

APPLICATION OVERVIEW
SKETCH PLAN REVIEW
ARTICLE 7, SECTION 7.3

DRB DOCKET #:	DRB-20-01
APPLICANT(S):	Timothy & Theresa Potvin
CONSULTANT(S):	Green Mountain Engineering Grove Land Surveyors
PROPERTY ADDRESS (PARCEL ID CODE):	145 Moose Run (MO145) (Formerly 27 Moose Run – MO027)
ZONING DISTRICT(S):	Mt. Mansfield Scenic Preservation District Soil & Water Conservation District
INITIAL FILING DATE:	Tuesday, April 21, 2020
APPLICATION COMPLETION DATE:	Thursday, May 28, 2020
SCHEDULED MEETING DATE:	Monday, July 6, 2020

PROJECT DESCRIPTION:	The Applicants are seeking a 2-Lot subdivision of their land at 145 Moose Run (MO145).
MOST RELEVANT ULUDR SECTIONS:	§ 3.2 (Access); § 3.7 (Lot, Yard & Setback Requirements); § 7.5 (Preliminary Subdivision Review); and § 7.6 (Final Subdivision Review).
REASON FOR CONDITIONAL USE REVIEW:	Proposed subdivisions are required to be reviewed by the Development Review Board per Article VII. The Preliminary & Final Subdivision Review Hearing is meant to be a formal process to review the proposed project while providing the opportunity for public comment.
APPLICABILITY OF ROAD ORDINANCE:	The 2015 Road Ordinance, as amended thru December 18, 2018 MAY apply.
STATE PERMIT INFORMATION:	<ul style="list-style-type: none"> Each proposed lot will contain a primary dwelling upon subdividing, which have both been permitted under WW Permit #: WW-4-3810-1 (Exhibit K)
COMMENTS/NOTABLE ISSUES:	<ul style="list-style-type: none"> The accessory dwelling (MO137), which currently exists on the proposed Lot 5, will revert to a primary use upon subdividing, and therefore, will become a single-family dwelling. The driveway serving the accessory dwelling is already constructed (see Exhibit F; Access Permit #: A-18-12). The proposed “Portion of Lot 1” seemingly rises to the level of being irregular and failing to meet the frontage requirements along Pleasant Valley Road.



TOWN OF UNDERHILL

Development Review Board

TIMOTHY & THERESA POTVIN
PRELIMINARY & FINAL SUBDIVISION REVIEW
Docket #: DRB-20-01

Applicant(s):	Timothy & Theresa Potvin
Consultant(s):	Green Mountain Engineering and Grove Land Surveyors
Property Location:	145 Moose Run (MO145) (Formerly 27 Moose Run)
Acreage:	±105.6 Acres
Zoning District(s):	Mt. Mansfield Scenic Preservation and Soil & Water Conservation

Project Proposal:	Preliminary & Final Subdivision Review of Timothy & Theresa Potvin for a proposed 2-Lot Subdivision of property located at the aforementioned address.
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2020 UNDERHILL UNIFIED LAND USE & DEVELOPMENT REGULATIONS RELEVANT REGULATIONS:

- Article II, Table 2.6 – Mt. Mansfield Scenic Preservation District (pg. 21)
 - Article II, Table 2.7 – Soil & Water Conservation District (pg. 24)
 - Article III, Section 3.2 – Access (pg. 30)
 - Article III, Section 3.7 – Lot, Yard & Setback Requirements (pg. 36)
 - Article III, Section 3.13 – Parking, Loading & Service Areas (pg. 42)
 - Article III, Section 3.17 – Source Protection Areas (pg. 53)
 - Article III, Section 3.18 – Steep Slopes (pg. 55)
 - Article III, Section 3.19 – Surface Waters & Wetlands (pg. 62)
 - Article III, Section 3.23 – Water Supply & Wastewater Systems (pg. 66)
 - Article VI – Flood Hazard Area Review (pg. 125)
 - Article VII, Section 7.2 – Applicability (pg. 137)
 - Article VII, Section 7.3 – Sketch Plan Review (pg. 139)
 - Article VII, Section 7.5 – Preliminary Subdivision Review (pg. 142)
 - Article VII, Section 7.6 – Final Subdivision Review (pg. 144)
 - Article VIII – Subdivision Standards (pg. 148)
 - Appendix A – Underhill Road, Driveway & Trail Ordinance
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CONTENTS:

- a. Exhibit A - Potvin Preliminary & Final Subdivision Review Staff Report
 - b. Exhibit B - MO145 Preliminary & Final Subdivision Review Hearing Procedures
 - c. Exhibit C - Application for Subdivision
 - d. Exhibit D - Project Narrative
 - e. Exhibit E - Narrative Regarding Shape of Parent Lot
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- f. Exhibit F - BFP Notice
- g. Exhibit G - MO145 Certificate of Service
- h. Exhibit H - MO145 Sketch Plan Acceptance Letter (Dated 02.04.20)
- i. Exhibit I - DRB Decision DRB-18-04
- j. Exhibit J - Access Permit A-18-12
- k. Exhibit K - Wastewater Permit WW-4-3810-01
- l. Exhibit L - Road Maintenance Agreement
- m. Exhibit M - Proposed Survey of MO137
- n. Exhibit N - Proposed Survey of Subdivision
- o. Exhibit O - Site Plan

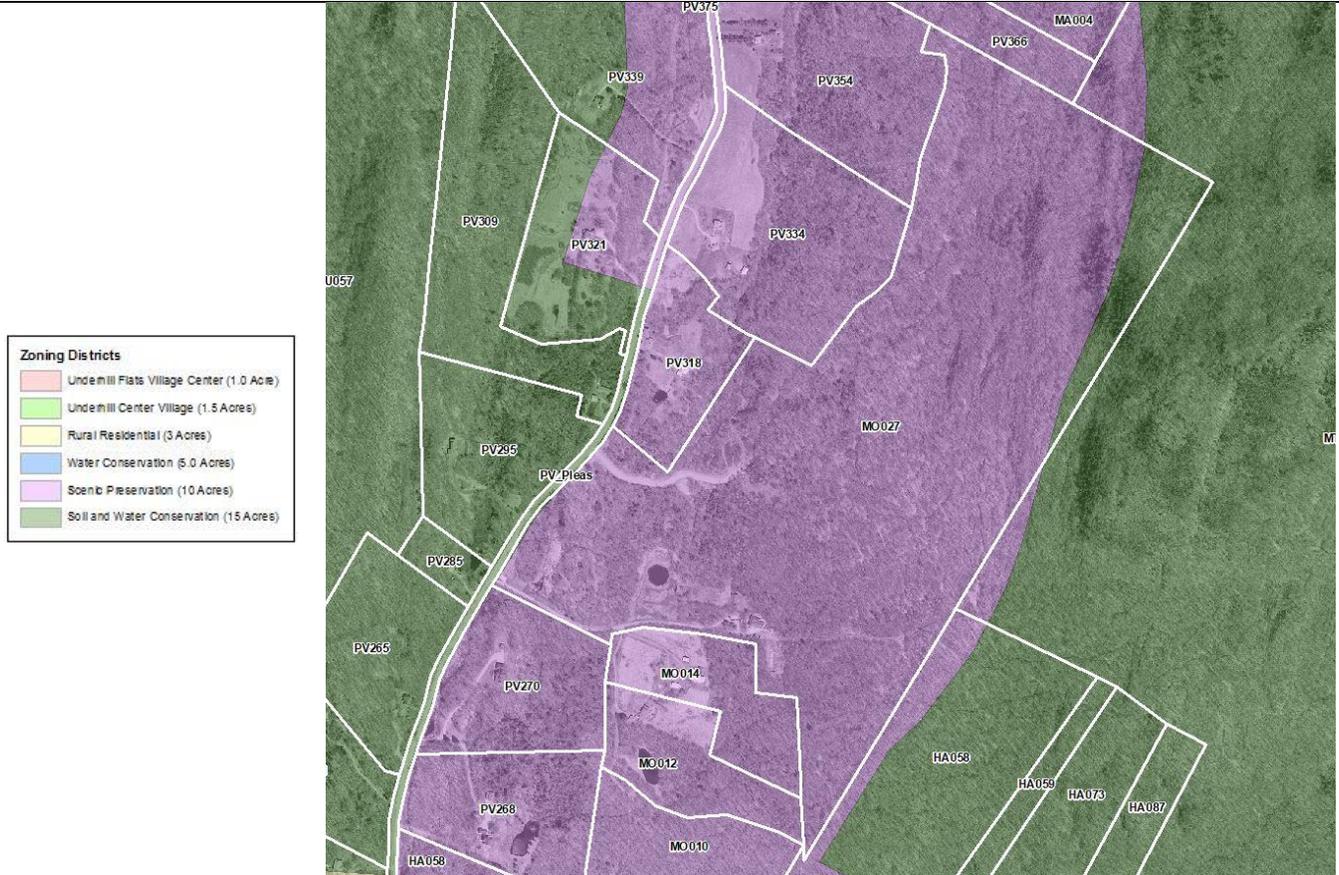
COMMENTS/QUESTIONS

1. **SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS:** Due to the lot’s irregular shape, and desire to keep private development roads on land associated with the parent lot, the lot depicted as a “Portion of Lot 1” in Exhibit M will fail to meet the frontage requirement under Section 3.7.D for Pleasant Valley.
2. **SECTION 3.19 – SURFACE WATERS & WETLANDS:** Since the development already exists, and no new development is being proposed as a direct result of this subdivision, the Board should determine how much more review they want to conduct under this section.
3. **SECTION 7.3 – SKETCH PLAN REVIEW:**
 - a. The Applicants have submitted a site plan depicting the well shield and isolation distances (see Exhibit O) for Lot 5 only.
 - b. While the project narrative makes reference to the property’s history, it does not make address any of the Article VIII Standards.
 - c. The Applicants have submitted an updated site plan (see Exhibit O) from their previous DRB Application (DRB-18-04). The updated site plan now depicts the wetland buffer; however, whether the wetland’s delineation remains valid is unanswered.
 - d. The Board will need to determine if they want to see information relating to the 145 Moose Run.
 - e. The turnaround depicts the 37.5 ft. measurement being measured from the center of the driveway turnaround area rather than from the edge of the driveway.
 - f. Draft Deeds have not been submitted.
4. **SECTION 8.1.D – MODIFICATIONS & WAIVERS:** The Applicants have not directly requested any modifications or waivers; however, are indirectly requesting the frontage requirement for 145 Moose Run (a “Portion of Lot 1”) to be waived due to the proposed lot’s irregularity.
5. **SECTION 8.2.F - LAYOUT:**
 - a. **Section 8.2.F.4** – The current configuration of the lot does not conform with the district lot and yard requirements (see Section 3.7).
 - b. **Section 8.2.F.5** – While the proposed Lot 5 is not irregular, as currently configured, the proposed “Portion of Lot 1” (145 Moose Run) is irregular, as an arch-like shape will encompass the proposed Lot 5.

- i. Irregularly shaped lots shall only when topographic, site constrains, or minimizing the fragmentation of natural, scenic or cultural resources factors emerge.
 - 6. **SECTION 8.2.G – BUILDING ENVELOPES:** No building envelopes are illustrated on any of the submitted plans, and therefore, the underlying districts’ setback requirements will be considered building envelope.
 - 7. **SECTION 8.3.D – NATURAL AREAS & WILDLIFE HABITAT:** A priority level 10 habitat block is located on the existing lot (see directly to the right on the next page), and has already been impacted with the construction of the dwellings.
 - 8. **SECTION 8.7.A – PUBLIC FACILITIES:**
 - a. Staff has forgone soliciting comments from the Mt. Mansfield Union School District since dwelling units already exist on both proposed lots.
 - b. Should the Board wish to have comments submitted, please inquire with Staff before the hearing in order to obtain those comments.
 - 9. **SECTION 8.7.B – FIRE PROTECTION:**
 - a. Staff has forgone soliciting comments from the Underhill-Jericho Fire Department since the driveways are already existing.
 - b. Should the Board wish to have comments submitted, please inquire with Staff before the hearing in order to obtain those comments.
 - 10. **APPENDIX A – ROAD & DRIVEWAY STANDARDS:**
 - a. The Board should determine if they believe the Applicants require an additional access permit.
 - b. The Board should determine if they believe that Moose Run or the driveway serving either 137 or 145 Moose Run require additional improvements to meeting and satisfy AOT A-76 and B-71 Standards.
 - c. The Applicants were instructed to contact the Road Foreman in order to obtain a “hidden drive” sign, which was to replace the handmade sign. If the Applicants have not done so yet, the Board should condition approval on ensuring the replacement of the handmade “hidden drive” sign with a valid standard “hidden drive” sign that conforms for FHWA and/or State standards.
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STAFF FINDINGS OF RELEVANT SECTIONS

ARTICLE II – ZONING DISTRICTS



	Mt. Mansfield Scenic Preservation	Soil & Water Conservation	Proposed Lot 5 (Accessory Dwelling) ±10.0 Acres	Proposed Lot 2 (Single-Family Dwelling) ±95.6 Acres
Lot Size:	10.0 Acres	15.0 Acres	±10.0 Acres	±95.6 Acres
Frontage:	400 ft.	400 ft.	See Section 3.7 Below	
Setbacks:			Source: B-18-06	Source: ANR Atlas
• Front	30 ft.	30 ft.	±210 ft. (South)	~1,050 ft. (West)
• Side 1	75 ft.	75 ft.	±490 ft. (West)	~3,156 ft. (North)
• Side 2	75 ft.	75 ft.	~190 ft. (East)	~189 ft. (South)
• Rear	75 ft.	75 ft.	±660 ft. (North)	~1,004 ft. (East)
Max. Building Coverage:	10%	7%	Assumed Met	Assumed Met
Max. Lot Coverage:	15%	10%	Assumed Met	Assumed Met
Maximum Height:	35 ft.	35 ft.	Assumed Met	Assumed Met

TABLE 2.6 – MT. MANSFIELD SCENIC PRESERVATION DISTRICT

Purpose Statement: To protect the scenic vistas along Pleasant Valley Road. This district includes upland areas with access and/or development constraints, and valley areas with access onto Pleasant

Valley Road. The goal of this is achieved by allowing compatible lower densities of development or clustered development that maintains Underhill’s rural character while protecting the views along Pleasant Valley Road.

- The proposed subdivision involves the division of a ±105 acre lot into two lots: a ±10 acre lot and a ±95 acre lot.
 - Both lots will contain a single-family dwelling (the accessory dwelling on the proposed Lot 5 will become a primary dwelling, while the existing single-family dwelling on the parent lot will remain with the proposed “Portion of Lot 1”).
- Both lots already contain dwelling units, and therefore, at this time, no new development is proposed.
 - The Board found the detached accessory dwelling to be in conformance with the Mt. Mansfield Scenic Preservation District with their 2018 approval (DRB-18-04, Exhibit I)
- Both lots will access Moose Run, a private road that connects to Pleasant Valley Road, a Class II Town Highway.

TABLE 2.7 – SOIL & WATER CONSERVATION **PG. 24**

Purpose Statement: This district includes significant headwater and aquifer recharge areas, unique and fragile natural areas, critical wildlife habitat, and mountainsides and ridges characterized by steep slopes and shallow soils. The purpose of this district is to protect Underhill’s more remote and inaccessible forested upland areas from fragmentation, development, and undue environmental disturbance, while allowing for the continuation of traditional uses such as forestry, outdoor recreation, and compatible development.

- The proposed subdivision will subdivide a ±105 Acre lot into two lots.
- The Applicants are not proposing any new development, and therefore, the area designated as the Soil & Water Conservation District would therefore not be impacted at this time.
 - *NOTE: the area of land designated as Soil & Water Conservation is unlikely to be developed due to the steep slope nature of that area (see Section 3.18 below).*

ARTICLE III – GENERAL REGULATIONS

SECTION 3.2 – ACCESS **PG. 30**

- The driveway serving 145 Moose Run (formerly known as 27 Moose Run and depicted as “A Portion of Lot 1,” Exhibit M, and contains the existing single-family dwelling) already exists and was assumedly permitted during the creation of the Moose Run Subdivision.
- The driveway serving 137 Moose Run (the accessory dwelling and depicted as the proposed Lot 5 in Exhibit M) already exists and was permitted under Access Permit #: A-18-12 (see Exhibit J).
- Since no additional dwellings/residences are being added as part of this subdivision, no modifications to Moose Run appear to be required.

SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS **PG. 36**

- Both lots will contain one principal use/structure:
 - Proposed Lot 5 (MO135): a single-family dwelling;
 - *NOTE: the accessory dwelling, which currently exists on the proposed Lot 5 will revert to the primary use upon subdividing, and therefore, will become a single-family dwelling; and*
 - Portion of Lot 1 (MO145): a single-family dwelling.
- Due to the lot’s irregular shape, and desire to keep private development roads on land associated with the parent lot, the lot depicted as a “Portion of Lot 1” in Exhibit M will fail to meet the frontage requirement under Section 3.7.D for Pleasant Valley.

- While Section 3.7.E.2 allows a lot to use frontage along a private development road to meet the frontage requirements, the way that the proposed “Portion of Lot 1” is configured creates a flag lot.
 - Flag lots are only specifically addressed in the Regulations in relation to reducing lot frontage to allow for infill development within the Underhill Flats Village Center and Underhill Center Village zoning districts (§§ 3.7.F.3.d & 8.6.A.2.d).
- Enough information has not been submitted to definitively verify that the “Portion of Lot 1” satisfies the frontage requirement along Pleasant Valley Road; however, circumstantial evidence suggests that that the proposed “Portion of Lot 1” will fail to satisfy the 400 ft. frontage requirement.
- Since Moose Run terminates where the driveway serving the “Portion of Lot 1” immediately commences, thereby meaning the Lot does not sharing a driveway with any of the other lots within the Moose Run Subdivision, the frontage waiver under Section 8.6.A is not applicable.
- At this time, the only conceivable lot configuration Staff can think of that would allow the Applicants to achieve the desired subdivision is for the proposed Lot 5 to contain the lands that Moose Run and Lap Run traverse, thereby requiring a right-of-way easement for both private roads.
 - The parent lot, a “Portion of Lot 1,” would be allowed to waive its frontage at this point under Section 8.6.A.2.c, as it would be considered a lot at the end of an existing dead-end road.

SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

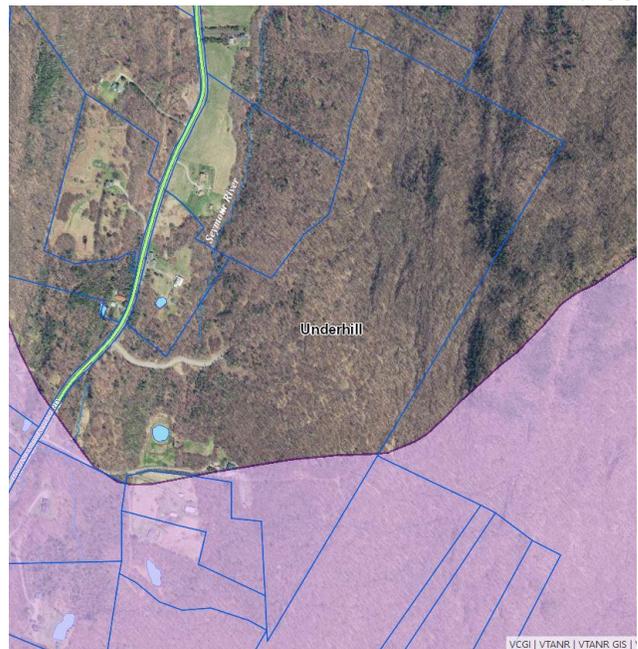
PG. 42

- Both lots will retain separate primary dwelling and have assumedly satisfied the parking requirement for a single-family dwelling (2 parking spaces per dwelling) since both structures received building permits.

SECTION 3.17 – SOURCE PROTECTION AREAS

PG. 53

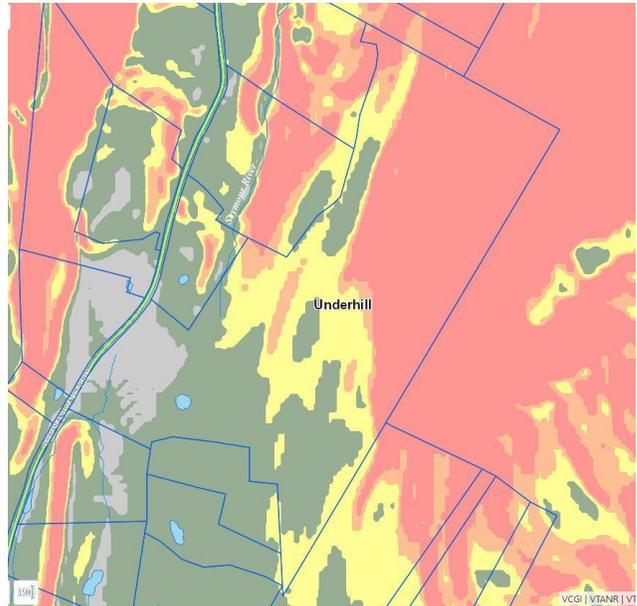
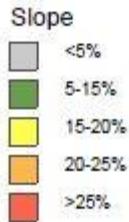
- Both proposed lots will contains areas designated as a Groundwater Source Protection Area; however, since the development already exists, and no new development is being proposed as a direct result of this subdivision application, review under this section appears to be unnecessary at this time.



SECTION 3.18 – STEEP SLOPES

PG. 55

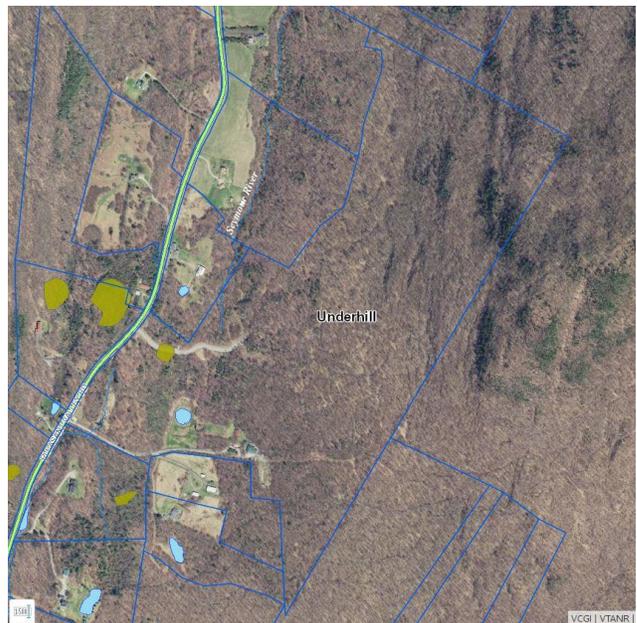
- Areas of steep slopes (15-25%) are present on the existing lot – 145 Moose Run (see directly to the right).
 - The existing development (the single-family dwelling that will remain on the “Portion of Lot 1” 2 and the accessory dwelling that will remain on Lot 5) appear to be located in areas that do not contain areas of Steep Slopes (15-25%) or very steep slopes.
- Since the development already exists, and no new development is being proposed as a direct result of this subdivision application, review under this section appears to be unnecessary at this time.



SECTION 3.19 – SURFACE WATERS & WETLANDS

PG. 62

- An unnamed stream exists on the proposed Lot 5, and is depicted on the 2017 Survey (Exhibit N) submitted as part of a boundary line adjustment application (BLA-17-02).
 - The Applicants resubmitted a site plan (Exhibit O) from their previous 2018 hearing with some modifications; however, that site plan did not depict the unnamed stream.
- Class II and Class III Wetlands were identified on the engineering plans (Exhibit N) from when the Applicants previously submitted a survey for a previously approved boundary line adjustment application in 2017 (BLA-17-02)
 - The Applicants resubmitted a site plan (Exhibit O) from their previous 2018 hearing with some modifications, which includes the identification of a wetlands and wetlands buffer.
 - Staff is unaware when this depicted wetlands delineation on the submitted site plan was performed, which would verify the delineation’s validity.
- Since the development already exists, and no new development is being proposed as a direct result of this subdivision, the Board should determine how much more review they want to conduct under this section.



SECTION 3.23 – WATER SUPPLY & WASTEWATER SYSTEMS

PG. 66

- Upon subdividing, each proposed lot will contain a single-family dwelling with approved wastewater and potable water supply systems (see Exhibit K).
 - The accessory dwelling (Lot 5 – MO137), which will revert to a single-family dwelling, is approved for two-bedrooms and is also approved for a drilled well and a mound system.
 - The single-family dwelling (a “Portion of Lot 1” – MO145) is approved for four bedrooms, a drilled well and on-site wastewater system.
- No new development is being proposed as a direct result of this subdivision.
 - Since no new development is being proposed as a direct result of this subdivision, additional permitting from the State regarding the water supplies and wastewater systems does not appear to be required. *(The Applicants should verify with the State of Vermont.)*

ARTICLE VI – FLOOD HAZARD AREA REVIEW

- No Special Flood Hazard Areas were depicted on the existing lot according to the ANR Website; therefore, review under this section is not required.

PG. 125

ARTICLE VII – SUBDIVISION REVIEW

SECTION 7.2 – APPLICABILITY

PG. 137

- The Applicants are proposing a 2-Lot subdivision that meets the requirements of Section 7.2.E.1.a.
- The Board categorized the proposed subdivision as a minor subdivision during its January 20, 2020 sketch plan review meeting and memorialized in its February 4, 2020 acceptance letter (Exhibit H).

SECTION 7.3 – SKETCH PLAN REVIEW

PG. 139

- See Exhibit B pertaining to the purpose statement for Sketch Plan Review.
- The Applicants have generally submitted the requested materials from the Board’s sketch plan review letter (see Exhibit H), as outlined below:
 1. The proposed configuration of the parent lot (MO145) has the propensity of being viewed as irregular, thereby failing to conform with Section 8.2.F of the *Unified Land Use & Development Regulations*. The Applicants should explore options to reduce the irregularity of the parent lot (MO145).
 - *The Applicants submitted a narrative outlining and requesting the “Portion of Lot 1” be approved as proposed (see Exhibit E).*
 2. The survey plat prepared by a licensed surveyor shall depict all easements and/or rights-of-way that are located on the existing parcel of land to be subdivided, including easements for potential utilities.
 - *The Applicants have submitted a survey plat (see Exhibit M).*
 3. The Applicant shall identify the well shield and isolation distances on the submitted site plans and how those distances will impact the adjacent property owners.
 - *The Applicants have submitted a site plan depicting the well shield and isolation distances (see Exhibit O) for Lot 5 only.*
 4. The Applicants shall consider all components of the Article VIII Subdivision Standards, and submit a project narrative outlining the property’s history, references to book and page numbers, as well as provide comments on any related issues pertaining to the aforementioned Article VIII Subdivision Standards. This narrative shall substitute for the previously
 - *The Applicants have submitted a project narrative (see Exhibit D).*
 - *While the project narrative makes reference to the property’s history, it does not*

distributed Preliminary Subdivision Findings Checklist per § 7.5 of the *Underhill Unified Land Use & Development Regulations* that used to be required (see enclosed example).

make address any of the Article VIII Standards.

5. If not intending to use the setback requirements as the proposed building envelopes, the site plan shall depict the building envelopes for the principal structure, as well as building envelopes for ancillary structures and on-site parking. These building envelopes shall depict the distance from the envelope itself to the property's boundaries. Also note that the building envelope shall exclude constraints such as steep slopes, streams, wetlands, etc., where feasible.
 6. The Applicants shall submit engineering drawings in conformance with the application requirements in the *Underhill Unified Land Use & Development Regulations*, specifically:
 - a. Areas of steep slopes, flood hazards, stream water setbacks, septic setbacks, and well shields, isolation distances;
 - b. The requisite size culverts shall be illustrated on the plans; and
 - c. Update wetland delineation on new lot.
 7. The Applicants shall submit engineering drawings in conformance with the requirements of the *Underhill Road, Driveway and Trail Ordinance*, which shall address:
 - a. A turnaround area measuring 12 ft. by 37.5 ft. measured from the edge of the driveway;
 - b. All turning radii at the driveway entrance must meeting the 35 ft. requirement as measured from the far side of the approaching road to the far side of the required driveway width – or as approved by the Fire Department.
 8. An Application for Subdivision shall be submitted in accordance with the criteria listed below under "Final Subdivision/Hearing – Process."
 9. Draft deeds containing or making reference to:
 - a. The right-of-way easement that serves the new lot; and
 - b. A road maintenance agreement.
 10. The scheduling of a site visit prior to the final subdivision review hearing.
- *The Applicants did not depict a building envelope and any of the submitted plans (See Exhibits M, N & O), and therefore, Staff presumes that the Applicants are intending to use the District's setback requirements as the building envelope.*
 - *The Applicants have submitted an updated site plan (see Exhibit O) from their previous DRB Application (DRB-18-04). The updated site plan now depicts the wetland buffer; however, whether the wetland's delineation remains valid is unanswered.*
 - *The submitted site plan does not depict areas of steep slopes, the unnamed stream or the culverts.*
 - *The Applicants have submitted a site plan depicting the existing driveway serving 137 Moose Run, but not 145 Moose Run.*
 - *The Board will need to determine if they want to see information relating to the 145 Moose Run.*
 - *The turnaround depicts the 37.5 ft. measurement being measured from the center of the driveway turnaround area rather than from the edge of the driveway.*
 - *The Applicants have submitted a Subdivision Application (see Exhibit C).*
 - *The Applicants have submitted a draft Road Maintenance Agreement (see Exhibit L).*
 - *Draft Deeds have not been submitted.*
 - *Scheduled site visit for 9:30 PM on Saturday, June 27, 2020.*

SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW **PG. 142**

- The Board waived preliminary subdivision review (see Exhibit H).
- The Applicants have forgone the findings checklist for Preliminary Subdivision Review as directed by the Sketch Plan Review acceptance letter (Item 4, Exhibit H).

SECTION 7.6 – FINAL SUBDIVISION REVIEW **PG. 144**

- The Applicants submitted materials that can assist the Board in making a decision regarding the Final Subdivision Review application.
 - Should the Board require additional information, they have the option to continue the hearing to a later date.

ARTICLE VIII – SUBDIVISION STANDARDS

SECTION 8.1 – APPLICABILITY

SECTION 8.1.B – REQUEST FOR MORE INFORMATION **PG. 148**

- Technical review is not required at this time.

SECTION 8.1.C – FINDINGS OF FACT **PG. 148**

- The Applicants have forgone the findings checklist for Preliminary Subdivision Review as directed by the Sketch Plan Review acceptance letter (Item 4, Exhibit H).

SECTION 8.1.D – MODIFICATIONS & WAIVERS **PG. 148**

- The Applicants have not directly requested any modifications or waivers; however, are indirectly requesting the frontage requirement for 145 Moose Run (a “Portion of Lot 1”) to be waived due to the proposed lot’s irregularity.

SECTION 8.2 – GENERAL STANDARDS

SECTION 8.2.A – DEVELOPMENT SUITABILITY **PG. 149**

- Since the development already exists, and no new development is being proposed as a direct result of this subdivision application, no additional unforeseen undue adverse impacts to the public health, safety or the character of the area in which the proposed development is located are anticipated.
- The Applicants have not expressed any intention of setting aside land as open space that would be excluded from subsequent development lands that periodically flood, have poor drainage, contain very steep slopes (>25%), or have other known hazards, or that is otherwise not suitable to support structures or infrastructure.

SECTION 8.2.B – DEVELOPMENT DENSITY **PG. 149**

- Once subdivided, the existing development/subdivision will meet the density requirements of this Section.

SECTION 8.2.C – EXISTING SITE CONDITIONS **PG. 149**

- Since the development already exists, and no new development is being proposed as a direct result of this subdivision application, none of the existing site features or natural resources listed in this subsection are expected to be adversely affected any more than they may already have been.

SECTION 8.2.D – UNDERHILL TOWN PLAN & REGULATIONS **PG. 150**

- The proposed project appears to conform to the *Underhill Town Plan* and the *Underhill Unified Land Use & Development Regulations*.

SECTION 8.2.E – DISTRICT SETTLEMENT PATTERNS

PG. 150

Rural Districts. Subdivisions within the Rural Residential, Water Conservation and Scenic Preservation Districts shall be designed and configured to reinforce the rural character and historic working landscape of these districts, characterized by forested hillsides and hilltops, open fields, and moderate to low densities of residential development interspersed with large contiguous tracts of undeveloped land. Lots shall be configured to maintain contiguous tracts of open land between adjoining parcels.

Soil & Water Conservation District. Subdivisions within the Soil & Water Conservation Districts shall be designed and configured to avoid undue adverse impacts to existing forest resources and environmental sensitive upload areas, including watersheds and significant wildlife habitat and travel corridors, and to maintain traditional land uses including forestry and outdoor recreation. To the extent physically feasible, fragmentation of productive forest lands and significant wildlife habitat shall be avoided, and lots shall be configured to maintain contiguous tracts to open land between adjoining parcels. Lots created for the purpose of constructing dwellings or other structures in this district shall not result in the development of environmentally sensitive areas identified in the town plan or through site investigation, as specified in Section 8.3.

- The proposed project appears to conform with the Rural Districts settlement patterns outlined in Section 8.2.E.1 (see directly to the left).
- The proposed “Portion of Lot 1” will contain a small area of the Soil & Water Conservation District, and is expected to remain vacant, and therefore, no adverse impact to land in this district is expected as a direct result from this subdivision review application – at least at this point in time.
 - Additionally, the area of land contained in the Soil & Water Conservation District is largely comprised of steep slopes (15%-25%) & very steep slopes (>25%).

SECTION 8.2.F - LAYOUT

PG. 151

- The current configuration of the proposed subdivision only appear to satisfy the first three subsections of this section, failing to satisfy the latter two subsections (see directly below).
- **Section 8.2.F.4** – The current configuration of the lot does not conform with the district lot and yard requirements (see Section 3.7 above).
- **Section 8.2.F.5** – While the proposed Lot 5 is not irregular, as currently configured, the proposed “Portion of Lot 1” (145 Moose Run) is irregular, as an arch-like shape will encompass the proposed Lot 5.
 - The purpose of the arch-like shape around the proposed Lot 5 is to retain the development roads (Moose Run and Lap Run) with the parent lot (the “Portion of Lot 1”).

- As currently configured, the lot does not adhere to Section 8.2.F.5, which allows for irregularly shaped lots only when topographic, site constraints, or minimizing the fragmentation of natural, scenic or cultural resources factors emerge.
 - Staff is unaware of any of the abovementioned factors existing in the areas where the irregularity exist, and therefore, does not recommend approval in its current proposal.

SECTION 8.2.G – BUILDING ENVELOPES **PG. 151**

- No building envelopes are illustrated on any of the submitted plans, and therefore, the underlying districts’ setback requirements will be considered building envelope.

SECTION 8.2.H – SURVEY MONUMENTS **PG. 151**

- No findings.

SECTION 8.2.I – LANDSCAPING & SCREENING **PG. 151**

- Dense vegetation exists between the existing dwelling units and Moose Run & Pleasant Valley Road.
- No additional development is expected as a direct result of this subdivision application, which would typically require review under this subsection to ensure the proper landscaping and screening techniques.

SECTION 8.2.J – ENERGY CONSERVATION **PG. 152**

- No findings.

SECTION 8.3 – NATURAL CULTURAL RESOURCES

SECTION 8.3.A – RESOURCE IDENTIFICATION & PROTECTION **PG. 152**

- No information pertaining to, nor has any identification relating to, significant cultural and natural features necessitating protection has been submitted for consideration.

SECTION 8.3.B – SURFACE WATERS, WETLANDS & FLOODPLAINS **PG. 153**

- See Section 3.19 and Article VI above for more information.

SECTION 8.3.C – ROCK OUTCROPS, STEEP SLOPES, HILLSIDES & RIDGELINES **PG. 153**

- See Section 3.18 above for more information.

SECTION 8.3.D – NATURAL AREAS & WILDLIFE HABITAT **PG. 154**

- A priority level 10 habitat block is located on the existing lot (see directly to the right on the next page), and has already been impacted with the construction of the dwellings.
- Since the development already exists, and no new development is being proposed as a direct result of this subdivision application, additional impact to the habitat block is not expected to happen at this time.
- No deer wintering yards have been identified on the lot.
- The ANR Biofinder has also identified the

following priority characteristics:

- Highest Priority Community & Species (located along Pleasant Valley Road)
- Highest Priority Landscape (located in a similar area as the identified habitat block)
- Wetlands (see Exhibits N & O)
- Highest Priority Wildlife Crossing (along Pleasant Valley Road)
- Riparian Wildlife Connectivity (along the unnamed stream and identified pond)
- Highest Priority Surface Water and Riparian Areas (along the unnamed stream and identified pond)



- Highest Priority Interior Forest Blocks (located in a similar area as the identified habitat block)
- Highest Priority Connectivity Blocks (located in a similar area as the identified habitat block)
- Representative and Responsibility Physical Landscapes (located in a similar area as the identified habitat block)

SECTION 8.3.E – HISTORIC & CULTURAL RESOURCES

PG. 155

- Staff is unaware of any historic and cultural resources located on the existing lot.

SECTION 8.3.F – FARMLAND

PG. 155

- Statewide Agricultural Soils were identified to be located on the existing property (see directly to the right).
- Since the development already exists, and no new development is being proposed as a direct result of this subdivision application, additional impact to prime agricultural soils is not expected to happen.

	Local
	Local (b)
	Not rated
	Prime
	Prime (b)
	Prime (f)
	Statewide
	Statewide (a)
	Statewide (b)
	Statewide (c)



SECTION 8.3.G - FORESTLAND

PG. 156

- Since the development already exists, and no new development is being proposed as a direct result of this subdivision application, additional impact to forestland is not expected to happen at this time.

SECTION 8.4 – OPEN SPACE & COMMON LAND

SECTION 8.4.A – OPEN SPACE

PG. 157

- The Applicants are not proposing to designate any land as open space.

SECTION 8.4.B – COMMON LAND

PG. 158

- The Applicants are not proposing to designate any land as common land.

SECTION 8.4.C – LEGAL REQUIREMENTS

PG. 158

- No findings.

SECTION 8.5 – STORMWATER MANAGEMENT EROSION CONTROL

PG. 158

- Since the development already exists, and no new development is being proposed as a direct result of this subdivision application, conforming with these standards should have already occurred.
- Normally, Staff recommends that the Board require as a condition of approval that the Applicant adheres to this Section, as well as conform to the guidelines set out in the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control.

SECTION 8.6 – TRANSPORTATION FACILITIES

SECTION 8.6.A – ACCESS & DRIVEWAY

PG. 160

- Both lots are served by their own driveways, which directly access Moose Run, and therefore, only the requirements from Sections 3.2 & 8.6.A apply (see above for more information as it relates to the *Underhill Unified Land Use & Development Regulations*). See Appendix A below for more information as it relates to the *Underhill Road, Driveway & Trail Ordinance*.

SECTION 8.6.B – DEVELOPMENT ROADS

PG. 161

- This subsection does not apply.

SECTION 8.6.C – PARKING FACILITIES

PG. 162

- This subsection does not apply.

SECTION 8.6.D – TRANSIT FACILITIES

PG. 162

- This subsection does not apply.

SECTION 8.6.E – PEDESTRIAN ACCESS

PG. 162

- This subsection does not apply.

SECTION 8.7 – PUBLIC FACILITIES & UTILITIES

SECTION 8.7.A – PUBLIC FACILITIES

PG. 162

- An undue burden on existing and/or planned public facilities is not anticipated.
- Staff has forgone soliciting comments from the Mt. Mansfield Union School District since dwelling units already exist on both proposed lots.
 - Should the Board wish to have comments submitted, please inquire with Staff before the hearing in order to obtain those comments.

SECTION 8.7.B – FIRE PROTECTION

PG. 163

- An undue burden on the Underhill-Jericho Fire Department is not anticipated.
- Staff has forgone soliciting comments from the Underhill-Jericho Fire Department since the driveways are already existing.
 - Should the Board wish to have comments submitted, please inquire with Staff before the hearing in order to obtain those comments.

SECTION 8.7.C – WATER SYSTEMS

PG. 163

- See Section 3.23 Above.

SECTION 8.7.D – WASTEWATER SYSTEMS

PG. 163

- See Section 3.23 Above.

SECTION 8.7.D – UTILITIES

PG. 164

- No findings.

SECTION 8.8 – LEGAL REQUIREMENTS

PG. 165

- A Road Maintenance Agreement has been submitted for review (see Exhibit L).
- Draft deeds pertaining to the proposed lots have not been submitted.
 - The Board has allowed previous Applicants to proceed without submitting draft deeds.
 - The Board should determine if draft deeds are required for their review.

APPENDIX A – ROAD & DRIVEWAY STANDARDS

- The driveways relating to both proposed lots are already constructed.
- The driveway serving the accessory dwelling (137 Moose Run) received an access permit (see Exhibit J).
- Staff is unaware if the driveway serving the existing single-family dwelling (145 Moose Run) has received an access permit.
- The Board should determine if they believe the Applicants require an additional access permit.
- The Board should determine if they believe that Moose Run or the driveway serving either 137 or 145 Moose Run require additional improvements to meeting and satisfy AOT A-76 and B-71 Standards.
- The Applicants were instructed to contact the Road Foreman in order to obtain a “hidden drive” sign, which was to replace the handmade sign. If the Applicants have not done so yet, the Board should condition approval on ensuring the replacement of the handmade “hidden drive” sign with a valid standard “hidden drive” sign that conforms for FHWA and/or State standards.



UNDERHILL DEVELOPMENT REVIEW BOARD

PRELIMINARY & FINAL SUBDIVISION REVIEW

HEARING PROCEDURES

Monday, July 6, 2020

Applicant(s): Timothy & Theresa Potvin Trustees

Docket #: DRB-20-01

1. **State the following (Intro):** "This is a combined preliminary subdivision & final subdivision review hearing on the application of Timothy & Theresa Potvin Trustees for a proposed 2-lot subdivision on the land they own at 145 Moose Run in Underhill, Vermont."

This application is subject to review under the 2011 *Unified Land Use & Development Regulations*, as amended thru March 3, 2020 and the 2015 *Road, Driveway and Trail Ordinance*, as amended December 18, 2018, and was classified as a minor subdivision during the sketch plan review meeting on Monday, January 20, 2020.

While preliminary subdivision review has been waived, the Board still reviews the draft subdivision plat and supporting documentation to determine that the proposed subdivision conforms with the municipal plan, these regulations and other municipal ordinances in effect at the time of application; to identify particular issues or concerns associated with a proposed subdivision; to recommend modifications necessary to achieve conformance; and to identify any additional information prior to the final subdivision plans, engineering plans and legal documents for the subdivision and related site improvements are finalized. Should additional information be required, the Board reserves the option to continue the hearing to a time and date certain in order for that information to be submitted and reviewed by this Board."

2. **Identify those DRB Members who are present on the Go-To-Meeting hearing.**
3. **Ask the following (Public in Attendance):** "Are there any members of the public in attendance to comment about the application, and if so, can you please identify yourself and state your address for the record? If your mailing address differs from your physical address and wish to receive a copy of the decision, please provide that address as well."
4. **Ask the following (Officials in Attendance):** "Are there any state or municipal representatives present, other than the Planning & Zoning Administrator, and acting in their representative capacities."
5. **State the following (Rules of Procedure & Interested Parties Info Sheet):** "Copies of the Rules of Procedure that the Board follows, as well as an Interested Parties Info Sheet are available to all attendees for review on the Town's website, and can also be obtained from the Planning & Zoning Administrator."
6. **State the following (Interested Parties/Oath):** "Only these 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."

If you are an applicant, representative of the applicant(s), or an interested party who wants to

participate in the hearing, we ask that you clearly state your name prior to speaking.

We will now swear in all those present who wish to speak tonight regarding the application. All individuals who plan to test must take the following oath by responding 'I do' at the end of the following statement: "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 the pains and penalties of perjury?"

7. **Ask the following (Ex Parte Communications and Conflicts of Interest):** "Are there any conflicts of interest, or have there been any ex parte communications on part of any of the Board Members?"
8. **State the following (Process):** "In regards to tonight's hearing process, to help alleviate interruptions and allow for an efficient meeting over the remote teleconferencing platform, the Board will hearing from the following parties in the following order:
 - a. The applicant(s) and his or her/their representative(s);
 - b. The Planning & Zoning Administrator, Andrew Strniste;
 - c. Members of the Board in the following order:
 - (1) Shanie Bartlett (if in attendance)
 - (2) Matt Chapek
 - (3) Mark Green
 - (4) Mark Hamelin (if in Attendance)
 - (5) Daniel Lee
 - (6) Karen McKnight
 - (7) Penny Miller
 - (8) Will Towle (if in Attendance)
 - (9) Stacey Turkos
 - (10) Chares Van Winkle
 - d. Members of the public;
 - e. The applicant(s) and his or her/their representative(s) will then have an opportunity to response;
 - f. Final comments will be solicited from the Planning & Zoning Administrator, members of the public and the applicant(s) and his or her/their representative(s);
 - g. Members of the Board will then have an opportunity to ask final questions or make any final comments."
9. **State the following (Comment & Question Procedures):** "All speakers should address their comments to the Board, and not to other parties present at the hearing. Members of the public are afforded five minute unless by request the a majority of the Board consents to extending the time. The Board may ask questions to anyone in attendance to discuss the application."
10. **State the following (the Record):** "At this point, the information package (the staff report with associated exhibits) that was distributed by the Planning & Zoning Administrator prior to tonight's hearing will be entered into the record. The materials included in this package relevant to this hearing contain:

Exhibit A - Potvin Preliminary & Final Subdivision Review Staff Report
Exhibit B - MO145 Preliminary & Final Subdivision Review Hearing Procedures
Exhibit C - Application for Subdivision
Exhibit D - Project Narrative
Exhibit E - Narrative Regarding Shape of Parent Lot
Exhibit F - BFP Notice
Exhibit G - MO145 Certificate of Service
Exhibit H - MO145 Sketch Plan Acceptance Letter (Dated 02.04.20)
Exhibit I - DRB Decision DRB-18-04
Exhibit J - Access Permit A-18-12
Exhibit K - Wastewater Permit WW-4-3810-01
Exhibit L - Road Maintenance Agreement
Exhibit M - Proposed Survey of M0137
Exhibit N - Proposed Survey of Subdivision
Exhibit O - Site Plan

These exhibits are available in the Potvin combined preliminary subdivision & final subdivision review file DRB-20-01 / MO145 at the Underhill Planning & Zoning Office by request, and are also available on the Town's website."

11. **State the following (Applicants'/Representatives' Turn):** "We'll begin testimony by first hearing from applicant(s) and/or his or her/their representative(s)."
12. **State the following (PZA's Turn):** "Next, we will hear from the Planning & Zoning Administrator."
13. **State the following (Boards' Turn):** "Next, we will hear from Board Members:
 - a. Shanie Bartlett (if in attendance)
 - b. Matt Chapek
 - c. Mark Green
 - d. Mark Hamelin (if in Attendance)
 - e. Daniel Lee
 - f. Karen McKnight
 - g. Penny Miller
 - h. Will Towle (if in Attendance)
 - i. Stacey Turkos
 - j. Chares Van Winkle"
14. **Ask the following (Publics' Turn):** "We will now take comments from the public who wish speak about the application. Is there anyone who wishes to speak?"
15. **State the following (Applicants'/Representatives' Turn):** "The applicants and/or their representatives are now afforded the opportunity to respond to anything they heard in tonight's hearing."
16. **Ask the following (Last Call from Comments/Questions):** "Are there any final comments or questions from the applicants and/or their representatives, members of the public, the

Planning & Zoning Administrator, or any other attendees?"

17. **Ask the following (Final Comments from the Board):** "Are there any final comments or questions from the Board?"
18. **Ask the following (Final Comments from the Board):** "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, continue the hearing to a date and time certain, and outline for the Applicant(s) what is required at that continued hearing; or*
 - b. *If, by consensus, enough information has been presented to make a decision on the application, ask for a motion to close the evidentiary portion of the hearing.]*
19. **If the Board has enough information, ask the following (Motions):**
 - a. *Ask for a motion to close the evidentiary portion of the hearing.*
 - b. *Inquire if the Board wishes to vote to approve or deny the application in open session, and if so, ask for a motion to approve the application.*
 - c. *Inquired if the Board wishes to deliberation in open or closed deliberation. Once chosen, ask for a motion to enter into [insert "open" or "closed" here] deliberation.*
20. **State the following (Boards' Turn):** "Within 45 days from this hearing, the Planning & Zoning Administrator, on behalf of the Board, will send a copy of the decision to the Applicant(s), their representative(s), and those who have participated in tonight's hearing. A 30-day appeal period will begin on the date the decision is signed. The letter will outline the next steps in the process. If there are no other comments or questions we will close this portion of the meeting."



TOWN OF UNDERHILL

APPLICATION FOR SUBDIVISION

OFFICE USE ONLY		ZONING DISTRICT(S):	APPLICATION TYPE:
PROPERTY CODE:	MO145	<input type="checkbox"/> Underhill Plus Village Center <input type="checkbox"/> Underhill Center Village <input type="checkbox"/> Rural Residential <input type="checkbox"/> Water Conservation <input checked="" type="checkbox"/> Mt. Mansfield Scenic Preservation <input checked="" type="checkbox"/> Soil & Water Conservation	<input type="checkbox"/> Sketch Plan Review <input type="checkbox"/> Preliminary Subdivision Review <input checked="" type="checkbox"/> Final Subdivision Review <input type="checkbox"/> Preliminary & Final Subdivision Review <input type="checkbox"/> Subdivision Amendment
DRB DOCKET #:	DRB-20-01		
MEETING DATE:	July 6, 2020		
PROPERTY OWNER INFORMATION:		Project Information	
RECORD OWNER OF PROPERTY:		Property Location: 145 & 137 Moose Run	
Mailing Address: Timothy Potvin, Theresa Potvin		Underhill, VT 05489	
Mailing Address: P.O. Box 133, Underhill Center, VT 05490		Acres in Original Parcel: 105.6 acres	
Email Address: tmpp03105@gmail.com		Proposed Number of Lots: 2 Lots	
Phone Number: 802-881-9071			
DESIGNER/ENGINEER INFORMATION:		Is this a Planned Residential Development?	
DESIGNER/ENGINEER: Green Mountain Engineering		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Accessory Structure	
MAILING ADDRESS: 1438 South Brownell Road, Williston, VT 05495		Is this a Planned Unit Development?	
EMAIL ADDRESS:		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
PHONE NUMBER:		Is the parent lot part of a previously approved subdivision?	
		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
SURVEYOR INFORMATION:		If so, when was the previous subdivision approved?	
SURVEYOR: Green Land Surveyors		Year: 2012	
MAILING ADDRESS: 430 Ormes Road, Hyde Park, VT 05988		If known, what was the application number:	
EMAIL ADDRESS:		Application Number: DRB-10-11	
PHONE NUMBER:		If the proposed project is to amend a subdivision, what is the proposed amendment?	
DEVELOPER INFORMATION (IF KNOWN):			
SURVEYOR:			
MAILING ADDRESS:			
EMAIL ADDRESS:			
PHONE NUMBER:			



TOWN OF UNDERHILL

APPLICATION FOR SUBDIVISION

Sketch Plan Application Materials (Only)	Section B (Engineering Plans Requirements)	Section C (Written Materials)
<p>Applicable:</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>The following Sketch Plan Review materials must be submitted at least 10 business days prior to a regularly scheduled Development Review Board.</i></p> <p>Checklist</p> <p><input type="checkbox"/> Sketch of Proposed Subdivision <input type="checkbox"/> Project Description <input type="checkbox"/> Description of Proposed Modifications or Waivers <input type="checkbox"/> Application Fee (\$100.00)</p> <p><small>Please Checkoff All Submitted Materials</small></p>	<p>Checklist</p> <p><input checked="" type="checkbox"/> Two Large (to Scale) Copies <input checked="" type="checkbox"/> Twelve 11" x 17" Copies <input checked="" type="checkbox"/> Prepared by a Professional Engineer <input type="checkbox"/> Date, Including Revision Details <input type="checkbox"/> North Arrow, Scale, Legend <input type="checkbox"/> Proposed New Lot Lines & New Acreages <input type="checkbox"/> Proposed Building Envelopes (including Setbacks) <input type="checkbox"/> Extent of Site Erosion & Disturbance <input type="checkbox"/> Existing Proposed Open Space <input type="checkbox"/> Existing Proposed Crowned Land <input type="checkbox"/> Existing Proposed Building Footprints <input type="checkbox"/> Zoning District Boundary <input type="checkbox"/> Property Codes of Adjacent Properties <input type="checkbox"/> Record Owners of Adjacent Properties <input type="checkbox"/> Existing Proposed Easements <input type="checkbox"/> Existing Proposed Rights-of-Ways <input type="checkbox"/> Existing Proposed Roads <input type="checkbox"/> Existing Proposed Utility Corridors <input type="checkbox"/> Erosion Designs of Proposed Water & Wastewater Disposal Systems (including Inlet and Well Shafts) <input type="checkbox"/> Existing Proposed Curb-Cut, Driveways, Roads and/or Parking Areas (includes cuts, fills, grades, drainage, culverts, travel lane widths, shoulder widths, etc.) <input type="checkbox"/> Topography Existing Surface Grades - Contours Post-Development Contours/Grades <input type="checkbox"/> Existing Outcrops, ledges, Visibility Proposed Ridge-lines and Peaks <input type="checkbox"/> Surface Waters & Associated Buffers <input type="checkbox"/> Wetlands & Associated Buffers <input type="checkbox"/> Vernal Pools & Associated Buffers <input type="checkbox"/> Mapped Floodplains <input type="checkbox"/> Drainage Patterns <input type="checkbox"/> Natural Vegetative Cover</p> <p style="text-align: center;">When Applicable:</p> <p><input type="checkbox"/> Location & Size of Existing Culverts and Drains <input type="checkbox"/> Location & Size of Existing Sewerage Systems & Water Supplies <input type="checkbox"/> Existing Proposed Pedestrian Walkways <input type="checkbox"/> Designated Source Protection Areas <input type="checkbox"/> Existing or Preserved Forest Land <input type="checkbox"/> Preserved Natural, Cultural & Historic Features (e.g. Sites & Structures) <input type="checkbox"/> Other Unique Topographical or Geographical Features <input type="checkbox"/> Areas of Steep or Very Steep Slopes <input type="checkbox"/> Priority Agricultural Soils</p> <p><small>Please Checkoff All Submitted Materials</small></p>	<p>Checklist</p> <p><input checked="" type="checkbox"/> Written Disclosure of Intended Use of Land to be Subdivided <input type="checkbox"/> General Plans for Subsequent Development of Land to be Retained by Applicant/Landowner <input type="checkbox"/> Written Requests for Modifications or Waivers (including Justifications) <input type="checkbox"/> Drain Plans <input type="checkbox"/> Drain Easements <input type="checkbox"/> Drain Homeowners Associations <input type="checkbox"/> Drain Maintenance Agreements <input type="checkbox"/> Snow Removal & Management Plan</p> <p><small>Please Checkoff All Submitted Materials</small></p>
Requirements for All Other Applications		Section D (Non-Town Related Materials)
<p>Checklist</p> <p><input type="checkbox"/> Surveys (see Section A) <input type="checkbox"/> Engineering Plans (see Section B) <input type="checkbox"/> Written Materials (see Section C) <input type="checkbox"/> State of VT Materials (see Section D) <input checked="" type="checkbox"/> Application Fee (see Fee Schedule)</p> <p><small>Please Checkoff All Submitted Materials</small></p>		<p>Checklist</p> <p><input type="checkbox"/> Project Review Sheet <input checked="" type="checkbox"/> Wastewater System & Potable Water Supply Permit (Permit # <u>WW-4-2810-1</u>) <input type="checkbox"/> Act 250 Permit (Permit #: _____) <input type="checkbox"/> Stormwater Erosion Permit (Permit #: _____) <input type="checkbox"/> Agency of Natural Resources Wetlands Permit (Permit #: _____) <input type="checkbox"/> Army Corps of Engineers Permit (Permit #: _____)</p> <p><small>Please Checkoff All Submitted Materials</small></p>
Section A (Survey Requirements)		Other Required Plans Where Applicable
<p>Checklist</p> <p><input checked="" type="checkbox"/> Two Large (to Scale) Copies <input checked="" type="checkbox"/> Twelve 11" x 17" Copies <input checked="" type="checkbox"/> Prepared by a Licensed Surveyor <input type="checkbox"/> Date, Including Revision Details <input type="checkbox"/> North Arrow <input type="checkbox"/> Scale <input type="checkbox"/> Legend <input type="checkbox"/> Property Codes of Adjacent Properties <input type="checkbox"/> Record Owners of Adjacent Properties <input type="checkbox"/> Existing Proposed Easements <input type="checkbox"/> Existing Proposed Rights-of-Ways <input type="checkbox"/> Existing Proposed Roads <input type="checkbox"/> Existing Proposed Utility Corridors Proposed Utility Easements Shall Be Contained On As-Built Utility Lines <input type="checkbox"/> Existing Proposed Open Space Areas <input type="checkbox"/> Existing Proposed Lot Lines with Dimensions <input type="checkbox"/> Vicinity Map To Show Area within 2,000 ft. of the Subject Lot Proposed to be Subdivided</p> <p><small>Please Checkoff All Submitted Materials</small></p>		<p>Checklist</p> <p><input type="checkbox"/> Outdoor Lighting Plan <input type="checkbox"/> Landscaping and Screening Plan <input type="checkbox"/> Temporary & Permanent Stormwater Management Plans <input type="checkbox"/> Temporary & Permanent Erosion Control Measures/Plans (including Areas Impacted by Downstream Runoff) <input type="checkbox"/> Significant Wildlife Habitat Areas & Corridors (including Areas Impacted by Downstream Runoff) <input type="checkbox"/> Areas of Rare, Threatened and Endangered Plant and Animal Communities (and Associated Buffers) <input type="checkbox"/> Master Plan (if Applicable-see § 11.111.1)</p>

APPLICANT SIGNATURE   **DATE** 4/20/20

RECEIVED  **DATE** 4/21/2020

4. Project Narrative:

The Potvin Farm in Underhill VT was established by Arsene and Leona Potvin in 1941 and consisted of a parcel of land approximately 123 acres used for dairy farming and maple sugaring (Vol. 34, Page 8). Over the years 1941 to 1990, the farm purchased adjacent land parcels to expand the farmland and also sold land parcels to children and others.

In 1988, the majority of the Potvin Farm property was transferred to Tim Potvin and family who continued the maple sugaring for several years and used the pastures for horses (Vol. 64, Page 400). In 2012, a subdivision was obtained to create three ten acre lots for children and possibly others with access using the new private road LAP Run (Vol. 200, Page 140, Map Slide 315A).

Then in 2018 an accessory residence for family was built on the remaining Potvin property with access for both the primary residence and the accessory residence using the private road Moose Run (CO-20-03).

The purpose of this proposed subdivision is to place the accessory residence on a ten acre parcel leaving the primary residence on the remaining property. Lots 1 and 2 of the proposed subdivision will remain under the current deed for the Potvin Family Trust (Vol. 178, Page 8).

Review Criteria & Issues to be Addressed

1. Shape of Lot 1:

The purpose of the proposed subdivision is to provide a separate 10 acre parcel of land for the accessory residence located at 137 Moose Run. This 10 acre parcel is designated as Lot 2 of the subdivision and is to be separated from the original property designated as Lot 1, leaving a 95 acre parcel containing the primary residence located at 145 Moose Run.

The proposed 10 acre lot of the subdivision is a regular shaped parcel of land.

Moose Run is the private road that commences at Pleasant Valley Road and runs approximately 2200 feet to meet the State of Vermont forest land property at the base of Mount Mansfield. Moose Run was part of the original Potvin Farm located on Lot 1 and has been in the family for over 75 years. It now provides a right of way to several private driveways and has been managed and maintained successfully for many years by Lot 1. The proposed subdivision contains Lot 1 with the same shape as the original 105 acre parcel with the exception of keeping Moose Run as part of its parcel and thus creating a flag-shaped parcel. We do not know of any advantage in dividing Moose Run into two pieces that would result in partial ownership of the road by both Lot 1 and Lot 2, other than being able to say the lots have a regular shape. The negative impacts of creating two owners of Moose Run is far greater than the impact of creating an irregular shape by keeping Moose Run with Lot 1.

Thus after consideration of options regarding the shape of the lots of the subdivision, we recommend and respectfully request that Moose Run stay within one land parcel.



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

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

LEGAL AD

Please e-mail to confirm receipt of this ad.



Release Date: NO LATER THAN 06/13/2020



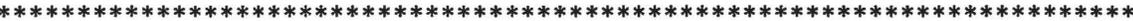
NOTICE OF PUBLIC MEETING

Town of Underhill Development Review Board (DRB)
Monday, July 6, 2020
To Be Held Remotely Via Go-To-Meeting

The DRB will hold a hearing on the Subdivision Amendment Review Application by the Tijan 2019 Family Trust pertaining to proposed revisions to the building envelope relating to land the Trust owns at 26 Westman Road (WS026). The subject property is located in the Scenic Preservation zoning district. A site visit will be held at the property's location on Saturday, June 27, 2020 at 9:00 AM. The hearing will be held remotely via Go-To-Meeting and will commence at 6:35 PM on Monday, July 6, 2020.

The DRB will hold a hearing on the combined Preliminary & Final Subdivision Review application by Theresa & Timothy Potvin pertaining to a proposed two (2) lot subdivision of land they own at 145 Moose Run (MO145). The subject property is located in the Scenic Preservation and Soil & Water Conservation zoning districts. A site visit will be held at the property's location on Saturday, June 27, 2020 at 9:30 AM. The hearing will be held remotely via Go-To-Meeting and will commence at 7:00 PM on Monday, July 6, 2020.

Additional information, including information to access the public meeting on the Go-To-Meeting platform, may be obtained on the Town's website (underhillvt.gov). The hearing(s) are open to the public. Pursuant to 24 VSA §§4464(a)(1)(C) and 4471(a), participation in this local proceeding is a prerequisite to the right to take any subsequent appeal. If you cannot attend the hearing(s), comments may be made in writing prior to the meeting and mailed to: Andrew Strniste, Planning Director & Zoning Administrator, P.O. Box 120 Underhill, VT 05489 or to astrniste@underhillvt.gov.



Please call Andrew Strniste at the Planning & Zoning 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: 07-06-20 DRB Hearing, P.O. Box 120, Underhill, VT
05489. Thank you.***



Town of Underhill Development Review Board

P.O. Box 120, Underhill, VT 05489
www.underhillvt.gov

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

Certificate of Service

I hereby certify that on this 10th day of June, 2020, a copy of the following documents were delivered to the below recipients and corresponding addresses by United States certified mail, return receipt requested.

Documents:

Notice to abutting neighbors regarding a combined Preliminary & Final Subdivision Review Hearing for a proposed 2-lot subdivision of land located at 145 Moose Run (MO145), Underhill, Vermont, owned by Timothy & Theresa Potvin Trustees.

Recipients and Corresponding Address:

- | | |
|---|---|
| <p>✓ 145 MOOSE RUN (MO145)
[Previously 27 Moose Run (MO027)]
Timothy & Theresa Potvin Trustees
P.O. Box 135
Underhill Center, VT 05490</p> | <p>✓ 293 MOOSE RUN (MO293)
[Previously 10 Moose Run (MO010)]
Jason L. Wyman
413 Pleasant Valley Road
Underhill, VT 05489</p> |
| <p>✓ 58 HARVEY ROAD
University of Vermont
Linda Seavey, Director
Campus Planning Services
Burlington, VT 05405</p> | <p>✓ 352 MOUNTAIN ROAD (MT352X)
State of Vermont
Agency of Natural Resources
103 South Main Street
Waterbury, VT 05676</p> |
| <p>✓ 151 MOOSE RUN (MO151)
[Previously 14 Moose Run (MO014)]
Paul & Julie Dragon
P.O. Box 104
Underhill Center, VT 05490</p> | <p>✓ 270 PLEASANT VALLEY ROAD (PV270)
William E. & Karla A. Russell
P.O. Box 218
Jericho, VT 05465</p> |
| <p>✓ 229 MOOSE RUN (MO229)
[Previously 12 Moose Run (MO012)]
David B. & Janet R. Ely
P.O. Box 235
Underhill Center, VT 05490</p> | <p>✓ 270 PLEASANT VALLEY ROAD (PV270)
William E. & Karla A. Russell
270 Pleasant Valley Road
Underhill, VT 05489</p> |

✓ **285 PLEASANT VALLEY ROAD (PV285)**
Reginald Potvin
285 Pleasant Valley Road
Underhill, VT 05489

✓ **295 PLEASANT VALLEY ROAD (PV295)**
David J. Hathaway & Carolyn J. Greene
P.O. Box 211
Underhill Center, VT 05490

✓ **309 PLEASANT VALLEY ROAD (PV309)**
Becker Revocable Real Estate Trust
Richard W. Becker Trustee
309 Pleasant Valley Road
Underhill, VT 05489

✓ **318 PLEASANT VALLEY ROAD (PV318)**
John & Tammy Boudah
316 Pleasant Valley Road
Underhill, VT 05489

✓ **334 PLEASANT VALLEY ROAD (PV334)**
John M. & Lise Wursthorn
334 Pleasant Valley Road
Underhill, VT 05489

✓ **354 PLEASANT VALLEY ROAD (PV354)**
Lee Kirby
354 Pleasant Valley Road
Underhill, VT 05489

✓ **366 PLEASANT VALLEY ROAD (PV366)**
Eric Howard & Regina Macarelli
366 Pleasant Valley Road
Underhill, VT 05489

✓ **14 LAP RUN (LR014)**
Mary Fuller
P.O. Box 135
Underhill Center, VT 05490



Andrew Strimste
Planning Director & Zoning Administrator
12 Pleasant Valley Road
Underhill, VT 05489

Date: 06/10/2020



Town of Underhill

Development Review Board

Sketch Plan Findings & Decision

Application of Timothy and Theresa Potvin for a 2-Lot Subdivision

Timothy & Theresa Potvin
145 Moose Run (M0145)
Underhill, VT 05489

February 4, 2020

During the January 20, 2020 meeting with the Development Review Board, the Board accepted your sketch plan application for a 2-lot subdivision of property located at 145 Moose Run (M0145) in Underhill, VT. This letter is provided per Section 7.3.D of the *Unified Land Use and Development Regulations* and is valid for one year. If a preliminary/final subdivision application is not filed within a year of the date this letter was issued, another sketch plan review meeting shall be required [Section 7.3.E].

SUBDIVISION CLASSIFICATION

This application was reviewed under the *Unified Land Use & Development Regulations* adopted March 2011, as amended through March 6, 2018. The subdivision process must distinguish between major and minor classifications. Due to the nature of your submitted proposal, the DRB has classified this as a "minor subdivision" [Section 7.2.E]. Also, as you know, the Board voted to waive preliminary subdivision review, and therefore, only a final subdivision hearing will be required [Section 7.5.B].

REGULATION CONFORMANCE

Based upon the information submitted at the sketch plan hearing, the proposed subdivision appears to have the potential to conform to the regulations. However, you and your consultant(s) should ensure that all subdivision review standards in Article VIII are addressed and satisfied, as well as all applicable preliminary subdivision review requirements in Section 7.5, all final subdivision review requirements, and applicable requirements of the current *Underhill Road, Driveway & Trail Ordinance*.

REVIEW CRITERIA & ISSUES TO BE ADDRESSED

This sketch plan letter outlines "specific areas of concern to address" per Section 7.3.D and is meant to provide recommendations and guidance to the applicant(s). During the sketch review meeting, the Board felt that the following items and concerns should be addressed in your application for preliminary subdivision approval:

1. The proposed configuration of the parent lot (M0145) has the propensity of being viewed as irregular, thereby failing to conform with Section 8.2.F of the *Unified Land Use & Development Regulations*. The Applicants should explore options to reduce the irregularity of the parent lot (M0145).

2. The survey plat prepared by a licensed surveyor shall depict all easements and/or rights-of-way that are located on the existing parcel of land to be subdivided, including easements for potential utilities;
3. The Applicant shall identify the well shield and isolation distances on the submitted site plans and how those distances will impact the adjacent property owners;
4. The Applicants shall consider all components of the Article VIII Subdivision Standards, and submit a project narrative outlining the property's history, references to book and page numbers, as well as provide comments on any related issues pertaining to the aforementioned Article VIII Subdivision Standards. This narrative shall substitute for the previously distributed Preliminary Subdivision Findings Checklist per § 7.5 of the *Underhill Unified Land Use & Development Regulations* that used to be required (see enclosed example);
5. If not intending to use the setback requirements as the proposed building envelopes, the site plan shall depict the building envelopes for the principal structure, as well as building envelopes for ancillary structures and on-site parking. These building envelopes shall depict the distance from the envelope itself to the property's boundaries. Also note that the building envelope shall exclude constraints such as steep slopes, streams, wetlands, etc., where feasible;
6. The Applicants shall submit engineering drawings in conformance with the application requirements in the *Underhill Unified Land Use & Development Regulations*, specifically:
 - a. Areas of steep slopes, flood hazards, stream water setbacks, septic setbacks, and well shields, isolation distances; and
 - b. The requisite size culverts shall also be illustrated on the plans;
 - c. Update wetland delineation on new lot
7. The Applicants shall submit engineering drawings in conformance with the requirements of the *Underhill Road, Driveway and Trail Ordinance*, which shall address:
 - a. A turnaround area measuring 12 ft. by 37.5 ft. measured from the edge of the driveway;
 - b. All turning radii at the driveway entrance must meeting the 35 ft. requirement, as measured from the far side of the approaching road to the far side of the required driveway width – or as approved by the Fire Department.
8. An Application for Subdivision shall be submitted in accordance with the criteria listed below under "Final Subdivision/Hearing – Process."
9. Draft deeds containing, or making reference to:
 - a. The right-of-way easement that serves the new lot; and
 - b. A road maintenance agreement.
10. The scheduling of a site visit prior to the final subdivision review hearing.

Other preliminary/final subdivision review requirements are outlined in the accompanying Preliminary and Final Subdivision checklists and in the *Unified Land Use & Development Regulations*. The Board expects that all the requirements of both the preliminary subdivision review application and final subdivision review application be satisfied.

FINAL SUBDIVISION APPLICATION/HEARING – PROCESS

Per Section 7.5.B and at your request, the Board has waived the preliminary subdivision review hearing, and therefore, only a final subdivision review hearing is required - the next step in the subdivision process. The application requirements for this step are detailed in Section 7.6 "Final Subdivision Review" and Article VIII "Subdivision Standards" of the *Unified Land Use & Development Regulations*. However, please note that requirements under Section 7.5 "Preliminary Subdivision Review" still apply to your application, despite the waiver of the preliminary hearing. Directly below is a general overview of the Final Subdivision Application/Hearing process.

The following documentation is to be submitted to the Zoning Administrator:

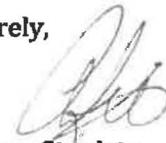
- Two full-size copies of the plat and engineering plans to scale, twelve 11" x 17" reduced copies of the plat and the engineering drawings, eight copies of draft legal documents, as well as the associated pdf digital files (which can be submitted by email).
- Information addressing the items under "Review Criteria & Issues To Be Addressed" (see above).
- Completed Application for Subdivision.

Once the completed final application package is received, the site visit and final hearing will be scheduled and warned. You will be asked to post a red "Z" sign on the lot no later than 15 days prior to the scheduled hearing. Planning staff will take care of the notice requirements, which includes certified mail to your neighbors and publication in a newspaper. The cost for notice and the newspaper fee is borne by you and will be included in the invoice with your final decision.

After the Final Subdivision Hearing, the Board will have 45 days to issue a written decision. You will receive a copy of the signed decision via certified mail. Any interested parties who participated in the hearing will also receive a copy of the decision. A 30-day appeal period will begin from the date of the signed decision.

If you have any questions or need assistance with the required submissions, please feel free to contact me by phone: (802) 899-4434, ext. 106; or by email: astrniste@underhillvt.gov.

Sincerely,



Andrew Strniste
Planning Director & Zoning Administrator

cc: None

encl: Application for Subdivision
Project Narrative Example
Final Sketch Plan Review Meeting Invoice (x2)



Town of Underhill

Development Review Board

Conditional Use Review Findings & Decision

CONDITIONAL USE REVIEW APPLICATION OF TIMOTHY & THERESA POTVIN TO CONSTRUCT A DETACHED ACCESSORY DWELLING

In re: Timothy & Theresa Potvin
27 Moose Run (MO027)
Underhill, VT 05489

Docket No. DRB-18-04

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

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a conditional use review application for the construction of a detached accessory dwelling on property located at 27 Moose Run (MO027) in Underhill, Vermont, owned by Timothy & Theresa Potvin.

- A. In January 2018, the applicants, Timothy and Theresa Potvin, officially filed a conditional use review application for the abovementioned project. The application was accepted and determined to be complete shortly thereafter. A site visit was scheduled for Saturday, March 3, 2018 at 8:30 AM, and the hearing was scheduled for Monday, March 5, 2018 at 6:35 PM.
- B. On February 7, 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. HA058X –University of Vermont, Attn: Linda Seavey, Director, Campus Planning Services, 109 South Prospect Street, Burlington, VT 05405
 2. MT352X – Vermont State Agency of Natural Resources, 103 South Main St, Waterbury, VT 05676
 3. MO010 – Jason L. Wyman, 413 Pleasant Valley Road, Underhill, VT 05489
 4. MO012 – David B. & Janet R. Ely, P.O. Box 235, Underhill Center, VT 05490
 5. MO014 – Paul & Julie Dragon, P.O. Box 104, Underhill Center, VT 05490
 6. PV270 – W.M. E. & Karla A. Russell, P.O. Box 218, Jericho, VT 05465
 7. PV285 – Reginald Potvin, 285 Pleasant Valley Road, Underhill, VT 05489
 8. PV295 – David J. Hathaway & Carolyn J. Green, P.O. Box 211, Underhill Center, VT 05490
 9. PV309 – Richard W. & Gretchen A. Becker Trustees, 309 Pleasant Valley Road, Underhill, VT 05489
 10. PV318 – John & Tammy Boudah, 318 Pleasant Valley Road, Underhill VT 05489
 11. PV334 – John M. & Lise Wursthorn, 334 Pleasant Valley Road, Underhill, VT 05489
 12. PV354 – Lee Kirby, 354 Pleasant Valley Road, Underhill, VT 05489
 13. PV366 – Eric Howard & Regina Marcarelli, 366 Pleasant Valley Road, Underhill, VT 05489

14. Applicant: MO027 – Timothy & Theresa Potvin Trustees, P.O. Box 135, Underhill Center, VT 05490

C. During the week of February 4, 2018, notice of the public hearing for the proposed conditional use review application was posted at the following locations:

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

D. On February 10, 2018, the notice of public hearing was published in the *Burlington Free Press*.

E. While a site visit was scheduled to commence at the property's location on Saturday, March 3, 2018, at 8:30 AM, due to miscommunication between Staff and the Board, no municipal representatives attended the site visit.

F. The conditional use review hearing commenced at 6:35PM on Monday, March 5, 2018 at the Town of Underhill Town Hall, 12 Pleasant Valley Road, Underhill, VT.

G. 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, Stacey Turkos

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

Others present at the hearing were:

1. Applicants' Representative, Mary Potvin (27 Moose Run, Underhill, VT 05489)
2. Applicants' Representative, Phil Potvin (27 Moose Run, Underhill, VT 05489)
3. Abutting Neighbor, Tammy Boudah (318 Pleasant Valley Road, Underhill, VT 05489)

H. At the outset of the hearing, Chairperson Charles 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. Mary Potvin
2. Phil Potvin

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

1. Exhibit A – Potvin Conditional Use Review Staff Report
2. Exhibit B – Potvin (MO027) Conditional Use Review Hearing Procedures
3. Exhibit C - Application for Conditional Use and Site Plan Review
4. Exhibit D - Site Plan Review Findings Checklist

5. Exhibit E - Conditional Use Review Findings Checklist
6. Exhibit F - Burlington Free Press Notice
7. Exhibit G - Certificate of Service
8. Exhibit H - Building Permit Application
9. Exhibit I - Project Review Sheet
10. Exhibit J - Site Plan
11. Exhibit K - ANR Steep Slopes Map
12. Exhibit L - ANR Streams, Waterbodies & Wetlands Map
13. Exhibit M - ANR Private Wells Map
14. Exhibit N - ANR Source Protection Areas Map

No additional exhibits were distributed to the Board prior to the Monday, March 5, 2018 hearing. At the meeting, the following exhibit was submitted into the record:

15. Exhibit O - MMU Ability to Serve Letter
16. Exhibit P - Updated Site Plan

No other exhibits were submitted. All exhibits are available for public review in the Potvin Conditional Use Review file (MO027/DRB 18-04) at the Underhill Zoning & Planning office.

II. FACTUAL FINDINGS& CONCLUSIONS

The Minutes of the March 5, 2018 meeting, written by Andrew Strniste, are incorporated by reference into this decision. Please refer to the Minutes for a summary of the testimony.

Based on the submitted application, testimony, exhibits, and evidence, the Development Review Board makes the following findings under the requirements of the Underhill Unified Land Use and Development Regulations (ULUDR) as amended March 6, 2012 & March 4, 2014:

PROJECT SYNOPSIS

The applicants, Timothy & Theresa Potvin, record owner of the property located at 27 Moose Run (MO027) in Underhill, Vermont, are seeking conditional use approval to construct a detached accessory dwelling at the abovementioned property. Since the applicants are proposing to construct a new accessory structure to accommodate the detached accessory dwelling, conditional use approval is required under Section 4.2B.1. In addition, since the applicants are proposing to construct a detached accessory dwelling that will exceed 50% of the principal dwelling's total habitat floor area, conditional use approval is also required per Section 4.2.B.3.

The property is located in two zoning districts: the Mt. Mansfield Scenic Preservation District as defined in Article II, Table 2.5 of the ULUDR, and the Soil & Water Conservation District as defined in Article II, Table 2.6 of the ULUDR. The proposed detached accessory dwelling unit is proposed to be built in the Mt. Mansfield Scenic Preservation District, and therefore, review under the Soil & Water Conservation District standards is not required.

ARTICLE II, ZONING DISTRICTS

A. ARTICLE II, TABLE 2.5 – MT. MANSFIELD SCENIC PRESERVATION DISTRICT

The Board finds the proposed project will meet the applicable dimensional standards under this district. In addition, the proposed detached accessory dwelling is consistent with the zoning district's stated purpose of encouraging compatible lower densities of development that helps maintain the rural character of Underhill.

B. ARTICLE II, TABLE 2.6 – SOIL AND WATER CONSERVATION DISTRICT

The Board finds the proposed detached accessory dwelling will not be located in the Soil & Water Conservation, and therefore, review and analysis under this table is not applicable.

ARTICLE III, GENERAL REGULATIONS

A. SECTION 3.2 – ACCESS

The Board finds that the applicants will be required to obtain an access permit from the Selectboard prior to commencing construction of the detached accessory dwelling structure. The proposed accessway shall conform to the Underhill Road Ordinance and any conditions imposed by the Selectboard during their review. The Board acknowledges that the driveway depicted on the site plan is for illustration purposes only and is potentially subject to change during the access permit review process. Changes made during the access permit review process do not require additional review by this Board so long as those changes are consistent with this decision, as determined by the Zoning Administrator.

B. SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS

The Board finds that the proposed detached accessory dwelling meets the minimum setback requirements for an accessory structure. Specifically, the Board finds that the detached accessory dwelling is proposed to be ±490 Feet from the west, front property line; ±660 Feet from the north, side property line; ±210 Feet from the south, side property line; and ~1,670 Feet from the east, rear property line. The subject lot also contains a primary dwelling unit, which is not under review as part of this application, as well as other ancillary structures (also not under review). Detached accessory dwellings are permitted under Section 4.2 of the Underhill Unified Land Use & Development Regulations. While the lot contains an area of Class II Wetlands, the applicants are proposing to construct the dwelling unit more than 50 feet from the mapped area.

C. SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

The Board finds that there is sufficient evidence to believe that the applicants will meet the parking requirement of one space as required per table 3.1.

D. SECTION 3.14 – PERFORMANCE STANDARDS

The Board finds that the applicant did not submit the requisite information to satisfy the requirements of Section 3.14; however, the Board does not anticipate that the applicant will cause, create, or result in any of the situations identified in this section.

E. SECTION 3.17 – SOURCE PROTECTION AREAS

The Board finds that while a groundwater source protection area has been identified on the southern area of the lot, the proposed detached accessory dwelling will not be constructed in this designated area, and therefore, review and analysis under this Section is not required.

F. SECTION 3.18 – STEEP SLOPES

The Board finds that there are areas of steep slopes (15-25%) or very steep slopes (>25%) on the lot, specifically on the easterly and northerly portion of the lot; however, the applicants are not proposing to construct the detached accessory structure in an area that contains steep slopes and very steep slopes, and therefore, review and analysis under this section is not required.

G. SECTION 3.19 – SURFACE WATERS & WETLANDS

The Board finds that the subject lot contains a Class II Wetland to the north and a pond to the east of the proposed development site. The Board finds that the applicants have satisfied the setback

requirements for both the Class II Wetlands (50-foot setback requirement) and the pond (25-foot setback requirement – unnamed waterbody and/or Section 3.16).

H. SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS

The Board finds that the applicants have depicted a mound wastewater disposal system and a drilled well. The applicants shall submit for recordation the Wastewater System & Potable Water Supply Permit prior to obtaining a Certificate of Occupancy permit, as required under Section 10.4.A of the Underhill Unified Land Use & Development Regulations.

ARTICLE V, DEVELOPMENT REVIEW

A. SECTION 4.2 – ACCESSORY DWELLING

The Board finds that the construction of a new structure to accommodate an accessory dwelling (i.e. a detached accessory dwelling) requires conditional use review per Section 4.2.B.1. In addition, conditional use review is required for accessory dwellings that exceed 50% of the principal dwelling unit's total habitable floor area, as required under Section 4.2.B.3. The Board makes the following findings in regard to this section:

- Only one accessory dwelling is proposed;
- The accessory dwelling will be located in an accessory structure;
- The accessory dwelling will exceed 50% of the existing total habitable floor area of the single-family dwelling, excluding unfinished attics and basements;
- The accessory dwelling will meet the setback, building coverage, and lot coverage requirements of the Mt. Mansfield Scenic Preservation;
- The applicants are in the process of obtaining water/wastewater permits for the detached accessory buildings;
- The driveway will be accessed off of Moose Run; and
- One additional onsite parking space will be provided.

The Board permits the applicants to access the detached accessory dwelling via its own separate driveway, as well as permit the floor area of the detached accessory dwelling to exceed 50% of the existing total habitable floor area of the single-family dwelling, not to exceed 75% (1,602 sq. ft. as calculated by using the square footage information from the Lister's card).

ARTICLE V, DEVELOPMENT REVIEW

A. SECTION 5.1 – APPLICABILITY

The Board finds that as part Section 5.4.C of the ULUDR, site plan review is required in addition to conditional use review required by Section 5.4.

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 this section's standards and issues the following comments and/or imposes the following safeguards, modifications, and conditions:

SECTION 5.3.B.1 – Existing Site Features: The Board finds that the proposed detached accessory dwelling will have minimal impact, if any, to significant natural, historic and scenic resources identified in the Underhill Town Plan, maps, and related inventories, as well as the list

enumerated in this subsection.

Section 5.3.B.2 – Site Layout & Design: The Board finds that the proposed detached accessory dwelling avoids adverse impacts to natural and scenic resources and environmentally sensitive areas within the Mt. Mansfield Scenic Preservation District. The Board also notes that there are no adverse impacts to the scenic vistas – an important stated purpose of the underlying zoning district.

Section 5.3.B.3 – Vehicle Access: The Board finds that the proposed detached accessory dwelling will be served by its own driveway and will require an access permit from the Selectboard. The Board finds that Moose Run will not be adversely impacted with the addition of the residential unit.

Section 5.3.B.4 – Parking, Loading & Service Areas: The Board finds that there is sufficient evidence to believe that the applicants will meet the parking requirement of one space as required under Section 3.13.

Section 5.3.B.5 – Site Circulation: The Board finds that the construction of the detached accessory dwelling is consistent with the site circulation patterns of a residential units/lots.

Section 5.3.B.6 – Landscaping and Screening: The Board finds that the site layout and design will occur in a wooded area that provides adequate screening and no further landscaping is mandated.

Section 5.3.B.7 – Outdoor Lighting: The Board finds that the outdoor lighting will be consistent with outdoor lighting associated with single-family dwellings. Any outdoor lighting that is added as part of this proposed project shall be downward facing and shielded.

Section 5.3.B.8 – Stormwater Management and Erosion Control: The Board finds that the applicants should utilize the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control when constructing the detached accessory dwelling.

C. SECTION 5.4 – CONDITIONAL USE REVIEW

Section 5.4.A – Purpose: The Board finds that conditional use review is required per Sections 4.2.B.1 & 4.2.B.3, which requires conditional use approval for the construction of a new accessory structure for a detached accessory dwelling, as well as for cases where the detached accessory dwelling's floor area exceeds 50% of the total habitable floor area of the single-family dwelling. The Board finds that the conditions imposed herein 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 likely mitigate any potential undue adverse effects.

Section 5.4.B.1 – The Capacity of Existing or Planned Community Services or Facilities: The Board finds that the proposed detached accessory dwelling will not result in an increase in demand on community services and facilities.

Section 5.4.B.2 – The Character of the Area Affected: The Board finds that detached accessory dwellings are compatible with the Town Plan and are allowed in all zoning districts, and must

be allowed in accordance with State law (24 V.S.A. § 4412).

Section 5.4.B.3 – Traffic on Roads and Highways in the Vicinity: The Board finds that the proposed detached accessory dwelling will not result in a significant impact on traffic, nor will it create congestion.

Section 5.4.B.4 – Bylaws in Effect: The Board finds that this application is in conformance with the regulations in effect at this time.

Section 5.4.B.5 – The Utilization of Renewable Energy Resources: The Board finds that the proposed detached accessory dwelling 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 it may consider the Subsections 5.4.D.1 through 5.4.D.4 and impose conditions as necessary to reduce or mitigate any identified adverse impacts of a proposed development.

Section 5.4.D.1 – Conformance with the Town Plan: The Board finds that the proposed detached accessory dwelling is consistent with the Town Plan.

Section 5.4.D.2 – Zoning District & Use Standards: The Board finds that the detached accessory dwelling conforms with the zoning districts and use standards as outlined above.

Section 5.4.D.3 – Performance Standards: The Board finds that the proposed project will comply with the performance standards set forth in Section 3.14 above.

Section 5.4.D.4 – Legal Documentation: The Board finds that this Section does not apply.

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 Special Flood Hazard Areas, as illustrated on the requisite Flood Insurance Rate Maps, present on the lot, and therefore, review under Article VI is not required.

III. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS

The Board grants the following waivers/modifications:

- the applicants, or subsequent 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 applicants are 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. The Board recognizes that the identified location of the driveway on the engineering plans submitted as a part of this application are for illustration purposes only and may not necessarily reflect the final footprint of the driveway.
- The Board waives the regulation requiring the applicants to access the detached accessory dwelling via a shared driveway, thus permitting the applicants to access the detached accessory dwelling via its own separate driveway
- The Board waives the 50% of the existing total habitable area of the single-family dwelling floor area requirement, thus allowing the floor area of the detached accessory dwelling to exceed 50% of the existing total habitable floor area of the single-family dwelling, not to exceed 75% (1,602 sq. ft. as calculated by using the square footage information from the Lister's card).

IV. DECISIONS AND CONDITIONS OF APPROVAL

The Board is satisfied with the level of investigation, engineering and evaluation conducted in the application submittal and review process concerning the above-mentioned project. The Board thoroughly reviewed all aspects of the proposal under the evaluation of the Underhill Land Use & Development Regulations and concludes that based on the evidence submitted and the above findings, the proposed subdivision and development generally conforms to the aforementioned Regulations.

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

1. The Board finds that an access permit shall be required from the Select board prior to commencing construction of the detached accessory dwelling.
2. The Board finds that the Wastewater System & Potable Water Supply Permit shall be submitted for recordation prior to obtaining a Certificate of Occupancy permit, as required under Section 10.4.A of the Underhill Unified Land Use & Development Regulations.
3. The Board finds that any outdoor lighting that is added as part of this proposed project shall be downward facing and shielded.
4. The Board finds that the applicants should utilize the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control when constructing the detached accessory dwelling.

Dated at Underhill, Vermont this 16th day of April, 2018.

Charles Van Winkle

Charles Van Winkle, Chairperson, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environment Court by an interested person who participated in the proceedings before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings. Appeal period ends May 16, 2018.

TOWN OF UNDERHILL

P.O. Box 32
Underhill Center, VT 05490

A18-12

Phone: (802) 899-4434

Fax: (802) 899-2137

ACCESS PERMIT APPLICATION

All access permit applications require review by the Selectboard and Road Foreman.

ZONING DISTRICT(S):

PROPERTY CODE: M0827

FEES: \$50+ recording fees

- UFVC
 Rural Residential
 Water Conservation
 Scenic Preservation
 Soil & Water Conservation

NAME: <u>Timothy & Theresa Potvin</u>	PROPERTY LOCATION: <u>27 Moose Run</u>
MAILING ADDRESS: <u>P.O. Box 135, Underhill Center, VT 05490</u>	ACREAGE: <u>103</u>
PHONE: <u>802-881-9071</u>	E-MAIL: <u>tmpp3305@gmail.com</u>
CONSULTANT(S):	CONSULTANT CONTACT INFORMATION:

PLAN REQUIREMENTS (Attach plan to application)

All driveways and private roads must conform to the standards in the Underhill Road Policy. Waiver requests must be submitted at time of application. The plan must include accurate measurements of the following requirements:

- Proposed access on public or private road
- Property boundaries with measurements to proposed curb cut
- Landmarks sufficient to determine access point and path of traveled way
- Distance from all waterways
- All easements, covenants, and abutting property owners

APPLICANT SIGNATURE

DATE

Theresa Potvin

5-14-18

Received by [Signature] FOR OFFICE USE ONLY Date: 5/14/18

Road Foreman Inspection

Site Visit Date: 5/16/18 Road Classification (if applicable): Private

Speed Limit/Average Running Speed (if applicable): None

Sight Distances: Left 374' Right 167'

Culvert Required? No Yes Size 18" x 36"

Comments, Restrictions, Conditions:

To be Reviewed by the Selectboard (Date)

22 May 2018

Approved

ACCESS PERMIT #A18 - 12 CONDITIONS

In regard to the Access Permit application of: Timothy & Theresa Potvin for the property at: 27 Moose Run , Underhill, VT, submitted: May 14, 2018.

The permit is granted subject to the following conditions:

1. The driveway shall be built as shown on drawing(s) entitled Proposed Site Plan Trust, Revised date May 4, 2018 prepared by Green Mountain Engineering and attached to this permit.
2. Any change in alignment, grade, drainage, use or other features will require either administrative amendment or application to the Selectboard pursuant to the Underhill Road, Driveway and Trail Ordinance adopted February 3, 2015 (the "Road Ordinance").
3. The erosion prevention and sedimentation control practices set out on the drawing referenced above shall be followed.
4. ~~Culverts placed in the town right of way shall be placed and paid for as provided in the Underhill Road, Driveway and Trail Ordinance adopted February 3, 2015. N/A~~
5. Driveway shall be built according to State Agency of Transportation standard B-71 and all other applicable requirements of the Road Ordinance.
6. Other conditions:
 - Installation of Hidden Driveway Sign IAW B-71
 - Installation of minimum 18" x 30' Culvert

For the Underhill Selectboard:

Date:

5/15/2018

TOWN CLERK'S OFFICE
Received MAY 29, 2018 11:45 AM
Recorded in VOL: 237 PG: 81 - 83
Of Underhill Land Records
ATTEST: Sherri Morin, Town Clerk

WASTEWATER SYSTEM AND POTABLE WATER SUPPLY PERMIT**LAWS/REGULATIONS INVOLVED**

10 V.S.A. Chapter 64, Potable Water Supply and Wastewater System Permit
Wastewater System and Potable Water Supply Rules, Effective September 29, 2007
Chapter 21, Water Supply Rules, Effective December 1, 2010

Landowners: Timothy Potvin
27 Moose Run
Underhill VT 05489

Permit Number: WW-4-3810-1

Theresa Potvin
27 Moose Run
Underhill VT 05489

This permit affects the following properties in the Town of Underhill, Vermont:

<i>Lot</i>	<i>Parcel</i>	<i>SPAN</i>	<i>Acres</i>	<i>Book/Page#'s</i>
718	MO027	660-209-10689	103.00	Book:178 Page:8

This project, consisting of a proposed two bedroom single family residence utilizing an individual, on-site drilled well water supply and individual, on-site wastewater disposal system on an existing, 103.00 acre parcel with an existing, four bedroom single family residence utilizing an existing, individual on-site drilled well water supply and existing, individual on-site wastewater disposal system located at 27 Moose Run in the Town of Underhill, Vermont, is hereby approved under the requirements of the regulations named above subject to the following conditions.

1. GENERAL

- 1.1 The project shall be completed as shown on the plans and/or documents prepared by Green Mountain Engineering (Kevin J. Camara P.E.), with the stamped plans listed as follows:

<i>Title</i>	<i>Drawing No.</i>	<i>Plan Date</i>	<i>Revision date</i>
<i>Proposed Site Plan</i>	1	Jan. 2018	03/01/18
<i>Details & Notes</i>	2	Jan. 2018	

- 1.2 This permit does not relieve the landowner from obtaining all other approvals and permits **PRIOR** to construction including, but not limited to, those that may be required from the Act 250 Environmental Commission; the Drinking Water and Groundwater Protection Division; the Watershed Management Division; the Division of Fire Safety; the Vermont Department of Health; the Family Services Division; or other State departments and local officials.
- 1.3 The conditions of this permit shall run with the land and will be binding upon and enforceable against the landowner and all assigns and successors in interest. The landowner shall record and index this permit in the Town of Underhill Land Records within thirty, (30) days of issuance of this permit and prior to the conveyance of any lot subject to the jurisdiction of this permit.
- 1.4 The landowner shall record and index all required installation certifications and other documents that are required to be filed under these Rules or under a specific permit condition in the Town of Underhill Land Records and ensure that copies of all certifications are sent to the Secretary.
- 1.5 No permit issued by the Secretary shall be valid for a substantially completed potable water supply and wastewater system until the Secretary receives a signed and dated certification from a qualified Vermont Licensed Designer (or where allowed, the installer) that states:



"I hereby certify that, in the exercise of my reasonable professional judgment, the installation-related information submitted is true and correct and the potable water supply and wastewater system were installed in accordance with the permitted design and all the permit conditions, were inspected, were properly tested, and have successfully met those performance tests",

or which otherwise satisfies the requirements of §1-308 and §1-911 of the referenced rules.

- 1.6 This project/lot is approved with the existing four bedroom single family residence. No alterations to the existing building other than those indicated in this permit that would change or affect the water supply or wastewater system shall be allowed without prior approval by the Drinking Water and Groundwater Protection Division. Construction of additional nonexempt buildings including commercial and residential buildings is not allowed without prior permitting by the Drinking Water and Groundwater Protection Division and such permit may not be granted unless the proposal conforms to the applicable laws and regulations. No construction is allowed that will cause non-compliance with an existing permit.
- 1.7 This project/lot is approved for the construction of one, two bedroom single family residence. No alterations to the existing building other than those indicated in this permit that would change or affect the water supply or wastewater system shall be allowed without prior approval by the Drinking Water and Groundwater Protection Division. Construction of additional nonexempt buildings including commercial and residential buildings is not allowed without prior permitting by the Drinking Water and Groundwater Protection Division and such permit may not be granted unless the proposal conforms to the applicable laws and regulations. No construction is allowed that will cause non-compliance with an existing permit.
- 1.8 Each purchaser of any portion of the project shall be shown a copy of the Wastewater System and Potable Water Supply Permit and the stamped plan(s), if applicable, prior to conveyance of any portion of the project to that purchaser.
- 1.9 By acceptance of this permit, the landowner agrees to allow representatives of the State of Vermont access to the property covered by the permit, at reasonable times, for the purpose of ascertaining compliance with the Vermont environmental and health statutes and regulations, and permit conditions.
- 1.10 Any person aggrieved by this permit may appeal to the Environmental Court within 30 days of the date of issuance of this permit in accordance with 10 V.S.A. Chapter 220 and the Vermont Rules of Environmental Court Proceedings.

2. WATER SUPPLY

- 2.1 The existing four bedroom single family residence is authorized to utilize the existing on-site water supply system for **490 gallons** per day provided the potable water supply is operated at all times in a manner that keeps the supply free from contamination. No changes shall be made to the existing water system unless prior approval is obtained from the Drinking Water and Groundwater Protection Division. No other means of obtaining potable water shall be allowed without prior review and approval by the Drinking Water and Groundwater Protection Division unless otherwise exempt. The landowner shall immediately notify the Division if the water supply system fails to function properly and becomes a "failed supply".
- 2.2 The proposed two bedroom single family residence is approved for a potable water supply using a drilled or percussion bedrock well for **280 gallons** of water per day provided the supply is located as shown on the stamped plan(s) and meets or exceeds the isolation distances, construction standards, and water quality standards required in the Water Supply Rule. The landowner shall operate the potable water supply in a manner that keeps the supply free from contamination. The landowner shall immediately notify the Division if the water supply system fails to function properly and becomes a "failed supply".
- 2.3 The components of the potable water supply herein approved for the proposed two bedroom single family residence shall be routinely and reliably inspected during construction by a qualified Vermont Licensed Designer (or where allowed, the installer) who shall, upon completion and prior to occupancy of the associated building, report in writing to the Drinking Water and Groundwater Protection Division that the installation was accomplished in accordance with the referenced plans and permit conditions, as specifically directed in Condition #1.5 herein.
- 2.4 The potable water source location as shown on the stamped plan(s) for the proposed two bedroom single family residence shall be staked out and flagged by a qualified Vermont Licensed Designer prior to any construction on this project with the flagging being maintained until construction is complete.

3. WASTEWATER DISPOSAL

- 3.1 The existing four bedroom single family residence is approved with an existing wastewater system for **490 gallons** per day. No changes shall be made to the existing wastewater system unless prior approval is obtained

- from the Drinking Water and Groundwater Protection Division. Should the system fail and not qualify for the minor repair or replacement exemption, the landowner shall engage a qualified Licensed Designer to evaluate the cause of the failure and to submit an application to the Drinking Water and Groundwater Protection Division and receive written approval prior to correcting the failure.
- 3.2 The proposed two bedroom single family residence is approved for the disposal of wastewater in accordance with the design depicted on the stamped plan(s) for **280 gallons** of wastewater per day. The system(s) shall be operated at all times in a manner that will not permit the discharge of effluent onto the surface of the ground or into the waters of the State. Should the system fail and not qualify for the minor repair or replacement exemption, the current landowner shall engage a qualified Vermont Licensed Designer to evaluate the cause of the failure and to submit an application to this office and receive written approval prior to correcting the failure.
- 3.3 The components of the sanitary wastewater system herein approved for the proposed two bedroom single family shall be routinely and reliably inspected during construction by a Vermont Licensed Designer (or where allowed, the installer) who shall, upon completion and prior to occupancy of the associated building, report in writing to the Drinking Water and Groundwater Protection Division that the installation was accomplished in accordance with the referenced plans and permit conditions, as specifically directed in Condition #1.5 herein.
- 3.4 The corners of the proposed primary wastewater area(s) for the proposed two bedroom single family shall be accurately staked out and flagged prior to construction with the flagging/staking being maintained until construction is complete.
- 3.5 The proposed two bedroom single family residence is approved for the mound wastewater system provided the mound is constructed in strict accordance with the following conditions:
- a. The mound system is to be located and constructed as depicted on the plans that have been stamped by the Drinking Water and Groundwater Protection Division.
 - b. A qualified Vermont Licensed Designer shall inspect the mound system during critical stages of construction. This shall include the staking of the location of the mound, ensuring the site has been properly plowed prior to placement of the appropriate sand fill, the installation and testing of the distribution piping, final grading of the mound including side slopes, and pump station installation.
 - c. The construction of the mound shall adhere to the guidelines set forth in Section 1-913(f) of the above referenced rules.
 - d. Upon completion of construction, and prior to occupancy of any structure being served by the mound system, the inspecting consultant shall submit to the Drinking Water and Groundwater Protection Division a written certification stating the construction has been completed in accordance with the stamped plans and the permit.
- 3.6 The wastewater systems for this project is approved for domestic type wastewater only except as allowed for water treatment discharges. No discharge of other type process wastewater is permitted unless prior written approval is obtained from the Drinking Water and Groundwater Protection Division.
- 3.7 No buildings, roads, water lines, earthwork, re-grading, excavation or other construction that might interfere with the installation or operation of the wastewater systems are allowed on or near the site-specific wastewater system or replacement area depicted on the stamped plans. All isolation distances that are set forth in the Wastewater System and Potable Water Supply Rules shall be adhered to and will be incorporated into the construction and installation of the wastewater system.

- 3.8 All conditions set forth in **Permit Number WW-4-3810** shall remain in effect except as amended or modified herein.

Emily Boedecker, Commissioner
Department of Environmental Conservation

Dated March 27, 2018

By 

William Zabiloski
Assistant Regional Engineer
Essex Junction Regional Office
Drinking Water and Groundwater Protection Division

cc: Green Mountain Engineering
Town of Underhill Planning Commission

DECLARATION OF COVENANTS FOR MOOSE RUN

This Declaration is made as of the 1st day of May, 2020 by **TIMOTHY A. POTVIN and THERESA P. POTVIN**, as Trustees of the **TIMOTHY and THERESA POTVIN TRUST (hereinafter collectively referred to as "Developer")**.

BACKGROUND

A. Developer is the owner of a common access easement and right of way on which is the private road Moose Run which will serve as a primary means of ingress to, and egress from, Lots 1 and 2, and to and from Pleasant Valley Road, within a subdivision known as Moose Run as shown on plan entitled "Subdivision Plat, Timothy & Theresa Potvin, 27 Moose Run, Underhill, Vermont".

B. As shown and depicted on the Plan, the easement and right of way is 60 feet in width from Pleasant Valley Road to a point approximately 700 feet to the intersection of the private driveway to Lot 2.

C. Developer has established an unincorporated association known as Moose Run Homeowners Association to maintain and repair the aforementioned private road, including, but not limited to, necessary and reasonable maintenance, plowing, grading, repair and insurance.

NOW THEREFORE, in consideration of the above and of the covenants contained below, the Developer declares as follows:

1. **Costs of Maintenance and Repair.** Total costs of the necessary and reasonable maintenance, plowing, grading, repair and insurance of the road will be shared by the Owners of Lot 1 and 2, (a Lot Owner shall commence to be liable for such costs as soon as such Owner receives a Deed to the Lot) on an equal basis, that is, each Lot Owner shall be liable for one-half of such costs.

2. **Description of Shared Portion of Road.** The shared portion of the road shall commence at Pleasant Valley Road and continue until the intersection of the road and the private driveway to Lot 2 as shown and depicted on the Plan but shall not include the road which commences at the intersection of the road and the private driveway and runs through the remainder of Lot 1, which portion of the road shall be used exclusively by Lot 1. For purposes of clarification, only Lot 1 shall pay for the maintenance and repair of the road which commences at the intersection of the road and the private driveway to Lot 2.

3. **Damage by an Individual Lot Owner.** In the event that an individual Lot Owner is the direct cause of damage to the road, whether because of the Lot Owner's negligence, intentional act, or the negligence or intentional act of an invitee or licensee of such Lot Owner, then that Lot Owner shall be assessed the entire cost of repair of the damage.

4. **Membership in Association.** Each Lot shall be entitled to one membership in the Association, which shall be appurtenant to and may not be severed from the ownership of a Lot. The Owners of Lots 1 and 2 shall be members of the Moose Run Homeowners Association. Such membership shall be mandatory for each of the Lot Owners.

5. **Binding Effect.** The deeds to Lots 1 and 2 shall refer to the conditions and provisions of this Agreement which conditions and provisions shall run with the land.

6. **Easements.** The owners of Lots 1 and 2 shall have a non-exclusive easement in common with each other to use Moose Run for all forms of pedestrian and vehicular ingress, the construction, maintenance and repair of underground utilities, including but not limited to electrical, telephone, and cable, for construction maintenance, and replacement of surface and subsurface drainage.

7. **Collection of Fees.** The Homeowners Association will collect an annual road maintenance fee on or before December 1st of each calendar year from each of the owners of Lots 1 and 2.

8. **Road Improvements.** The road will not be blacktopped or modified in any other material fashion without the unanimous consent of the Owners of Lots 1 and 2.

9. **Maintenance of Driveways.** The road which is to be managed, maintained, and repaired by Homeowners Association, shall not include any private driveways. Each Lot Owner shall be solely responsible for the maintenance, repair, and management of the private driveway serving that Lot Owner's lot.

10. **Additional Development.** Developer reserves the right to grant additional easements over Moose Run.

11. **Amendment to Declaration.** This Agreement may be amended by the Owner of Lot 1 with notice of amendment to Owner of Lot 2, and any amendment hereto must comply with all applicable state and local laws, regulations, and ordinances. Notwithstanding the foregoing, Developer, their successors and assigns, may Amend this Declaration to add additional lots as provided in Paragraph 10 above.

12. **Operation of Association.** The Association shall be operated as follows:

A. **Meetings:** A meeting of all members shall be held at least annually, on or before May 1 of each year, at a suitable place convenient to the members. A special meeting may be called whenever a majority of the members so requests, provided at least ten days written notice is given to all members. The presence, in person or by proxy, of a majority of members shall constitute a quorum at all meetings of the Association.

B. **Officers:** The officers of the Association shall be the President, Secretary, and Treasurer. Any person may hold two or more offices, except the offices of President and Secretary. The officers shall be elected annually, shall be responsible for scheduling an annual meeting, setting an annual budget, determining the annual assessments, and collecting the assessments for each Lot.

C. **Assessments:** Allocation of and the payment of the assessments shall be as provided herein.

13. **Payment of Assessment.** Each Lot Owner shall be responsible to pay its share of the budget as established by the Association on or before July 1 each year (the "Assessment").

14. **Lien for Assessment: Non-Waiver: Collection.** The Assessment, together with interest, cost, and reasonable attorney's fees incurred to collect the Assessment, shall be a lien upon the Lot to which the assessment applies.

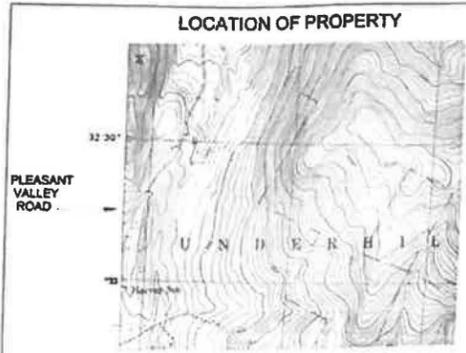
No Lot owner shall be exempt from liability for Assessments by attempted waiver of use of the road or by any other reason. Before any conveyance of a Lot, all Assessments with respect to the Lot shall be paid in full to the Association. Any Assessment not paid within ten days of its due date shall bear interest from the due date at the rate of 1% per month (12% per annum), or at the legal rate permitted by law, whichever is less.

IN WITNESS WHEREOF, we, Timothy A. Potvin and Theresa P. Potvin, Trustees, have executed this Trustees' Declaration of Covenants for Moose Run this 1st day of May, 2020.

TIMOTHY A. POTVIN and THERESA P. POTVIN FAMILY TRUST

By: _____
TIMOTHY A. POTVIN, TRUSTEE

By: _____
THERESA P. POTVIN, TRUSTEE



PLEASANT VALLEY ROAD

REGINALD & HELEN POTVIN PV285 BK. 41 PG. 245

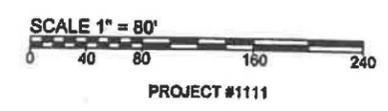
DAVID HATHAWAY PV295 BK. 84 PG. 10 & 11

PLEASANT VALLEY ROAD TOWN HIGHWAY #1

PROPOSED LOT #5
TIMOTHY A. POTVIN & THERESA P. POTVIN TRUSTEES OF THE TIMOTHY A. POTVIN & THERESA P. POTVIN FAMILY TRUST
10.48 ACRES± TOTAL
10.00 ACRES± NET TO TOWN HIGHWAY LIMITS

WILLIAM & KARLA RUSSELL
PARCEL ID #PV270 BK. 145 PG. 275-276 MAP SLIDE #242A 207A & B

BLAZING & PAINTING:
ALL WOODS LINES WERE BLAZED AND PAINTED AT TIME OF SURVEY.



Approved by decision of the Development Review Board, Town of Underhill, Vermont, issued on the ___ day of ___ subject to all requirements and conditions of subdivision and plat approval. Signed this ___ day of ___ by ___ Chairperson.

OTHER LANDS OF TIMOTHY A. POTVIN & THERESA P. POTVIN FAMILY TRUST

LAP RUN (PRIVATE) A 60 FOOT R.O.W. BK. 234 PG. 178-180

MARY FULLER
PARCEL ID #LR014 BK. 234 PG. 182-183 BK. 178 PG. 8 MAP SLIDE 315A

- LEGEND:
- IPS = 5/8" IRON PIN SET
 - PIN FND. = IRON PIN FOUND
 - PIPE FND. = IRON PIPE FOUND
 - 13" A.G. = MONUMENT STANDS 13" ABOVE GRADE.
 - SM PIN = STUART MORROW PIN FOUND
 - = POWER POLE
 - = FENCE
 - - - = CENTER LINE OF ROAD

SOURCE OF TITLE:
TIMOTHY POTVIN & THERESA POTVIN TO TIMOTHY A. POTVIN & THERESA P. POTVIN FAMILY TRUST WARRANTY DEED DATED NOVEMBER 13, 2009 AND RECORDED IN BOOK 178 PAGE 8 OF UNDERHILL LAND RECORDS.

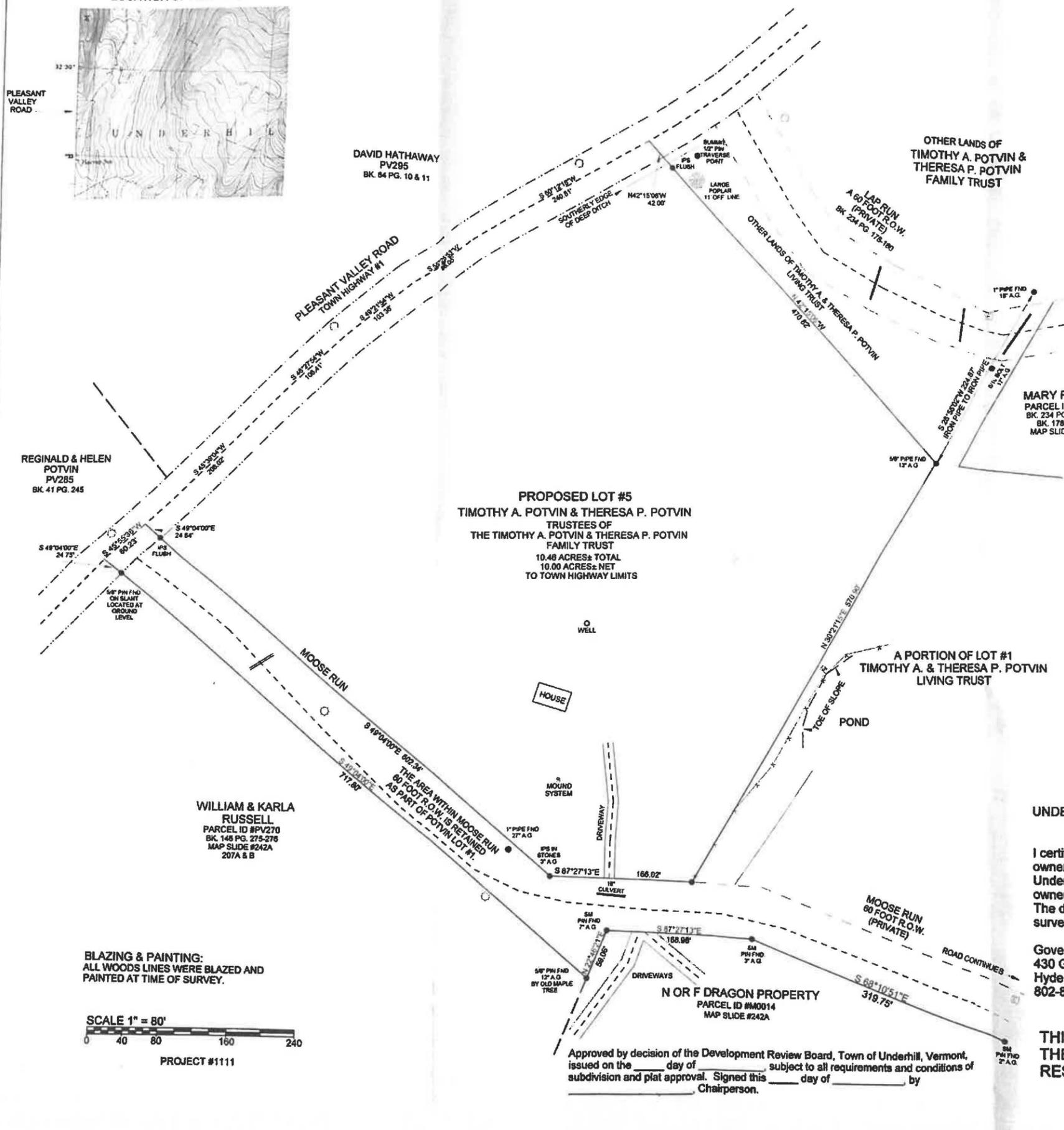
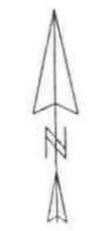
A TOTAL STATION SURVEY
A PORTION OF LANDS BELONGING TO TIMOTHY A. POTVIN & THERESA P. POTVIN LIVING TRUST
P.O. Box 135 Underhill Center, Vermont 05490 802-363-1657
PROPOSED LOT #5

UNDERHILL, VERMONT SCALE 1" = 80'

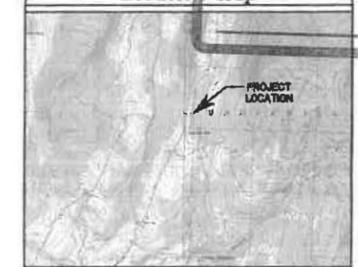
I certify that this plat was prepared from a survey based upon field evidence, owners' statements and documents, former surveys and research in the Underhill Land Records. Lot design was made according to the wishes of the owners. The degree of precision is consistent with the "Suburban" classification of surveys. This plat conforms with requirements of 27 V.S.A.

Gove Land Surveyors, Inc.
430 Grimes Road
Hyde Park, VT. 05655
802-888-5600

THIS IS A PRELIMINARY PLAN, NOT A COMPLETED SURVEY. THERE REMAINS THE COMPLETION OF LAND RECORDS RESEARCH PENDING THE OPENING OF TOWN RECORDS.

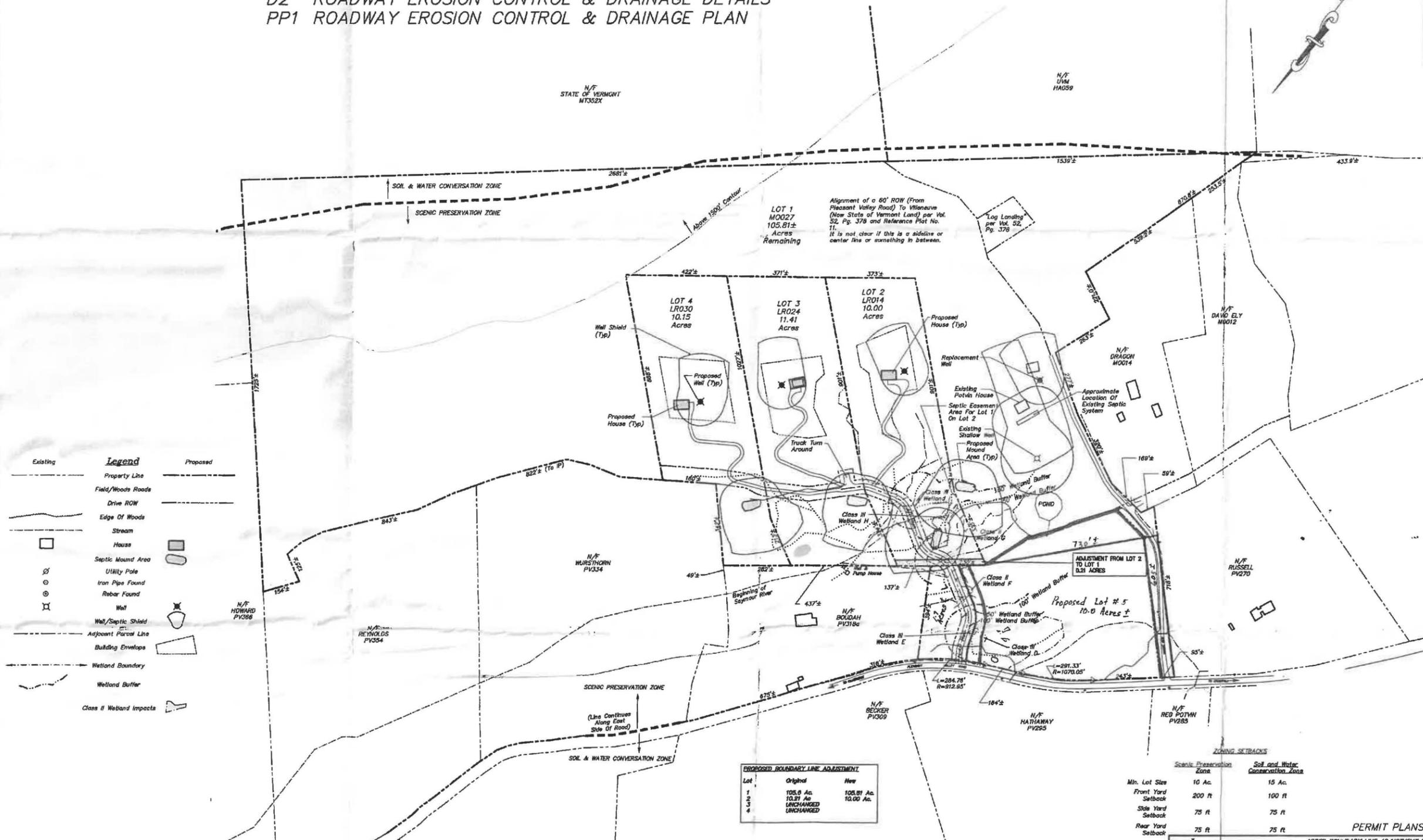


Location Map



PLAN LIST

- S1 OVERALL SITE PLAN
- S2 SITE SEPTIC & EROSION CONTROL PLAN
- D1 WASTEWATER DETAILS
- D2 ROADWAY EROSION CONTROL & DRAINAGE DETAILS
- PP1 ROADWAY EROSION CONTROL & DRAINAGE PLAN



Legend

Existing	Proposed
Property Line	Property Line
Field/Woods Roads	Field/Woods Roads
Drive ROW	Drive ROW
Edge Of Woods	Edge Of Woods
Stream	Stream
House	House
Septic Mound Area	Septic Mound Area
Utility Pole	Utility Pole
Iron Pipe Found	Iron Pipe Found
Rebar Found	Rebar Found
Well	Well
Well/Septic Shield	Well/Septic Shield
Adjacent Parcel Line	Adjacent Parcel Line
Building Envelope	Building Envelope
Wetland Boundary	Wetland Boundary
Wetland Buffer	Wetland Buffer
Class II Wetland Impacts	Class II Wetland Impacts

DESIGN QUALIFICATIONS

This design is the best possible to meet existing Town of Underhill standards and regulations and the Environmental Protection Rules of the Agency of Natural Resources. No guarantee is made as to the ability of the system to be constructed, or to function as intended, unless the same is constructed pursuant to plans of greater detail. Furthermore, this design has been prepared for the regulatory permit process and may not sufficiently detail all the items necessary for construction.

The contractor is to notify dig-safe (tel. 1-888-344-7233) 48 hours prior to any excavation. The contractor shall be insured for the work to be performed, and shall be prepared to furnish a certificate of insurance.

It is noted that no site assessment of hazardous or other waste materials has been made and Summit Engineering, Inc. takes no responsibility for any materials or conditions that may exist on this site.

STORMWATER NOTES

As designed it has been determined that construction of this site can be done to meet the conditions required to be considered Low Risk as outlined by the Risk Evaluation, Appendix A of general permit 3-9010.

As designed this site plan creates 5.41 acres of soil disturbance and therefore requires coverage under General Permit 3-9020 to discharge stormwater from construction sites as regulated by the State of Vermont Department of Environmental Conservation.

As designed this site plan creates 1.4 acres of impervious surface and therefore requires coverage under General Permit 3-9070 to discharge stormwater runoff as regulated by the State of Vermont Department of Environmental Conservation.

GENERAL DESIGN NOTES

Limits of disturbance and clearing, and house and drive locations, as shown on these plans, are shown for design purposes only. It is up to the individual home owner to determine exact locations and clearing limits. This plan is intended to show a location that meets the design standards for the Town of Underhill. It is noted that the future buyer of these lots may desire a different house and drive location, which may require additional approval from the Town.

Driveways on these plans are located to provide access to the house location as on these plans. These drives are designed, as located, to demonstrate that a maximum 10% grade can be constructed.

This plan shows typical locations of soil erosion control measures for permitting and planning purposes. Actual locations may vary depending on actual building and drive locations. All measures shall meet the minimum standards as stated on these plans.

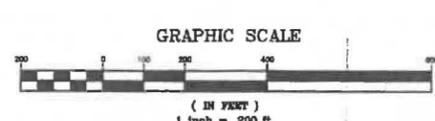
PROPOSED BOUNDARY LINE ADJUSTMENT

Lot	Original	New
1	105.8 Ac.	105.81 Ac.
2	10.81 Ac.	10.00 Ac.
3	UNCHANGED	UNCHANGED
4	UNCHANGED	UNCHANGED

ZONING SETBACKS

	Scenic Preservation Zone	Soil and Water Conservation Zone
Min. Lot Size	10 Ac.	15 Ac.
Front Yard Setback	200 ft	100 ft
Side Yard Setback	75 ft	75 ft
Rear Yard Setback	75 ft	75 ft

RECEIVED FOR RECORD
 AT _____ O'CLOCK _____ MIN. _____ AM
 ATTEST _____ TOWN CLERK



Approved by decision of the Development Review Board, Town of Underhill, Vermont, issued on the _____ day of _____ 2012, subject to all requirements and conditions of subdivision and plat approval. Signed this _____ day of _____ 2012, by _____ Chairperson.

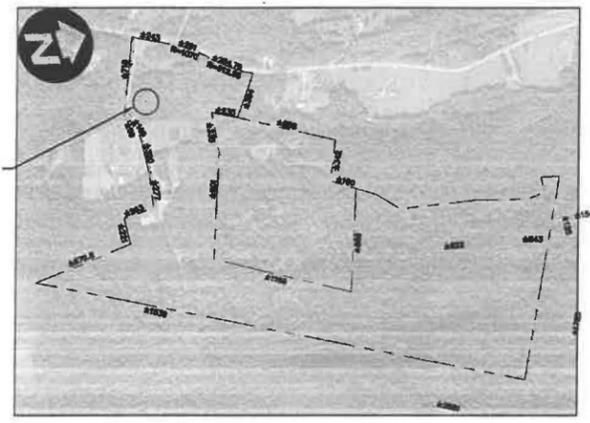
	SURVEY LDY/BEG DESIGNED DFH	<p>SUMMIT ENGINEERING, INC Engineers • Surveyors • Planners • Landscape Architects 1233 Shelburne Road C2 South Burlington, VT 05403 Bus. (802) 658-5585 Fax (802) 658-3629</p>	OVERALL SITE PLAN DATE 1/31/12
	DRAWN LDY/BEG CHECKED DFH SCALE 1"=200'		TIMOTHY & THERESA POTVIN 27 MOOSE RUN UNDERHILL, VERMONT

PERMIT PLANS NOT FOR CONSTRUCTION

NO.	DESCRIPTION	DATE
3	ADDED BOUNDARY LINE ADJUSTMENT FROM LOT 2 TO LOT 1	02/07/12
2	UPDATE FOR FINAL PERMITTING AND RECORDING	10/23/12
1	ADDED SEPTIC EASEMENT FOR EXISTING SEPTIC SYSTEM & REPLACEMENT WELL FOR LOT #1	3/26/12
	REVISION	DATE



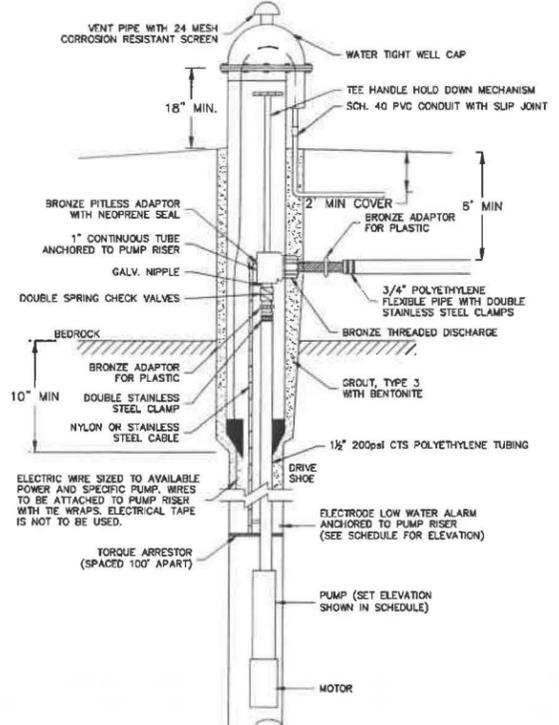
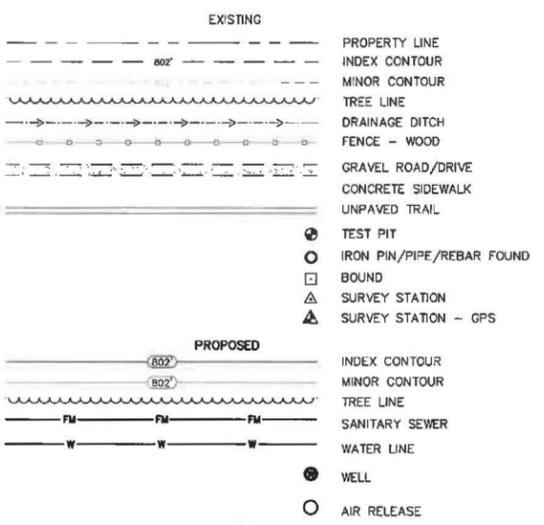
LOCATION MAP
SCALE: NTS



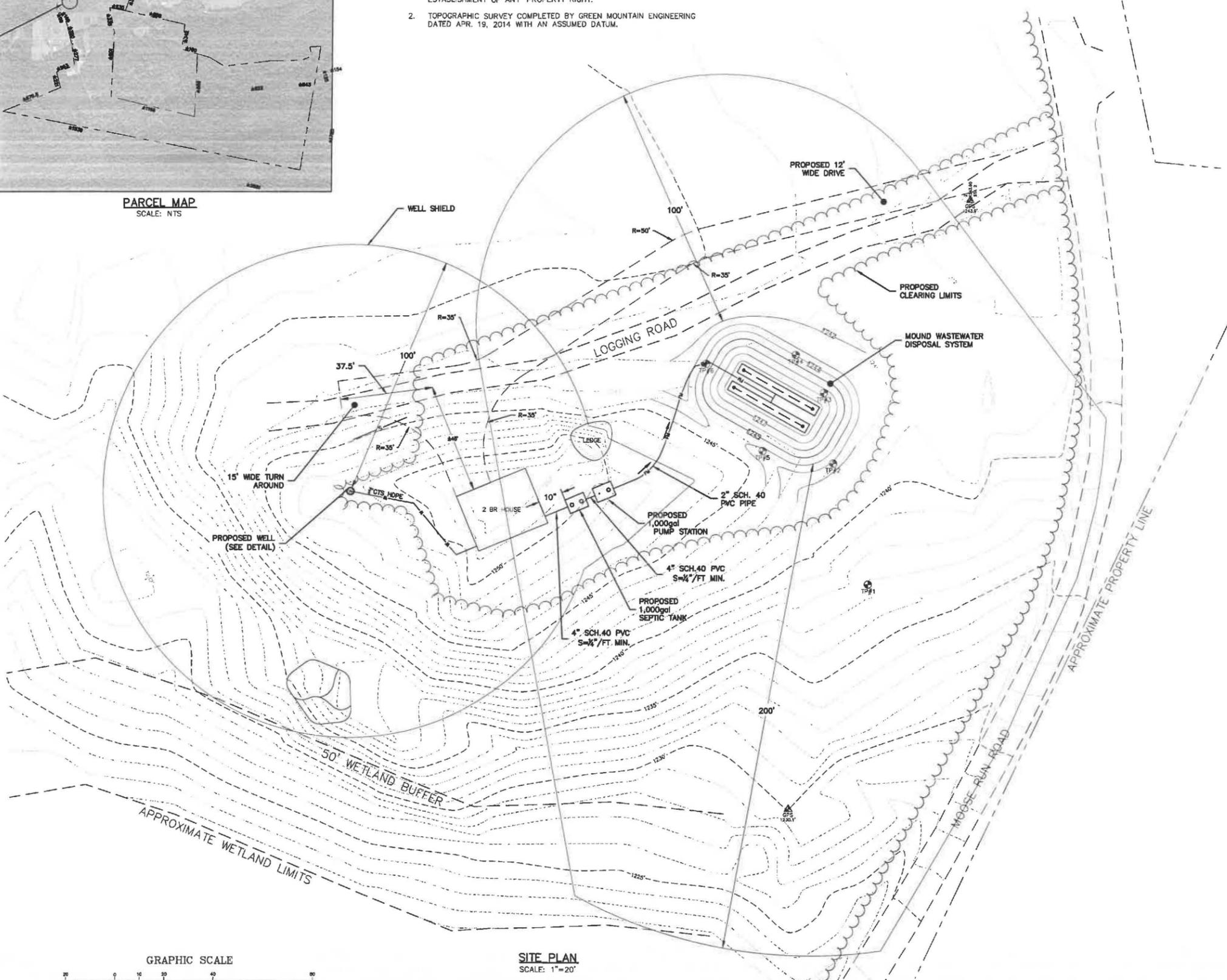
PARCEL MAP
SCALE: NTS

NOTES:

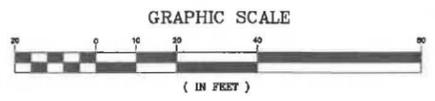
1. THE PROPERTY LINES, EASEMENTS, AND OTHER REAL PROPERTY DESCRIPTIONS PROVIDED ARE APPROXIMATE. THEY DO NOT DEFINE LEGAL RIGHTS OR MEET LEGAL REQUIREMENTS FOR A LAND SURVEY AS DESCRIBED IN 26.V.S.A(4), AND SHALL NOT BE USED IN LIEU OF A SURVEY AS THE BASIS OF ANY LAND TRANSFER OR ESTABLISHMENT OF ANY PROPERTY RIGHT.
2. TOPOGRAPHIC SURVEY COMPLETED BY GREEN MOUNTAIN ENGINEERING DATED APR. 19, 2014 WITH AN ASSUMED DATUM.



TYPICAL INDIVIDUAL DRILLED WELL
NOT TO SCALE



SITE PLAN
SCALE: 1"=20'



1438 SOUTH BROWNELL ROAD
WILKINSON, MISSISSIPPI 39256
PHONE: (602)862-5580
FAX: (602)862-7588



REV.	DATE	DESCRIPTION	BY
06/04/18		ADDED TURN AROUND LABEL	JJB
03/01/18		REVISED PER AIR REVIEW COMMENTS	JJB

PROPOSED SITE PLAN	
DESIGNED: JJB	PLLOT DATE: 01/12/18
DRAWN: JJB	SCALE: 1" = 20'
CHECKED: KJC	DATE: JAN. 2018
PROJECT NO. 27-041	
DRAWING NO. 1	
SHEET 1 OF 2	

FILE: 27-041 PROJECT FILE: 27-041-0000-041 POTVIN SEPTIC SYSTEM DESIGN DATE: 2/18