

TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6015

SUBJECT PROPERTY: 0 Stowe Hollow Road (#07-157.010)

PROPERTY OWNER & APPLICANT:

Stowe Hollow Road LLC/Nick Donahue
474 Stowe Hollow Road
Stowe, VT 05672

APPLICATION:

The Applicant, Nick Donahue of Stowe Hollow Road LLC (herein referred to as the "Applicant"), requests preliminary subdivision approval to subdivide the ±13.97-acre parcel located at 0 Stowe Hollow Road (#07-157.010) into nine (9) lots as follows:

Lot 1, consisting of ±1.62 acres; Lot 2, consisting of ±0.87 acres; Lot 3, consisting of ±1.09 acres; Lot 4, consisting of ±1.46 acres; Lot 5, consisting of ±3.43 acres; Lot 6, consisting of ±1.46 acres; Lot 7, consisting of ±1.32 acres; Lot 8, consisting of ±1.26 acres; and Lot 9, consisting of ±1.48 acres.

As proposed, Lots 1-9 are intended for residential development with each lot containing a single-family dwelling, associated parking, and related improvements. Lots 6-8, as proposed, will contain shared wastewater disposal areas to serve Lots 1-8. Lot 9 will contain its own separate wastewater disposal area. Each lot will be served by on-site potable water. A 100' perimeter greenbelt setback is shown along the northern, eastern, and southern property boundaries. The parcel is located within the VIL-PUD zoning district and is served by Stowe Hollow Road, a Class 2 Town Highway. The parcel is currently undeveloped. The application was referred to the Development Review Board as a major subdivision under the Town of Stowe Subdivision Regulations (effective through July 16, 2012). Under the subdivision provisions the application requires preliminary subdivision review. There are no other known or identified prior conditions of subdivision approval attached to the parcel.

The Development Review Board's procedural history and relevant findings are attached.

REVIEW PROCESS:

(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)

An application for preliminary subdivision review was filed by Applicant Nicholas Donahue on May 7, 2019. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the DRB was scheduled for June 4, 2019 and warned by the Zoning Director in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on May 16, 2019. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on June 4, 2019 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Board Member Tyler Mumley recused himself given his professional involvement with the project. No other ex parte communications or conflicts of interests were reported.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Tyler Mumley, Mumley Engineering PC, 454 Mountain Road, Stowe, VT 05672
- Nick Donahue, 474 Stowe Hollow Road, Stowe, VT 05672
- Robert Herbst, 32 Clifton Ave, Marblehead, MA 01945
- Barbara Puddicombe, PO Box 963, Stowe, VT 05672

The following materials were submitted in support of the application and entered into the hearing record:

- Town of Stowe Development Application, dated 5/8/2019;
- Project Narrative, Project 18045 from Mumley Engineering, dated 5/8/2019;
- Town of Stowe Zoning Map, dated 5/8/2019;
- Ampersand Properties Limited Centre Village Unit Density Bank, no date;
- Preliminary Subdivision Plan prepared by Mumley Engineering, Sheet C-1, Sheet 1 of 2, dated 5/8/2019;
- Preliminary Site Plan prepared by Mumley Engineering, Sheet C-2, Sheet 1 of 2, dated 5/8/2019;
- Project Review Sheet- dated 3/11/2019;
- Emails from Ari Rockland Miller, Senior Agricultural Development Coordinator, dated 3/8/2019;
- Email from Noel Dodge, dated 3/12/2019;
- Email from Yvonne Basque, Historic Resources Specialist, dated 3/1/2019;
- Email to Shannon Morrison, dated 11/8/2018;
- Visual Analysis prepared by Mumley Engineering, no date;

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

FINDINGS OF FACT & CONCLUSIONS OF LAW:

The Applicant's request for preliminary subdivision approval was reviewed by the Stowe Development Review Board (DRB) for conformance with applicable requirements including the following:

Town of Stowe Zoning Regulations (as adopted October 9, 2018)

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 13.8- Stowe Village PUD

Town of Stowe Subdivision Regulations (effective through July 16, 2012)

- Section 2 – General Provisions
- Section 3- Administration and Enforcement
- Section 4- Submission Requirements
- Section 5- Planning and Design Standards

During its review of this application, the Board made the following Findings of Fact:

SUBDIVISION REGULATIONS

SECTION 3- GENERAL SUBDIVISION APPLICATION PROCEDURES

1. **Section 3.1(3):** Major subdivisions are defined as all subdivisions that propose more than five lots. Major subdivisions require submittal of a preliminary application and a final application. Both applications require separate notifications and hearings as prescribed in the regulations. The Applicant proposes a 9-lot subdivision. Staff referred the application to the Board as a major subdivision requiring preliminary review. Preliminary subdivision approval does not constitute approval of a subdivision plat for recording the town lands records, rather intended to document application and submission requirements for final subdivision review.

SECTION 5.1 – GENERAL PLANNING STANDARDS:

2. **Section 5.1(1) – Character of Land for Subdivision:** Prior to the approval of a subdivision plat, the subdivider has the responsibility to satisfy the Board that the land to be subdivided is of such a character that it can be used for the intended purposes without undue adverse impact on public health or safety, or the environment or, neighboring properties or the rural and historic character of the community as outlined in the regulations. Subdivision plats shall conform to the zoning regulations, any interim zoning, subdivision regulations, and other applicable statutes, ordinances, bylaws and/or regulations. In addition, subdivision plans should be in general accordance with Stowe’s Municipal Plan. The parcel to be subdivided is forested and contains steep slopes, mapped wetlands, and associated wetland buffer. The Applicant proposes a 9-lot subdivision with each lot intended for residential development (single-family dwellings). The proposed development road is shown to be approximately 16’ in width with a 50’ right-of-way. The Applicant provided testimony regarding the proposed layout, access, and utility/septic improvements. During the hearing the Board discussed future building heights and designs and the need to be compatible with the character of the community.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(1), Character of the Land for Subdivision.

3. **Section 5.1(2) – Natural and Scenic Features:** All subdivisions shall be designed to prevent undue adverse impact on: brooks, streams, water bodies, ground water resources and wetlands; prime agricultural soils, farmland resources and scenic meadowland; important forest resources; aesthetic resources and scenic vistas, including views onto and arising from subject property. In order to preserve natural and scenic features, the Board is authorized to:
 - a) Establish or limit the building site or other improvements to avoid the parcelization, isolation, or destruction of natural features;
 - b) Require setbacks from property boundaries or identified natural features greater than specified in the Zoning Regulations in order to create buffer zones and prevent degradation to significant natural features;
 - c) Establish preserve areas where development is restricted or prohibited and specific land management techniques are employed to protect or enhance significant natural features.

The parcel to be subdivided is forested and contains wetlands, prime agricultural soils (statewide [portions]), and potential scenic views of the village. There are no mapped streams, ponds, or other surface water sources shown on the ANR Natural Resources Map, however during the hearing the Applicant testified that the parcel contains two unmapped watercourses or drainage ditches. The proposed subdivision includes a 100’ greenbelt setback along the northern, eastern, and southern perimeter. A designated building zone is proposed on each lot. The building zones on Lots 5 & 6 contain portions of Class 2 wetland buffer. During the hearing the Board indicated that any future application submitted should be designed to minimize impact on the natural and scenic features.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(2), Natural and Scenic Features.

4. **Section 5.1(3) – Protection of Significant Wildlife Habitat and Natural Communities:** All mapped significant wildlife habitat areas are required to be shown on subdivision site plans. If any portion of a proposed subdivision is within an identified significant wildlife habitat area the DRB may require the submission of a wildlife habitat assessment, prepared by a wildlife biologist or comparable professional, to identify potentially impacted habitat and provide recommended management strategies. Vermont Fish and Wildlife Department staff may also be consulted to provide guidance with this review. According to the ANR Natural Resources Atlas, the parcel proposed to be subdivided does not contain any significant natural communities, deer wintering areas, or natural communities. The Applicant provided an email from State of Vermont staff indicating that it is doubtful that the parcel contains a functional deer wintering area but additional information would be needed to make a final determination.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(3), Protection of Significant Wildlife Habitat and Natural Communities.

5. **Section 5.1(4) – Historic Resources and Community Character:** Subdivisions are required to minimize undue adverse impact on historic sites and the character of the Town. Subdivisions in or adjacent to existing village areas, including Stowe Village, Lower Village, Moscow and designated commercial growth centers, shall be designed to reflect traditional village settlement patterns characterized by an appropriate scale of development, an interconnected street network with development oriented to the streetscape, a mix of land uses and pedestrian access. Subdivisions in rural areas shall result in minimum undue adverse impact on the rural landscape as characterized by open fields, forested mountains and hillsides. The rural character exists due to the scenic vistas, large uninterrupted forested areas, open fields along public roads, and limited development along roads. Individual lots and building zones shall be delineated so as to mitigate the visual impact of new development on views from existing roadways, adjacent properties, and offsite vantage points. The parcel is undeveloped and contains existing forest lands. No historic features are shown to exist on the parcel. The parcel is located within the VIL-PUD. The Applicant provided testimony that the proposal requires significant clearing and grading. Given the location of the parcel, its character is defined by both the traditional village settlement patterns and the rural landscape. During the hearing, the Board raised concerns over the potential visual impacts to the village.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(4), Historic Resources and Community Character.

6. **Section 5.1(5) – Reserved Strips:** No privately-owned reserved strip which controls access to any part of the subdivision or to any other parcel of land from any street or from any land dedicated to public use shall be permitted. No reserved strips are proposed. The subject parcel is served by a 50' right-of-way connecting to Stowe Hollow Road, a Class 2 Town Highway, as shown on the plans prepared by Mumley Engineering. The 50' right-of-way includes the cul-de-sac terminating at Lots 4 and 5.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(5), Reserved Strips.

7. **Section 5.1(6) – Screening and Landscaping:** The DRB is authorized to require the planting or preservation of trees or other vegetation to provide visual screening of development or to otherwise soften and/or lessen the impact of development on natural features and scenic vistas. Street trees along public or private roadways may also be required in order to establish a canopy effect in developed areas and where existing street trees are already present in the vicinity. The size, type, or location of such trees shall depend on the particular land parcel. Section 4.6 (Landscaping Standards) of the Zoning Regulations shall be used as a guideline for any required landscaping. A maintenance plan of all existing and proposed landscaping shall be prepared and submitted for review. Such a plan shall address specific measures to be taken to ensure the survival, and if necessary, replacement, of designated landscaping during and after the construction; parties to be responsible for ongoing maintenance; and any Town obligations for maintenance. The Applicant's preliminary subdivision plan shows proposed treelines. During the hearing the Board discussed options to screen the development or otherwise soften and/or lessen the impact of development on natural features and scenic vistas.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(6), Screening and Landscaping.

8. **Section 5.1(7) – Pedestrian Access:** The Board is authorized to require rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses. No sidewalks exist along Stowe Hollow Road. During the hearing, a property abutter inquired about the possibility of including a right-of-way through the property for a pedestrian connection to the village. The Applicant provided testimony that they would further investigate possible pedestrian connections to the village and public lands.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(7), Pedestrian Access.

9. **Section 5.1(8) – Traffic:** The regulations require traffic to be generated by the proposed subdivision not to create unreasonable traffic congestion or cause unsafe conditions regarding use of existing roadways. To satisfy this standard, the Board is authorized to request the preparation of a traffic impact study to address all concerns relative to traffic impact and safety. The DRB shall use nationally accepted traffic engineering standards when evaluating the impact of traffic. The Applicant proposes a total of nine (9) lots intended on single-family dwellings. The Applicant did not provide estimated total vehicle trips or a.m./p.m. peak hour trips. According to the VTrans Traffic Study Guidelines (last revised September 2018), a traffic impact study should be considered when the proposed development generates 75 or more peak hour trips directly accessing the State Highway System. During the hearing the Applicant testified that the expected traffic to be generated by the proposed subdivision is low impact and below seventy-five (75) peak hour trips.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(8), Traffic.

10. **Section 5.1(9) – Municipal Facilities:** The proposed subdivision will not create an undue burden on municipal facilities or create an unreasonable demand for municipal services. Staff requested comments on the proposal from respective Town departments including the Department of Public Works, Fire Department, Stowe Electric, Police Department, EMS, and Parks and Recreation. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services. Dave Kresock, Director of Operations for Stowe Electrical Department provided comments dated 5/23/2019 including the following: "*Owner should consult*

with an electrical engineer to design the primary feed to the development and layout of secondary services to each home and provide detailed drawings for SED review. Owner will also need to submit completed Stowe Electric Line Extension Application and Easement forms before SED work can begin.” During the hearing the Applicant testified that they had discussed the project with the Fire Department and that the department did not have concerns over the road but did request the grade of the individual driveways be reduced.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(9), Municipal Facilities.

11. **Section 5.1(10) – Lot Configuration:** Flag lots, elongated lots, and other odd shaped lots which include narrow strips of land are prohibited unless the Board finds the configuration is appropriate given the existing topography and natural features, existing development, or the existing configurations of internal or adjacent lots. The proposed lots are all of regular shape.

Conclusion: The Board finds the proposed preliminary lot configuration is of regular shape, avoids flag and elongated lots, and contains sufficient buildable area. The Board further concludes the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(10), Lot Configuration.

12. **Section 5.1(11) – Building Zone:** The Board must find that the proposed subdivision provides adequate building sites for each proposed lot. Such sites may be restricted to a specific building zone, to be depicted on the plat, located and sized to ensure compliance with all of the provisions of Section 5 of the regulations. The preliminary subdivision plan shows designated building zones for Lots 1-19 as shown on the subdivision plan prepared by Mumley Engineering. As noted above, the building zones on Lots 5 & 6 contain portions of Class 2 wetland buffer.

Conclusion: The Board finds the preliminary building zones contain adequate area for their intended purpose and use. The Board further concludes the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(11), Building Zone.

13. **Section 5.1(12) – Fire Protection Facilities:** The regulations require adequate water storage or distribution facilities for fire protection to be available. This may include the installation of ponds and dry fire hydrants and the extension of public water with fire hydrants. Where practicable, or where required by the Board, fire hydrants shall be installed by the subdivider. Construction of driveways and roads shall be in general compliance with the Stowe Fire Department Construction Standards where applicable. No fire protection facilities are provided. The Applicant provided testimony regarding their meeting with the Fire Department.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(12), Fire Protection Facilities.

14. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** Whenever a subdivider submits a proposal for development on only a portion of a parcel, the Board is authorized to require a general indication of the intended uses of the remaining portion of land. Such an indication shall include access, type of use, intensity of use, and phasing. The Board is authorized to require the execution of a development agreement between the applicant and Town which ensures the ongoing integration of future

development with each phase of subdivision or may require a note on the plat restricting future development of the remaining land without further review by the Board. No future development plans are provided in the application materials.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(13), Discloser of Subsequent Development Plans.

15. **Section 5.1(14) – Private Enforcement Mechanisms:** As a condition of subdivision approval, the Board may require the formation of a homeowner’s association, consisting of the owners of all properties within the subdivision, to ensure the continual maintenance of shared driveways and other shared facilities. The Board shall require that such enforcement mechanisms be recorded before any zoning permits are issued. The Applicant did not provide draft Homeowner’s Association provisions which outline the maintenance of the common elements. Identified shared elements include the road, shared septic/wastewater systems, stormwater pond, and any privately-owned utilities within the 50’ right-of-way. The Applicant testified that a Homeowners Association would be created to maintain the shared infrastructure.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(14), Private Enforcement Mechanisms.

16. **Section 5.2 – Prominent Hillside and Ridgelines:** The lots are not within the RHOD.

Conclusion: This provision is not applicable.

17. **Section 5.3 – Open Space and Cluster Development:** Except for exemptions granted under Section 5.3(6), the Board shall, in subdivisions having lots or potential dwelling sites for five (5) or more family dwelling units (excluding accessory apartments), and for all Planned Residential Developments (PRDs), require that the subdivision plat designate one (1) or more areas of character, size, shape and location suitable to be used as open space, park or playground. The Board may require the designation of open space when a subdivision consists of the creation of additional lots from a previously approved subdivision where the total new and previously approved lots is greater than four (4) lots.

The provided subdivision plan does not identify or include designated open space, park or playground. The Applicant did not request an exemption under Section 5.3(6).

“6) Open Space Exemption: An applicant may request an exemption from this open space requirement in instances where a proposed subdivision is poorly suited for open space design because of unique characteristics of the land or other constraints related to site conditions. Such a request shall be submitted to the DRB, in writing, together with the application for preliminary layout approval. The request for exemption shall describe the rationale for not incorporating open space into the subdivision design and shall explain how the proposed layout achieves other standards set forth in Section 5 of these regulations. The DRB will determine whether an exemption is warranted and notify the applicant concurrent with the DRB’s decision to approve, approve with conditions or disapprove the preliminary layout application.”

During the hearing the Applicant testified that they are not proposing any open space and have not requested an exemption. The parcel is located adjacent to town-owned lands including Memorial Park. It was noted that the subdivision proposal includes a 100-ft greenbelt setback along Stowe Hollow Road and the northern and southern property lines.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. The Applicant did not request an open space exemption and is therefore required to document and demonstrate conformance with Section 5.3, Open Space and Cluster Development prior to obtaining final subdivision approval.

18. **Section 5.4 – Road Standards and Coordination with Public Highways:** All proposed public and private roads shall be designed to ensure the safe and efficient movement of vehicles. Roads shall be logically related to topography so as to produce usable lots and reasonable road grades and shall be in harmony with existing and proposed public highways. Wherever extensions of proposed roads could rationally provide public access to adjacent properties or connection to existing public State or Town highways, a right of way across the subdivider's property may be required. Section 16.48 of the Zoning Regulations define the term 'Driveway' as follows... "A roadway used to access not more than three (3) dwelling units that is in private ownership." The Applicant is proposing a development road to serve the nine (9) proposed residential lots.

Section 3.1(3) of the town Zoning Regulations states "*All access shall meet the requirements of Section 3.1 (Access Management and Frontage Requirements) of the Stowe Zoning Regulations*". Section 3.1(3) states "*Generally, no property should be served by more than one (1) driveway access to State or Town highways except where multiple accesses will serve to enhance traffic safety; promote efficient transit service and/or serve multiple uses on single parcels with extensive road frontage.*" The Applicant proposes a single curb cut to provide access to the nine (9) lots.

Section 3.1(4) of the town Zoning Regulations states "*In appropriate instances, including the presence of compatible adjacent uses; areas characterized by congestion, frequent and/or unsafe turning movements; parcels having direct access to more than one public road; and within districts with specific access management standards, the DRB may require provision for shared access between adjoining properties or may limit access to the property to a side street or secondary road. Requirements for shared access shall be made either at the time of site plan approval if similar provision has been made on contiguous parcels or contingent upon future development of neighboring properties.*" This provision is not applicable.

Section 5.4(4) of the town Subdivision Regulations provide road design standards for public and private roads. All proposed roads intended for consideration for acceptance as Town highways shall be built in conformance with the standards set forth in the "Town of Stowe Highways and other Public Ways and Public Places Ordinance". During the hearing the Applicant testified that the road is not designed or intended to be considered for acceptance by the Town and will remain in private ownership. It was noted that the proposed road would be designed to meet VTrans Class 3 road standards.

For private roads, the regulations require "A registered engineer shall certify that any new private roads were constructed in accordance with the DRB approval. Such certification shall be required for any section of road serving a new development before a Certificate of Occupancy is issued for said development."

Section 5.4(5) of the town Subdivision Regulations state "*Every subdivision plat shall show the necessary right-of way for all proposed roads, as required by these regulations and the Stowe Zoning Regulations, regardless of whether the proposed road is intended to be accepted by the Town. In the event the road is not intended for acceptance by the Town, the mechanism with which the right-of-way is to be maintained, owned and/or conveyed shall be clearly documented.*" Section 3.1(1) of the town Zoning Regulations requires a permanent easement or right-of-way not less than fifty (50') feet wide [In the case of a right-of-way serving not more than three (3) family dwelling units or lots, the right-of-way may not be less than twenty-five (25') feet wide]. The proposed development road appears to have a 50' right-of-way. The Applicant did not provide information on the maintenance of the common elements or the construction details of the private road but indicated that it would be designed to meet VTrans Class 3 road standards.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.4, Road Standards and Coordination with Public Highways.

19. **Section 5.5 – Utilities and Stormwater Management:** All subdivisions shall make adequate provisions for stormwater and required utilities. Section 5.5 (2) states *“The DRB is authorized to require the underground installation of power and telephone lines wherever it is appropriate to maintain and protect the visual character and property values of an area or neighborhood. In addition, the DRB may place restrictions on the location and design of utility transformers, enclosures, meter boards and related equipment in order to minimize adverse visual impact.”* The Applicant provided a site grading plan prepared by Mumley Engineering. During the hearing it was noted that under an acre of impervious surfaces are proposed and the project will not require a State Stormwater Permit but will be subject to review under the town’s stormwater requirements.

Section 5.5 (4) states *“All stormwater management activities required by the Town shall adhere to current State of Vermont erosion prevention and sediment control standards and to the requirements of Section 3.12 of the Stowe Zoning Regulations.”* The Applicant provided a site grading plan prepared by Mumley Engineering. The plan shows a stormwater pond located primarily on Lot 6. An unlabeled culvert appears to be proposed to provide drainage for a watercourse running east/west. No other stormwater improvements appear to be proposed.

Conclusion: The Board finds the proposed preliminary subdivision is subject to the requirements of the Town of Stowe Subdivision Regulations, as amended through July 16, 2012, and as such requires the submission of a final subdivision application. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.5, Utilities and Stormwater Management.

SECTION 13.8 STOWE VILLAGE PUD

20. The subject parcel is located within the Stowe Village PUD and requires review under applicable regulations. Within the Stowe Village PUD, the parcel is located in the Residential Zone.
21. The Applicant proposes lots in excess of ten thousand (10,000) sq. ft. per family. One family and two-family dwellings are a permitted use on lots in excess of ten thousand (10,000) sq. ft.
22. The regulations state that there shall be no more than three hundred (300) Dwelling Units in the Stowe Village PUD, and this density shall only be permitted if no business or industrial units are built. The Applicant provided the last known existing and proposed density calculations by Ampersand.
23. The regulations require a total building coverage on the entire Stowe Village PUD not to exceed fifteen (15%) percent overall. The Applicant provided the last known existing building coverages.
24. Setbacks within the Stowe Village PUD are defined as the distance between any structure and the lot line. In the Residential Zone Setbacks are as follows: Front 30 ft; Side 10 ft; Rear 40 ft; Perimeter Greenbelt 100 ft. The Perimeter Greenbelt does not include that area of the zone contiguous to other zones within the Stowe Village PUD. The proposal appears to meet the setback requirements for the residential zone.
25. Unit Density Bank- The Applicant provided the last known unit density bank.
26. In the Residential Zone, two (2) parking spaces are required for each Dwelling Unit. The proposal appears to be designed to accommodate two parking spaces for each lot.

DECISION

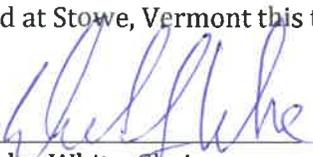
The request for preliminary subdivision approval for a 9-lot subdivision (Project 6015) of the parcel #07-157.010 as described in the application dated 5/8/2019 and associated supporting materials, and the preliminary subdivision plan prepared by Mumley Engineering, Sheet C-1, Sheet 1 of 2, dated 5/8/2019, is hereby approved (6-

0) by the Development Review Board subject to obtaining final subdivision approval in accordance with the requirements of the Town of Stowe Subdivision Regulations.

Voting favor: D. White, D.Clymer, T. Hand, M. Diender, C.Walton, A. Volansky

Voting to deny: None

Dated at Stowe, Vermont this the 17 day of June 2019

By: 
Douglas White, Chair

NOTICES:

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #5 (802-505-5367) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding 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 Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke a permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.