

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



PROJECT: 6145

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

Lot 1, consisting of ±1.40 acres; Lot 2, consisting of ±0.86 acres; Lot 3, consisting of ±1.13 acres; Lot 4, consisting of ±1.89 acres; Lot 5, consisting of ±3.71 acres; Lot 6, consisting of ±1.33 acres; Lot 7, consisting of ±1.11 acres; Lot 8, consisting of ±1.19 acres; and Lot 9, consisting of ±1.40 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 individual 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. There are no other known or identified prior conditions of subdivision approval attached to the parcel, however the parcel is part of the Village PUD Master Plan approved by the Planning Commission and originally incorporated into the Zoning Regulations in 1984 and later amended. The application was reviewed by 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.

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 October 10, 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 November 19, 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 October 31, 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 November 19, 2019 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Board member Tom Hand 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

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

- Town of Stowe Development Application, dated 10/10/2019;
- Project Narrative, Project 18045 from Mumley Engineering, dated 10/21/2019;
- Project Narrative, Project 18045 from Mumley Engineering, dated 11/13/2019;
- Village PUD Density Analysis, dated 7/11/2019;
- Letter from Butternut Mountain Farms, Fran Sladyk, dated 9/11/19;
- Emails from Ari Rockland Miller, Senior Agricultural Development Coordinator, dated 9/19/2019;
- Email from Noel Dodge, dated 9/6/2019;
- Email to Shannon Morrison, dated 11/13/2019;
- Email from Yvonne Basque, Historic Resources Specialist, dated 9/27/2019;
- Declaration of Covenants, Conditions, and Restrictions of the Ridge at Stowe Hollow Stowe, Vermont, no date;
- Proposed Subdivision Layout prepared by Mumley Engineering, Sheet C-1, Sheet 1 of 10, dated 10/21/2019;
- Proposed Site Plan prepared by Mumley Engineering, Sheet C-2, Sheet 2 of 10, dated 10/21/2019;
- Partial Site Plan prepared by Mumley Engineering, Sheet C-3, Sheet 3 of 10, dated 10/21/2019;
- Partial Site Plan prepared by Mumley Engineering, Sheet C-4, Sheet 4 of 10, dated 10/21/2019;
- Roadway Plan & Profile prepared by Mumley Engineering, Sheet C-5, Sheet 5 of 10, dated 10/21/2019;
- Landscape Plan prepared by Mumley Engineering, Sheet C-6, Sheet 6 of 10, dated 10/21/2019;
- Wastewater Systems prepared by Mumley Engineering, Sheet C-7, Sheet 7 of 10, dated 10/21/2019;
- Stormwater Systems prepared by Mumley Engineering, Sheet C-8, Sheet 8 of 10, dated 10/21/2019;
- Details prepared by Mumley Engineering, Sheet C-9, Sheet 9 of 10, dated 10/21/2019;
- Details prepared by Mumley Engineering, Sheet C-10, Sheet 10 of 10, dated 10/21/2019;
- The Ridge at Stowe Hollow Visual Assessment prepared by ELD Architecture- Lot 4 (4 pages), no date;
- The Ridge at Stowe Hollow Architectural Drawings prepared by ELD Architecture (3 pages), no date;
- Comments from Stowe Electrical Department, dated 11/13/2019.

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 the application, the Board made the following Findings of Fact:

DIMENSIONAL REQUIREMENTS/SECTION 13.8 STOWE VILLAGE PUD:

1. **Zoning District.** The subject parcel contains ±13.97-acre and is located within the Stowe Village PUD as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). Within the Stowe Village PUD, the parcel is located in the Residential Zone.
2. **Lot Area, Lot Width.** The Applicant proposes a 9-Lot subdivision of the ±13.97-acre parcel. Lot 1, consisting of ±1.40 acres; Lot 2, consisting of ±0.86 acres; Lot 3, consisting of ±1.13 acres; Lot 4, consisting of ±1.89 acres; Lot 5, consisting of ±3.71 acres; Lot 6, consisting of ±1.33 acres; Lot 7, consisting of ±1.11 acres; Lot 8, consisting of ±1.19 acres; and Lot 9, consisting of ±1.40 acres. The Applicant proposes lots in excess of ten thousand (10,000) sq. ft. per family. There is no minimum lot width in the VIL-PUD district.
3. **Setbacks.** 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.
4. **Maximum Building Coverage.** 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 for the VIL-PUD.
5. **Use.** The Applicant proposes a 9-Lot subdivision. One family and two-family dwellings are a permitted use on lots in excess of ten thousand (10,000) sq. ft.
6. **Height.** The maximum building height in VIL-PUD is 35' feet where evidence is shown that this is more advantageous for a particular building lot. No buildings are proposed under this application. The covenants provided limit building height to be 28'.
7. **Density.** 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 unit density bank. According to the information provided there are ninety-five (95) residential units remaining.
8. **Misc.** In the Residential Zone, two (2) parking spaces are required for each Dwelling Unit. During the hearing the Applicant testified each parcel has been designed to accommodate two (2) parking spaces.

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. During the hearing the Applicant provided testimony regarding the proposed layout, access, utility/septic improvements, steep slopes, and soils. The Board had a general discussion on how the proposal has been designed to avoid adverse impact on public health, safety, the environment, neighboring properties, and the rural and historic character of the community. During the hearing the Applicant testified that they intend to provide a slope stability analysis and erosion control plans as part of the final application.

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 including providing a geotechnical slope analysis and erosion control plans.

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 and scenic views of the village. There are no mapped streams, ponds, or other surface water sources shown on the ANR Natural Resources Map, however the Applicant’s drawings depict the parcel containing three (3) unmapped watercourses or drainage ditches underneath Stowe Hollow Road running downhill throughout the parcel. The proposed subdivision includes a 100’ greenbelt setback along the northern, eastern, and southern perimeter. A designated building zone is proposed on each lot. During the hearing the Applicant provided testimony regarding existing natural features and how the proposal has been designed to prevent impacts to the wetland and wetland buffers located on the parcel. The Applicant provided a letter from licensed forester Fran Sladyk. The letter indicates the parcel contains Bush Honeysuckle, an invasive plant that creates a dense, impenetrable ceiling within the understory choking out native regeneration. The Board noted that

as part of final subdivision review, the Applicant will need to provide an invasive control plan to prevent the spread of Bush Honeysuckle and any other invasive plant species.

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 and provide revised homeowners association documents clearly indicating proposed protection measures for the wetland and wetland buffer, as well as an invasive plant control plan.

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 but does contain Class II wetlands and associated wetland buffers. Wetlands and wetland buffer areas are located on proposed Lots 5 & 6. During the hearing the Applicant described these areas and indicated that protection measures would need to be developed for state permitting and included in updated homeowners association documents clearly indicating proposed protection measures. The Applicant provided letters and emails from Fran Sladyk- Licensed Forester, Ari Rockland Miller-Senior Agricultural Development Coordinator, Noel Dodge- Wildlife Biologist, and Shannon Morrison- State of Vermont Wetlands Program- all indicating the project is not expected to have adverse impacts to wildlife or natural communities.

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 and provide revised homeowners association documents clearly indicating proposed protection measures for the wetland and wetland buffer.

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. The subdivision regulations define village and rural areas as follows:

Area, rural: Any area in the Town of Stowe not defined as a village area.

Area, Village: All areas within the VC, VR, MRV, MCR, LVC, and MC Zoning Districts.

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 is characterized by a forested hillside overlooking the historic village center. No historic features are shown to exist on the parcel. The Applicant provided an email from the State Historic Preservation Office staff indicating they have no concerns with the project. The proposed subdivision plan shows the location of nine (9) building zones, one on each lot. During the hearing the

Applicant provided an overview of the proposed clearing and landscaping plan, architectural standards, visibility analysis, and lot configuration. The visibility analysis depicted a potential buildout of one of the lots taking into consideration the proposed mitigation measures (landscaping and architectural standards). The Applicant testified that the covenants will restrict overall building size to a minimum of 2,000 sf and a maximum of 4,000 sf. During the hearing the Board voiced continued concerns regarding the proposed clearing and overall visibility of the project and noted that additional information would be needed as part of the final subdivision review to determine whether the proposal has been designed 'as to mitigate the visual impact of new development on views from existing roadways, adjacent properties, and offsite vantage points' and to minimize undue adverse impact on historic sites and the character of the Town. The Applicant provided an email from Yvonne Basque, Historic Resources Specialist at the State Historic Preservation Office indicating that the project is not expected to have any adverse impacts on historic resources.

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 including a full visual analysis of the proposed subdivision taking into account proposed clearing, architectural standards, and building zone configuration.

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 provided a Landscaping Plan depicting the location of proposed landscaping and schedule of clearing. The plans indicate five (5) proposed clearing areas each with an individual clearing and vegetation plan. During the hearing the Applicant explained how the proposed landscaping screens the development and has been designed to soften and/or lessen the impact of development on natural features and scenic vistas. The Board reported that although the enhanced plan is of much improvement, additional information would be needed for the final subdivision review. The Board noted a full planting and maintenance plan regarding how the trees within the no-cut zone will be kept healthy, as well as specific size, type, location, etc. must be provided with the final subdivision review application. In addition, the Board asked for calculations and percentages regarding the existing vs proposed tree cover.

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. The provided plan shows the location of a 10' pedestrian easement between Lots 5 & 6 dedicated to the Homeowner's Association. The proposed easement will provide pedestrian access to the open space and wetlands area, as well as pedestrian connections to the village and adjacent public lands. During the hearing the Applicant testified that there are no plans to clear or create a community open space, rather provide for a connection to the natural open space provided for on the parcel and adjacent 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 provided estimated total vehicle trips or a.m./p.m. peak hour trips to include nine (9) trips in the evening peak hour and eighty-six (86) daily trips (ITE 9th Edition, Use #210). According to the VT Agency of Transportation Traffic Study Guidelines (last revised September 2018), a traffic impact study should be considered when the proposed development generates seventy-five (75) or more peak hour trips directly accessing the State Highway System.

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 Applicant must demonstrate that 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. The proposed lots will be served by onsite wastewater systems and potable water sources.

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 1-9 as shown on the subdivision plan prepared by Mumley Engineering. The building zone for Lot 1 is triangular shape and does not appear to contain space for any residential accessory structures. During the hearing the Applicant testified that each lot has been designed to contain sufficient space for a dwelling.

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.

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 and provide written comments from the Fire Department indicating the proposal conforms with necessary access requirements and provides for any necessary 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), Disclosure 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 provided draft Homeowner’s Declaration of Covenants which outline private restrictions within the development. The provided covenants discuss the maintenance of the common elements, including the road, culverts, ditches, stormwater pond, and privately-owned utilities within the 50’ right-of-

way. As noted above, the Applicant will be required to submit revised Homeowners Association provisions containing protection measures of wetlands and wetland buffer.

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 proposed subdivision plan identifies designated open space to include the area of the wetland and wetland buffer. The regulations require that the Open Space be noted on the final plat. During the hearing the Board agreed that wetlands provide open space and aesthetic values. The Applicant reported that an easement will be granted allowing the homeowners access to the open space.

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 is 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. During the hearing the Applicant testified that the road is proposed to remain in private ownership. 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 provided information on the maintenance of the common elements and the construction details of the private road.

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, translosures, meter boards and related equipment in order to minimize adverse visual impact.*” The Applicant provided wastewater plan and stormwater systems plan prepared by Mumley Engineering. The project narrative indicates the involves more than one acre of disturbance and thus will require a State of Vermont Construction General Permit.

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 plans prepared by Mumley Engineering. The plan shows a stormwater detention pond located primarily on Lot 7 and two (2) gravel wetlands. During the hearing the Applicant reported that the project will require a State of Vermont Stormwater Operational Permit which includes annual reporting.

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.

DECISION

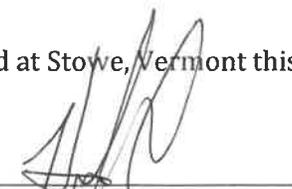
On a motion by F.Aumand, seconded by P.Roberts, the Stowe Development Review Board hereby approves the Applicant’s request for preliminary subdivision approval for a 9-lot subdivision (Project 6145) of the parcel #07-157.010 as described in the application dated 10/10/2019 and associated supporting materials subject to obtaining final subdivision approval in accordance with the requirements of the Town of Stowe Subdivision Regulations and the following conditions of approval:

1. A final subdivision application must be submitted within twenty-four (24) months of this decision and shall include the following:
 - a. Application materials as specified in Section 4.2 of the Stowe Subdivision Regulations for final subdivision plan review along with a listing and description of any changes to the preliminary plan as approved herein.
 - b. A geotechnical slope stability analysis to ensure the steep slopes on the parcel can support the proposed development.
 - c. A final construction phasing schedule.
 - d. Calculations for proposed impervious surfaces and areas of disturbance.
 - e. An erosion and sediment control plan including standards to minimize erosion and sediment impacts from construction activity and soil disturbances.
 - f. Final versions of all required legal documentation, including easements, homeowners association covenants, maintenance agreements, density bank and lot coverage requirements, etc.
 - g. A visual analysis of the proposed subdivision incorporating proposed clearing, architectural standards, building zone configuration, and a description of how the proposed screening softens and/or lessens the impacts of development on natural features and scenic vistas.
 - h. A planting and maintenance plan including provisions on how the trees within the no-cut zone will be protected and kept healthy, as well as specific size, type, location, etc. of all proposed landscaping. The planting plan shall address specific measures to be taken to ensure the survival, and if necessary, replacement, of proposed landscaping during and after the construction, and parties to be responsible for ongoing maintenance.
 - i. Calculations and percentages regarding the existing vs proposed tree cover.
 - j. An invasive control plan to prevent the spread of Bush Honeysuckle and any other identified invasive plant species.
 - k. Written comments from Stowe Fire Department.
2. The subdivision plan provided with the final subdivision application shall include the following plat notations:
 - "This plat is subject to the terms and conditions of subdivision approval by the Stowe DRB per the Subdivision Regulations of the Town of Stowe. The terms and conditions of the approval and related information are on file in the Stowe Zoning Office".
 - "A registered engineer shall certify that any new private roads were constructed in accordance with the DRB-approved specifications. Such certification shall be required for any section of road serving a new development before a Certificate of Occupancy is issued for said development".
 - "The lands designated as open space on this plat shall remain in open space. The open space shall run with the land and shall apply to future conveyances of all or parts of the herein open space, unless otherwise specifically approved by the DRB".
3. The 'Declaration of Covenants, Conditions, and Restrictions of the Ridge at Stowe Hollow Stowe, Vermont' shall be revised to include provisions for the protection and management of the wetlands and wetlands buffers during and after construction.

Voting favor: D.Clymer, F. Aumand, C.Walton, P. Roberts, A. Volansky, D. Kelly, L. Wasserman
Voting to deny: None

Motion PASSED 7-0

Dated at Stowe, Vermont this the 3 day of December 2019

By: 
Drew Clymer, 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.