



# Town of Underhill

## Development Review Board

### Conditional Use Review Findings and Decision

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#### CONDITIONAL USE REVIEW APPLICATION BY ReTRIBE TRANSFORMATION TO UPDATE ASPECTS OF THEIR PREVIOUSLY APPROVED CONDITIONAL USE REVIEW APPLICATION

In re: ReTribe Transformation  
8 Maple Leaf Road (ML008)  
Underhill, VT 05489

Docket No. DRB-18-16

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

#### **I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns the conditional use application of ReTribe Transformation to update aspects of their previously approved conditional use review application (see DRB Decision #: DRB-18-16). The subject property is located at 8, 10, 12, 14, & 20 Maple Leaf Road (ML008, ML010, ML012, ML014 & ML020) in Underhill, Vermont, which is owned by Northern Shire L3C. The Board notes that Northern Shire L3C and ReTribe Transformation are interconnected, as Northern Shire L3C is the entity that is formally recognized as owning the land, whereas ReTribe Transformation is the formally recognized business entity that oversees the associated programs.

- A. On October 3, 2018, Julia Martin, on behalf of ReTribe Transformation, filed an application for conditional use review for the abovementioned project. The application was accepted and determined to be complete shortly thereafter. The hearing was scheduled for Monday, October 29, 2018 at 7:05 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. Applicant: ML008X – Northern Shire L3C, 663 Guyette Road, Plainfield, VT 05667
  2. Applicant: ML008X – ReTribe Transformations, 8 Maple Leaf Road, Underhill, VT 05489
  3. LH021 – Stephen W. Mahin, 21 Ledge Hill Road, Underhill, VT 05489
  4. ML026 – James & Mary Leddy Estate, 12 Elsom Parkway, South Burlington, VT 05403
  5. ML031 – Stephen M. & Tamara V. Pitmon, 31 Maple Leaf Road, Underhill, VT 05489
  6. ML042 – Michael Luck Trustee & Barbara C. Wilson Trustee of the Wilson-Luck Living Trust, 42 Maple Leaf Road, Underhill, VT 05489
  7. ML055 – Frank Tyler Whitcomb, 55 Maple Leaf Road, Underhill, VT 05489
  8. ST157 – John F. & Carole R. Doherty, 157 Stevensville Road, Underhill, VT 05489
  9. ST168 – Christine McArthur, David & Frances Dube, Anna Leigh Horton, 266 Old Stage Road, Essex Junction, VT 05452
  10. ST204 – Jeffrey L. & Karen C. Davis, P.O. Box 229, Underhill Center, VT 05490
  11. ST217 – Elaine Herman Trustee, P.O. Box 116, Underhill Center, VT 05490

12. ST219 – Jon Howard, P.O. Box 43, Underhill Center, VT 05490
13. ST221 – Infields, LLC, Livingston Howard, 199 Bayberry Lane, Westport, CT 06880
14. WH006 – Ryan & Julie A. Ochs, 6 Wheeler Road, Underhill, VT 05489
15. WH014 – Richard J. & Margaret E. Rushlow, P.O. Box 86, Underhill Center, VT 05490
16. WH026 – John & Angela M. Hermoian, 5184 Carlton Ridge Circle, Hahira, GA 31632

C. During the week of September 30, 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. Jacobs & Son Market.

D. On October 6, 2018, the notice of public hearing was published in the *Burlington Free Press*.

E. The conditional use review hearing commenced at 7:26 PM on Monday, October 29, 2018 at the Town of Underhill Town Hall.

F. 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, Mark Green
4. Board Member, Daniel Lee
5. Board Member, Karen McKnight
6. Board Member, Penny Miller
7. Board Member, Stacey Turkos

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

Others present at the hearing were:

1. Co-Applicant, Julia Martin (10 Maple Leaf Road, Underhill, VT 05489)
2. Co-Applicant, John Hunt (10 Maple Leaf Road, Underhill, VT 05489)
3. Co-Applicant, Jane Martin (12 Maple Leaf Road, Underhill, VT 05489)

G. 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. Jane Martin

While not in attendance, abutting neighbor, Elaine Herman, submitted email correspondence thus qualifying her as an interested party.

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

Exhibit A - Conditional Use Review Application  
Exhibit B - Conditional Use & Site Plan Review Findings Checklist  
Exhibit C - Project Narrative  
Exhibit D - Certificate of Service  
Exhibit E - Building Floorplans  
Exhibit F - Impact Spreadsheets  
Exhibit G - Site Plan  
Exhibit H - Site Plan with Notes  
Exhibit I - Correspondence from Elaine Herman  
Exhibit J - DRB-18-05 Conditional Use Review Decision  
Exhibit M - Wastewater Permit # WW-4-0294-6R  
Exhibit N - Land Use Permit  
Exhibit O - Construction Permit  
Exhibit P - Meals and Room Tax License

No other exhibits were subsequently submitted and distributed prior to the start of the hearing, nor were any exhibits submitted into the record during the hearing.

- I. During the hearing, the Board agreed that a site visit would be indispensable for ascertaining specifics about the project. A site visit at 8 Maple Leaf Road, Underhill, Vermont was scheduled for 8:30 AM on Saturday, November 10, 2018. The Board agreed to continue the hearing to a date and time specified (Section 5.2.B.3): 6:35 PM on Monday, December 3, 2018, at Underhill Town Hall at 12 Pleasant Valley Road, Underhill, Vermont.
- J. The scheduled site visit at the property location (8 Maple Leaf Road, Underhill, Vermont) commenced at 8:30 AM on Saturday, November 10, 2018.
- K. Present at the site visit were the following members of the Development Review Board:
  1. Board Chairman, Charlie Van Winkle
  2. Board Member, Matt Chapek
  3. Board Member, Daniel Lee
  4. Board Member, Penny Miller
  5. Board Member, Mark Green

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

6. Co-Applicant, Julia Hunt, formerly Julia Martin (10 Maple Leaf Road, Underhill, VT 05489)
  7. Co-Applicant, John Hunt (10 Maple Leaf Road, Underhill, VT 05489)
  8. Co-Applicant, Jane Martin (12 Maple Leaf Road, Underhill, VT 05489)
  9. Abutting Neighbor, Elaine Herman (217 Stevensville Road, Underhill, VT 05489)
- L. The continued conditional use review hearing commenced at 6:35 PM on Monday, December 3, 2018 at Underhill Town Hall, 12 Pleasant Valley Road in Underhill, Vermont.
  - M. Present at the continued 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, Mark Green
4. Board Member, Daniel Lee
5. Board Member, Karen McKnight
6. Board Member, Penny Miller
7. Board Member, Stacey Turkos

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

Others present at the hearing were:

8. Co-Applicant, Julia Martin (10 Maple Leaf Road, Underhill, VT 05489)
9. Co-Applicant, John Hunt (10 Maple Leaf Road, Underhill, VT 05489)
10. Co-Applicant, Jane Martin (12 Maple Leaf Road, Underhill, VT 05489)
11. Resident, Chris Ellingwood (12 Maple Leaf Road, Underhill, VT 05489)

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

Exhibit Q - Email Correspondence from Jane Martin Providing Examples of Similar Programs  
Exhibit R - Email Correspondence from Jason Croteau  
Exhibit S - Sample Participant Application

While email correspondence from individuals typically signify “interest party status,” the Board unanimously agreed that the email correspondence submitted by Jason Croteau did not qualify him to obtain “interested party status,” as Mr. Croteau did not satisfy any of the five criteria to qualify him as an “interest person” as defined under Article XI of the *Underhill Unified Land Use & Development Regulations* in accordance with 24 V.S.A. § 4465. As with any decision that this Board issues, a person or person(s) has the ability to appeal to the Environmental Division of Superior Court of Vermont, noting that the “interested party status” will likely be determined by that court upon appeal.

All exhibits are available for public review in the ML008 ReTribe Transformation Conditional Use Review file (ML008 / DRB 18-16) at the Underhill Zoning & Planning office.

## **II. FACTUAL FINDINGS & CONCLUSIONS**

The Minutes of the October 29, 2018 and December 3, 2018 meetings, written by Andrew Strniste, are incorporated by reference into this decision. Please refer to the Minutes for a summary of the testimony. Additionally, the Board’s previous decision: DRB-18-05 is incorporated by reference, noting that the conditions of this approval supersede the conditions of that previous decision. The initial findings in that decision (DRB-18-05) remain in effect, and that the findings provided in this decision are meant to supplement those initial findings unless otherwise stated or the findings of this decision clearly supersede the findings of the previous decision.

The following sections and subsections have been excluded from this decision because the Board found that the modifications made as part of this of application do not conflict with the findings made during its previous review (in DRB Decision: DRB-18-05). Therefore, in regards to the following sections, the Board refers any reader of this document to the findings in DRB Decision: DRB-18-05:

- Section 3.3 – Conversion or Change of Use;

- Section 3.7 – Lot, Yard & Setback Requirements;
- Section 3.8 – Nonconforming Lots;
- Section 3.9 – Nonconforming Structures;
- Section 3.11 – Outdoor Lighting;
- Section 3.16 – Signs;
- Section 3.17 – Source Protection Areas;
- Section 3.18 – Steep Slopes;
- Section 3.19 – Surface Waters & Wetlands;
- Section 5.3.B.1 – Site Plan Review, Existing Site Features;
- Section 5.3.B.2 – Site Plan Review, Site Layout & Design;
- Section 5.3.B.5 – Site Plan Review, Site Circulation;
- Section 5.3.B.7 – Site Plan Review, Outdoor Lighting;
- Section 5.3.B.8 – Site Plan Review, Stormwater Management and Erosion Control;
- Section 5.4.B.1 – Conditional Use Review, The Capacity of Existing or Planned Community Services or Facilities;
- Section 5.4.B.2 – Conditional Use Review, The Character of the Area Affected; and
- Section 5.4.D.1 – Conditional Use Review, Conformance with the Town Plan.

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 thru March 6, 2018:

***PROJECT DESCRIPTION***

Directly below is a modified description of the proposed project as presented in the applicant’s previous application, DRB Application: DRB-18-05, which is then followed by the requested updates:

**Previously Presented (DRB Application: DRB-18-05):**

The ReTribe Transformation organization provides transformational programs for children, teens, young adults, and adults. They sought approval from the Development Review Board to convert the old Maple Leaf Farm campus, which was previously used as a drug rehabilitation facility, to 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.

The ReTribe Transformation organization was described as being similar to Poker Hill School, but for older students (typically between ages 6 and 14). The organization would hold daily programs, typically up to three (3) times a week. In addition, they would hold five (5) weeklong, overnight programs, typically serving children, but one of the weeks tailored to adults. These programs would be mostly associated with the outdoor related uses as provided above: forestry, wildlife management area, outdoor recreation, nature center, and cultural facility.

The applicant proposed to utilize the existing buildings and infrastructure as a mixed-use facility to operate her business – ReTribe Transformations, to operate Ms. Martin’s (Ms. Julia Hunt’s mother) business - a therapeutic health clinic, to operate a hostel, and to operate a private school/boarding school. Two of the buildings would be converted to separate single-family dwellings, where one would be occupied by the applicant and the other would be occupied by the applicant’s mother. The transformational programs would largely utilize the forest, fields, and environment for activity purposes, but would also utilize some of the

facilities for dining and overnight purposes. The health clinic would be small in nature with a modest number of clientele visiting on a daily or bi-daily basis. The hostel would be 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 applicant intended to start a boarding school, which would also utilize the dining and boarding facilities.

**Current Presentation (DRB Application: DRB-18-16):**

The applicant, ReTribe Transformation, who is represented by Julia Hunt, John Hunt, and Jane Martin are seeking conditional use approval to update several aspects of their previously approved conditional use review application (see DRB Decision #: DRB-18-05):

1. The applicant seeks to clarify the description of the ReTribe Organization: The ReTribe Organization is a private business entity that offers daily, weeklong, and indefinite programs – to be referred to as “transformation(al) programs” or “programs” hereafter. These programs are offered to children, teens, young adults, and adults. All participants are required to go through a voluntary application process (see Exhibit S) prior to being enrolled into the program. Upon admittance, participants are eligible to participate in the various programs:
  - a. Daily programs: offered to children and teens;
  - b. Weeklong programs: offered to children, teens, young adults and adults, who will lodge in the designated facilities for the course of the week; and
  - c. Programs of long-term/indefinite duration: offered to young adults and adults, who will reside in the designated facilities over the course of their stay.

Participants enrolled in the provided programs work to develop skills in more conscious communication, conflict resolution, and creating healthy relationships by connecting with the environment and/or working and completing tasks for the betterment of the campus/community – examples include, but are not limited to, cooking, painting, cutting firewood. Growth in personal and interpersonal skills is intended to benefit the participants' lives and, by extension, their families and greater communities.

As explained by the applicant, participants in the program of long-term/indefinite duration are expected to be active members in the program. Those who cease to be active participants are expected to leave the grounds.

2. As part of their previous application (DRB Decision #: DRB-18-05) the applicant was approved to hold five (5) weeklong programs within a calendar year, which were to be held during vacation times within the traditional school year, summer vacation, or at those times when the on-site school is on break or vacation. The applicant requests that no restriction pertaining to number of annual weeklong transformation programs nor timing of the programs be imposed.
3. The applicant is requesting that they be permitted to conduct early child care on the premises – specifically in the barn facility, thus adding “day care” as a use to the mixed-use facility they were previously approved for under DRB Decision #: DRB-18-05.
4. The applicant is requesting that they be permitted to utilize the modular structure as an office facility, health clinic, or both, thus adding “office” as a use to the mixed-use

facility they were previously approved for under DRB Decision #: DRB-18-05.

5. The applicant is requesting that they be given the flexibility to coordinate overnight arrangements for the boarding school, inn/hostel, and long-term transformational program housing. Specifically, they are requesting the discretion to coordinate overnight arrangements for these uses to occur in either the old Maple Leaf Farm men's dormitory or old Maple Leaf Farm barn facility.
6. The applicant is requesting that associated staff be allowed to reside on the premises for an unspecified amount of time.

In reference to Exhibit G of this application (DRB-18-16), the applicant is requesting the following uses to be associated with the following structures on the premises:

- Building 1 – Labeled as the “Barn Facility”
  - The applicant is requesting that this structure be used as a multi-functional building, as the facility contains a repurposed kitchen, a dining hall, bathrooms and offices. A portion of the top floor has already been converted for inn/hostel purposes. The applicant is proposing to retain the ability to use that converted portion of the top floor for lodging type purposes, whether it is related to the inn/hostel, the anticipated boarding school, or the transformational program. The applicant is also looking to conduct an early child care (day care) program in this building, as well as conduct some office related activities from this building. They will continue to use the bottom floor of this building as a dining hall to serve those enrolled in the transformational programs, the hostel guests, and students associated with the proposed boarding school.
- Building 2 – Labeled as the “Men’s Dormitory”
  - The applicant is proposing to use this building as lodging for the inn/hostel, boarding school and/or transformational programs. This facility is anticipated to only serve as a lodging facility.
- Building 3 – Labeled as the “Offices” (the old Modular Structure)
  - The applicant is requesting that this structure be used for office purposes, a health clinic, and/or both uses.
- Building 4 – Labeled as “Garage”
  - The applicant is proposing to retain this building as a garage.
- Building 5 – Labeled as “Shed”
  - The applicant is proposing to retain this building as a shed.
- Building 6 – Labeled as the “Women’s Dormitory”
  - The applicant is proposing to use this building as a single-family dwelling.
- Building 7 – Labeled as the “Annex”
  - The applicant is proposing to use this building as a single-family dwelling.

Since the applicant has continued with a proposal that includes a mixture of several principal uses, conditional use review is required per Article II, Table 2.1. The subject properties are located at 8, 10, 12, 14 and 20 Maple Leaf Road (ML008, ML010, ML012, ML014 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. As updated, the uses are outlined and defined (in accordance with Article XI) under the aforementioned tables.

As stated in this Board’s previous decision (DRB-18-05), the Board found wastewater disposal

capacity of the site to be the limiting factor in determining future use – especially in determining the parameters and capacity of all of the permitted uses as a whole. Since the Board’s previous decision (DRB-18-05), the Agency of Natural Resources, Department of Environmental Conservation, has issued an updated Wastewater System and Potable Water Supply Permit – WW-4-0294-6R, issued on June 20, 2018. The Board finds that the total wastewater system capacity shall not exceed 5,315 gallons per day (gpd), as provided in the chart contained within that permit (please refer to that chart for a delineation of the uses associated with the various buildings).

**A. ARTICLE II, TABLE 2.5 – WATER CONSERVATION DISTRICT**

The Board finds that the existing structures, which are subject to this application, as well as the existing properties, 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 Article XI of the 2018 *Underhill Unified Land Use & Development Regulations*, is incorporated into this decision by reference):

<u>Proposed Use</u>	<u>Permitted or Conditional</u>	<u>Corresponding Project Aspect</u>	<u>Corresponding Building &amp; Description</u>
Single-Family Dwellings	Permitted	<ul style="list-style-type: none"> <li>• Residences</li> </ul>	Building 6 (Women’s Dormitory) – Hunt Residence. Building 7 (Annex) – Martin Residence.
Forestry	Permitted	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> </ul>	The land accompanying the buildings. The applicant intends to continue to keep the land at 20 Maple Leaf Road in Current Use. The open and conserved land will be used for boarding school participants and transformational program participants.
Wildlife Habitat	Permitted	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> </ul>	See “Forestry” description above.
School	Conditional Use	<ul style="list-style-type: none"> <li>• Boarding School</li> </ul>	Building 1 – Provide bathroom facilities and dining facilities for students. Building 1 & 2 – Dormitory for Boarding Students
Day Care Facility	Conditional Use	<ul style="list-style-type: none"> <li>• Early Child Care Services</li> </ul>	Building 1 – Provide day care services to the region’s residents.

<u>Proposed Use</u>	<u>Permitted or Conditional</u>	<u>Corresponding Project Aspect</u>	<u>Corresponding Building &amp; Description</u>
Inn	Conditional Use	<ul style="list-style-type: none"> <li>• Hostel</li> </ul>	Building 1 – Provide guest rooms, dining facilities and bathroom facilities for patrons. Building 2 – Provide guest rooms.
Office	Conditional Use	<ul style="list-style-type: none"> <li>• Office Services</li> </ul>	Building 3 – Provide office space to interested businesses.
Health Clinic	Conditional Use	<ul style="list-style-type: none"> <li>• Therapeutic Health Care Services</li> </ul>	Building 3 – Provide therapeutic health care services to clients and students.
Recreation, Outdoor	Conditional Use	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> <li>• Inn/Hostel</li> </ul>	Building 1 – Provide programmatic meeting space See “Forestry.” Additionally, the hostel patrons may use portions of the land to connect with other hiking and skiing trails.
Nature Center	Conditional Use	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> </ul>	Building 1 – Provide programmatic meeting space See “Forestry” description above.
Cultural Facility	Conditional Use	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> </ul>	Building 1 – Provide programmatic meeting space See “Forestry” description above.

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 for licensing purposes. 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. If the business that the facility runs is considered/advertised as a Health Clinic, then per the Underhill zoning regulations it needs to employ healthcare professionals licensed by the State of Vermont. The practice is exempt if there is no license required by the state of Vermont.

Lastly, as indicated above under “project description,” the Department of Environmental Conservation Wastewater System & Potable Water Supply Permit (Permit #: WW-4-0294-6R) continues to be the limiting factor in this Board’s decision. The applicant shall advise the State of Vermont, Department of Environmental Conservation, of the proposed modifications to their project to determine if a permit amendment is required (specifically referring to the inclusion of office space and the day care facility). The Board continues to require that the applicant remain within the capacity of the existing wastewater system – 5,315 gpd as provided in permit #: WW-4-0294-6R. 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 Article XI of the 2018 *Underhill Unified Land Use & Development Regulations*, is incorporated into this decision by reference):

<u>Proposed Use</u>	<u>Permitted or Conditional</u>	<u>Corresponding Project Aspect</u>	<u>Description</u>
Forestry	Permitted	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> </ul>	The land accompanying the buildings. The applicant intends to continue to keep the land at 20 Maple Leaf Road in Current Use. The open and conserved land will be used for boarding school participants and transformational program participants.
Wildlife Habitat	Permitted	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> </ul>	See “Forestry” description above.
Recreation, Outdoor	Conditional Use	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> <li>• Inn/Hostel</li> </ul>	See “Forestry.” Additionally, the hostel patrons may use portions of the land to connect with other hiking and skiing trails.
Nature Center	Conditional Use	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> </ul>	See “Forestry” description above.
Cultural Facility	Conditional Use	<ul style="list-style-type: none"> <li>• Transformational Program</li> <li>• Boarding School</li> </ul>	See “Forestry” description above.

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 proposed uses appear consistent 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 applicant obtained an access permit (see Access Permit #: A-18-09) from the Selectboard on May 8, 2018 – shortly after obtaining conditional use approval (DRB-18-05) from this Board. Unbeknownst to the Board during their previous review (DRB-18-05) and the Selectboard during their access permitting review, a driveway from the old men’s dormitory to Stevensville Road previously existed, but was not depicted on the submitted site plan at that time. Therefore, the Board defers to the Selectboard if an amended access permit is required. The applicant shall inquire with the Zoning Administrator in order to resolve this issue.

Otherwise, in regards to the review of this section of the *Underhill Unified Land Use & Development Regulations*, the Board finds that the modifications made to the application do not conflict with the findings made during the previous review, and therefore, defers to the findings for this section (Section 3.2) of that decision (DRB-18-05).

**D. 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.

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

**PARKING SPACES:** The Board finds that applicant submitted a site plan depicting 80 parking spaces (see Exhibit G), which includes designated ADA handicapped parking spaces, noting that 12 of those parking spaces were designated as “garage overflow parking.” In its previous decision (DRB-18-05), the Board required the applicant to provide a minimum of 70 parking spaces to accommodate the anticipated demand. The Board notes that the 12 garage overflow parking spaces present circulation issues; however, are allowed to be included as part of the applicant’s total number of parking spaces. In addition, the Board finds that the 9 parking spaces provided on the access way connecting with Stevensville Road are unlikely to be utilized by patrons and participants. Moreover, as stated in its previous decision (DRB-18-05), 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 regards to the landscaped areas within the parking lot, the Board defers to its previous findings made in decision #: DRB-18-05.

**BICYCLE RACK:** The Board finds that the applicant has provided a site plan that depicts a bike rack located to the south of the designated garage (Building 4).

**FENCING:** In regard to fencing, the Board defers to its previous findings made in decision #: DRB-18-05.

**LOADING & SERVICE AREAS:** The Board finds that the applicant depicted loading and servicing areas in accordance with Section 3.13.B on the submitted site plan (see Exhibit G).

**PROPERTY MAINTENANCE:** The Board reinforces its findings 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.

**COORDINATION OF TRASH:** The Board finds that the applicant depicted the location of a screened trash and recycling area on the submitted site plan (see Exhibit G). The Board reinforces its findings that the applicant is ultimately responsible for keeping the property free of debris and trash.

**F. 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:

<u>Proposed Use</u>	<u>Parking Space (ps) Requirement</u>	<u>Allocation of spaces per Zoning Regs</u>	<u># of spaces per DRB Determination</u>
Single-Family Dwelling (x2)	2ps/Dwelling Unit	4 spaces	4 spaces
Forestry <sup>1</sup>	None Identified	4 spaces	0 spaces
Wildlife Habitat <sup>2</sup>	None Identified	4 spaces	0 spaces
School (40 Children) <sup>3</sup>	3ps/10 Children	13 spaces	13 spaces
Day Care Facility <sup>4</sup>	3ps/10 Children	12 spaces	12 spaces
Inn/Hostel <sup>5</sup>	1ps/Guest Room	22 spaces	22 spaces
Health Clinic <sup>6</sup>	3ps/Each Caregiver	12 spaces	12 spaces
Office <sup>7</sup>	1ps/300sf Gross Floor Area	7 Spaces	3 Spaces
Recreation, Outdoor <sup>8</sup>	None Identified	4 spaces	0 spaces
Nature Center <sup>9</sup>	None Identified	4 spaces	0 spaces
Cultural Facility <sup>10</sup>	None Identified	4 spaces	14 spaces
			(80 spaces total)
			<b>80 spaces REQ'D</b>

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 finds that the applicant has designated safe

<sup>1</sup> The Board finds that no parking spaces are required for the forestry component of this project, as the forestry activities will pertain to conservation purposes. Additionally, the forestry component of the project will be utilized by the students enrolled in the boarding school, as well as participants of the transformational programs.

<sup>2</sup> The Board finds that no parking spaces are required for the wildlife habitat component of this project, as the wildlife habitat component is not anticipated to attract people outside of those who will be participating in the boarding school and transformational programs.

<sup>3</sup> The Board finds that Boarding School will retain the same restrictions of no more than 40 students (20 commuting students and 20 boarding students living on-site).

<sup>4</sup> The Board finds that the day care facility shall not exceed 40 participants.

<sup>5</sup> The Board find finds that the Inn/Hostel will retain the same restriction of no more than 22 beds.

<sup>6</sup> The modular structure has been approved for both Health Clinic and Office uses. The Board finds that the health clinic use retains the same restriction of no more than four (4) providers utilizing the space at one time. Therefore, should the modular structure be used for both health clinic and office uses, a maximum of 15 parking spaces would be required (assuming four providers [12 spaces] and 900 sq. ft. of office space [3 space] = 15 parking spaces).

<sup>7</sup> See footnote 6.

<sup>8</sup> The Board finds that no parking spaces are required for the outdoor recreation component of this project, as the outdoor recreation component is not anticipated to attract people outside of those who will be participating in the boarding school, transformational programs and inn/hostel.

<sup>9</sup> The Board finds that no parking spaces are required for the nature center component of this project, as the nature center component is not anticipated to attract people outside of those who will be participating in the boarding school and transformational programs.

<sup>10</sup> The Board finds that the transformational programs are best categorized as the cultural facility use. Therefore, this use is not anticipated to attract people outside of those who will be participating in the transformational programs.

area for pick-up and drop-off as required in the Board’s previous decision.

Additionally, the Board finds that total impact in regard to parking associated with the modular structure is unlikely to exceed 15 parking space. The Board views the health clinic use and office as, at the very least, having a similar impact as one another. In fact, the Board acknowledges the argument that the office use is likely to be less intensive than the health clinic.

In sum, the Board finds that the above allocated parking requirements are not rigid, but rather, a visualization on how the Board derived at the 80 parking spaces. The Board can foresee scenarios where some uses may require less parking spaces while other uses may require more. Overall, the applicant shall provide 80 parking spaces in conformance with this decision, and should a demand for more parking be required, the applicant shall contact the Zoning Administrator to determine if further review by this Board is required.

**G. SECTION 3.14 – PERFORMANCE STANDARDS**

The Board reinforces its findings from its previous decision: DRB-18-05. Specifically, the testimony provided by the abutting the neighbors during the initial hearing on March 5, 2018 concerning the level of noise. The Board concluded 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 expected to be noisy from time to time, and the Board encourages the applicant to try to minimize 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 regard to the other performance standards enumerated in this Section, the Board finds that the proposed project will conform to the requirements of this Section.

Due to the proposed modifications, the Board has restructured its findings pertaining to the conditions previously outlined in this section. While the following conditions may not explicitly apply to this Section, the Board finds that the following conditions are imposed to help ensure that the requirements of this section are satisfied (see Proposed Use chart below).

As a reminder, the Board finds the wastewater disposal capacity of the site to be the limiting factor in determining use and conditions. In decision DRB 18-05, the Board summarized the buildings, uses and wastewater allocations and revises it per this Conditional Use decision as below:

<u>PROPOSED USE</u>	<u>CONDITIONS IMPOSED</u>
Single-Family Dwellings	<ul style="list-style-type: none"> <li>• Buildings 6 (the “Women’s Dormitory”) and 7 (the “Annex”) shall serve as single-family dwellings.</li> <li>• Both single-family dwellings shall be occupied by someone associated with the daily activities of the uses allowed by this decision.</li> <li>• The single-family dwellings shall not be used as rental units for persons not involved with the ReTribe Organization, and in the event that one, or both, are used as rental units for unassociated parties, that act will be considered contrary to this decision, and this permit shall become void.</li> <li>• The single-family dwellings shall not be used as a means to accommodate additional transformational program participants,</li> </ul>

<b><u>PROPOSED USE</u></b>	<b><u>CONDITIONS IMPOSED</u></b>
	hostel patrons or boarding school students.
School (Boarding School)	<ul style="list-style-type: none"> <li>• The Boarding School shall be contained to building 1 (the “Barn Facility”) and building 2 (the “Men’s Dormitory”). The applicant has the discretion to allocate overnight boarding between the buildings: building 1 and building 2. Dining and activity facilities are anticipated to occur in building 1.</li> <li>• The Boarding School shall not exceed more than 40 students – 20 commuting students and 20 boarding students (living on-site).</li> <li>• Due to the boarding nature of the school, the days of operation are implied to be Sunday thru Saturday.</li> <li>• The school shall 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.</li> </ul>
Inn (Hostel)	<ul style="list-style-type: none"> <li>• The hostel shall be contained to building 1 (the “Barn Facility”) and building 2 (the “Men’s Dormitory”). The applicant has the discretion to allocate overnight bedrooms between the buildings: building 1 and building 2. Dining and activity facilities are anticipated to occur in building 1.</li> <li>• The number of hostel bedrooms shall not exceed 22, as previously discussed under Section 4.5 of decision #: DRB-18-05.</li> <li>• The hostel is expected to function similarly to an inn, and therefore, the days of operation are implied to be Sunday thru Saturday.</li> </ul>
Health Clinic (Therapeutic Healthcare Facility)	<ul style="list-style-type: none"> <li>• The health clinic shall be contained to building 3 (“Offices”) only.</li> <li>• The total number providers shall not exceed four (4).</li> <li>• 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 shall be submitted to the Zoning Administrator once a provider is commissioned. The practice is exempt from this requirement if there is no license required by the state of Vermont.</li> <li>• The hours of operation shall occur between 7:00 am and 7:00 pm.</li> <li>• The days of operation shall occur between Monday and Sunday.</li> </ul>
Offices	<ul style="list-style-type: none"> <li>• Office space shall be contained to building 3 (“Offices”) only.</li> <li>• The hours of operation shall occur between 7:00 am and 6:00 pm.</li> <li>• The days of operation shall occur between Monday and Friday.</li> </ul>
Cultural Facility (Transformational Programs)	<ul style="list-style-type: none"> <li>• <u>Daily Transformation Program</u> <ul style="list-style-type: none"> <li>○ The total number of participants shall not exceed a total of 100 students and staff at any one time.</li> <li>○ The days of normal operation shall occur between Monday and Saturday.</li> <li>○ No overnight boarding is to occur.</li> </ul> </li> <li>• <u>Weekly Transformation Program</u> <ul style="list-style-type: none"> <li>○ Weekly transformation programs are permitted to occur during every week of the year.</li> <li>○ The total number of participants staying overnight in the weekly transformational program shall be limited to the</li> </ul> </li> </ul>

<b><u>PROPOSED USE</u></b>	<b><u>CONDITIONS IMPOSED</u></b>
	<p>maximum boarding students allowed in the boarding school.</p> <ul style="list-style-type: none"> <li>○ Boarding for the weekly transformation program shall be contained to building 1 (the “Barn Facility”) and building 2 (the “Men’s Dormitory”). The applicant has the discretion to allocate overnight boarding between the buildings: building 1 and building 2. Dining and activity facilities are anticipated to occur in building 1.</li> <li>○ The total number of daily commuter participants in the weekly transformation program shall be limited to the maximum of allowable commuter school students.</li> <li>○ The days of operation are Sunday thru Saturday.</li> <li>● <u>Long-term Transformation Program</u> <ul style="list-style-type: none"> <li>○ The long-term transformation program is not contained to a specific period of time, as each participant can stay for an indefinite amount of time. Participants shall be active in the program’s curriculum.</li> <li>○ Boarding for the long-term transformation program shall be contained to building 1 (the “Barn Facility”) and building 2 (the “Men’s Dormitory”). The applicant has the discretion to allocate overnight boarding between the buildings: building 1 and building 2. Dining and activity facilities are anticipated to occur in building 1.</li> <li>○ The applicant is prohibited from allowing participants unrelated to their transformational programs from living on the campus, as that use would effectively become a boarding house, which is prohibited in the <i>Underhill Unified Land Use &amp; Development Regulations</i>.</li> <li>○ The number of long-term transformation participants is limited to the number of beds provided for in buildings 1 &amp; 2.</li> </ul> </li> </ul>
Miscellaneous Conditions Imposed:	<ul style="list-style-type: none"> <li>● The Staff associated with the transformation programs, hostel, and boarding school are permitted to utilize the boarding facilities in building 1 (the “Barn Facility”), building 2 (the “Men’s Dormitory), or bedrooms within the single-family dwellings (buildings 6 &amp; 7). Staff is permitted to stay for an indefinite amount of time so long as they contributing the facilities daily functions. The Board reminds the applicant that the greater number of staff members residing overnight may limit the total number of participants/patrons utilizing building 1 and 2 for transformation programs, the hostel and the boarding school.</li> <li>● The total number of beds that are permitted to serve the following uses: the inn (hostel); the school (Boarding School); and the cultural facility (transformational programs), shall not exceed 30 beds, and may be allocated between the three uses at the discretion of the applicant, noting that the number of beds for the hostel cannot exceed 22, discussed above. As explained above, Staff can also utilize the beds. Additionally, these beds can be allocated between building 1 (the “Barn Facility”) and building 2</li> </ul>

<b>PROPOSED USE</b>	<b>CONDITIONS IMPOSED</b>
	<p>(the “Men’s Dormitory”) at the discretion of the applicant.</p> <ul style="list-style-type: none"> <li>○ The Board finds that the applicant be afforded the flexibility to designate which beds are associated with the aforementioned uses and Staff. Therefore, should the applicant desire to shift boarding assignments from building 1 to building 2, or vice versa, the applicant is afforded that flexibility.</li> <li>● The office and health clinic uses are permitted to occur in the modular structure (building 4). The applicant is being afforded the discretion to determine how it would like to allocate the uses within the modular building. In other words, the applicant has the discretion to use the modular structure entirely as office space, entirely as health clinic space, or a mixture thereof. The Board finds the two uses – office and health clinic – to have a similar impact. In fact, the Board finds that if the modular structure were to be used entirely as office space, there would be less of an impact than what was previously approved in decision #: DRB-18-05. Since the uses are similar in nature, and have more or less the same impact, the applicant is permitted to utilize the structure to accommodate these uses to its discretion.</li> <li>● The modular structure shall not be used as a means to accommodate additional transformational program participants, hostel patrons or boarding school students.</li> <li>● Dining activities are strictly prohibited in building 2 (the “Men’s Dormitory”) in order to eliminate the possibility of that structure resembling a dwelling unit. Building 2 shall continue to be used for boarding purposes, as previously used by the Maple Leaf Farm rehabilitation facility, and as classified by this Board in its previous decision – DRB-18-05. Therefore, all dining activities and meal preparation shall occur in the dining facilities of building 1 (the barn facility).</li> </ul>

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.

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

See Page 4 & 5 regarding deference to the Board’s previous decision: DRB-18-05. The Board reinforces its finding regarding the applicant’s willingness to forgo the use of sodium chloride for de-icing and will instead consider environmentally-friendly alternatives (i.e. sand).

**I. SECTION 3.23 – WATER SUPPLY & WASTEWATER SYSTEMS**

Upon receiving approval pertaining to the applicant’s previous application (DRB-18-05), the applicant amended the existing water/wastewater permit. On June 20, 2018, the State of Vermont Department of Environmental Conservation issue an updated Wastewater System & Potable Water Supply Permit (Permit #: WW-4-0294-6R), which permitted a flow of 5,315 gpd, allocated as provided in that permit (see Exhibit M). The Board finds that the applicant shall be restricted to the 5,315 gpd limitation, and therefore, shall not exceed this requirement upon implementing the new uses approved this decision – specifically, the day care facility and office use. The applicant is

responsible with coordinating with the State of Vermont, Department of Environmental Conservation, in regards to further updates to the existing permit. An updated Wastewater System & Potable Water Supply permit, or correspondence stating a permit is not needed, is required prior to obtaining a Certificate of Occupancy for the established new uses. As previously approved, the applicant is permitted to reallocate the allowed capacity at its discretion so long as the 5,315 gpd limitation is not exceed. Furthermore, the Board reinforces its finding that the total number of beds between the boarding school and the hostel 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.

**ARTICLE IV, SPECIFIC USE STANDARDS**

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

The Board reinforces its findings that the total number of beds between the boarding school, hostel (Inn) and transformation programs not exceeding 30 beds, noting that the number of beds 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 in building one – “Barn Facility,” and will be consistent with the other requirements of this Section. The Board finds that the Zoning Administrator has already issued a Certificate of Occupancy Permit for the inn/hostel, which is currently located in the building 1. Should the inn/hostel be relocated to building 2 (the “Men’s Dormitory”), the applicant is responsible for inquiring with the State of Vermont to determine if additional permitting from them is required. If so, copies of those permits shall be submitted to the Zoning Administrator upon issuance. The Board notes that the applicant has been given the flexibility to locate the inn/hostel in either building 1 or building 2, and therefore, no further permitting is required from the Town of Underhill for this use (inn).

**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**

Section 5.3.A – Purpose: 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: See Page 4 & 5 regarding deference to the Board’s previous decision: DRB-18-05. The Board finds that the applicant provided an update site plan illustrating the as-built conditions (see Exhibit G).

Section 5.3.B.3 – Vehicle Access: The Board finds that the vehicular access points and parking lot have remained the same existing. The Board finds that the applicant has obtained an access permit from the Selectboard (see Access Permit #: A-18-09) on May 8, 2018 – shortly after obtaining conditional use approval (DRB-18-05) from this Board. 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 and Table 3.1 above for information regarding parking and service area requirements.

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

#### **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, the Board 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: See Page 4 & 5 regarding deference to the Board’s previous decision: DRB-18-05. The Board updates its findings regarding the water/wastewater system, noting that the Board limits the proposed use to the updated constraints of the Wastewater System and Potable Water Permit, as explain above under Section 3.23 above.

Section 5.4.B.3 – Traffic on Roads and Highways in the Vicinity: In regards to this subsection, the Board reinforces its initial findings from the previous decision: DRB-18-05 in the context of incorporating the additional uses (day care facility and offices):

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 a 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.

Section 5.4.B.4 – Bylaws in Effect: The Board finds that the previous use – a drug rehabilitation center – was likely nonconforming; however, the submission and approval of the previous application (DRB-18-05) brought the use into conformance with the regulations in effect at that time – the 2018 *Underhill Unified Land Use & Development Regulations*.

Section 5.4.B.5 – The Utilization of Renewable Energy Resources: The Board finds that the modifications made to the original project permitted under DRB-18-05 will not interfere with any sustainable use of renewable energy resources.

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

Section 5.4.D – Specific Standards: 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.2 – Zoning District & Use Standards: The Board finds no evidence that the proposed project, as updated by this applicant, 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 needs 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.

### **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. DECISION AND CONDITIONS OF APPROVAL**

The Board feels the information presented as part of the review process was better presented during this application process compared to the following application: DRB-18-05. The Board finds that the proposed project does not squarely fit within the Town’s regulations, thus adding to the complexity and duration for issuing this decision. After thorough deliberation the Board is satisfied with the level of investigation, research 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 of the *Underhill Unified Land Use & Development Regulations*, and concludes that based on the evidence submitted and the above findings, the proposed modifications to the previously approved conditional use review application (DRB-18-05) conform with the aforementioned application, and will not create a greater impact than what was previously approved in the DRB-18-05 application.

#### **PROJECT SUMMATION**

The Board finds that the applicant will be coordinating the following activities on the premises, which are outlined in more detail in Tables 2.5 and 2.7 directly above:

1. ReTribe Transformation associates, Julia & John Hunt, will be residing in a single-family dwelling on the premises (the old “Women’s Dormitory”);

2. ReTribe Transformation associate, Jane Martin, will be residing in a single-family dwelling on the premises (the old “Annex”);
3. Overseeing the hostel business operations;
4. Overseeing the Transformation Programs conducted by ReTribe Transformation;
5. Overseeing the Boarding School operations;
6. Overseeing the Day Care Facility operation;
7. Providing office space for professions; and
8. Providing space for health clinic related professions.

In the addition, the Board makes the following observation as it relates to the Transformation Programs offered by the ReTribe Organization: since the Transformation Program does not squarely fit into one particular use, the Board finds that the various components of the program conform to several uses within the *Underhill Unified Land Use & Development Regulations*. The Transformation Programs offered by the ReTribe Organization best fit into the cultural facility use, as the land & buildings (buildings 1 & 2) at 8 Maple Leaf Road provide a locality for the ReTribe Organization to operate and host their programs. In addition, the programs offered by ReTribe also utilize aspects of other uses in the aforementioned regulations: forestry, wildlife habitat, outdoor recreation, and nature center.

#### **CONDITIONS IMPOSED**

- In reviewing the previous decision: DRB-18-05, and based upon the findings above, the Development Review Board finds that the following conditions remain in effect from its previous decision (DRB-18-05):
  1. The Board requires the uses approved by this decision conform to the conditions outlined above under 3.14, Performance Standard, *[as amended by this decision (DRB-18-16)]* which are hereby incorporated into this conditions of approval section of the decision by reference.
  2. The Board retains continuing jurisdiction over this property for the lifetime of this permit. Should the Board or the Zoning Administrator find that 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.
  3. The Board continues to condition its decision on limiting traffic to 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 VTE 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.
  4. 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. All light fixtures were depicted on the as-built site plan (see Exhibit G).
  5. 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 Zoning Administrator for review and approval. Subsequently, if

the applicant proposes additional signage square footage, it shall comply with the requirements of the zoning regulations in effect at the time of application.

6. The Board requires snow removal and parking operations be outside of the Town rights-of-way, and not interfere with snow removal and maintenance operations conducted by the Town. The storage of snow on-site shall not impede 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 for the excess snow to be removed from the site and located elsewhere.
7. The permittee shall ensure that all residents of the single-family dwellings have sufficient ingress and egress from the lot during all hours.
8. Second story emergency egress, such as a fire escape, which may require ground based infrastructure, shall not require a subsequent conditional use review.
9. 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 as-built site plan (see Exhibit G). The Zoning Administrator has discretion over what constitutes a minor modification.
10. This permit is valid for two years from the date of issuance (see date below). To maintain validity, the permittee must demonstrate a reasonable good faith effort to begin work in conformance with this approval and outlined herein, unless delayed by other outside entities.

- **Updated Conditions.** In reviewing the previous decision: DRB-18-05 and based upon the findings above, the Development Review Board has updated conditions from its previous decision:

1. The handicapped parking spaces shall be dimensioned per the Vermont State Accessibility Code. In accordance with ADA standards, the applicant shall provide the updated requisite number of identified handicapped parking spaces as identified in Section 3.13 of this decision.
2. The Board finds that the applicant has obtained a Certificate of Occupancy permit for each structure except for the building 2 (the old "Men's Dormitory"). The Board continues to find that the applicant may obtain a separate Certificate of Occupancy permit for the following outstanding aspects/modifications to the project: 1) occupancy of building two, 2) the establishment of the day care facility, and 3) the establishment of office use within the modular structure. The applicant still retains the option of obtaining one Certificate of Occupancy permit for abovementioned outstanding aspects/modifications. Furthermore, the applicable conditions relevant to each building/use as outlined in this decision shall be satisfied prior to obtaining a Certificate of Occupancy permit, as confirmed by the Zoning Administrator.
3. The Board limits the project to the updated, approved and installed wastewater system (Permit #: WW-4-0294-6R). Should the wastewater allocation need to be revised, the applicant shall submit a copy of the updated Wastewater System & Potable Water Supply upon issuance. If an updated permit is required as part of the proposed modifications approved by this decision, then the updated permit shall be submitted prior to obtaining a Certificate of Occupancy permit. If the applicant at some point in the future desired to expand the wastewater capacity to expand the activities outlined in the project summation above, the applicant shall inquire with the Zoning Administrator to determine if the expansion of those activities exceeds the limitations previous in this decision.
4. 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. The Zoning Administrator and Board retains the authority to monitor parking patterns, and should parking become an issue that interferes with the public right-of-way or vehicular traffic circulation, an application to be review by this Board shall be made to correct the issue.

5. The applicant shall implement the loading and servicing areas in accordance with the submitted site plan (see Exhibit G), which shall not impede with vehicular or pedestrian traffic. All parking spaces, loading areas and servicing areas shall be noticeably marked and visible. The applicant shall coordinate with the Selectboard regarding any markings involving Maple Leaf Road.
  6. In the event any of the modifications require an amended Wastewater System & Potable Water Supply Permit from the Vermont Department of Environmental Conservation, that updated permit shall be submitted prior to obtaining a Certificate of Occupancy permit, as outlined in Updated Condition #2 above. If an updated Wastewater System & Potable Water Supply Permit is not required prior to implementing the use/structure, correspondence stating so shall be obtained from the State and submitted to the Zoning Administrator.
  7. The applicant is responsible for ensuring continued compliance with the Vermont Department of Taxes concerning its enrollment in the Current Use program.
  8. The conditions imposed by this decision must be adhered to by the applicant, and any ongoing conditions provided shall be the permanent responsibility of the applicant/landowner should the property change ownership. Additionally the project shall conform to the submitted application materials and hearing testimony presented by the applicants as part of this application (DRB-18-16) and the previous application (DRB-18-05). Any changes to the plans or wastewater layout, or any obstructions to the conditions above, shall be brought to the attention of the Zoning Administrator for review and shall be referred to this Board for a new conditional use review at the Zoning Administrator's discretion.
- **New Conditions.** In reviewing the previous decision: DRB-18-05 and based upon the findings above, the Development Review Board has provided the following new conditions:
    1. The permittee shall ensure that trash is stored in the enclosed and shielded from public view trash receptacle. The applicant and/or landowner is responsible for keeping the property free of debris and trash.
    2. The applicant shall consult with the Zoning Administrator regarding possible access permitting for the driveway accessing Stevensville Road, as discussed under Section 3.2 of this decision.
    3. The applicant shall ensure that the bicycle rack is accessible at all times.
    4. The applicant shall retain all State Permits for verification purposes. Those permits required for the implementation of the modifications presented as part of this application shall be submitted to the Zoning Administrator prior to obtaining a Certificate of Occupancy permit, as required by Section 10.4.A.2 of the 2018 *Underhill Unified Land Use & Development Regulations*. The applicant is responsible for ensuring continue compliance with whatever State regulations and permits apply. Should the applicant be issued a new or updated permit from the State of Vermont, a copy of that permit shall be submitted to the Zoning Administrator to place in the property's zoning file.
    5. The following activities are permitted to utilize the bedrooms contained within building 1 (the "Barn Facility") and building 2 (the "Men's Dormitory"): the inn/hostel, the boarding school, and the weekly and long-term transformation program. The applicant has the discretion to allocate these activities to the bedrooms as it sees appropriate, noting that the applicant is responsible for ensuring that the proper permitting is in place to allow for rearrangement and/or flexibility of activities/uses. A copy of any additional permit that is obtained at any point in the future shall be provided to the Zoning Administrator to file in the property's zoning file.
    6. No kitchen facilities are permitted within building 2 (the "Men's dormitory"). All patrons/overnight guests shall utilized the communal kitchen in building 1 (the "Barn

Facility”).

Dated at Underhill, Vermont this 15th day of January, 2019.

*Charles Van Winkle*

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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 14 February 2019.