

WATERBURY DEVELOPMENT REVIEW BOARD
General Minutes—January 6, 2021

Attending: Board members: David Frothingham (Chair), Tom Kinley, Bud Wilson, Patrick Farrell, Harry Shepard, and George Lester. Staff: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Martin (Secretary). Public: As noted in the decisions.

David Frothingham, Chair, opened the public meeting at 6:30 p.m. and made the following introductory remarks: Applicants and consultants will be given the option to be contacted when their hearing is ready to commence. Applicants should have one spokesperson. Staff will give an overview of the project. The Applicant or spokesperson will present any new information to the Board. The DRB members will ask questions, followed by staff questions and comments. The hearing will then be opened to the public for comments and questions. Note that the DRB is a seven-member Board, with six members present tonight, and that any approval will require four votes in the affirmative.

1) **#134-20: Perry Hill Partners** (owner/applicant)

Site Plan and Conditional Use review for a change of use of the third floor from commercial office to a medical clinic with three medical professionals at 28 Stowe Street. (DC/DDR zoning & overlay districts)

Present and sworn in:

Jason Wulff, Perry Hill Partners (owner/applicant)
George McCain, McCain Consulting (project consultant)

The Board approved the project with conditions and will issue a written decision within 45 days.

2) **#135-20: William Lintilhac** (applicant), **Lintilhac LLC, Philip & Crea Lintilhac** (owner)
Boundary-line adjustment, two-lot subdivision, and new single-family dwelling for undeveloped lands on Barnes Hill Road, in Waterbury Center. (LDR/CNS/RHS zoning and overlay districts)

Present and sworn in:

Will Lintilhac & Rosy Metcalfe, Applicant
Philip & Crea Lintilhac, Landowner
Chris Haggerty, Surveyor for Applicants
Barry Reit, Adjoining Landowner
Also: Thomas & Barbara Tomasi, adjoining landowner, sent comments via email.

Testimony:

- The standing-seam metal roof will be non-reflective.
- The lighting on the garage and entry-way will be downcast and shielded, with a particular concern for anything facing Barnes Hill Road.
- The plat will be revised to correct the building envelope and front setback.
- The boundary agreement with the adjacent property owner, Nella Diana Wennberg, will be included on the final plat.
- Adjoining landowner Thomas & Barbara Tomasi, submitted an email to say: *“We generally don’t have a favorable view of development, but this particular project has been given a great deal of thought, and carefully planned and considered with sensitivity to its setting, visual impact, and impact on the neighborhood. Neighbors have been kept informed and asked for their input. If there is a gold standard as to how to bring a development project to reality, this is it. We would be less than honest if we said we’d rather see a house than an expanse of undeveloped land, but the one-story design of the house and its placement on the lot would*

seem to render it as unobtrusive as possible. It's hard to tell before a structure is actually completed, but this design looks to be very organic and in harmony with its setting."

The Board approved the project with conditions and will issue a written decision within 45 days.

- 3) **#136-20: Charles Timothy Grayson** (landowner/applicant)
Three-lot subdivision of undeveloped parcel on Sweet Road, Waterbury Center, VT.
(MDR/CNS/RHS zoning and overlay districts)

Present and sworn in:

Gunner McCain, Consultant

Adjoining landowners:

Glenn Andersen, Tim Fitzgerald, Matthew DesRoche & Lauren Huffman, Deborah Mulvey

Judy Foregger, Realtor for applicant

Sally Stetson & Peter Dodge, interested party

Joan Liggett, resident, observing

Testimony:

- This is the same project that was submitted and approved in applications #79-16T & #015-17. The prior approval expired when the final plat was not recorded within 180 days. The application is being resubmitted for the same project, with no changes, for reapproval.
- Glenn Andersen has seen changes since the prior application:
 - Wildlife impact on his land has increased, which he has documented.
 - Wildlife is being pushed onto his property and causing concerns.
 - Traffic rise has been “ridiculously obscene” since COVID-19, due to increased recreation.
- Deborah Mulvey has concerns with:
 - The proposed driveway on Lot 3 and the runoff impact to her property.
 - Any site preparation work on Lot 3, due to equipment using the access, which could have a detrimental effect on her driveway/property line.
 - Sewage and the effect of this many lots/houses being built close to her.
- Consultant addressing Deborah’s concern: the location of the driveway is approximate.

The Board approved the project with conditions and will issue a written decision within 45 days.

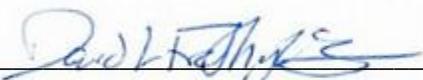
- 4) **Agenda items as scheduled by the Chair:**

Review prior meeting minutes and decisions:

Motion: Tom Kinley moved and Bud Wilson seconded the motion to approve the DRB general meeting minutes for December 16, 2020, and decision #118-20 (Rondeau), as amended.

Vote: The motion was approved 6–0.

Adjournment: There being no other business, the meeting was adjourned at 8:15 p.m.



(Chair David Frothingham)

Approved: January 20, 2021

Notice of upcoming meetings:

January 20, February 3, February 17, 2021, at 6:30 p.m.

Town of Waterbury
Development Review Board
Decision #134-20 ■ January 6, 2021

Attending: Board members: David Frothingham (Chair), Tom Kinley (Vice Chair), Bud Wilson, Patrick Farrell, Harry Shepard, and George Lester (Alternate). Staff: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Martin (Secretary).

Owner/Applicant:	Perry Hill Partners, c/o Aaron Flint & Jason Wulff	
Address/Locations:	28 Stowe Street, Waterbury, VT	
Zones:	Downtown Commercial (DC) and Downtown Design Review (DDR) overlay	
Application #	134-20	Tax Map # 19-294.000

Applicant Request:

The applicant seeks approval to change the use of the third-floor from commercial office to a medical clinic with three medical professionals at 28 Stowe Street.

Present and sworn in:

Jason Wulff, Owner/Applicant
George McCain, Consultant

Exhibits:

- A: Application #134-20 (7 pp: Zoning, SP, CU, Overlay/DDR), submitted 11/30/20.
- B: Cover letter and project summary prepared by McCain Consulting, Inc., dated 11/25/20.
- C: Site Plan for Perry Hill Partners, titled “Revisions to Multi-Use Development,” prepared by McCain Consulting Inc., Sheet C-1, dated 12/24/19, revised 11/23/20 (updated parking calculations, misc. for proposed 3rd floor change in use).
- D: Four Seasons Dermatology Floor Plan, 3rd floor, prepared by Jennifer Lane, dated 11/23/20.
- E: Letter to adjoining landowners, mailed certified on 12/21/20.

Findings of Fact:

1. Existing conditions: Perry Hill Partners own a three-story commercial building at 28 Stowe Street. The building is on a 0.24± acre lot in the Downtown Commercial (DC) zoning district. The access is one-way in from Stowe Street and one-way out through 11 North Main Street, also owned by Perry Hill Partners. The two properties share the parking area with some spaces designated for the dwelling units at 11 North Main Street. The building at 28 Stowe Street is served by municipal water and wastewater systems.
2. Prior approvals (3rd floor): The third floor of the building, known as the Bell’s Block building, was previously permitted for business professional offices/retail (zp #002-20). Subsequently, the third floor was permitted for a medical office (zp #121-20), which limits the number of medical professionals to two.

3. Project: The applicant proposes to change the use of the third-floor from medical office to medical clinic to allow more flexibility with the number of medical providers. All treatment will be on an out-patient basis. The parking requirement is the same (one spot per 300 square feet), therefore, there is no change in the parking requirements.
4. Uses: The use qualifies as a “Clinic” per the zoning regulations (see definition below). The specific use proposed is for a dermatology clinic.

(definition) **CLINIC**: A facility where patients can be treated by one or more medical professionals on an out-patient basis.

5. Site Plan Review and Approval, Section 301: Any use shall be subject to site plan approval by the DRB before a zoning permit may be issued. As the project does not involve changes to vehicular access, circulation, parking lot layout, or pedestrian access and safety, the Board deems it minor in nature and not subject to Site Plan review.
6. Parking Regulations, Section 414: The 3rd floor was previously allocated seven spots for commercial use. The overall parking area serving Bell’s Block has three additional “overflow” spots for use during peak business hours. There is no change to the parking requirements.

(d)(4) Offices, medical or veterinary clinics, home occupations: one (1) space for every three hundred (300) square feet of floor area.

7. Conditional Use criteria, Section 303: Prior to granting approval for a conditional use, the Board must find that the proposed use conforms to the general and specific standards below. A hospital/clinic is a conditional use in DC.
 - a. Section 303(e)(1) (A–E) Community facilities: The building will be served by municipal water and wastewater services. Office and retail uses have been previously-approved. The proposal will not have an undue adverse impact on the capacity of existing or planned community facilities.
 - b. Section 303(e)(2)(A–E) Character of the area: No changes are proposed to the exterior or style of the building.
 - c. Section 303(e)(3) Municipal bylaws in effect: The proposed change of use is before the Board for approval and will not violate any municipal bylaws and ordinances in effect.
 - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The change of uses will not produce any of the above impacts.
 - e. Section 303(h) Removal of earth or mineral products conditions: The project does not include earth removal and excavation activities other than activities associated with landscaping. This provision does not apply.

Conclusion:

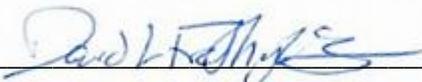
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Perry Hill Partners to change the use of the third-floor to a medical clinic at 28 Stowe Street meets the Site Plan and Conditional Use criteria as set forth in Sections 301 and 303.

Decision:

On behalf of the Waterbury Development Review Board, Harry Shepard moved and Patrick Farrell seconded the motion to approve application #134-20 with the following conditions:

- (1) The applicant shall complete the project in accordance with the Board’s findings and conclusions and the approved plans and exhibits;
- (2) Any outdoor lighting shall be downcast and shielded;
- (3) The Applicant shall submit, prior to issuance of the permit, a revised Site Plan with a corrected parking table for the approved uses;
- (4) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in prior zoning permit approvals #135-18, #002-20, and #075-20.

Vote: The motion was approved 6–0.



 (Chair David Frothingham)

Approved: January 20, 2021

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or pete.kopsco@vermont.gov, and the appropriate state agencies to determine what permits must be obtained.

***NOTICE:** This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An 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 Court Proceedings.*

Town of Waterbury
Development Review Board
Decision #135-20 ■ January 6, 2021

Attending: Board members: David Frothingham (Chair), Tom Kinley, Bud Wilson, Patrick Farrell, Harry Shepard, and George Lester. Staff: Dina Bookmyer-Baker (Zoning Administrator), Steve Lotspeich (Community Planner), and Patti Martin (Secretary).

Owner/Applicant:	Lintilhac LLC, Phillip & Crea Lintilhac/William Lintilhac	
Address/Location:	Barnes Hill Rd., Waterbury Center, VT	
Zones:	Low-Density Residential (LDR), Conservation (CNS) & Ridgeline/Hillside/Steep Slope (RHS) overlay	
Application #	135-20	Tax Map # 10-008.000

Applicant Request:

The applicant seeks to subdivide the existing lot on Barnes Hill Road into two residential lots and construct a single-family dwelling in the RHS overlay district.

Present and sworn in:

Will Lintilhac & Rosy Metcalfe, Applicant

Phillip & Crea Lintilhac, Landowner

Chris Haggerty, Surveyor for Applicant

Barry Reit, Adjoining Landowner

Thomas & Barbara Tomasi

Also: Thomas & Barbara Tomasi, adjoining landowner, sent comments via email

Exhibits:

A: Application #135-20 (9 pp: Zoning, Conditional Use, Subdivision, Overlay District), submitted 12/03/20.

B: Lintilhac LLC 2-lot Subdivision with dwelling location by Lakeside Engineering dated 9/29/20 (2 pp.).

C: Detailed Site Plans for dwelling by Metcalfe Associates Architecture dated 11/22/20 (2 pp.).

D: Elevations of dwelling by Metcalfe Associates Architecture dated 11/16/20 (4 pp.).

E: Orthophotos of parcel with tax map boundaries and zoning districts (2 pp., staff).

F: Plat of 2-Lot subdivision by Button Professional Land Surveyors, PC dated 6/29/20

G: Overall Property Plan by Lakeside Environmental Group dated 9/26/20.

H: Letter to adjoining landowners, mailed certified: December 21, 2021.

Findings of Fact:

1. Existing conditions: Lintilhac LLC, Phillip & Crea Lintilhac own a 232± acre parcel that is bisected by Barnes Hill Road. The parcel is located in both the Low-Density Residential (LDR) and Conservation (CNS) zoning districts, with portions within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district (Exhibit E).

2. Permit history: (applicable recent permits)
 - August 2017, Curb Cut Permit #08-17-C for field access into western portion of property.
3. Current proposal: To subdivide the existing 232± acre parcel into two lots as follows:
 - Lot 1 will be 78.95± acre, has ±1,417' of frontage on (the road right-of-way line) Barnes Hill Rd., and will be served by private well and septic for a two-bedroom single-family dwelling. This lot will include a building zone that will lie entirely in the LDR zoning district as shown on Exhibits C. The lot width at the building front line is greater than 300'. The lot includes area in the RHS Overlay District however the dwelling will be located entirely below 1,200' in elevation. The plat for the 2-lot subdivision (Exhibit F) includes a note that there is an agreement with the adjacent property owner, Nella Diana Wennberg, regarding the location of the western boundary of the Lintilhac property that is the common boundary between the two parcels.
 - Lot 2 will be the remaining 153± acres, contains land in both LDR and CNS zoning districts and is bisected by Barnes Hill Road A portion of this parcel is in the RHS Overlay District and the entire parcel will remain undeveloped at the current time.
4. Section 504 General Dimension Requirements: Any subdivision of land must conform to the relevant criteria in Section 504. See the table below for compliance with the LDR and CNS zoning districts.

	Zoning District Minimum Lot Size	Proposed Lot Size	LDR/CNS Minimum Frontage	Proposed Frontage
Lot 1	LDR: 5 acres CNS: 10 acres	78.95± acres	300'	> 300'± Barnes Hill Rd.
Lot 2	LDR: 5 acres CNS: 10 acres	153± acres	300'	> 300'± Barnes Hill Rd.

(definition) LOT FRONTAGE: Distance measured across the width of the lot at the building front line, or proposed building front line.

(definition) BUILDING FRONT LINE: Line parallel to the front lot line transecting the point in the building face that is closest to the front lot line...

In the LDR zoning district, the minimum setbacks are: 70' front and 75' sides/rear. In the CNS zoning district, the minimum setbacks are greater than 100' for the front, sides, and rear. The proposed dwelling on the Lot 1 meets the setback requirements for the LDR zoning district. Each lot as proposed meets the minimum lot size requirements and each will have access to Barnes Hill Road, a Town road (Exhibits F & G). The proposed dwelling will be two-stories plus a walk-out finished basement level.

5. Section 1201 Authority and Review of Subdivisions: All applications for land division shall be reviewed by the DRB under Section 1202, unless exempted under Section 1203. This application is not exempted from Board review, as the project involves lands within the RHS overlay district.

6. Section 1202 Subdivision Review Criteria: Prior to granting approval, the Board must find that the proposed subdivision conforms to the standards in Section 1202 (a)–(d).
- (a) The Board must find that the proposal will not have an undue adverse impact on the following:
- (1) The capacity of community facilities: The dwelling will not be connected to municipal water or sewer systems. The proposal to create two new residential lots will not exceed the school system capacity, or cause an undue adverse impact to traffic volumes, or create an unmanageable burden on fire protection services.
 - (2) The character of the area: The use of the proposed Lot A will be residential. The existing uses in the immediate area are residential, agricultural, forestry, and conservation. The dwelling will have horizontal wood siding (Exhibit D). The roof will be non-reflective standing-seam metal.
 - (3) Water quality: Applicant might be required to obtain a VT stormwater discharge permit. Applicant has obtained the water/wastewater permit from the state (ww-5-8382). Applicant should accept, as a condition of approval, that erosion protection and sediment control measures will be employed during the development of the Lot 1 to ensure that development of the lot will not result in undue adverse impact to water quality or downstream properties.
 - (4) Aesthetics and scenic or natural beauty: Additional plantings of various trees and shrubs will be installed as shown on Exhibit C2 to provide screening for the proposed dwelling as viewed from Barnes Hill Road.
 - (5) Significant natural resources: Significant Natural Resources are defined in the Regulations as: “Areas that include streams; Class I & II wetlands; prime agricultural soils; wildlife resources, including the Natural Heritage sites, as shown on the Waterbury Wildlife Resources Map in the Municipal Plan; and rare, threatened or endangered species.” The Natural Features Map 2-1 and the Wildlife Resources Map 2-2 in the 2018 Waterbury Municipal Plan do not identify any of these resource on Lot A. There is a deer overwintering yard shown in the wooded area on both Lots 1 & 2, however it is not in the immediate vicinity of the building zone which is entirely located in the existing field.
- (b) The project is *not* in the RT100 zoning district. This provision does not apply.
- (c) The project is in the RHS overlay district. See compliance with the RHS standards in Section 1004, in paragraph 7, below.
- (d) The Board may attach reasonable conditions and safeguards with respect to the subdivision attributes identified in Section 1202(d)(1–4). The proposal does not include excessive curb-cuts, as both of the lots will be accessed from Barnes Hill Rd. The building envelope for the dwelling is small relative to the size of the lot. New shrub and tree plantings are proposed, and the dwelling will meet the minimum setbacks for the LDR zoning district.

7. Section 1004 RHS Standards of Review: All of the proposed development is located below 1,499 FIE (feet in elevation). As per Section 1001, the project is classified as “minor” development. Minor development projects on lands within the RHS overlay district shall be subject to conditional use review. As noted above, the dwelling will be located entirely below 1,200 FIE.

Section 303 Conditional Use criteria: Development of lands within the RHS overlay district shall comply with the following conditional use review standards:

- (a) Section 303(e)(1) Community facilities: See compliance with the capacity of community facilities in paragraph 6(a)(1), above. Access to the site off Barnes Hill Road will be via an existing curb cut that will be improved.
- (b) Section 303(e)(2)(A–E) Character of the area: The existing uses in the immediate area are residential, agricultural, forestry, and conservation. Light and noise impacts from the proposed dwelling will be typical of standard residential use, which will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area. The application materials did not specify any historic sites, or rare or irreplaceable natural areas on the parcel. The Waterbury Municipal Plan does not identify any rare, threatened, or endangered species, or deer wintering areas on Lot A that is to be developed.
- (c) Section 303(e)(3) Municipal bylaws in effect: Residential lots are a permitted use within the LDR and CNS zoning districts and are a conditional use when they are located within the RHS overlay district. The application represents compliance with the zoning bylaws.
- (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed residential use will not typically create the above-named nuisances and therefore no devices or special methods are required to control these impacts.
- (e) Section 303(h) Removal of earth or mineral products conditions: The project does not include earth removal activities. This provision does not apply.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Lintilhac LLC, Phillip & Crea Lintilhac/William Lintilhac to create a two-lot subdivision and construct a single-family dwelling on Barnes Hill Road in the RHS overlay district, as presented in application #135-20 and supporting materials, meets the Conditional Use, Ridgelines/Hillsides/Steep Slopes, and Subdivision criteria as set forth in Sections 303, 1004, and 1202.

Decision Motion:

On behalf of the Waterbury Development Review Board, George Lester moved and Tom Kinley seconded the motion to approve application #135-20 with the following conditions:

- (1) The applicant shall complete the project in accordance with the Board’s findings and conclusions and the approved plans and exhibits;
- (2) All exterior lighting shall be downcast and shielded.
- (3) Pre-development and construction activities shall comply with the most current version of the State of Vermont *Low Risk Site Handbook for Erosion and Sediment Control*, as published by the Vermont Department Environmental Conservation, and other regulations applicable to silvicultural activities.
- (4) The approved final plat, with updates as discussed, signed by the DRB Chair (or designee), shall be duly filed or recorded in the office of the clerk of the Town of Waterbury within 180 days from this approval, in accordance with 24 V.S.A. § 4463.

Vote: The motion passed unanimously 6–0.



(Chair David Frothingham)

January 30, 2021

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or pete.kopsco@vermont.gov, and the appropriate state agencies to determine what permits must be obtained.

NOTICE: *This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An 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 Court Proceedings.*

**Town of Waterbury
Development Review Board
Decision #136-20 ▪ January 6, 2021**

Attending: Board members: David Frothingham (Chair), Tom Kinley, Bud Wilson, Patrick Farrell, Harry Shepard, and George Lester. Staff: Dina Bookmyer-Baker (Zoning Administrator), Steve Lotspeich (Community Planner), and Patti Martin (Secretary). Public: As noted in the decisions.

Owner/Applicant:	Charles Timothy Grayson	
Address/Location:	Sweet Road, Waterbury Center, VT	
Zones:	Medium-Density Residential (MDR), Conservation (CNS), and Ridgeline/Hillside/Steep Slope (RHS) overlay district.	
Application #	136-20	Tax Map # 10-015.000

Applicant Request:

The applicant seeks approval to create a three-lot subdivision of an undeveloped parcel on Sweet Road in the RHS overlay district.

Present and sworn in:

Gunner McCain, Consultant

Adjoining landowners:

Glenn Andersen, Deborah Mulvey, Tim Fitzgerald, Matthew DesRoche, & Lauren Huffman

Judy Foregger, Realtor for applicant

Sally Stetson & Peter Dodge, interested parties

Exhibits:

- A: Application #136-20 (11 pp: Zoning, Subdivision, Conditional Use, Overlay District), 12/19/16
- B: VT ANR Atlas Map of the Grayson parcel, dated 11/1/2016
- C: (C1) Site Plan, prepared by McCain Consulting, Inc., revised 1/17/2017;
(C2) Survey and Subdivision, prepared by McCain Consulting, Inc., dated 12/22/2016
- D: Aerial photo of parcel with tax map boundary, and parcel with zoning districts (staff)
- E: Letter to adjoining landowners, sent certified December 21, 2020
- F: Waterbury Wildlife Resources Map, from the Municipal Plan, created by CVRPC, dated 2013 (staff)
- G: Wellhead Protection Area map

Findings of Fact

1. Existing conditions: Charles Timothy Grayson owns a 45.1± acre parcel located on Sweet Road. The property is undeveloped and includes 994' of frontage on Sweet Road. The parcel is located partially in the Medium-Density Residential (MDR) and Conservation (CNS) zoning districts, and entirely within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district. (Exhibit D)
2. Proposal: The proposal involves creating three new residential lots from the existing 45.1-acre parcel as follows:

- Lot 1 will be 3.9 acres, have 195'± of frontage (along the road centerline), and is proposed for a single-family dwelling.
- Lot 2 will be 9.7 acres, have 598'± of frontage, and is proposed for a two-family dwelling.
- Lot 3 will be 31.5 acres (of which 14.8 acres will be permanently conserved from development), will have 201'± of frontage, and is proposed for a two-family dwelling.

Lots 1 and 2 are located in the MDR zoning district. Lot 3 is located in both the MDR and CNS zoning districts. All three lots are proposed to be served by individual driveway accesses off of Sweet Road (Exhibit C1). The proposed dwelling units will be served by individual on-site water supplies and a community wastewater system. This application is for review of a 3-lot subdivision, not the dwelling units at this time.

Subdivision Review Criteria As set forth in Section 1201, all applications for land division shall be reviewed by the Development Review Board under Section 1202, unless exempted under Section 1203. This application is not exempted from Board review, as the project involves lands within the RHS overlay district.

3. Section 504 General Dimension Requirements: Any subdivision of land must conform to the relevant criteria in Section 504. The minimum lot size in the MDR zoning district is two acres, minimum frontage is 200', and the minimum setbacks are: 60' front; 50' sides and rear. Each lot is proposed to be ≥ 2 acres and $\geq 200'$ wide at the building front line (as per the definitions for Lot Frontage and Building Front Line). The lots as proposed meet the dimensional requirements for the MDR zoning district.
4. Section 1202 Subdivision Review Criteria: Prior to granting approval, the Board must find that the proposed subdivision conforms to the standards in Section 1202 (a)–(d).

(a) The Board must find that the proposal will not have an undue adverse impact on the following:

- (1) The capacity of community facilities: The dwellings will not be connected to municipal water or sewer systems. The proposal to create three new residential lots, with up to five dwelling units, will not exceed the school system capacity, cause an undue adverse impact to traffic volumes, or create an unmanageable burden on fire protection services (Exhibit A6). The application packet was distributed to the Superintendent of Schools, Public Works Director, Highway Supervisor, and Fire Chief for advisory input; each replied with no concerns or issues with the project.
- (2) The character of the area: The use of the new lots will be residential. See compliance with the character of the area in paragraph 5(b), below.
- (3) Water quality: Applicant accepts that erosion protection and sediment control measures will be required for all development on the lots. (Exhibit A6)
- (4) Aesthetics and scenic or natural beauty: Applicant is not aware of any historic sites on the parcel and refers to the attached ANR Atlas Map (Exhibit B).
- (5) Significant natural resources: Applicant's Exhibits A6 & A10 refer to the ANR Atlas Map (Exhibit B). Significant Natural Resources are defined in the Regulations as: "*Areas that include streams; Class I & II wetlands; prime agricultural soils; wildlife resources, including the Natural Heritage sites, as shown on the Waterbury Wildlife Resources Map in the Municipal*

Plan; and rare, threatened or endangered species.” (Exhibit F.)

- (b) The project is *not* in the RT100 zoning district. This provision does not apply.
- (c) The project is in the RHS overlay district. See compliance with the RHS standards in Section 1004, in paragraph 6, below.
- (d) The Board may attach reasonable conditions and safeguards with respect to the following:
 - (1) Curb cuts: The project includes three new curb-cuts, as each lot will be served by individual driveway accesses from Sweet Road. (Exhibit C1)
 - (2) Excessively narrow or irregularly shaped lots: The ratio of a lot’s depth to its width (frontage) shall not exceed five to one (5:1) unless the Board finds there is good cause otherwise. Lot 3 has a depth of 2,645’± and a width of 220’ at the front setback line, which results in a depth-to-width ratio of 12:1. The Board finds that there is good cause to take into account that the majority of the lot’s depth is proposed to be conserved and that the depth of the developable portion of the lot is 1,160’±, which results in a depth-to-width ratio of 5.3:1 for the developable area of the lot.
 - (3) Preservation of existing vegetative screening: Applicant’s Exhibit A10 states that the new lots will be buffered from adjoining properties as depicted on the site plan. The approximate “common proposed clearing area” for the construction of the leach-field is shown on the revised site plan. (Exhibit C1)
 - (4) Setbacks from natural resources and/or adjoining properties: The application materials (Exhibit A10) state that the addition of three new residential lots will not cause undue adverse impact on unique or fragile resources, or natural and scenic resources, and refers to the ANR Atlas Map (Exhibit B).

The proposal is to create three residential lots from the existing parcel with a single-family dwelling on Lot 1 and duplexes (two-family dwellings) on Lots 2 and 3. Applicant’s revised Site Plan (Exhibit C1) states in a notation that the end-users of Lots 2 and 3 may prefer to construct guest houses in the secondary building envelopes, or may choose to subdivide off the secondary areas to create additional lots. A future proposal to build on or further subdivide the lots will require DRB review and approval for subdivision or development in the RHS overlay district; approval of this project includes such a condition.

- 5. Section 303 Conditional Use criteria: Development of lands within the RHS overlay district shall comply with the following conditional use review standards:
 - (a) Section 303(e)(1) Community facilities: See compliance with the capacity of community facilities in paragraph 4(a)(1), above.
 - (b) Section 303(e)(2) Character of the area: The existing uses in the immediate area are residential. Light and noise impacts will be typical of standard residential use, which will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area. Applicant is not aware of any historic sites, or rare or irreplaceable natural areas on the parcel. The attached ANR Atlas Map (Exhibit B) does not identify any rare, threatened, or endangered species,

or deer wintering areas on the parcel. There is a mapped Northern Hardwood Forest along the north-easterly property line of the parcel.

- (c) Section 303(e)(3) Municipal bylaws in effect: Residential lots are a permitted use within the MDR zoning district and are a conditional use when they are located within the RHS overlay district.
 - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed residential use will not typically create the above-named nuisances and therefore no devices or special methods are required to control these impacts.
 - (e) Section 303(h) Removal of earth or mineral products conditions: The project does not include earth removal activities. This provision does not apply.
6. Section 1004 RHS Standards of Review: All the proposed development is located below 1,499 FIE. As per Section 1001, the project is classified as “minor” development. Minor development projects on lands within the RHS overlay district shall be subject to conditional use review (see compliance with the conditional use standards in paragraph 5, above). The application materials (Exhibit A10) address compliance with the following standards as set forth Section 1004(c) for Major Development:
- (a) Section 1004(a)(1) Screening: The application materials state that, as depicted on the Site Plan (Exhibit C1), the new lots will be buffered from adjoining properties.
 - (b) Section 1004(a)(2) Access: The project proposes three new curb-cuts, as each lot will be served by individual driveway accesses from Sweet Road. (Exhibit C1)
 - (c) Section 1004(a)(3) Placement of structures: The Applicant is not requesting review of the dwelling units at this time. The placement of structures will be limited to the building envelopes as depicted on the Site Plan (Exhibit C1). The building envelope areas are located below 1,499 FIE. Lot 3 includes an area of 14.88 acres to be set aside for conservation, which includes lands above 1,499 FIE.
 - (d) Section 1004(a)(4) Exterior Lighting: No exterior lighting is proposed, as no structures are proposed.
 - (e) Section 1004(a)(5) Clear-cutting and predevelopment site preparation: This application does not include a proposal for clear-cutting or pre-development site preparation outside of the leach-field area on Lot 3 as shown on Applicant’s Site Plan, Exhibit C1.
 - (f) Section 1004(a)(6) Natural resources: The application materials (Exhibit A10) state that the addition of three new residential lots will not cause undue adverse impact on unique or fragile resources, or natural and scenic resources, and refers to the ANR Atlas Map (Exhibit B).
 - (g) Section 1004(a)(7) Building design: No structures are proposed at this time. The specifics of the building materials for future dwellings will be further defined with an application to build.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that Charles Timothy Grayson’s request to create a three-lot subdivision of an undeveloped parcel on Sweet Road in the RHS overlay district, as presented in application #136-20 and supporting materials, meets the Conditional Use, Ridgelines/Hillsides/Steep Slopes, and Subdivision criteria as set forth in Sections 303, 1004, and 1202.

Decision Motion:

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Harry Shepard seconded to approve application #136-20 with the following conditions:

- (1) The applicant shall complete the project in accordance with the Board’s findings and conclusions and the approved plans and exhibits;
- (2) Any future proposal to build on or further subdivide the lots will require DRB review and approval for development or subdivision in the RHS overlay district.
- (3) That the conservation easement identified on the Plat include language in the deed, attached to Lot 3, that states there will be no development, as defined by the *Waterbury Zoning Regulations*, and that it be conserved in perpetuity. These restrictions shall also be noted on the survey plat.
- (4) Except as amended herein, this approval shall incorporate all Findings of Fact, Conclusions of Law, and Conditions in zoning permits #079-16T and #015-17.
- (5) The applicant shall comply with erosion protection and sediment control measures when development commences on the lots.
- (6) The proposed clearcutting, pre-development and construction activities shall comply with the most current version of the State of Vermont *Low Risk Site Handbook for Erosion and Sediment Control*, as published by the Vermont Department Environmental Conservation, and other regulations applicable to silvicultural activities.
- (7) The approved final plat, signed by the DRB Chair (or his designee), shall be duly filed and recorded, in the office of the Clerk of the Town of Waterbury, within 180 days from this approval, in accordance with 24 V.S.A. § 4463.

Vote: The motion passed unanimously 6–0.



(Chair David Frothingham)

January 30, 2021

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or pete.kopsco@vermont.gov, and the appropriate state agencies to determine what permits must be obtained.

NOTICE: *This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An 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 Court Proceedings.*