be outside of the town rights of way and not interfere snow removal and maintenance operations conducted by the town. The storage of snow on-site shall not impede upon sight lines onto Maple Leaf Road, and in the event that excess snow interferes with the amount of parking spaces provided, the applicant shall arrange that the excess snow is removed from the site and located elsewhere.
20. The permittee shall ensure that trash is stored in a location that is enclosed and shielded from public view, which shall be confirmed by the Planning and Zoning Administrator prior to obtaining a Certificate of Occupancy permit. The location of the trash storage shall be shown on the as-built site plan. The Board finds that the applicant is ultimately responsible for keeping the property free of debris and trash.
21. The permittee is responsible for verifying with Vermont Department of Tax that the proposed project is consistent with the Current Use program.
22. The permittee will need to obtain an access permit from the Selectboard prior to commencing with the project, as required by Section 3.B (iii) of the Underhill Road Ordinance.
23. The permittee shall provide a bicycle rack.
24. The permittee shall ensure that all residents of the single-family dwellings have sufficient ingress and egress from the lot during all hours.
25. Second story emergency egress such as a fire escape that may require ground based infrastructure shall not require a subsequent Conditional Use review. Such infrastructure shall be shown on the as-built drawings.
26. The Board delegates review / approval authority to the Zoning Administrator for minor modifications to the development that would normally require an amended conditional use review. Minor modifications shall be updated on the approved site plan. The Zoning Administrator has discretion over what constitutes a minor modification.
27. The permittee shall secure all required permits or approvals from the applicable Vermont state agencies, including but not limited to the Division of Fire Safety (or written verification a permit is not required). These permits shall be submitted to the Zoning Administrator prior to obtaining to a Certificate of Occupancy for the use approved under this decision and as required under Section 10.4.A.2.
28. The above conditions must be met by the applicants prior to obtaining a Certificate of Occupancy, and any ongoing conditions shall be the permanent responsibility of the building owner if the property changes ownership. Additionally, the project shall conform to the submitted application materials and hearing testimony presented by the applicants. Any

changes to the plans, the wastewater layout, the office-type occupancy or any obstructions to the conditions above shall be brought to the attention of the Planning and Zoning Administrator for review and shall be referred to the DRB for a new Conditional Use review at the PZA's discretion.

29. This permit is valid for two years from the date of issuance. To maintain validity the permittee must demonstrate a reasonable good faith effort to begin construction or development of the approvals outlined herein, unless delayed by other outside entities.

Dated at Underhill, Vermont this 30th day of April, 2018.

Charles Van Winkle

Charles Van Winkle, Chairman, 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 May 30th 2018 .