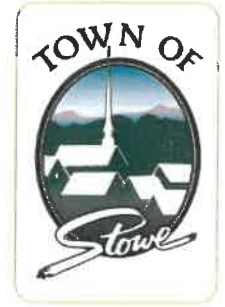


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6429

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 final 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 ±4.1 acres; and Lot 6, consisting of ±5.9 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, Lots 1 & 6 each have access via individual driveways; Lots 2 & 3 have access via shared common driveway; and Lots 4 & 5 have access via a shared common driveway. Each lot is proposed to be served by on-site potable water and on-site septic systems. The subject 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). 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 final subdivision review was filed by Applicant David Lachtrupp on December 7, 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 March 2, 2021 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 February 11, 2021. 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 March 2, 2021 via virtual meeting hosted by Zoom, with a quorum of the DRB present. Board member Peter Roberts recused himself and did not participate in the hearing. No other ex parte communications or conflicts of interests were reported. Members who participated in the review included: F.Aumand III, D.Clymer, C.Walton, 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
- Brendan O'Reilly, 5430 Waterbury Stowe Road, Waterbury Center, VT 05677

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

- Town of Stowe Development Application, dated 12/7/2020;
- Preliminary DRB Decision, dated 11/9/2020; (staff)
- Email from Chris Jolly, Assistant Town Engineer DPW Re: Gristmill Subdivision on West Hill Rd, dated 12/17/2020;
- Email from John Grenier, Re: Burt Farm Meadows 6-lot Subdivision, dated 12/9/2020;
- Letter from Grenier Engineering, Re: Stormwater Drainage for Proposed 6-Lot Subdivision on West Hill Road, dated 12/14/2020;
- Burt Meadow Infrastructure/Sitework Schedule, dated 12/10/2020;
- Bylaws of Burt Meadow Homes Owners Association Inc., dated 12/2/2020;
- Declaration of Covenants, Conditions, Rights, and Restrictions for Burt Meadow Homes West Hill Road, Stowe, VT, no date;
- Overall Site Plan- Burt Meadow Homes, Gristmill Builders LLC prepared by Grenier Engineering, Sheet 1 of 9, dated 1/21/2021;
- Overall Lot Plan Burt Meadow Homes, Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- EPSC Plan, Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- Proposed Conditions Plan, Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- EPSC Details, Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- Lot 1 Site Plan Burt Meadow Homes Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- Lot 2 Site Plan Burt Meadow Homes Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- Lot 3 Site Plan Burt Meadow Homes Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- Lot 4 Site Plan Burt Meadow Homes Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- Lot 5 Site Plan Burt Meadow Homes Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- Lot 6 Site Plan Burt Meadow Homes Gristmill Builders LLC prepared by Grenier Engineering, dated 1/21/2021;
- Written comments from Scott Reeves- Town of Stowe Assistant Fire Chief, dated 2/13/2021;
- Written comments Harry Shepard- Town of Stowe DPW Director, dated 2/11/2021;
- Written comments from Stowe Electrical Department, dated 2/25/2021.

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 final 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 and 520 ft in lot width; Lot 2, consisting of ±3.0 acres and 550 ft in lot width; Lot 3, consisting of ±3.0 acres and 440 ft in lot width; Lot 4, consisting of ±4.2 acres and 390 ft in lot width; Lot 5, consisting of ±4.1 acres and 340 ft in lot width; and Lot 6, consisting of ±5.9 acres and 1100 ft in lot width.

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. The approximate building footprint is located in the RR3 district. Section 3.6 (1), in the case of lots lying in more than one (1) district, the provisions of any district may be applied for the distance of not over thirty (30') feet into any other adjacent district. The Board will require as a condition of approval that any future buildings located on Lot 4 to be either located within the RR3 district or not over thirty (30) feet into the adjacent RR5 district.

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 and in accordance with Section 3.6, any future buildings located on Lot 4 must either be located within the RR3 district or not over thirty (30) feet into the adjacent RR5 district.

SECTION 3- GENERAL SUBDIVISION APPLICATION PROCEDURES

4. **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. The Applicant received preliminary subdivision review in a written decision of the Board dated 11/9/2020.

SECTION 5.1 – GENERAL PLANNING STANDARDS:

5. **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 ±4.1 acres; and Lot 6, consisting of ±5.9 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 provided subdivision plans.
- The final subdivision plan includes four (4) curb cuts/driveway entrance points off a town-highway with shared driveway access to the individual lots.
- Stowe Electrical Department provided the following comments: *Project #6429: RE: Page 9, 22.3 – Installation and Maintenance, developer states "Utility service lines shall be installed underground within the allowed 20-foot-wide right-of-way." NOTE: Stowe Electric's easement width for underground primary conductors is 25 feet. Developer will need to complete Stowe Electric's easement deed (see attached)."*

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.1(1), Character of the Land for Subdivision.

6. **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 preliminary 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. The open area is north of the shared driveway serving Lots 4 & 5 and shown on the plans.

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.1(2) and has been designed to prevent undue adverse impact on natural and scenic features.

7. **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 final subdivision, as conditioned, conforms to Section 5.1(3).

8. **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 ±4.1 acres; and Lot 6, consisting of ±5.9 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 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 with 30% clearing proposed.

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.1(4) and has been designed to minimize undue adverse impact on historic sites and the character of the Town.

9. **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, Lots 1 & 6 each are accessed via individual driveways; Lots 2 & 3, and 4 & 5 have access via shared common driveways. The associated rights-of-way for shared driveway are not clearly shown on the plan, however it appears Lots 4 & 5 are served by a 30' access right-of-way and Lots 3 & 4 are served by a 30' right-of-way/access easement. These are consistent with Section 3.1(1) which requires "*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 thirty (30) feet right-of-way shown on the plan conflicts with the 35' wide right-of-way described in the Declaration of Covenants, Conditions, Rights and Restrictions.

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.1(5). As a condition of approval, the Board will require that either the thirty (30) feet right-of-way serving Lot 2 and Lots 4 & 5, as shown on the plan, or the described 35' wide right-of-way in the Declaration of Covenants, Conditions, Rights and Restrictions be amended to be consistent with one another. A copy of the amended document must be submitted to the Zoning Administrator.

10. 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 final 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 with 30% clearing.
- 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 is providing proposing clearing from thinning within the highway right-of-way, 10% cut, 30% cut, 40% cut, 75% cut, and 85% cut. A clearing legend is shown on the overall site plan.
- A clearing/landscaping maintenance notation is included on the Overall Site Plan:
 - *During construction activities, silt fencing will be installed to protect trees from construction impact- silt, runoff, etc.*
 - *Discretionary cutting of dead and diseased trees will occur periodically to maintain the health of remaining trees.*
- During the preliminary hearing, the Board proposed that the proposed subdivision, building zones, and clearing limits all provide adequate screening.

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.1(6).

11. **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 final subdivision, as conditioned, conforms to Section 5.1(7).

12. **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 ±4.1 acres; and Lot 6, consisting of ±5.9 acres.
- The Applicant’s Engineer provided the following estimated traffic counts:

The proposed 6 lot subdivision will be single family homes with no multi-family planned. Generally, it is assumed there are 2 vehicles per home so a max of 12 cars for the subdivision. Trip generations models are based on trips per peak hour, with the morning and afternoon peak generally 7:00 to 8:00 am and 4:00 to 5:00 pm respectively. If everyone left and came home in the same hour then your development would have 12 trip ends per peak hour. This very rarely happens for single family and multi-family housing and is more typical of office complex or shift work manufacturing. On the rare occasion that it did happen 12 trips falls well below the VTrans threshold for warranting a traffic study. In Act-250 jurisdiction projects VTrans requires a traffic study and report if the anticipated project could create 75 trip ends in either peak hour. The project has good sight distances from each curb cut and empties on a paved town road. In short traffic volumes should not pose a problem to the town road, neighbors, or nearby intersections.

- 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 final subdivision, as conditioned, conforms to Section 5.1(8) and will not create unreasonable traffic congestion or cause unsafe conditions of existing roadways.

13. **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 plans in the application information. The stormwater ponds and grass swale proposed on the south side of the development provide the stormwater management system for the proposed development and appear adequate. The proposed Erosion and Sedimentation Control Measures also appear compliant with the*

requirements of the State Permit. Given the slope of the terrain, phasing to minimize disturbed areas and prompt establishment of vegetative cover, in accordance with the State permit requirements, are key to successful implementation."

- Scott Reeves, Assistant Fire Chief provided the following comments: *"Kyle has been working on this project and all the necessary requirements have been met. Please contact me with any questions."*
- 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 final subdivision, as conditioned, conforms to Section 5.1(9) and will not create an undue burden on municipal facilities or create an unreasonable demand for municipal services.

14. **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 final subdivision, as conditioned, conforms to Section 5.1(10).

15. **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 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 final subdivision, as conditioned, conforms to Section 5.1(11).

16. **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.
- Scott Reeves, Assistant Fire Chief provided the following comments: *"Kyle has been working on this project and all the necessary requirements have been met. Please contact me with any questions."*

- Each lot appears to incorporate an emergency turn-around as part of the individual driveway design.
- During the hearing, the John Grenier confirmed driveway grades and testified the driveway that serves lot 5 is no steeper than 12% and the other driveways are no more than 5% grade.

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.1(12).

17. **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.
- The Applicant provided a project-phasing schedule. The Applicant proposes clearing for individual lots and driveways in Fall 2020/Winter 2020/2021; construction of driveways for Lots 1, 4, 5 & 6 in 2021; construction of driveways for Lots 2 & 3 in 2022; installation and construction of stormwater improvements in 2021; installation of primary power in 2021; septic systems for each lot during the construction of dwellings on each lot; and house construction based on current market conditions, expected to be 2021, 2022, and 2023.

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

18. **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, Lots 1 & 6 each have access via individual driveways; Lots 2 & 3 have access via shared common driveway; and Lots 4 & 5 have access via a shared common driveway.
- The proposed parcels appear to be encumbered by associated septic easements.
- Draft homeowners association documents outlining the maintenance of the shared infrastructure were provided.

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.1(14).

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

Conclusion: This provision is not applicable.

20. **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 identifies ±1.58 acres of Open Space. The Open Space appears to be located on Lots 2, 3, 4, and 5.
- The provided Declaration of Covenants describes the allowed use of the open space.

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.3.

21. 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 four (4) driveways to serve the six (6) proposed residential lots.
- 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.
- Assistant Town Engineer provided the following comments regarding the proposed curb cuts "*I have reviewed the second version of the Gristmill 6- lot subdivision on West Hill Rd per the attached plan. Notable differences in the second version is the addition of a fourth driveway entrance off of West Hill Rd on the north end of the subdivision and reconfiguring of the internal roads used to access the six lots. This additional driveway entrance will serve Lot 1 and is feasible to install in a way that meets the requirements of our Driveway Entrance Permit, provided some thinning and clearing is performed in order to achieve the required 250' of sight distance.*"
- 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, the Applicant appears to be proposing a thirty (30) right-of-way (see note above regarding width conflict within HOA documents).
- 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 or required during the preliminary review.

Conclusion: Based upon the above findings, the Board concludes the proposed final subdivision, as conditioned, conforms to Section 5.4. where applicable.

22. 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, trans closures, meter boards and related equipment in order to minimize adverse visual impact.”* The plans indicate 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 provided sediment control plans and stormwater management plans. Stormwater detention ponds are located on Lots 4 & 5. The application indicates more ±6.2 acres of disturbed ground is proposed and ±0.93 acres of impervious surfaces.
- DPW Director Harry Shepard provided the following comments: *“I reviewed the plans in the application information. The stormwater ponds and grass swale proposed on the south side of the development provide the stormwater management system for the proposed development and appear adequate. The proposed Erosion and Sedimentation Control Measures also appear compliant with the requirements of the State Permit. Given the slope of the terrain, phasing to minimize disturbed areas and prompt establishment of vegetative cover, in accordance with the State permit requirements, are key to successful implementation.”*
- 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 final subdivision, as conditioned, conforms to Section 5.5 and provides adequate provisions for stormwater and required utilities.

DECISION

On a motion by F.Aumand III, seconded by L.Wasserman, the Development Review Board hereby approves the Applicant’s request for Final Subdivision approval for the proposed 6-lot subdivision of (Project 6429) of parcel #10-079.000 as described in the application dated 12/7/2020 and associated supporting materials subject the following conditions of approval:

1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator’s attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Prior to recording the subdivision plat and/or the Declaration of Covenants, Conditions, Rights and Restrictions, either the thirty (30) feet right-of-way serving Lot 2 and Lots 4 & 5, as shown on the plan, or the described 35’ wide right-of-way in the Declaration of Covenants, Conditions, Rights and

Restrictions shall be amended to be consistent with one another. A copy of the revised document(s) shall be provided to the Zoning Administrator.

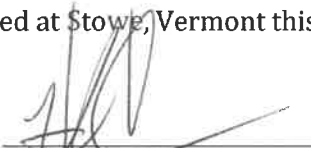
4. Prior to recording, the final subdivision plat shall be amended to depict a 25 ft right-of-way for utility service lines.
5. Pursuant to 24 VSA Chapter 117, the subdivision survey plat shall be submitted for recording in the land records of the Town of Stowe within 180 days of the date of this approval, or the approval shall expire. The final survey plat as recorded shall be prepared in accordance with Section 4.3 of the Stowe Subdivision Regulations and shall include the following notations:
 - a. *"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".*
 - b. *"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".*
6. The Applicant shall file the final survey plat, signed by the Chair or other authorized representative of the Development Review Board, with the Stowe Town Clerk in accordance with the requirements of 27 V.S.A. Chapter 17 and Section 4.3 of the Stowe Subdivision Regulations. No land development associated with this subdivision shall be commenced until such time as the survey plat has been duly signed and filed in the Land Records. Two paper copies of said plat shall be filed with the Zoning Administrator.
7. Monuments shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors.
8. The 'Bylaws of Burt Meadow Homes Owners Association Inc., dated 12/2/2020' and the 'Declaration of Covenants, Conditions, Rights, and Restrictions for Burt Meadow Homes West Hill Road, Stowe, VT' [amended herein] shall be recorded in the town land records prior to the issuance of any zoning permits.
9. Any future building[s] greater than 100 sf or 10 ft in height located on Lot 4 must either be located within the RR3 district or not over thirty (30) feet into the adjacent RR5 district.
10. A registered engineer shall certify that the stormwater improvements were constructed in accordance with the approved plans. Such certification shall be required prior to a Certificate of Occupancy being issued for any dwelling or any other building on Lots 1-6.
11. These conditions of approval shall run with the land and are binding upon and enforceable against the Applicant and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

Voting favor: D.Clymer, F. Aumand III, C.Walton, A. Volansky, T.Hand, L. Wasserman

Voting to deny: None

Motion PASSED 6-0

Dated at Stowe, Vermont this the 18 day of March 2021

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.

