

# TOWN OF UNDERHILL

## Development Review Board

MARTY BASLOW  
PRELIMINARY & FINAL SUBDIVISION REVIEW  
Docket #: DRB-19-10

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<b>Applicant(s):</b>	Marty Baslow
<b>Consultant(s):</b>	Donald L. Hamlin Consulting Engineers, Inc.
<b>Property Location:</b>	37 Warner Creek, Underhill, VT 05489 (WC037)
<b>Acreage:</b>	±30.61 Acres
<b>Zoning District(s):</b>	Rural Residential and Soil & Water Conservation

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<b>Project Proposal:</b>	Preliminary & Final Subdivision Review of Marty Baslow 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 2.4 – Rural Residential (pg. 15)
- 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 3.8 – Nonconforming Lots (pg. 37)
- 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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- Preliminary & Final Subdivision Review Exhibits
- a. Exhibit A - Baslow Preliminary & Final Subdivision Review Staff Report
  - b. Exhibit B - WC037 Preliminary & Final Subdivision Review Hearing Procedures

- c. Exhibit C - Application for Subdivision
- d. Exhibit D - Access Permit Application (A-20-04)
- e. Exhibit E - Project Narrative
- f. Exhibit F - BFP Notice
- g. Exhibit G - WC037 Certificate of Service
- h. Exhibit H - Baslow Sketch Plan Review Letter
- i. Exhibit I - Draft Lot 5A Deed
- j. Exhibit J - Subdivision Plan
- k. Exhibit K - Overall Site Plan
- l. Exhibit L - Lot 5A Site Plan
- m. Exhibit M - Lot 5B Site Plan
- n. Exhibit N - Lot 5A Wastewater Design
- o. Exhibit O - Lot 5B Wastewater Design
- p. Exhibit P - Lot 5B Driveway Profile

Relevant Sketch Plan Review Exhibits – None

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## COMMENTS/QUESTIONS

1. **TABLE 2.7 – SOIL & WATER CONSERVATION:** The parent lot, addressed as 37 Warner Creek (WC037), includes land across Vermont Route 15, which is located in both the Rural Residential and Soil & Water Conservation zoning districts; however, is potentially considered its own lot since the parent lot is bisected by Vermont Route 15 – a public highway.
2. **SECTION 3.2 – ACCESS:** The Applicant should confer with the Agency of Transportation to determine if any State permitting is required.
3. **SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS:** Depending how the Board applies the frontage standards, frontage may or may not be an issue, as a large portion of the frontage for Lot 5B could potentially be considered measured along a shared driveway, and not a development road.
4. **SECTION 3.18 – STEEP SLOPES:**
  - a. While the proposed dwelling site on Lot 5B is not in very steep slopes, the Board should ascertain if the site contains steep slopes (15%-25%). If so, the Board should determine whether to perform a more detailed analysis at this time under this Section, or defer that review to a later time when a more formal proposal is envisioned.
  - b. The Applicant should be prepared to discuss the driveway as it relates to this section, especially in regards to drainage and stormwater runoff.
5. **SECTION 7.3 – SKETCH PLAN REVIEW:**
  - a. The Applicant should elaborate how Lot 5B integrates with the Baslow Lane road maintenance agreement and/or homeowners’ association, should they exist. *(Also relevant to Section 8.8 Legal Requirements)*
  - b. The Applicant has not submitted the relevant documentation pertaining to the Warner Creek Extension Homeowners Association and Road Maintenance Agreement and how the creation of a new lot affects that Association. *(Also relevant to Section 8.8 Legal Requirements)*

- c. The Applicant has failed to depict the turnaround area at the terminus of the driveway for Lot 5B; the turnaround relating to the driveway on Lot 5A does not meet the dimensional requirements of 12.5 ft. x 37.5 ft. as measured from edge of the driveway to ensure the proper length to facilitate the turnaround of emergency services. *(Also relevant to Appendix A – Road & Driveway Standards, Section 4.C.12.c)*
  - d. The Applicant should confirm the turning radii is satisfactory to the Underhill-Jericho Fire Department.
  - e. The Applicant should be prepared to discuss the width requirements relating to the driveways, Baslow Lane and the southern branch of Warner Creek Extension. *(Also relevant to Appendix A – Road & Driveway Standards, Section 5.A; see Below)*
    - i. The Applicant failed to submit engineering depicting the south branch of Warner Creek Extension, which would either illustrate conformance with the current Road Ordinance or illustrate the necessary modifications with the current Road Ordinance.
  - f. While the Applicant has depicted building envelopes for both lots, they include areas identified as constraints (e.g. wetlands, surface waters and very steep slopes). *(Also relevant to Section 8.2.G – Building Envelopes)*
6. **SECTION 8.2.C – EXISTING SITE CONDITIONS:**
- a. The Applicant should be prepared to discuss the impacts relating to the natural topography and resulting drainage patterns (§ 8.2.C.1).
  - b. In regards to natural vegetative cover, the Applicant should confirm that there will not be excessive clear-cutting (§ 8.2.C.4).
7. **SECTION 8.2.F – LAYOUT:** The proposed subdivision will result in irregular-shape lots, especially Lot 5B, which will contain a jog to accommodate the wastewater system; the Board should explore with the Applicant if there are any alternative layouts that would minimize the irregular-ness of Lot 5B.
8. **SECTION 8.2.I – LANDSCAPING & SCREENING:** Regarding Lot 5A, should the proposed location of the dwelling be in the area as depicted, maintaining a screening buffer between the proposed lot and 24 Warner Creek (WC024) may be challenging, if not impractical.
9. **SECTION 8.5 – STORMWATER MANAGEMENT & EROSION CONTROL:** The Board should consider requiring additional information relating to stormwater management and erosion control impact regarding the driveway and proposed dwelling unit on Lot 5A and the driveway on Lot 5B.
10. **APPENDIX A – ROAD & DRIVEWAYS STANDARDS, SECTION 4.C.1 – GRADES:** The submitted driveway profile does not illustrate the final grade of the driveway, but rather a 10% grade reference line, which grades should not exceed. Should the driveway contain the same profile as what is currently existing, the driveway will more than certainly exceed a 10% grade in some areas.
11. **APPENDIX A – ROAD & DRIVEWAYS STANDARDS, SECTION 4.C.2 – TOPOGRAPHY:** Further confirmation of the degree of slopes impacted (similar to the analysis in Exhibit M) may be required by the Board to make a more informative decision.
12. **APPENDIX A – ROAD & DRIVEWAYS STANDARDS, SECTION 4.C.6 – DRAINAGE:** The Applicant should provide more information relating to drainage (especially since drainage was an issued relating to an appeal in 2017 (DRB-17-01)) for both lots during the hearing, and if necessary, the Board should consider requesting additional information.

13. **APPENDIX A – ROAD & DRIVEWAYS STANDARDS, SECTION 4.C.9 – CULVERTS:** The Applicant has not provided any information relating to culverts, which may be required depending on the additional information relating to drainage patterns.
14. **APPENDIX A – ROAD & DRIVEWAYS STANDARDS, SECTION 5.A.3 – WIDTHS:** *See this section below regarding road width requirements.* The Applicant should consider providing additional plans depicting the existing conditions of the identified widths, as well as any proposed modifications.

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## RECOMMENDATIONS

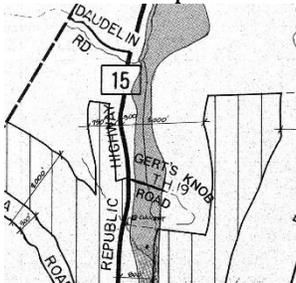
- Staff Recommends that the Board pursue some of the outstanding issues relating to the Warner Creek Extension Homeowners' Association, road maintenance agreement for both lots (assuming there is one for Baslow Lane), and driveway designs for both lots noted throughout this Staff Report (§ 7.6 – *Final Subdivision Review*).
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# STAFF FINDINGS OF RELEVANT SECTIONS

## ARTICLE II – ZONING DISTRICTS

Zoning Districts	
<span style="color: red;">■</span>	Underhill Flats Village Center (1.0 Acre)
<span style="color: green;">■</span>	Underhill Center Village (1.5 Acres)
<span style="color: yellow;">■</span>	Rural Residential (3 Acres)
<span style="color: blue;">■</span>	Water Conservation (5.0 Acres)
<span style="color: purple;">■</span>	Scenic Preservation (10 Acres)
<span style="color: brown;">■</span>	Soil and Water Conservation (15 Acres)

Official Zoning Map Excerpt



	Rural Residential	Soil & Water Conservation	Proposed Lot 5A	Proposed Lot 5B
<b>Lot Size:</b>	3.0 Acres	15.0 Acres	±17.77 Acres.	±12.86 Acres
<b>Frontage:</b>	250 ft.	400 ft.	±469 ft. (via Warner Creek)	±878 ft. (via Baslow Lane)
<b>Setbacks:</b>				
• Front	30 ft.	30 ft.	±43 ft. (North)	±576 ft. (South)
• Side 1	50 ft.	75 ft.	±233 ft. (West)	±356 ft. (West)
• Side 2	50 ft.	75 ft.	±185 ft. (East)	±175 ft. (East)
• Rear	50 ft.	75 ft.	±162 ft. (South)	±120 ft. (North)
<b>Max. Building Coverage:</b>	25%	7%	Presumably Met	Presumably Met
<b>Max. Lot Coverage:</b>	50%	10%	Presumably Met	Presumably Met
<b>Maximum Height:</b>	35 ft.	35 ft.	TBD	TBD

TABLE 2.4 – RURAL RESIDENTIAL

**Purpose Statement:** Accommodate medium density development on land that has access to public roads where traditional development has taken place, where soil cover is thicker than on the hillside. The Rural Residential district allows for the continuation of existing commercial, residential, and public uses and to encourage future development, particularly along Route 15, Poker Hill Road and Irish Settlement Road that is compatible with these historic uses.

- The proposed project involves the subdivision of a ±30.63 Acre parcel of land into two lots: Lot 5A (±17.77 Acres) and Lot 5B (±12.86 Acres).
- Lot 5B will be accessed via Baslow Lane, a private road, which connects to Gert's Knob, a Class III Town Highway, that connects to Vermont Route 15, a State Highway.
  - There are currently 3 residences being served by Baslow Lane
  - The proposed lot will allow for a fourth residence, which will be the second curb cut on the private road (see Page 7 of this Staff Report).
- Lot 5A will be accessed via Warner Creek Extension, a private road, which connects to Vermont Route 15, a State Highway.
  - There are currently 4 residences being served by Warner Creek Extension; however, there are only two residences being served by the southern branch of the extension.
  - The proposed lot will allow for a third residence, which will be the last curb cut on that branch of the extension (see Page 7 of this Staff Report).
- Lot 5A is anticipated to contain a single-family dwelling, while Lot 5B is not expected to contain anything in the immediate future, but is designed for a residence (assumedly a single-family dwelling).

**TABLE 2.7 – SOIL & WATER CONSERVATION**

**PG. 24**

**Purpose Statement:** The Soil and Water Conservation 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.

- While the digital zoning map (see Page 5 of this Staff Report) depicts areas of the Soil & Water Conservation District on the proposed Lot 5B, the Applicant has submitted supporting documentation depicting that the proposed Lot is entirely within the Rural Residential District, and therefore, the standards relating to the Soil & Water Conservation District do not apply.
  - *Note: The official zoning map is the hand drawn 1985 map (see Page 5 of this Staff Report), and therefore, is the controlling document when applying the zoning district boundaries.*
- The parent lot, addressed as 37 Warner Creek (WC037) includes land across Vermont Route 15; this land is located in both the Rural Residential and Soil & Water Conservation zoning districts; however, is potentially considered its own lot since Vermont Route 15 bisect the property.

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**ARTICLE III – GENERAL REGULATIONS**

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**SECTION 3.2 – ACCESS**

**PG. 30**

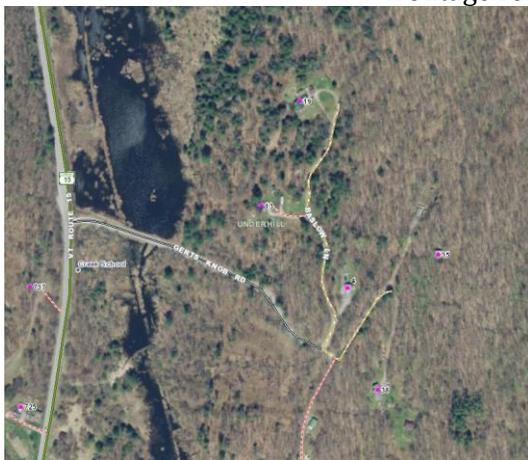
- The Applicant should confer with the Agency of Transportation to determine if any State permitting is required.
- The Applicant has submitted an access permit application (see Exhibit D), which approval will permit access for Lot 5A from Warner Creek Extension and access for Lot 5B from Baslow Lane.
  - Both lots will access private development roads (§3.2.B.2) via shared driveways (§ 3.2.B.6) rather than directly accessing a public Town or State highway.
- The proposed driveways serving Lots 5A & 5B satisfies the 12 ft. property line setback, noting that the proposed setback of the driveway serving Lot 5B is exactly 12 ft.
- The Selectboard has delegated authority to approve access permits to the Development Review Board when reviewing applications involving access-related components.

- For further review, see review relating to *Appendix A – Road, Driveway and Trail Ordinance*.

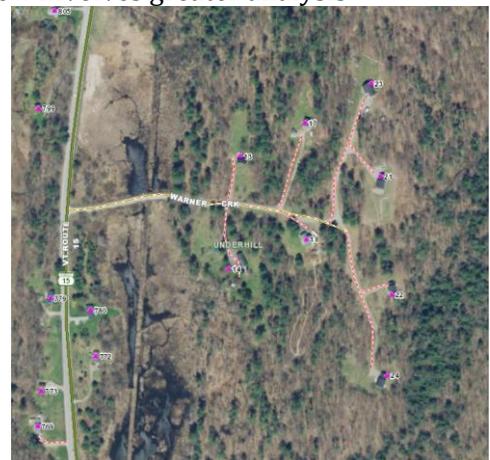
**SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS**

**PG. 36**

- One principal use/structure is anticipated for each lot – single-family dwellings.
  - While Lot 5B is not anticipated to be developed in the near future, it is designed to support a residence (assumedly a single-family dwelling).
  - Though for representation purposes only, the proposed structures depicted on the plans satisfy the Rural Residential District’s dimensional standards.
  - The Applicant has depicted building envelopes illustrating the ability to satisfy the district’s dimensional standards.
- Both lots satisfy the minimum three (3) acre requirement (see Chart on Page 5 of this Staff Report).
- Lot 5A has ±469 ft. of frontage facing Warner Creek Extension to the North, thus satisfying the frontage requirement of the Rural Residential District – ±250 ft.
- Lot 5B has ±878 ft. of frontage along Baslow Lane (as identified by the E911 Website); however, Baslow Lane, the development road would technically ends after the driveway to the first residence – 4 Baslow Lane, which would be approximately 120 feet of frontage.
  - Depending how the Board applies the frontage standards, frontage may or may not be an issue, as a large portion of the frontage for Lot 5B could potentially be considered measured along a shared driveway and not along a development road.
    - If the Board interprets frontage along the entire right-of-way, the subject property has ±878 ft. of frontage, satisfying the requirement of 250 ft. for the Rural Residential District.
    - If the Board interprets frontage along only the portion of Baslow Lane from Gerts Knob to 4 Baslow Lane, the subject property will fail to satisfy the 250 ft. requirement, as the lot will only contain ±120 ft. of frontage.
      - Should the Board adopt this interpretation, and Lot 5B fails to satisfy the frontage requirement; the lack of frontage is largely attributed to the odd shape configuration of the property from previous subdivisions (Potvin rationale).
      - Lot frontage can be waived in accordance with §§ 3.7.F.3.a and 8.6.A.2.a if the lot is accessed by a shared driveway – in this case, while the road is identified as Baslow Lane, the shared driveway would commence after the driveway for 4 Baslow Lane.
      - This Staff report will review the application as if it fails to satisfy the frontage requirement since that review involves greater analysis.



-Baslow Lane-



-Warner Creek-

### SECTION 3.8 – NONCONFORMING LOTS

PG. 37

- In the event that the Board finds that Lot 5B does not satisfy the frontage requirements, then the lot will be considered nonconforming, and therefore, fails to meet the dimensional standards of the Rural Residential District.
  - Frontage may be waived in accordance with §§ 3.7.F.3.a and 8.6.A.2.a.
- If the Board disagrees with Staff’s analysis and finds the Lot to be nonconforming, the Board shall **NOT** grant approval of a nonconforming lot unless the lot is part a of Planned Residential Development (Article IX).

### SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

PG. 42

- Lot 5A is anticipated to contain a single-family dwelling, and is likely to satisfy the parking requirement – 2 parking spaces per dwelling.
  - Parking is typically confirmed during the zoning permit application review process.
- Lot 5B is not anticipated to be developed at this time; however, is designed to contain a residence (assumedly a single-family dwelling), which would also be required to contain 2 parking spaces per dwelling.
  - Parking is typically confirmed during the zoning permit application review process.

### SECTION 3.17 – SOURCE PROTECTION AREAS

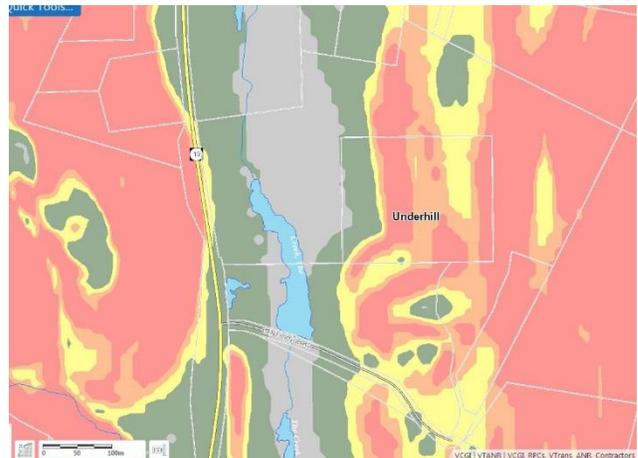
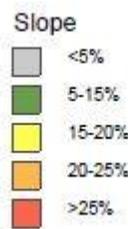
PG. 53

- The subject lot is not located within a Groundwater Source Protection Area, nor is the lot in the vicinity of a public water source.

### SECTION 3.18 – STEEP SLOPES

PG. 55

- Areas of steep slopes (15-25%) are present on the existing lot (see directly to the right).
- Based on the site plan relating to Lot 5A (see Exhibit L), in relation to the ANR Atlas Steep Slopes map (directly to the right), the site for the single-family dwelling (though for representation purposes) appears to be situated in an area that is less than 15%.
- The proposed site plan relating to Lot 5B (see Exhibit M), depicts areas of very steep slopes (>25%); however, the proposed single-family dwelling is not located in one of these areas.
  - While the proposed dwelling site is not in very steep slopes, the Board should ask the Applicant if the site contains steep slopes (15%-25%). If so, then the Board should determine whether to perform a more detailed analysis at this time



- The driveway serving Lot 5A does not appear to impact steep slopes (15%-25%) or very steep slopes (>25%), and should be verify during the site visit on September 19, 2020.
- The driveway serving Lot 5B, which will utilize an existing wood’s road, appears to impact steep slopes and very steep slopes.
  - The Applicant has provided a driveway profile (see Exhibit P); however, the Site plan does not depict a final grade of the driveway.

under this Section, or defer that review to a later time when a more formal proposal is envisioned.

- The Applicant should be prepared to discuss the driveway as it relates to this Section (§ 3.18), especially in regards to drainage and stormwater runoff (see Veve d/b/a application for similar review).

**SECTION 3.19 – SURFACE WATERS & WETLANDS**

**PG. 62**

- The Creek bisects the western portion of the subject property in a south to north direction. Since the waterbody is a named surface water with an associated floodplain, there is a 100 ft. setback requirement.
  - The proposed house location for Lot B, while depicted for representation purposes, is ±762 ft. to the east, satisfying the 100 ft. setback requirement (see Exhibits K & L and directly to the right).
  - Lot 5B will not contain any surface waters (see Exhibits K & M).
- Lot 5A will contain a Class II Wetland, which encompasses the Creek, and also bisects the property (the subject property) in a south to north direction.
- Class II Wetlands have a 50 ft. setback requirement.
  - The proposed house location for Lot 5A, while depicted for representation purposes is ±726 ft. to the east, satisfying the 50 ft. setback requirement (see Exhibits K & L).
  - Lot 5B will not contain any wetlands, as depicted on the submitted site plans (see Exhibits K & M).



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

**PG. 66**

- Based on the ANR Website, the Applicant appears to have submitted an application for a Wastewater System & Potable Water Supply Permit Application (WW-4-5450), but at this time, a permit has not been issued.
- The Applicant has submitted wastewater water and potable water supply design plans:
  - Lot 5A will contain a drilled well and an inground wastewater system for a four-bedroom single-family dwelling.
  - Lot 5B will contain a drilled well and at-grade wastewater system for a two-bedroom camp/residence (assuming residence could be a single-family dwelling)

**ARTICLE VI – FLOOD HAZARD AREA REVIEW**

- A Special Flood Hazard Area (Zone A) is located on the subject lot (and the proposed Lot 5A) in the same vicinity as the Creek and Class II Wetlands – bisecting the property in a north to south direction.
  - Development in the flood hazard area is extremely unlikely due to the property’s other constraints.
  - The proposed house locations on the proposed Lot 5A & Lot 5B, while for representation purposes, is located outside of this area.



## ARTICLE VII – SUBDIVISION REVIEW

### SECTION 7.2 – APPLICABILITY

PG. 137

- The Applicant is proposing a 2-Lot subdivision that meets the requirements of Section 7.2.E.1.a.
- The Board classified this project as a minor subdivision during the sketch plan review meeting on September 16, 2019 (see Exhibit H).

### SECTION 7.3 – SKETCH PLAN REVIEW

PG. 139

- The Board accepted the proposed subdivision during the Sketch Plan Review meeting on September 16, 2019, noting several items to be address.
  - Typically, Staff transcribes the considerations within the Staff Report itself; however, in the interest of saving paper Staff will only provide comments and reference the consideration in the Sketch Plan Review letter, which has been submitted as Exhibit H.
- In regards to Lot 5B (Identified in the Sketch Plan as Parcel A, but **became Lot 5B**)
  1. The Applicant has elected to not defer review as it relates to potential development on the proposed Lot 5B; however, there are components that could potentially be deferred to a later date such as the impact to steep slopes by the residence.
  2. The Applicant submitted documentation (Exhibit J) depicting that the subject lot east of Vermont Route 15 is not located within the Soil & Water Conservation District.
  3. The Applicant should elaborate how the new lot (Lot 5B) integrates with the Baslow Lane road maintenance agreement and/or homeowners’ association, if should they exist.
    - a. If a road maintenance agreement does not exist, the Board should encourage the Applicant to develop one, though not required.
  4. The Applicant has decided to pursue review of Lot 5B and has submitted the materials requested under this consideration and “regulation conformance” (see Exhibits J, K & M).
    - a. In regards to Lot 5B, many of the identified issues below for Lot 5A, also apply.
  5. The Applicant has failed to depict the turnaround area for emergency services at the termination of the driveway.
- In regards to Lot 5A (Identified in the Sketch Plan as Parcel B, but **became Lot 5A**)
  1. The Applicant has submitted a site plan depicting wetlands and, assumedly, surface waters (see Exhibits K & L).
    - a. The Special Flood Hazard Area does not appear to be delineated on the site plan.
  2. The Applicant has submitted site plans depicting well shields and isolation distances (see Exhibits K, L & M).

3. The Applicant has submitted a project narrative (see Exhibit E).
  4. The Applicant has identified a proposed building envelope; though the envelope includes areas where there are constraints (see Exhibits K, L & M).
  5. The Applicant has submitted engineering drawings illustrating many of the noted features.
    - a. The Applicant has not identified the special flood hazard area.
    - b. No culverts have been identified (for either Lot 5A or Lot 5B)
  6. The Applicant has submitting engineering depicted the proposed driveway; however:
    - a. The Applicant should be prepared to confirm that the Warner Creek Extension (south) already satisfies the width requirements discussed under Appendix A below, or be prepared to provide the engineering depicting those upgrades.
    - b. Confirm the turnaround area is 12.5 ft. by 37.5 ft. as measured from the edges of the driveway to ensure the proper length to facilitate the turnaround of emergency vehicles.
    - c. Confirm that the turning radii satisfies the Underhill-Jericho Fire Department.
  7. The Applicant has not submitted the engineering depicting the south branch of Warner Creek Extension, which would either illustrate conformance with the current Road Ordinance or illustrate the necessary modifications required by the current Road Ordinance.
  8. The Applicant has not submitted the relevant documentation pertaining to the Warner Creek Extension Homeowners Association and Road Maintenance Agreement and how the creation of a new lot affects the Association.
- In regards to both parcels:
    1. The Applicant has submitted a survey plat (see Exhibit J).
    2. A site visit has been scheduled for 8:30 AM on Saturday, September 19, 2020.
    3. The Applicant has submitted an application largely adhering to the criteria listed in the sketch plan review letter and the checklist.
    4. The Applicant has submitted a draft deed relating to Lot 5A with reference to associated easements, but with no reference to the Warner Creek Extension Homeowners' Association or Road Maintenance Agreement.

**SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW**

**PG. 142**

- The Board waived preliminary subdivision review during their Sketch Plan Review Meeting (see Exhibit H).
- Staff has advised the Applicant to submit a project narrative (see Exhibit E), which will substitute for, and allow him to forgo the submission of, the findings checklist for Preliminary Subdivision Review.

**SECTION 7.6 – FINAL SUBDIVISION REVIEW**

**PG. 144**

- The Applicant has submitted a lot of the necessary materials to make a decision regarding the final subdivision review application; however, Staff recommends that the Board pursue some of the outstanding issues relating to the Warner Creek Extension Homeowners' Association, road maintenance agreement for both lots (assuming there is one for Baslow Lane), and driveway designs for both lots noted throughout this Staff Report.

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**ARTICLE VIII – SUBDIVISION STANDARDS**

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**SECTION 8.1 – APPLICABILITY**

SECTION 8.1.B – REQUEST FOR MORE INFORMATION

**PG. 148**

- Technical review does not appear to be required; however, is an option should the Board feel that it is necessary.

SECTION 8.1.C – FINDINGS OF FACT

PG. 148

- Staff advised the Applicant to submit a project narrative (see Exhibit E) in place of the Findings of Facts.

SECTION 8.1.D – MODIFICATIONS & WAIVERS

PG. 148

- The Applicant has not requested any additional modifications.
- Should the Board find that Lot 5B does not satisfy the frontage requirement, as outlined under Section 3.7, that requirement may be waived in accordance with §§ 3.7.F.3.a and 8.6.A.2.a.
  - Lot 5B will be accessed by a shared driveway with 13 and 19 Baslow Lane.

**SECTION 8.2 – GENERAL STANDARDS**

SECTION 8.2.A – DEVELOPMENT SUITABILITY

PG. 149

- No 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 Applicant has 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

- The proposed subdivision meets the density requirements of this Section.

SECTION 8.2.C – EXISTING SITE CONDITIONS

PG. 149

- The proposed subdivision layout and design appears to take into consideration many of the existing site features and natural amenities list in this Section:
  - Areas of naturally occurring surface waters, wetlands and vernal pools appear to be avoided (§ 8.2.C.2);
  - Mapped flood plains (Special Flood Hazards) appear to be avoided (§ 8.2.C.3);
  - Unique topographic or geologic features appear to be avoided (§8.2.C.5)
  - Primary agricultural soils appear to be avoided (§ 8.2.C.6); and
  - Historic sites and structure appear to be avoided (§ 8.2.C.7).
- Natural topography and drainage patterns (§ 8.2.C.1) will be impacted, largely on Lot 5B.
  - The Applicant should be prepared to discuss the impacts relating to these features.
- Natural vegetative cover (§ 8.2.C.4) is likely to be impacted as a result of clearing necessary for the construction of the driveway improvements and the dwelling units; however, this clearing will likely be consistent with similar residential projects of this nature.
  - The Applicant should confirm that there will not be excessive clear-cutting.

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

- The proposed project appears to conform with the Rural Districts settlement patterns

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 and Water Conservation District.**

Subdivisions within the Soil and Water Conservation Districts shall be designed and configured to avoid undue adverse impacts to existing forest resources and environmentally sensitive upland areas, including watershed 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 of 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.

outlined in Section 8.2.E.1 (see directly to the left).

- The Applicant confirmed that the subject parcel east of Vermont Route 15 does not contain areas of the Soil & Water Conservation District, and therefore, review under this subsection appears to be unnecessary.
- While the land associated with 37 Warner Creek (WC037) on the western side of Vermont Route 15 contains areas of the Soil and Water Conservation District, the application of this subsection appears to be unnecessary since the proposed development is not occurring on that side of Vermont Route 15.

SECTION 8.2.F - LAYOUT

**PG. 151**

- The proposed subdivision conforms with the Subsections 8.2.F.1 – 8.2F.4 for this Section.
- The irregularity of the proposed lots appears to be unavoidable due to how the parent lot is currently configured, which resulted from previous subdivisions.
  - The extension of Lot 5B into Lot 5A for the septic system does contribute to Lot 5B being more irregular than regular.
    - The Board should explore with the Applicant if there are any alternative layouts that would minimize the irregular-ness of Lot 5B.
  - While both proposed lots are irregular in nature, the subsequent subdivision of the land could make the proposed lots less irregular depending how those lots are configured.

SECTION 8.2.G – BUILDING ENVELOPES

**PG. 151**

- The Applicant has identified a proposed building envelope for both lots.
  - While both lots have identified building envelopes, they still contain site restrictions such as wetlands, surface waters and very steep slopes.

SECTION 8.2.H – SURVEY MONUMENTS

**PG. 151**

- No findings.

SECTION 8.2.I – LANDSCAPING & SCREENING

**PG. 151**

- In regards to Lot 5A, should the proposed location of the dwelling be in the area as depicted, maintaining a screening buffer between the lot and 24 Warner Creek may be challenging, if not impractical.
- In regards to Lot 5B, Staff assumes that the project will easily satisfy the requirements of this section due to aerial photograph confirming dense vegetation in the location of the proposed dwelling location.
- The Board should take note of the existing landscaping and screening currently in place during the scheduled site visit – 8:30 AM on Saturday, September 19, 2020.

**SECTION 8.2.J – ENERGY CONSERVATION**

**PG. 152**

- No findings by Staff.

**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 5 habitat block that is located on the existing lot will be impacted (see directly to the right).
  - Note: A priority level 9 habitat block is located on the existing part of the lot on the west side of Vermont Route 15.
- The priority level 5 habitat block will inevitably be impacted when development is proposed & constructed on Lots 5A & 5B.
- No Deer Wintering Yards have been identified on the lot.
- The ANR Biofinder has identified the following priority characteristics:
  - Highest Priority Community & Species (along the Creek; in a similar area as the identified Class II Wetlands);
  - Highest Priority Landscape Scale (in a similar area as the priority 5 habitat block);
  - Class II Wetlands (see § 3.19 above);
  - Highest Priority Wildlife Crossing (along Vermont Route 15);
  - Riparian Wildlife Connectivity (in a similar area as the identified Class II Wetlands);



- Priority Surface Waters & Riparian Areas (along Vermont Route 15);
- Highest Priority Interior Forest Block (on the portion of the lot west of Vermont Route 15);
- Priority Interior Forest Block (in a similar area as the identified priority level 5 habitat block);
- Highest priority connectivity block (in a similar areas as the identified habitat blocks);

- Highest Priority Surface Water and Riparian Areas (in a similar area as the identified Class II Wetlands);

- Representative and Responsibility Physical Landscapes (in a similar areas as the identified habitat blocks).

**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**

- Development is unlikely to occur in the areas of Statewide Agricultural Soils that have been identified along Vermont Route 15.



**SECTION 8.3.G - FORESTLAND**

**PG. 156**

- The proposed property line will bisect an area of forestland, which comprises a large portion of the property.
- Future development on either lot will likely result in the inevitable clearing of the forest.

**SECTION 8.4 – OPEN SPACE & COMMON LAND**

**SECTION 8.4.A – OPEN SPACE**

**PG. 157**

- The Applicant is not proposing to designate any land as open space.

**SECTION 8.4.B – COMMON LAND**

**PG. 158**

- The Applicant is 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**

- The Board should consider requiring additional information relating to stormwater management and erosion control impact regarding the driveway and proposing dwelling unit on Lot 5A and the driveway on Lot 5B, especially since stormwater was an issue relating to the Warner Creek Subdivision.

**SECTION 8.6 – TRANSPORTATION FACILITIES**

**SECTION 8.6.A – ACCESS & DRIVEWAY**

**PG. 160**

- Both lots will be served by their own driveways:
  - Lot 5A will be accessed via Warner Creek Extension, a private road, via Warner Creek, also a private road, which connects to Vermont Route 15 – a State Highway; and

- Lot 5B will be accessed via Baslow Lane, a private drive, via Gert’s Knob, a Class III Town highway, which connects to Vermont Route 15 – a State Highway.
- Since the Applicant is not proposing a subdivision involving the construction of a development road, 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 solicited an ability to serve letter from the MMU School District, and will supplement this Staff Report upon receipt of their correspondence.
- Comments have been requested from the Underhill Road Foreman regarding the driveways and will be subsequently submitted into the record.

**SECTION 8.7.B – FIRE PROTECTION** **PG. 163**

- An undue burden on the Underhill-Jericho Fire Department is not anticipated.
- Comments from the Underhill-Jericho Fire Department have been solicited; however, no comments have been provided at this time.
  - If comments are received prior to the hearing, they will be submitted into the record.

**SECTION 8.7.C – WATER SYSTEMS** **PG. 163**

- The Applicant has submitted a Wastewater System & Potable Water Supply Permit application (WW-4-5450) to the Vermont Department of Environmental Conservation.
- The Applicant is proposing the following water systems for the proposed lots:
  - A drilled well serving a four bedroom single-family dwelling is proposed for Lot 5A.
  - A drilled well serving a two-bedroom residence is proposed for Lot 5B (Staff assumes residence includes single-family dwellings).

**SECTION 8.7.D – WASTEWATER SYSTEMS** **PG. 163**

- The Applicant has submitted a Wastewater System & Potable Water Supply Permit application (WW-4-5450) to the Vermont Department of Environmental Conservation.
- The Applicant is proposing the following water systems for the proposed lots:
  - An in-ground wastewater system serving a four-bedroom single-family dwelling is proposed for Lot 5A; and
  - An at-grade wastewater system serving a two-bedroom residence is proposed for Lot 5B (Staff assumes residence includes single-family dwelling).

SECTION 8.7.D – UTILITIES

PG. 164

- No findings.

**SECTION 8.8 – LEGAL REQUIREMENTS**

PG. 165

- The Applicant has submitted a draft deed for Lot 5A making reference to applicable easements (see Exhibit I).
- A draft deed relating to Lot 5B does not appear to have been submitted.
- Documentation relating to road maintenance agreements and homeowner associations have not been submitted.
  - Staff is unaware of all of the implications relating to established road maintenance agreements and established homeowner associations.

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**APPENDIX A – ROAD & DRIVEWAY STANDARDS**

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**SECTION 4 – GENERAL PROVISIONS RELATING TO ACCESSWAYS**

SECTION 4.B – REASONABLE ACCESS

PG. 8

- Lot 5A is proposed to be accessed from the south branch of the Warner Creek Extension.
- Lot 5B is proposed to be accessed from Baslow Lane.

SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS

PG. 8

1. GRADES

- Lot 5A – the driveway that will serve Lot 5A does not appear to exceed a 10% grade.
- Lot 5B – the Applicant has submitted a driveway profile (Exhibit P) illustrating the grade of the existing Woods Road.
  - The submitted driveway profile does not illustrate the final grade of the driveway, which should not exceed 10% grade. Should the driveway contain the same profile as what is existing, the driveway will more than certainly exceed a 10% grade in some areas.

2. TOPOGRAPHY

- Lot 5A – the proposed driveway will seemingly avoid all of the features noted in this subsection.
- Lot 5B – the proposed driveway does not appear to avoid steep slopes, which seems to be confirmed by the submission of the existing driveway profile (see Exhibit P).
  - Further confirmation of the degree of slopes impacted (similar to the analysis in Exhibit M) may be required by the Board to make a more informative decision.

3. RADII

- The Board should take note of any topography concerns during the site visit on Saturday, September 19, 2020 @ 8:30 AM.
- The Applicant shall ensure that all turning radii are satisfactory to the Underhill-Jericho Fire Department.
- In regards to this particular project, turning radii appear to only be applicable for the turnaround areas at the terminus of the driveways.
  - *Note: the turnaround area for Lot 5A may not be long enough as measured from the edges of the driveway, while a turnaround area for Lot 5B has not been depicted.*

- 4. *CURBS*
  - 5. *GEOTEXTILES*
  - 6. *DRAINAGE*
  - 7. *SLOPES, BANKS & DITCHES*
  - 8. *WET AREAS*
  - 9. *CULVERS*
  - 10. *STREAM CROSSINGS*
  - 11. *BRIDGES*
  - 12. *DESIGN*
- The Board should determine if the proposed turning radii is satisfactory should the Underhill-Jericho Fire Department not reply.
  - Does not apply.
  - Does not apply.
  - The Applicant should provide more information relating to drainage for both lots during the hearing, and if necessary, the Board should consider requesting additional information.
    - *Drainage in the vicinity of Lot 5A was partially the center of an Appeal application in 2017 (DRB-17-01); the creation of an additional lot and additional impervious surface should be addressed.*
    - *The Board should inquire about the drainage patterns relating to the Lot 5B upgraded driveway.*
  - The Applicant shall ensure that ditches will be provided where necessary to prevent infiltration of water into the gravel subbase, and to conduct storm drainage to waterways and absorption areas.
  - Staff makes no findings.
  - The Applicant has not provided any information relating to culverts, which may be required depending on the additional information relating to drainage patterns.
  - Comments from the Road Foreman have been solicited and will be subsequently entered into the record.
  - This section does not apply.
  - This section does not apply.
  - Lot 5A depicts a turnaround area; however, the turnaround area does not appear to conform to the 12.5 ft. x 37.5 ft. requirement.
  - Lot 5B does not depict a turnaround.

**SECTION 5 – SPECIFIC PROVISIONS: DRIVEWAYS & DEVELOPMENT ROADS**

SECTION 5.A - DRIVEWAYS

**PG. 11**

- 1. *CONSTRUCTION & DESIGN REQUIREMENTS*
  - 2. *LOCATION*
  - 3. *WIDTHS*
- The proposed driveway and driveway improvements shall comply with the AOT B-71 Standards.
  - Both proposed Lots will be accessed by one curb cut on private roads – Warner Creek and Baslow Lane.
  - The following width requirements are required:
    - Lot 5A
      - From Warner Creek to WC022 → 20 ft. (B-71)
      - From WC022 to WC04 → 14 ft. (B-71)
      - Lot 5A Driveway → 12 ft. (B-71)
    - Lot 5B
      - From Gert’s Knob to BS004 → 20 ft. (A-76)
      - From BS004 to Lot 5B → 20 ft. (B-71)
      - Lot 5B Driveway → 12 ft. (B-71)

*WC022 = 22 Warner Creek*  
*WC04 = 24 Warner Creek*  
*BS004 = 4 Baslow Lane*  
*A-76 = AOT A-76 Standards*  
*B-71 = AOT B-71 Standards*

4. *NONCONFORMING LOTS*

- The Applicant should consider providing additional plans depicting the existing conditions of the identified widths, as well as any proposed modifications.
- Does not apply.