

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



PROJECT: 6379

SUBJECT PROPERTY: 0 West Hill Road (#10-079.000)

PROPERTY OWNER & APPLICANT:

Gristmill Properties LLC/ David Lachtrupp
5430 Waterbury Stowe Road
Waterbury Center, VT 05677

APPLICATION:

The Applicant, David Lachtrupp of Gristmill Properties LLC (herein referred to as the "Applicant"), requests preliminary subdivision review to subdivide the ±25-acre parcel located at 0 West Hill Road (#10-079.000) into six (6) lots as follows:

Lot 1, consisting of ±3.0 acres; Lot 2, consisting of ±3.0 acres; Lot 3, consisting of ±3.0 acres; Lot 4, consisting of ±4.2 acres; Lot 5, consisting of ±5.0 acres; and Lot 6, consisting of ±4.7 acres.

As proposed, Lots 1-6 are intended for residential development with each lot containing a single-family dwelling, associated parking, and related improvements. As proposed, Lot 6 has access via individual driveway; Lots 2, 3, & 4 have access via shared driveway; and Lots 1 & 3 have access via a shared driveway. Each lot is proposed to be served by on-site potable water and on-site septic systems. The parcel is a split lot, as defined under the Town's Zoning Regulations and contains lands within both the Rural Residential 3 (RR3) and Rural Residential 5 (RR5) zoning districts. The proposed subdivision is served by West Hill Road, a Class 2 Town Highway. The parcel is currently undeveloped. 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 regulations, 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 David Lachtrupp on September 11, 2020. 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 October 20, 2020 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 1, 2020. 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 October 20, 2020 via virtual meeting hosted by Zoom, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. Members who participated in the review included: F.Aumand III, D.Clymer, C.Walton, P.Roberts, T.Hand, L.Wasserman, A.Volansky.

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

- John Grenier, P.O. Box 445, Waterbury, VT 05676
- David Lachtrupp, 5430 Waterbury Stowe Road, Waterbury Center, VT 05677

- Scott Coggins, 151 Upper Baird Road, Stowe, VT 05672
- Nancy & Paul Moody, 1322 West Hill Road, Stowe, VT 05672
- Pauline Lambert, 169 Upper Baird Road, Stowe, VT 05672
- Brendan O'Reily, 5430 Waterbury Stowe Road, Waterbury Center, VT 05677
- Alison Beckwith, 1069 Mountain Road, Stowe, VT 05672
- Elizabeth Benedict, 217 Horizons Lane, Stowe, VT 05672
- Steven McLafferty, 169 Upper Baird Road, Stowe, VT 05672
- Irene Rivera [no address provided]
- Kyle Walk- Town of Stowe Fire Chief (written comments)
- Harry Shepard- Town of Stowe DPW Director (written comments)

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

- Town of Stowe Development Application, dated 9/11/2020;
- Project Narrative, Re: Gristmill West Hill Development, West Hill, Proposed 6-Lot Subdivision, dated 9/21/2020;
- Overall Site Plan- Gristmill Builders LLC prepared by Grenier Engineering, Sheet 2 of 2, dated 9/21/2020;
- Public comments received from Scott Coggins, 151 Upper Baird Road, Stowe, VT 05672, dated 10/20/2020;
- Public comments received from Nancy & Paul Moody, 1322 West Hill Road, dated 10/20/2020;
- Public comments from Pauline Lambert, 169 Upper Baird Road, Stowe, VT 05672, dated 10/19/2020;
- Overall Site Plan- Gristmill Builders LLC prepared by Grenier Engineering, Sheet 2 of 2, dated 10/16/2020;
- Public comments Alison Beckwith, dated 10/20/2020;
- Written comments from Kyle Walk- Town of Stowe Fire Chief, dated 10/16/2020;
- Written comments Harry Shepard- Town of Stowe DPW Director, dated 10/20/2020;

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 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

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

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The subject parcel is located within both the Rural Residential 3 (RR3) and Rural Residential 5 (RR5) zoning districts as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).

2. **Lot Area, Lot Width.** The Applicant proposes to subdivide the existing lot into six (6) parcels: Lot 1, consisting of ±3.0 acres; Lot 2, consisting of ±3.0 acres; Lot 3, consisting of ±3.0 acres; Lot 4, consisting of ±4.2 acres; Lot 5, consisting of ±5.0 acres; and Lot 6, consisting of ±4.7 acres.

The minimum lot size in RR3 is three (3) acres. Lot Area is defined as *“The area or size of a lot, not including the land lying on the street side of the street line.”*

The minimum lot width in the RR3 district is 250 ft. Lot width is defined as *“The width of a lot measured at right angles to its lot depth at the minimum front yard setback.”*

Lot 4, proposed to be ±4.2 acres, is a split lot and contains lands within both the Rural Residential 3 (RR3) and Rural Residential 5 (RR5) zoning districts. Per Section 3.6(4)...the required minimum lot size shall be that needed for the zoning district that will contain the proposed buildings and structures.

3. **Setbacks.** The RR3 district requires setbacks of 70 ft (front) and 60 ft (sides/rear). The required setbacks are shown on the provided plan. As noted above, Lot 4 is a split lot and contains lands within both the Rural Residential 3 (RR3) and Rural Residential 5 (RR5) zoning districts. The RR5 rear setbacks are applied and shown on the plan for the portions of Lot 4 within the RR5 district.

Conclusion: Based upon the above findings, the Board concludes, with noted exceptions, the proposed subdivision conforms to the applicable district dimensional requirements. As a condition of approval, in accordance with Section 3.6(4), the final application must either modify the building zone on Lot 4 to be entirely within the RR3 district or increase the minimum lot area of Lot 4 to be no less than five (5) acres. The proposed lot widths must be provided for each lot.

SECTION 3- GENERAL SUBDIVISION APPLICATION PROCEDURES

1. **Section 3.1(3):** Major subdivisions are defined as all subdivisions that propose more than four (4) 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 6-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 Applicant proposes a 6-lot subdivision: Lot 1, consisting of ±3.0 acres; Lot 2, consisting of ±3.0 acres; Lot 3, consisting of ±3.0 acres; Lot 4, consisting of ±4.2 acres; Lot 5, consisting of ±5.0 acres; and Lot 6, consisting of ±4.7 acres.
 - The parcel is triangular in shape and contains frontage on West Hill Road, a Class 2 town-highway.
 - The proposed lots will be served by on-site septic and potable water, as shown on the preliminary subdivision plan.

- The preliminary subdivision plan includes three (3) curb cuts/driveway entrance points off a town-highway with shared driveway access to the individual lots.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(1), Character of the Land for Subdivision. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate full conformance with Section 5.1(1).

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.
 - As shown on the ANR Natural Resources Atlas the parcel contains mapped statewide prime agricultural soils and steep slopes on the lower portion. There are no mapped wetlands, streams, water bodies, etc. The parcel contains existing forested cover.
 - During the hearing, the Applicant testified that the prime agricultural soils on the parcel will be preserved as open space and are not proposed to be developed.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(2). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate full 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.
 - According to the Town of Stowe Town Plan Significant Wildlife Habitat & Natural Communities Map the parcel does not contain any noted significant areas highest priority habitat, connecting block, etc.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(3). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate full 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 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.

- The Applicant proposes a 6-lot Subdivision: Lot 1, consisting of ±3.0 acres; Lot 2, consisting of ±3.0 acres; Lot 3, consisting of ±3.0 acres; Lot 4, consisting of ±4.2 acres; Lot 5, consisting of ±5.0 acres; and Lot 6, consisting of ±4.7 acres.
- The parcel is located primarily in the RR3 district, with rear portions of Lot #4 in the RR5 district, both rural districts as defined under the regulations.
- The proposed lots are designed to meet the dimensional requirements of the RR3 zoning district with rear portions of Lot #4 designed to meet the RR5 rear setback of 75’.
- The preliminary subdivision plan shows the location of building zones and associated clearing areas. The front yard setback along West Hill Road is proposed to remain forested. Six (6) new 6’ - 8’ fir trees are proposed on Lot 3 near the shared driveway entrance.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(4). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate full 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 West Hill Road, a Class 2 Town Highway, as shown on the plans prepared by Grenier Engineering.
 - As proposed, Lot 6 is accessed via individual driveway; Lots 2, 3, & 4 have access via shared driveway; and Lots 1 & 3 have access via shared driveway. The associated rights-of-way for shared driveway are not shown on the plan.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(5). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate full 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 preliminary subdivision plan shows the location of building zones and associated clearing areas. The front yard setback along West Hill Road is proposed to remain forested. Six (6) new 6' - 8' fir trees are proposed on Lot 3 near the shared driveway entrance.
- As shown on the Overall Site Plan, the proposed building zones are shown to include a 100% cut. Along the outer perimeter of the entire parcel (along the outer setbacks) a clearing schedule on cut 20% leave 80% is proposed. Elsewhere there are areas noted as "thin 40%" [Lot 6]; Cut 90% Leave 10% [Lots 1-5].
- A clearing/landscaping maintenance plan was not submitted.
- During the hearing, Board members agreed that the proposed plantings are not necessary and likely would detract from the character of the area. Members agreed that the proposed subdivision, building zones, and clearing limits all provide adequate screening.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(6). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(6), Screening and Landscaping. The final application may exclude the six (6) proposed fir trees along West Hill Road, which were noted in the hearing as detracting from the character of the area.

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 pedestrian improvements are proposed.
 - The proposed parcels are located within the RR3 district in a rural part of town where public sidewalks are not common.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(7). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate full 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 6-lot Subdivision: Lot 1, consisting of ±3.0 acres; Lot 2, consisting of ±3.0 acres; Lot 3, consisting of ±3.0 acres; Lot 4, consisting of ±4.2 acres; Lot 5, consisting of ±5.0 acres; and Lot 6, consisting of ±4.7 acres.

- The Applicant did not provide estimated total vehicle trips or a.m./p.m. peak hour trips. During the hearing the Applicant's engineer testified that the subdivision would generate very few vehicle trips; likely a maximum of twelve (12) trips during a.m. and p.m. peak hours.
- 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.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(8). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(8), Traffic and provide the estimated total vehicle trips or a.m./p.m. peak hour trips.

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.
- DPW Director Harry Shepard provided the following comments: *"I reviewed the proposed 6 lot subdivision on West Hill rd for its feasibility regarding access to the Town Highway. It is worth noting that none of the proposed driveways were staked or flagged in the field so I estimated their location based on the attached site plan."*

The subdivision plan shows three proposed driveways serving the six lots:

- *Access A - Lots 1,3: This proposed point of access is permissible with some clearing and thinning required in order to achieve the 250' sight distance required in Standard B-71.*
- *Access B – Lots 3,4,5: This proposed point of access is an existing field drive that does not meet the B-71 access requirements for a residential drive. In particular, the sight distance to the north is obstructed almost entirely by a ledge outcrop that is appx. 5' high and 40' in length along the roadway. This proposed point of access may be practical with rock removal and further consideration give to addressing the existing topography.*
- *Access C - Lot 6: This proposed point of access is permissible with some clearing and thinning required in order to achieve the 250' sight distance required in Standard B-71. Raising of existing overhead utilities (phone and power) may be required in order to meet minimum clearance requirements."*
- Kyle Walker, Fire Chief provided the following comments: *"Regarding the West Hill subdivision, I would like to make sure that there is a turnaround for emergency vehicles located near end of the "main road" (between lot 2 and lot 4) portion of the project. The turnaround should be of the proper length and width established in the fire department guidelines. I am also concerned about eh percent of grade in some of the driveways, specifically lot #5. I would prefer that if these drives will have steep grades, they provide a turnaround at the house site for emergency vehicles. I have communicated with Brendan O'Reilly of Gristmill Builders. He did provide a preliminary plan that outlines a "main road" turn around. I did express concern regarding Lot 5 driveway. They did respond and advise they were going to provide turnaround and lower the grades."*
- 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 are accessed via Class 2 town-highway and will be served by on-site septic and potable water.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(9). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate full conformance with Section 5.1(9), Municipal Facilities including obtaining all necessary driveway entrance permits, or letters of intent, and written comments from the Stowe Fire Chief.

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 with straight boundary lines.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(10). 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 1-6 as shown on the subdivision plan prepared by Grenier Engineering.
- Each building zone appears to be sized adequately to provide a reasonable building site for each proposed lot.
- The building zones are more restrictive than the minimum required setbacks.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(11). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(11), Building Zone. As noted above, per Section 3.6(4), the final application must either modify the building zone on Lot 4 to be entirely within the RR3 district or increase the minimum lot area of Lot 4 to be no less than five (5) acres.

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 water storage or distribution facilities for fire protection are proposed.
- As proposed, Lot 6 is accessed via individual driveway; Lots 2, 3, & 4 have access via shared driveway; and Lots 1 & 3 are accessed via shared driveway.
- The project narrative reports that the proposed driveway access consists of grades averaging 7% with a maximum grade of 10%. The proposed average width is 16'. Each lot will have a flat parking area for each house site. During the hearing, the Applicant's engineer testified that the driveway serving Lot 5 is designed, with cut/fill, to be 15% or less in grade.

- During the hearing, the Applicant's engineer testified they have included in the revised plan a 60' x 60' emergency turn-around at the base of the common driveway serving Lots 2 & 4.
- As noted above, Kyle Walker, Fire Chief provided the following comments: *"Regarding the West Hill subdivision, I would like to make sure that there is a turnaround for emergency vehicles located near end of the "main road" (between lot 2 and lot 4) portion of the project. The turnaround should be of the proper length and width established in the fire department guidelines. I am also concerned about the percent of grade in some of the driveways, specifically lot #5. I would prefer that if these drives will have steep grades, they provide a turnaround at the house site for emergency vehicles. I have communicated with Brendan O'Reilly of Gristmill Builders. He did provide a preliminary plan that outlines a "main road" turn around. I did express concern regarding Lot 5 driveway. They did respond and advise they were going to provide turnaround and lower the grades."*

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(12). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(12), Fire Protection Facilities including obtaining written comments from the Stowe Fire Chief.

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. Each lot is being designed for residential development.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(13). 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.

- As proposed, Lot 6 is accessed via individual driveway; Lots 2, 3, & 4 have access via shared driveway; and Lots 1 & 3 are accessed via shared driveway. Lot 3 is encumbered with a driveway easement/right-of-way to serve Lot 1 and a driveway easement/right-of-way to serve Lots 2, 4, and 5. Right-of-way widths are not noted.
- The proposed parcels appear to be encumbered by associated septic easements.
- Draft homeowners association outlining the maintenance of the shared infrastructure were not provided.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.1(14). Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.1(14), Private Enforcement Mechanisms and provide a copy of the proposed homeowners association documents.

16. **Section 5.2 – Prominent Hillsides 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).
- During the hearing, the Applicant testified that the open meadow area is intended to serve as the designated open space. The area is currently an open hay field and will remain undeveloped.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.3. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.3, Open Space and Cluster Development and show the location of designated open space on the final plan.

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 three (3) driveways to serve the six (6) proposed residential lots.
- Section 5.4(2) Intersection Design: Roads shall intersect so that within seventy-five (75) feet of the intersection the street lines are at right angles, and the grade does not exceed plus or minus two (2) percent. No structure or planting shall impair corner visibility at intersections.
- Section 5.4(3) Access Roads and Driveways: All access shall meet the requirements of Section 3.1 (Access Management and Frontage Requirements) of the Stowe Zoning Regulations. The subject lot has over 2500 ft of frontage on West Hill Road allowing for four (4) curb-cuts.
- 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 twenty-five (25') feet wide for three or fewer dwellings, this is not labeled on the plans.
- Section 5.4(5) (7) Capacity of Existing Roads states: "*In situations where a development may require realignment, widening or otherwise increasing the capacity of an existing road, or where the Town*

Plan or Capital Program indicates that such improvements may be required in the future, the subdivider may be required to reserve land for such improvements. The subdivider can be required to contribute to any or all of the expenses involved with road improvements necessitated by his or her project. In the case of subdivisions requiring construction of new roads, any existing road that provides either frontage to new lots or access to new roads shall meet the minimum standards established in this section. Where a subdivision requires undue expenditures by the town to improve existing town roads to conform to minimum requirements the DRB may disapprove such subdivision unless the Select Board certifies that funds for the improvements have been ensured." No needed road improvements were identified.

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.4. 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 did not indicate whether utilities are proposed to be installed underground.
- 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 did not provide sediment control plans or provide for any stormwater management improvements. The application indicates more than ½ acre of disturbed ground is proposed and more than ½ acre of impervious surfaces.
- Section 5.5(5) states: *"Monuments: Monuments shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors."*

Conclusion: Based upon the above findings, the Board concludes the proposed preliminary subdivision, as conditioned, conforms to Section 5.5. Prior to obtaining final subdivision approval, the Applicant must document and demonstrate conformance with Section 5.5, Utilities and Stormwater Management. The final application must document whether the utilities will be below or above ground and provide all necessary stormwater/erosion and sediment control plans.

DECISION

On a motion by P.Aumand III, seconded by L.Wasserman, the Development Review Board hereby approves the Applicant's request for preliminary subdivision approval as described in application dated 9/11/2020 and the preliminary subdivision plan titled 'Overall Site Plan- Gristmill Builders LLC prepared by Grenier Engineering, Sheet 2 of 2, dated 10/16/2020', 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 final construction phasing schedule.

- c. Calculations for proposed impervious surfaces and areas of disturbance.
 - d. An erosion and sediment control plan including standards to minimize erosion and sediment impacts from construction activity and soil disturbances.
 - e. Final versions of all required legal documentation, including easements, homeowners association covenants, maintenance agreements, etc.
 - f. A planting and maintenance plan including provisions on how the trees within the limited clearing areas 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.
 - g. Written comments from Stowe Fire Department.
 - h. Estimated total vehicle trips.
 - i. Intersection design details.
 - j. Proposed stormwater improvements in accordance with Section 3.12.
 - k. The final subdivision plan shall also depict necessary rights-of-way for shared driveways, septic/potable water easements, and proposed fire protection facilities.
 - l. The final subdivision plan must designate open space in accordance with Section 5.3.
 - m. Per Section 3.6(4), the final subdivision plan must either modify the building zone on Lot 4 to be entirely within the RR3 district or increase the minimum lot area of Lot 4 to be no less than five (5) acres.
 - n. The proposed lot widths must be provided for each lot.
 - o. Documentation on proposed utilities (i.e. below or above ground).
2. In accordance with the town's E911 policy, the Applicant must provide to the Town E911 Coordinator three (3) possible private road names for the shared driveway serving Lots 2, 4, and 5.
 3. 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".
 - "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".

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

Motion PASSED 7-0

Dated at Stowe, Vermont this the 9 day of November 2020

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.

