

Notice of DRB Decision
Town of Stowe Zoning Office
PO Box 730
Stowe VT 05672

You recently received approval for the subdivision listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. All final subdivisions must be signed by the DRB Chair and recorded within 180 days from approval. Please note any conditions of approval that must be met before the plan can be recorded. You are also required to obtain separate zoning approvals and/or permits for any new construction on the newly created lots. A fee of \$25/page is required for recording.

Please contact the Planning and Zoning Office at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number 6530
Application Date 6/8/2021
Physical Location 3418 MOUNTAIN RD & 106 MOUNTAIN HAUS DR
Map ID 11-149.000 Tax ID 25035
Project Description BOUNDARY LINE ADJUSTMENT BETWEEN 11-149.000 & 11-149.030; MODIFY PREVIOUSLY APPROVED PUD
Owner MOUNTAIN HOUSE CONDOS LLC MOUNTAIN HOUSE LLC
Applicant NICK SMITH LAMOUREUX & DICKINSON CONSULTING ENGINEERS
Applicant Address 14 MORSE DRIVE
ESSEX VT 05452

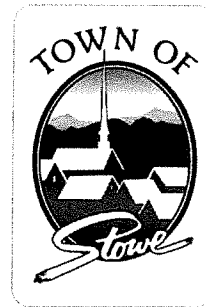
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
OTHER	6/25/2021		SCHEDULED DRB HEARING
DRB DECISION	9/7/2021	10/7/2021	4/5/2022

Sarah McShane

Zoning Office

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



PROJECT: 6530

SUBJECT PROPERTY: 106 Mountain Haus Drive; #11-149.030 &
3418 Mountain Road # 11-149.000

PROPERTY OWNER:
Mountain House LLC &
Mountain Road Condos LLC
145 Pine Haven Shores Road, Suite 1150
Shelburne, VT 05482

APPLICANT:
Nicholas Smith
Lamoureux & Dickinson Consulting Engineers
14 Morse Drive
Essex, VT 05452

APPLICATION:

The Applicant, Nicholas Smith of Lamoureux & Dickinson Consulting Engineers (herein referred to as the "Applicant") on behalf of property owner Mountain House LLC & Mountain Road Condos LLC, requests approval for a boundary line adjustment between 106 Mountain Haus Drive and 3418 Mountain Road. The proposal involves transferring ± 0.47 acres from 106 Mountain Haus Drive to 3418 Mountain Road and conveying ± 1.76 acres of land from 3418 Mountain Road to 106 Mountain Haus Drive. 106 Mountain Haus Road is part of the previously approved Mountain Haus PUD- [see Project 5124 & Project 5808]. The ± 0.47 acres conveyed to 3418 Mountain Road will be removed from the PUD open space and the ± 1.76 acres of land conveyed to 106 Mountain Haus Drive will be added to the PUD designated open space.

The subject parcels are in the Upper Mountain Road (UMR) and Rural Residential 2 (RR2) Zoning Districts. The application was reviewed by the Development Review Board under the Town of Stowe Subdivision Regulations (effective through July 16, 2012) and the Town of Stowe Zoning Regulations (as adopted October 9, 2018), as well as prior DRB decisions and applicable conditions of approval including the following:

- Project 5124 approved by the DRB in a written decision dated 6/23/2015;
- Project 5808 approved by the DRB in a written decision dated 6/15/2018;

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 a boundary line adjustment was filed by Applicant Nicholas Smith on June 8, 2021. 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 August 17, 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 July 29, 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 August 17, 2021 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Remote participation was available via Zoom. No ex parte communications or conflicts of interests were reported. Board members participating in the review included: Drew Clymer, Tom Hand, Mary Black, Francis Aumand III, David Kelly, and Leigh Wasserman.

The following persons attended and participated in the hearing process:

- Applicant, Doug Moses, 145 Pine Haven Shores Road, Suite 1150, Shelburne, VT 05482
- Greg Beldock, 145 Pine Haven Shores Road, Suite 1150, Shelburne, VT 05482
- Nick Smith (Lamoureux and Dickenson) 14 Morse Drive, Essex, VT 05452

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

1. Town of Stowe Development Application dated 6/08/2021;
2. Cover Letter from Lamoureux & Dickinson to Town of Stowe Zoning Department, dated 6/03/2021;
3. PUD Amendment Plat & Boundary Line Adjustment, Sheet Number PL, dated 5/25/21, provided by Lamoureux & Dickinson.

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

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 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 13- Planned Unit Development

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 parcels are located within the Upper Mountain Road (UMR) and Rural Residential II (RR2) Zoning Districts as shown on the Official Town of Stowe Zoning Map (as adopted on October 9, 2018).
2. **Lot Area, Lot Width.** The minimum lot area in the UMR district is one (1) acre. The minimum lot area in the RR2 district is two (2) acres. The proposed boundary line adjustment involves two (2) parcels. 106 Mountain Haus Drive [#11-149.030] & 3418 Mountain Road [#11-149.000].

The existing lot area of 3418 Mountain Road is 5.34 acres. The proposed lot area is 4.05 acres. There is no change to the existing lot width.

The existing lot area of 106 Mountain Haus Drive is 18.56 acres. The proposed lot area is 19.85 acres. There is no change to the existing lot width.

Parcel	Existing Area (acres)				Proposed Area (acres)			
	UMR	RR2	Total	Open Space	UMR	RR2	Total	Open Space
106 Mountain Haus Dr.	16.04	2.52	18.56	12.55	16.04	3.81	19.85	13.84
3418 Mountain Road	4.05	1.29	5.34	N/A	4.05	0	4.05	N/A

- Setbacks.** The proposed boundary line adjustment will not conflict with the minimum setback for any existing or permitted building on either lot. The side setback on 3418 Mountain Road will be increased as a result of the boundary line adjustment.
- Density.** The Applicant provided an PUD Amendment Plat & Boundary Line Adjustment Plat prepared by Lamoureux & Dickenson outlining proposed density calculations. The density calculation notes that total area in each zoning district and the allowed multi-family density. A total of 78.12 units are allowed within the PUD. Building B contains an existing thirty-six units (36); 45 Mountain Haus Drive contains one single-family dwelling; the Applicant proposes thirty-six (36) units in Building A. Staff reported that the provided density calculations inaccurately account for 45 Mountain Haus Drive, since that parcel contains a single-family dwelling which density allows one (1) unit per acre.

Lots A & B	21.50 acres	UMR	3.0	64.50 units
Lot A & B	16.91	RR2	0.5	8.46 units
45 Mountain Haus	1.00 acres	UMR	1	1 unit
45 Mountain Haus	0.72	UMR	3	2.16 unit
				76.12 units

The PUD contains an existing thirty-six (36) unit multi-family dwelling and one single-family dwelling. Following the boundary line adjustment, density of 3418 Mountain Road will be calculated based on a lot area of 4.05 acres [see conditions of approval].

- Section 13.6 PUD.** The parcel is part of a PUD originally approved by the Board on June 23, 2015 under Project 5124. The original PUD is comprised of ±37.11 acres, of which ±23.5 acres was designated as open space. The PUD was subsequently amended under Project 5808, which incorporated the single-family dwelling, related accessory dwelling, and ±1.72 acres located at 45 Mountain Haus Drive into the Mountain House LLC PUD and final subdivision approval to subdivide the 37.11± acre parcel into two (2) lots; Lot A being 18.56 acres and Lot B being 18.56 acres containing the existing thirty-six (36) unit multi-family dwelling. Under Project 5808 the PUD was increased to contain three (3) lots (Lot A 18.56 acres, Lot B 18.56 acres, and 1.72 acres at 45 Mountain Haus Drive). The density of the PUD was increased from 72 units to 77 units based on three (3) units per acre in the UMR district.

SUBDIVISION REGULATIONS

8. During the hearing, the Board determined that the following review standards were not applicable to this application:

- Section 5.1(1) – Character of Land for Subdivision:
- Section 5.1(3) – Protection of Significant Wildlife Habitat and Natural Communities:
- Section 5.1(4) – Historic Resources and Community Character:
- Section 5.1(5) – Reserved Strips:
- Section 5.1(6) – Screening and Landscaping:
- Section 5.1(7) – Pedestrian Access:
- Section 5.1(8) – Traffic:
- Section 5.1(11) – Building Zone:
- Section 5.1(12) – Fire Protection Facilities:
- Section 5.1(13) – Disclosure of Subsequent Development Plans:
- Section 5.1(14) – Private Enforcement Mechanisms:
- Section 5.2 – Prominent Hillside and Ridgelines:
- Section 5.4 – Road Standards and Coordination with Public Highways:
- Section 5.5 – Utilities and Stormwater Management:

SECTION 5.1 – GENERAL PLANNING STANDARDS:

1. **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 Applicant proposes a boundary line adjustment between two (2) adjacent parcels of land. The proposed boundary line adjustment will not impact 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.

Conclusion: Based on the above findings, the Board concludes the proposal is in conformance with Section 5.1(2), Natural and Scenic Features.

2. **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 boundary line adjustment would have any adverse impact on existing or planned community facilities and services.

Conclusion: Based on the above findings, the Board concludes the proposal is in conformance with Section 5.1(9), Municipal Facilities.

3. **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 Applicant proposes a boundary line adjustment between two (2) adjacent parcels of land. The proposed plat shows the location of property lines to be dissolved. The proposed boundary line adjustment does not result in flag lots, elongated lots, or other odd- shaped lots which include narrow strips of land.

Conclusion: Based on the above findings, the Board concludes the proposed lot configuration is of regular shape, avoids flag and elongated lots, and contains sufficient buildable area.

4. **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 Applicant proposes a boundary line adjustment between two (2) adjacent parcels of land. The proposal involves transferring ± 0.47 acres from 106 Mountain Haus Drive to 3418 Mountain Road and conveying ± 1.76 acres of land from 3418 Mountain Road to 106 Mountain Haus Drive. 106 Mountain Haus Road is part of the previously approved Mountain Haus PUD- [see Project 5124 & Project 5808]. The ± 0.47 acres conveyed to 3418 Mountain Road will be removed from the PUD open space and the ± 1.76 acres of land conveyed to 106 Mountain Haus Drive will be added to the PUD open space area. The proposed plat labels open space but does not show the open space boundary line. Following the boundary line adjustment, designated open space will be increased by 1.29 acres.

Conclusion: Based on the above findings, the Board concludes the proposal conforms to Section 5.3 – Open Space and Cluster Development. As a condition of approval, the Applicant will be required to submit a revised plan clearly showing the boundary of the designated open space.

DECISION

On a motion by F.Aumand III, seconded by T.Hand, the Development Review Board hereby approves the Applicant's request for final subdivision approval for a boundary line adjustment (Project 6530) between parcels 11-149.030 & 11-149.000 as described in the application dated 6/8/2021 and associated supporting materials subject the following conditions of approval:

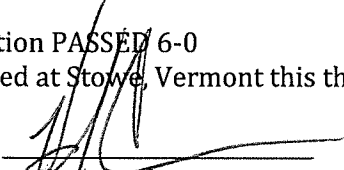
1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Zoning Office and other material representations. Any change to the plans or the proposed use of the property 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. The approved plans, amended herein, include:

- PUD Amendment Plat & Boundary Line Adjustment, Sheet Number PL, dated 5/25/21, provided by Lamoureux & Dickinson
- 2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
- 3. Prior to recording the approved plan, the plan shall be amended to show the boundary line of the open space area, revised density calculation, and modification to the 100' perimeter setback in the rear lot area of Lot B.
- 4. 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".*
- 5. 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.
- 6. Monuments shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors.
- 7. 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: Drew Clymer, Tom Hand, Mary Black, Francis Aumand III, David Kelly, and Leigh Wasserman.
Voting to deny: None

Motion PASSED 6-0
Dated at Stowe, Vermont this the 7 day of September 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.

