

Rachel Fifield
Zoning & Planning Administrator
Town of Underhill, VT

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Phone: (802) 899-4434, x106
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MEMORANDUM

To: DRB, SB, UJFD, VTRANS, CC
Date: August 25, 2015
Re: Agenda and Information for 8/31/15 Hearing

AGENDA

**Monday, August 31, 2015 – 6 pm Site Visit at 523 VT Rt 15. 6:30 pm Public Hearing
Underhill Town Hall, 12 Pleasant Valley Rd. Underhill, VT**

6:00 PM Site Visit

6:30 PM Reconvene at Town Hall
Public Comment Period

6:35 PM Food Truck as a Home Industry
Conditional Use Review
Docket #: DRB 15- 07
Applicant: Durbrow
Location: 523 Vermont Route 15

8:00 PM Other Business
Review minutes of 7/20/2015

8:15 PM Adjourn

Contents:

- a) A copy of the procedure checklist for this hearing
- b) A copy of the Site Plan for this project (Prepared by Durbrow, 8/12/15)
- c) James Durbrow's Conditional Use Hearing Request (Submitted 8/12/15)
- d) A copy of the completed Conditional Use Review Standards Findings Checklist

8/31/15 DRB Meeting
Durbrow Conditional Use Hearing

- e) A copy of the tax map for VT523
- f) A copy of the hearing notice (published in the Burlington Free Press)
- g) A copy of the letter sent to abutters 8/14/2015
- h) This Memo.

Hearing on James Durbrow Application for Conditional Use

Applicant(s): James Durbrow
Consultant(s): (None)
Property Location: 523 VT RT 15. (VT523)
Zoning District(s): RURAL RESIDENTIAL
Requirements:
 Lot Size: 3 acre min
 Road Frontage: 250 Ft
 Setbacks: Front – 30 ft
 Side & Rear – 50 ft
 Accessory Bldgs. – 30 ft (front)
 20 ft (side & rear lines)
 Max. Bldg. Coverage: 25%
 Max. Lot Coverage: 50%
 Max. Building Height: 35 ft

Relevant Regulations: 2012 Underhill Unified Land Use & Development Regulations, as revised through March 2014 & 2014 Underhill Road, Driveway & Trail Ordinance

- Article II, Table 2.3 – Rural Residential District (pg. 12)
- Section 3.13 – Parking, Loading and Service Areas (pg. 41)
- Section 3.16 – Signage (pg. 47)
- Section 3.2 – Access (pg. 27)
- Section 3.7 – Lot, Yard & Setback Requirements (pg. 35)
- Section 3.19 – Surface Waters & Wetlands (pg. 60)
- Section 4.12 – Home Business (pg. 82)
- Section 5.3 – Site Plan Review (pg. 108)
- Section 5.4 – Conditional Use Review (pg. 113)

Comments

8/31/15 DRB Meeting
 Durbrow Conditional Use Hearing

- Zoning regulations do not simply regulate structures and buildings but also activities and uses. In this instance, the regulations would address the use of the property, rather than the structure. Although we do not traditionally consider a vehicle to be a structure, for all intents and purposes, the food truck would serve as a structure, similar to a small food stand.
- The lot is in the Rural Residential zoning district. Home Industries are an allowed conditional use in the Rural Residential zoning district.
- Table 3.1 in section 3.13 establishes minimum off-street parking requirements for home industries. It also states generally that *“all required parking spaces shall have a minimum width of nine feet, a minimum length of eighteen feet, unobstructed access and maneuvering room, and gravel or paved surface sufficient for year-round use”*. The site plan indicates five 9’ by 18’ parking spaces in an existing graveled lot, in compliance with the requirement that parking spaces for a home occupation or home industry be provided *“2 per dwelling unit, and one per non-resident employee.”*
- Section 3.13(A)(1) states: *“All required parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, unobstructed access and maneuvering room, and a gravel or paved surface sufficient for year-round use.”*
- Section 3.13(A)(5) states *“For development subject to site plan or conditional use review, shared parking and/or landscaping, screening, lighting, snow removal, pedestrian or transit facilities may be required as a condition of approval as necessary to meet the requirements of this section and applicable development review criteria.”*
- Section 3.16(E)(1)&(G)(6) *“The total area of all signs, including freestanding wall or projecting signs shall not exceed 16 square feet per lot or development”* and *“The following signs shall not require a zoning permit, but must meet all applicable requirements of subsection C...one unlit sign to advertise a home-based business (e.g., home child care, home occupation, home industry or bed & breakfast) , that does not exceed eight square feet in area.”* The Applicant’s Findings Checklist indicates that *“signage would be the truck itself plus a small portable sign to be removed at days’ [sic] end”*
- Per Section 3.19- Section 3.19(D)(3) requires that *“all structures and other impervious surfaces shall be set back at least 25 feet from all other [unnamed] naturally occurring streams and rivers.”* The tributary on the property runs along the north end of the property and appears to be more than 25 feet from the project.
- Section 5.4- See responses on Applicant’s Findings Checklist.
- Review Section 4.12 regarding Home Industry regulations. Outdoor lighting and trash pickup are not addressed in the application. No provisions are mentioned for toilets.

- Since the access is onto a State Highway, the access portions of the Underhill Road, Driveway and Trail ordinance do not apply.
- New VTrans requirements state that *“a highway permit is also required for access to any new subdivision of land or **development which has a direct access to a State Highway, even though an existing driveway will be used**”* (Vermont Statutes Annotated, Title 19 Section 1111). (My bolding) The applicant does not currently hold a new permit for this project. Consider requesting either a letter of exemption or a permit as part of conditions for the Conditional Use Permit?

Underhill DRB Rules of Procedure
Hearing Checklist
Durbrow Conditional Use

State the following:

- 1) “This is a hearing on the application of James Durbrow on the property he owns at 523 Vermont RT 15 in Underhill VT. The purposes of conditional use review conform with the municipal plan, the regulations, and other municipal ordinances in effect at the time of application. This home industry is subject to review under the 2012 Unified Land Use and Development Regulations as amended through March 2014.”
- 2) Copies of the Rules of Procedure that the Board follows are available for review from the Zoning & Planning Administrator.
- 3) The order of speakers tonight will be:
 - a. We will hear from and ask questions of the Applicant, James Durbrow.
 - b. Then we will hear and ask questions of the Zoning & Planning Administrator Rachel Fifield.
 - c. Then we will give other persons in the room a chance to speak. Under our Rules of Procedure, each speaker is limited to three minutes; however, that time can be increased upon request and majority consent of the Board; then
 - d. James Durbrow will have an opportunity to respond; then
 - e. Final comments will be solicited from all parties.
 - f. All speakers should address their comments to the Board, not to other parties present at the hearing.
 - g. Board members may feel free to ask questions of any speaker.
- 4) Are any State or municipal representatives present?

- 5) An Interested Parties Info Sheet has been provided to all attendees. Please review it for further information.

Then state:

"Only those interested persons who have participated, either orally or through written statements, in a DRB proceeding may appeal a decision rendered in that proceeding to the Environmental Division of Superior Court."

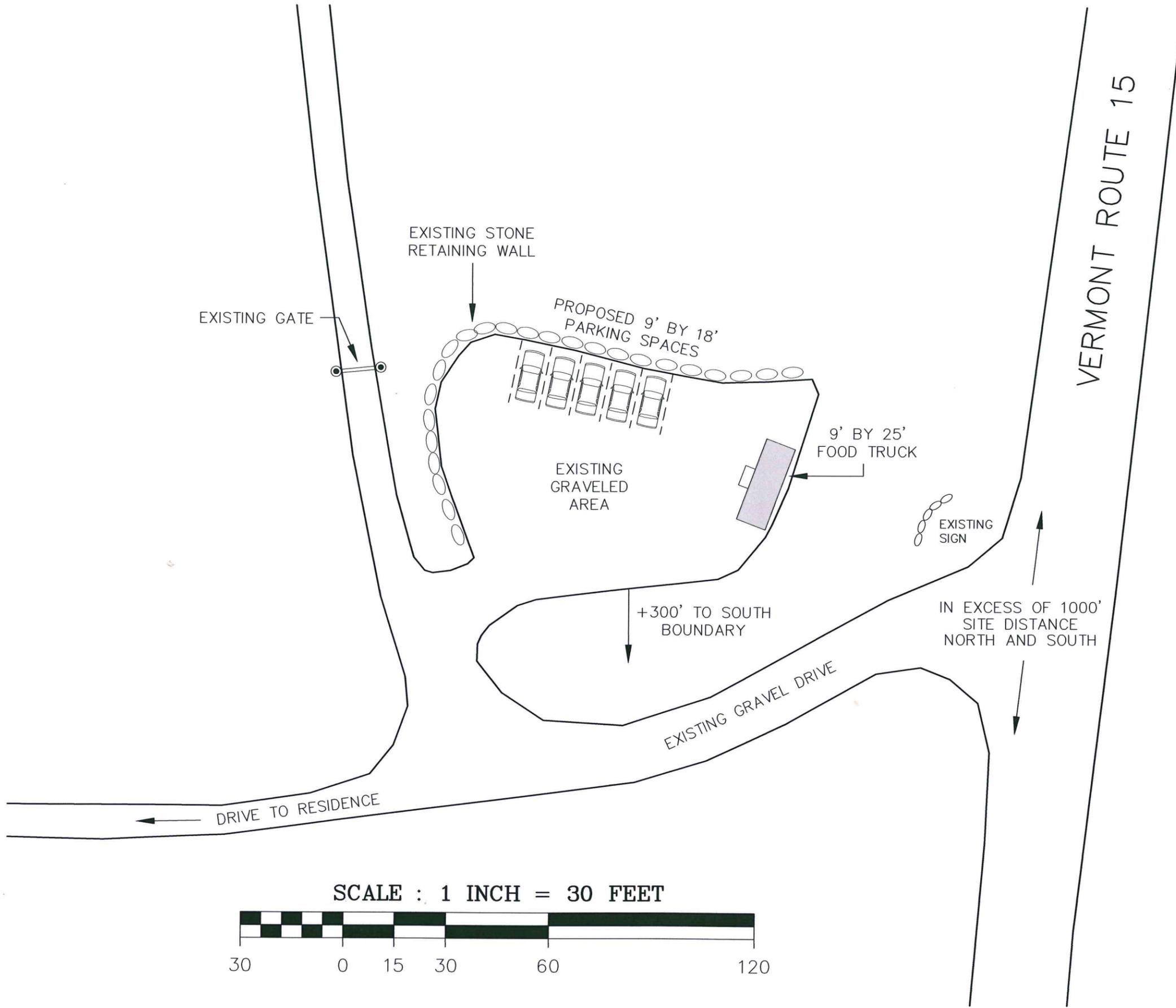
- 6) If you are an applicant or an interested party who wants to participate in the hearing, we will have you come up to the witness chair and clearly state your name, residential address, and mailing address if it differs.
- 7) I am now going to swear in all those present who wish to speak tonight. All individuals who plan to testify must take the following oath by responding "I do" at the end: ***"Do you hereby swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth under pains and penalties of perjury?"***
- 8) Are there any conflicts of interest or have there been any ex parte communications on the part of the Board members?
- 9) At this point I am going to enter into the record the information package that was sent by the Zoning & Planning Administrator prior to the hearing. The information included in this package relevant to this hearing is:
 - a. A copy of the procedure checklist for this hearing
 - b. A copy of the Site Plan
 - c. James Durbrow's Conditional Use Hearing Request
 - d. A copy of the completed Conditional Use Review Standards Findings Checklist;
 - e. A copy of the tax map for VT523;
 - f. A copy of the hearing notice (published in the Burlington Free Press)
 - g. A copy of the letter sent to abutters
- 10) We'll begin testimony, and hear from the Applicant, James Durbrow.
- 11) Next we will hear from the Zoning & Planning Administrator.
- 12) Are there members of the public who would like to speak?
- 13) Any final comments from anyone?

- 14) Does the Board feel that they have enough information at this time to make a decision on the application?
- a. *If more information is needed to make a decision on the application, adjourn the hearing to a time certain and outline for the applicant what is required at that continued hearing; **OR***
 - b. *If by consensus enough information has been presented to make a decision on the application, announce that the evidentiary portion of the hearing is closed.*

- 15) Does the Board wish to discuss the application in open or (closed) deliberative session? (After the ruling, continue with the info below.)

“Within 45 days from this hearing, the Zoning & Planning Administrator, on behalf of the DRB, will send a copy of the decision and letter to the Applicant, and those who have participated in tonight’s hearing. A 30-day appeal period will begin on the date the decision is signed.

If there are no other comments or questions we will close [this portion of] the meeting.”



SCALE : 1 INCH = 30 FEET



SITE PLAN
 MOBILE FOOD TRUCK SITE
 PROPERTY OF
JAMES F. DURBROW
 523 VERMONT ROUTE 15
 UNDERHILL, VERMONT
 AUGUST 2015

TOWN OF UNDERHILL

P.O. Box 32
Underhill Center, VT 05490

Phone: (802) 899-4434 x106

Fax: (802) 899-2137

Email: underhillzoning@comcast.net

CONDITIONAL USE HEARING REQUEST

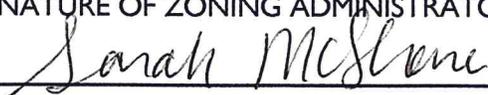
ZONING DISTRICT(S):

PROPERTY CODE:

VT523

FEES: \$150 + Certified Mail costs + recording fees

Residential Rural Residential Water Conservation Scenic Preservation Soil & Water Conservation

APPLICANT: <u>JAMES DURBROW / MAISCA LAWSON</u>	MAILING ADDRESS: <u>523 VT ROUTE 15</u>
PHONE: <u>802-899-3654</u>	E-MAIL: <u>JDURBROW@YAHOO.COM</u>
SUBJECT PROPERTY ADDRESS: <u>523 VT ROUTE 15 UNDERHILL VT</u>	
DESCRIPTION OF PROPOSED CONDITIONAL USE: <u>mobile food TRUCK</u>	
 APPLICANT SIGNATURE	<u>8/12/15</u> DATE
HEARING DATE (to be determined by the Zoning Administrator) <u>Aug 31, 2015</u>	
SIGNATURE OF ZONING ADMINISTRATOR 	DATE <u>8-14-2015</u>

Please submit a completed application to the Zoning Administrator. A Hearing before the Development Review Board will be scheduled upon receipt of a complete application. For assistance with this application, please contact the Zoning Administrator at 899-4434, x106 or underhillzoning@comcast.net.

Paid Check # 1020 \$150 - James Durbrow
8-13-2015

TOWN OF UNDERHILL, VERMONT

Article V, Section 5.4 – Conditional Use Review Standards Findings Checklist

Docket #: DRB15-07 Property ID: VT523 Hearing Date: 8/31/15
Applicant/Consultant: n/a

Check the zoning district(s) in which the proposed use will occur:

- Underhill Flats Village Center Rural Residential Water Conservation
 Scenic Preservation Soil & Water Conservation

The following standards are excerpted from Article V, Section 5.4 of the Unified Land Use and Development Regulations. For full standards, refer to the complete regulations document.

Applicant(s) shall submit proposed findings of fact for each of the relevant standards below as part of the application for conditional use review. Proposed findings shall address how the proposed development relates to each portion of the standard.

Required

Submitted

Section 5.4(B) General Standards

(1) Capacity of existing or planned community services or facilities.

Indicate how the proposed conditional use affects the demand for community services and facilities.

① PROPOSED USE WOULD HAVE NO DEMAND FOR COMMUNITY FACILITIES.

② PROPOSED USE WOULD HAVE MINIMAL DEMAND FOR COMMUNITY SERVICES MAINLY FIRE PROTECTION.

TOWN OF UNDERHILL, VERMONT

Article V, Section 5.4 – Conditional Use Review Standards Findings Checklist

Required Submitted Section 5.4(B) General Standards Cont'd

(2) Character of the area affected.

Indicate how the proposed conditional use relates to the character of the area in terms of location, scale, type, density, and intensity. Include any mitigation measures that will be utilized to avoid undue adverse impacts to the character of the area.

PROPOSED USE IS TOTALLY SELF CONTAINED
FOOD TRUCK, OCCUPYING 225 SF OF SPACE
SARGAGE WOULD BE THE TRUCK ITSELF PLUS
SMALL PORTABLE SIGN TO BE REMOVED AT
DAYS END.
OUTSIDE LIGHTING WILL NOT BE USED.
TRAFFIC FLOW APPROXIMATELY 40 TRIPS PER
DAY.

(3) Traffic on roads and highways in the vicinity.

Specify the projected impact of traffic resulting from the proposed conditional use. Include the impacts to the condition, capacity, safety, efficiency and use of existing and planned roads, bridges, intersections and associated highway infrastructure in the vicinity.

PROPOSED USE WILL HAVE NO IMPACT
ON LOCAL ROADS AND BRIDGES.
PROPOSED USE IS LOCATED OFF ROUTE 15
A STATE HIGHWAY.
AN EXISTING 50 FOOT CURB CUT TO STATE
ROAD WILL ACCESS THE PROPOSED USE, WITH
500 FEET OF SIGN DISTANCE

TOWN OF UNDERHILL, VERMONT

Article V, Section 5.4 – Conditional Use Review Standards Findings Checklist

Required Submitted Section 5.4(B) General Standards Cont'd

(4) Bylaws in effect.

Indicate how the proposed conditional use complies with all municipal bylaws and ordinances.

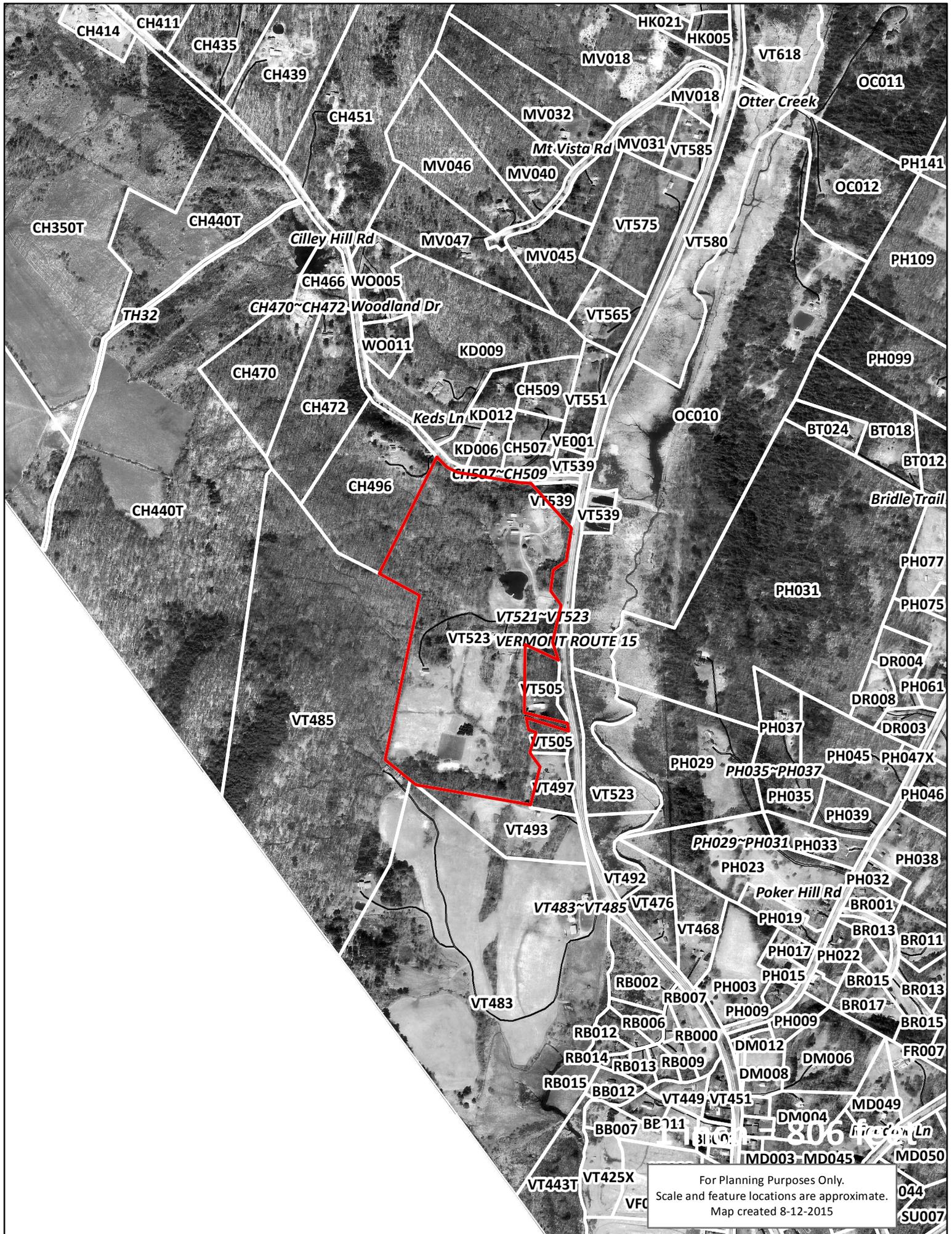
THE PROPOSED USE IS LOCATED IN THE
RURAL RESIDENTIAL DISTRICT.

THE RURAL RESIDENTIAL DISTRICT ALLOWS
FOR THE CONTINUATION OF EXISTING COMMERCIAL
RESIDENTIAL USES AND TO ENCOURAGE
FUTURE DEVELOPMENT ALONG ROUTE 15

(5) Utilization of renewable energy resources.

Demonstrate how the proposed conditional use will not interfere with the sustainable use of renewable energy resources, including access to, or the direct use or future availability of such resources.

THE PROPOSED USE IS A PORTABLE
MOBILE USE WITH NO IMPACT TO
USE OR ACCESS OF SUCH RESOURCES.



For Planning Purposes Only.
Scale and feature locations are approximate.
Map created 8-12-2015

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To: Burlington Free Press
Classifieds/Legals
legals@freepressmedia.com
860-5329

From: Town of Underhill
Zoning & Planning
P.O. Box 120
Underhill, VT 05489

LEGAL AD

August 12, 2015

Please e-mail to confirm receipt of this ad.

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Release Date: ASAP, NO LATER THAN 8/15/2015

NOTICE OF SPECIAL PUBLIC MEETING

Town of Underhill Development Review Board (DRB)

Monday, August 31, 2015

6:30 PM Public Hearing

Underhill Town Hall, 12 Pleasant Valley Rd. Underhill, VT

The DRB will hold a hearing on the application of James Durbrow for conditional use approval to operate a home industry per Section 4.12 of the Unified Land Use and Development Regulations on his property located at 523 VT Route 15 (VT523) in Underhill, VT. This property is located in the Rural Residential zoning district. A site visit will be held on the property at 6:00 PM preceding the public hearing. The hearing will be held at Town Hall at 6:35 PM.

Additional information may be obtained at the Underhill Town Hall. The hearings are open to the public. Pursuant to 24 VSA §§4464(a)(1)(C) and 4471(a), participation in this local proceeding by written or oral comment is a prerequisite to the right to take any subsequent appeal. If you cannot attend the hearing, comments may be made in writing prior to the meeting and mailed to: Planning & Zoning Administrator, P.O. Box 120, Underhill, VT 05489.

Please call the Zoning & Planning Administrator's office at 899-4434 x106 with any questions concerning this ad and to confirm receipt. Please remit bill to: Town of Underhill, RE: 8-31-2015 Zoning Hearing, P.O. Box 120, Underhill, VT, 05489. Thank you.

TOWN OF UNDERHILL, VT
Planning & Zoning Administrator

P.O. Box 120, Underhill, VT 05489
rfifield@underhillvt.gov

Phone: (802) 899-4434, x106
Fax: (802) 899-2137

August 14, 2015

James Durbrow
523 Vt Rt 15
Underhill, VT 5489

Dear Neighbor:

This letter is to notify you, as an adjoining property owner, of a Conditional Use review hearing before the Development Review Board on **Monday, August 31, 2015** on the application of James Durbrow for approval to operate a home industry per Section 4.12 of the Unified Land Use and Development Regulations on his property located at 523 VT Route 15 within the Rural Residential zoning district. A site visit will be held on the property at 6:00 PM preceding the public hearing. The public hearing will begin at the Town Hall, 12 Pleasant Valley Rd., at approximately 6:35 PM.

The hearing is open to the public, and as an abutting neighbor, you have the right to provide comments. Additional information related to this application is available at the Town Hall Planning & Zoning Administrator's Office. If you cannot attend the hearing but would still like to exercise your right to be heard, comments may be made in writing prior to the hearing and mailed or emailed to me at the information above.

Pursuant to 24 VSA §§4464(a)(1)(C) and 4471(a), participation in this hearing is a prerequisite to the right to take any subsequent appeal. If you have any questions, I can be reached at the addresses or phone number listed above.

Sincerely,

Rachel Fifield
Planning & Zoning Administrator

cc: File