

**DRAFT**

**TOWN OF HINESBURG  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT, CONCLUSIONS & ORDER**

**PR&R Development LLC, c/o Pat Minor and Renee & Ryan Mobbs  
Final Plat Approval for an 8-lot Subdivision, Planned Unit Development (PUD)  
& Development on a Private Right-Of-Way  
Tax Map Number 09-01-69.100**

Based on the public hearing and the documents contained in the “document” file for this proposal, the DRB enters the following Findings of Fact, Conclusions and Order.

**FINDINGS OF FACT**

1. PR&R Development LLC, represented by Pat Minor and Renee & Ryan Mobbs and hereafter described as the Applicants, are requesting Final plat approval of an 8-lot subdivision of their 61.26-acre property located on the west side of Observatory Road in the Rural Residential 1 Zoning District (RR1). The property is Tennessee shaped with a very long east to west distance, a shorter north to south distance and with eastern and western edges orientated southwest to northeast. The seven proposed new lots with residences would be clustered on the eastern portion of the property near the maintained portion of Observatory Road, with the existing residence, lot #1, retaining the westernmost 37.69-acres. Lot #2 would have 9.24-acres. Lots #3 through #8 would approximately have 2.92-acres, 2.43-acres, 1.68-acres, 1.91-acres, 2.66-acres and 2.73-acres. The Applicants are also requesting to increase the size of the existing lot #1 building envelope from about 60,000sf (1.4-acres) to about 88,000sf (2.0-acres). Aside from the Applicants’ home and access, most of the property is currently undeveloped forest.
2. The Development Review Board (DRB) visited the property on July 19, 2022, prior to a DRB meeting. The Applicants received sketch plan approval on August 2, 2022, which was extended on December 20, 2022. The Applicants received preliminary plat approval on September 5, 2023. The Applicants and their design team, which includes Jason Barnard and Scott Baker from Barnard and Gervais, and Jeff Olesky, from Catamount Engineering, attended the April 2, 2024 and April 16, 2024 DRB meetings.
3. This property was once part of a larger property that had just over 100 acres, and spanned from North Road to Lavigne Hill Road. This property was separated from the larger, original parcel in 2003 with zoning permit 2003-53 for a forestry lot. On September 21, 2021, the Applicants received DRB approval for a subdivision revision, which established a building envelope on the property. The survey for this revision is recorded on map slide 248 in the Hinesburg land records. On October 5, 2021, the Applicants received a zoning permit for a dwelling on the property, which is the only development on the property.
4. The Applicants have provided three professional survey plats. PL-1 shows the entire 61.26-acre property with all eight properties, and delineates the existing and proposed building envelope for lot #1. PL-2, shows the buildable portion of proposed lot #2, and all of proposed lots #3, and #4, with bearings and distances of the lot perimeters, the building envelopes with ties to the perimeter survey, the location of a vernal pool and corresponding buffer area, stormwater treatment easement, utility easements and the shared access easement for lots #2 & #3. PL-3 shows all of proposed lots #4 through #8, with bearings and distances of the lot perimeters, the building envelopes with ties to the perimeter survey, the location of preserved wildlife areas, stormwater treatment easement, utility easements and the shared access easement for lots #4 through #8. The utility locations and standard utility notes are provided as required by Section 6.9 of the Hinesburg Subdivision Regulations (HSR).

5. The property is located in the RR1 outside of the municipal water and sewer district, which per Table 1 of Section 2.4 of the Hinesburg Zoning Regulations (HZR) requires a minimum lot area of 3 acres. The acreage could theoretically allow for up to 20 three-acre residential units as a conventional subdivision and 25 units as a Planned Unit Development (PUD). The resources on this property limit the potential number of units to a smaller amount. To allow for lots that are smaller than three-acres, the Applicants is proposing a PUD that would conform to the regulations for found in Section 4.5 of the HZR.
6. Section 4.5.5(3) of the HZR requires a master plan for the entire property when utilizing the flexibility of a PUD. The Applicants testified at the preliminary plat hearing and restated in the final plat review that this proposed subdivision is a full buildout of the property.
7. Table 1 of Section 2.4 of the HZR requires a frontage of 200-feet, unless this is modified with a PUD as permitted per Section 4.5.6(3) of the HZR. The proposed frontages on to Observatory Road include 200.00-feet for lot #1, 374.12-feet for lot #2, 225.00-feet for lot #3, 621.24-feet for lot #4, 290.92-feet for lot #6, and 199.25-feet for lot #8. Lot #8 would also have the 191.70-feet of frontage on North Road, for a total frontage of 390.95-feet. Lots #4 through #8 would have frontage on a proposed private road. Lots #5 and #7 would only have frontage on a proposed private road. Lots #5 and #7 would have 141.12-feet and 148.23-feet of frontage respectively, which are less than 200-feet required in Section 2.4 of the HZR.
8. Section 4.5.6(3) of the HZR allows the DRB to modify some of the zoning regulations. In addition to a smaller lot size, the Applicants is going to need a reduction of front yard setback from a shared right-of-way for proposed lots #3, #6 and #8, and a reduction in required frontage for lots #5 and #7.
9. Section 4.5.7(1) of the HZR requires no less than 25% of the land be preserved. The Applicants are proposing to preserve 18.84-acres of the total 61.26-acres, which calculates to be 30.75% of the total property area, as a greenspace wildlife corridor and upland refuge habitat. The location of the preserved 18.84 acres are shown on the plans. Acceptable greenspace areas include identified wildlife travel corridors per Section 4.5.7(1d) of the HZR and upland forest land per Section 4.5.7(1b) of the HZR. The Applicants submitted covenants that limit clearing to the building envelopes, roadways, wells and wastewater treatment.
10. These proposed lots would be accessed from Observatory Road, which connects to North Road, which is a class 2 Town roadway. Observatory Road is a Town owned property, but not a Town road. The portion between North Road and VT Astronomical Society's observatory, located at the former entrance to the closed capped Town landfill, is partially maintained by the Town. The Town Manager and the Selectboard have stated that continued maintenance of this portion of Observatory Road is not guaranteed in the future. The remainder of the access is not maintained by the Town. The covenants provided by the Applicants include language for shared maintenance of Observatory Road.
11. Concern was raised at sketch plan regarding the legal access to Observatory Road. The Applicants provided legal documentation, which was confirmed by the Town Manager's Office, that the Applicants could utilize the 60-foot-wide Observatory Road property for access in this subdivision. Curb cut approvals were obtained by the Applicants from the Town Manager's Office for the proposed accesses to lots #2 through #8.
12. The Applicants propose to widen and maintain Observatory Road to an 18-foot width from North Road, past the shared access for lots #4 through #8, to and including the access to the Cardinal property located at 107 Observatory Road. From The Cardinal property access to the shared access of lots #2 and #3, the road width would be 16-feet, except for the curved area that would be widened to 18-feet

and for the area near the shared access for lots #2 and #3, where the road width would be widened to 20-feet for a proposed emergency vehicle turnaround.

13. Proposed lots #2 & #3 will share one access from the section that is west of the observatory. Lots #4 through #8 will share an access from the northern portion of Observatory Road. Since the proposed access to the proposed lots would be through a right-of way, approval for development on a private right-of-way in conformance to Section 4.4 of the HZR is required. A 50-foot minimum access to developable lots is required per Sections 5.7.1(1&2) of the HZR. Observatory Road has a right-of-way width of 60-feet. The two proposed shared right-of ways for lots #2 through #8 would have a width of 50-feet. Both right-of-ways would conform to Section 5.7.1 of the HZR. Section 4.4.5 of the HZR allows review for development on a private right-of-way to be included with subdivision review.
14. The Applicants has proposed on the plans an emergency vehicle turnaround for the proposed shared access for lots #4 through #8, and by the proposed shared access to lots #2 & #3. Emergency vehicle turnarounds are required for conformance to Section 4.4.1(3) of the HZR. The plans show a widening of the proposed shared access for lots #4 through #8 utilizing the driveways for lots #7 and #8, and one that utilizes the intersection of Observatory Road and the proposed shared access to lots#2 and #3. The road widths are expanded to 20-feet for a length of 60-feet with an interior radius of 20-feet for the proposed turnarounds.
15. The existing Observatory Road appears to have grades that are less than 10%. The two proposed shared right-of-ways, according to the Applicants' Designer, were designed to have grades that did not exceed 10%. Lots #2, #5 and #7 have a portion of their driveways that would have grades that were greater than 10%, but designed to not exceed 12% grades. The portions of the lots #5 and #7 accesses with grades greater than 10% do not appear to be very long and are relatively straight. The proposed driveway for lot #2 is long and curved with most of its length of more than 250-feet being a 12% grade. The Applicants, as required in Order #5 of the preliminary plat approval widened the steeper portion of the lot #2 driveway to a consistent 14-feet to allow for better emergency vehicle access.
16. The submitted site plans state that the proposed shared access entrances for lots #2 and #3, and for lots #4 though #8, would satisfy the V-Trans B-71 standard.
17. The proposed lots would each have their own wells and septic systems. The Applicants obtained State wastewater system and potable water supply permit WW-4-5629-1 for conformance to Sections 5.1.8, 5.1.9, 6.7 and 6.8.3 of the HSR. The permit acknowledges the existing residence on lot #1 having a system that can provide a 4-bedroom single family residence and a 2-bedroom accessory apartment. The system for lot #1 was designed and permitted separately. The Applicants provided a certification from a different designer stating conformance with the prior State permit. Permit WW-4-5629-1 approves lots #2, #6, and #8 to have 5-bedroom single family residents, lots #3, #4, and #5 to have 4-bedroom single family residents, and for lot #7 to have a 3-bedroom single family residence. The subdivision narrative states that there are seventeen existing water supply wells within ¼-mile of the proposed lots 2 through 8 drilled well sites with an average dept of 542-feet and yield of 7.5 gallons per minute. Though the submitted narrative lists the proposed bedroom count differently. The bedroom count on the approved State permit is considered as what is proposed.
18. To the south of the Applicants' property is the capped old Town landfill, which the containment recently required repair. There has been contamination of nearby wells in the Forest Edge community and at the Town Highway Garage facility. Section 3.2 of WW-4-5629-1 requires testing well water for arsenic, escherichia, coli (E. coli), fluoride, lead, manganese, nitrate as N, nitrite as N, total coliform bacteria, uranium, adjusted gross alpha particle activity, chloride, sodium, iron, odor and pH. Since the

contamination included PFAS and VOCs, including Methylene chloride, the Applicants agreed at the preliminary plat hearing to add testing for this contamination.

19. The Applicants testified at the preliminary plat hearing that they would be required per real estate regulations to inform potential buyers of the nearby well contamination. The Applicants provided language in the draft covenants that describes the nearby well contamination. In response to concerns from neighbors to the south during the preliminary plat review, the Applicants showed on the site plans the approximate locations of existing wells in the Forest Edge community near lot #1.
20. Order #7 of the preliminary plat required the Applicants to fund an independent hydrogeologist to provide an opinion as to the likeliness that safe potable water, not contaminated by the adjacent Town landfill, could be provided to the proposed lots, and that the proposed development would not have an adverse impact on the adjacent existing wells or the landfill. Stone Environmental Inc. was hired and provided the following professional opinions:
  - “It is Stone’s professional opinion that it is highly likely bedrock wells could be drilled as shown on the Proposed Overall Subdivision Plan that will produce safe potable water not contaminated by the adjacent landfill.”
  - “It is Stone’s professional opinion that the bedrock wells proposed for the development as shown on the PR&R Development, LLC Overall Subdivision Plan will not have an adverse impact on the adjacent landfill and nearby existing bedrock wells.”
21. The property is mostly forested. Sensitive natural features on the property include steep slopes (>25%), moderately steep slopes (15% to 25%), a stream buffer along the property’s western boundary, core wildlife habitat, a wildlife corridor, and agricultural soils. The proposed development will impact some moderately steeped slopes, wildlife corridor and core wildlife habitat. To accommodate the wildlife corridor, the Applicants is proposing to maintain a 100-foot-wide buffer along the northern boundary of the property and along North Road as a forest.
22. The Applicants provided a report, which was reviewed during preliminary plat review, from a professional ecologist, Matt Montgomery, who stated his expectation that “a 100-foot-wide migratory corridor will be sufficient to accommodate the continued movement of nearly all wildlife species through the property.”
23. Concern was raised during preliminary plat review that the leachfield for proposed lot #8 extends into the wildlife corridor. The Applicants explained at the hearing that this leachfield was an in-ground system and would not have a vertical height. The Applicants edited the plans to remove the leachfield area from the wildlife corridor and extend the corridor further east of the leachfield to the south.
24. The Conservation Commission during preliminary plat review provided feedback from Andrew Wood, a Habitat Specialist from the VT Fish and Wildlife Department in an email dated July 15, 2023. Andrew Wood commented on the quality of the corridor to allow safe travel through the corridor and that long skinny corridors need to be protected from light/noise pollution, disturbance, encroachment, invasive species, domestic pets, etc. To limit corridor interference the building envelopes for proposed lots #7 & #8 were setback from the corridor at least 10-feet to allow for construction in the proposed building envelopes not to interfere with the corridor, and plantings to limit visibility would be placed and maintained between the lots #7 & #8 building envelopes and the wildlife corridor. In addition, the building envelope for lot #5 was near the upland refuge habitat woodland area is similarly setback 10-feet from the area.

25. The Applicants proposed to place six four-foot diameter shrubs about 28-feet apart on center between lot #7 and the corridor, and seven four-foot diameter shrubs to be placed at about 31.5-feet apart on center between lot #8 and the corridor. The Conservation Commission has recommended smaller plantings, but in larger numbers. An email was provided by the Conservation Commission with recommendations that have been provided to the Applicants. THIS FINDING IS TO BE EDITED AT THE HEARING
26. The Applicants provided a wetland delineation for the eastern half of the property, where the proposed development would be located. The Applicants' Ecologist, Matt Montgomery, located a vernal pool (a class 2 wetland) and a class 2 wetland, which are shown on the surveys and plans. According to the Applicants' Ecologist, these delineations were confirmed by Julie Follensbee, District Wetlands Ecologist with the Agency of Natural Resources. The proposed building envelopes to avoid these wetlands and associated wetland buffer areas.
27. There is a small area of prime agricultural soils on lot #1, which is not actively farmed. More of this area will be disturbed with the expansion of the lot #1 building envelope. Since this area is isolated and already impacted the potential commercial agricultural use of this area is extremely limited. The proposed expansion of the lot #1 building envelope would have a small fringe effect on some core wildlife habitat.
28. For the overall property, the Applicants are limiting clearing to the building envelopes, accesses, wells, septic systems, stormwater treatment and utilities. Clearing in the wildlife corridor and upland forest areas will be prohibited. Based on concerns that there are steep sloped areas (>25%) in the proposed building envelopes, the Applicants submitted a slope analysis plan. The Applicants testified at the preliminary plat hearing that the size of these areas in the proposed building envelopes are small and would not show up on larger scale review.
29. The Applicants raised concern at the preliminary plat review that meeting the maximum solar exposure for conformance found in Section 5.1.12 of the HSR requirements would require additional tree removal.
30. The highest elevations on the Applicants' property are on the northern part of the overall property near the proposed property line between lots #1 and #2. There is a ridge traversing the central portion of proposed lot #2 going north-northwest to south-southeast. This ridge extends on to Observatory Road adjacent to lot #2. Stormwater discharge from east of this ridge generally travels in a southeasterly direction to Observatory Road and then along the north and west sides of Observatory Road to the North Road intersection. This discharge would go south on North Road eventually draining into Beecher Brook, which is a tributary of the LaPlatte River. Stormwater discharge from the west of this ridge travels in a southwesterly direction towards the Forest Edge development or the stream on the western side of the property. The western areas discharge through several westerly traveling streams that either discharges to Beecher Brook or directly to the LaPlatte River.
31. Except for a small portion of the proposed building envelope for lot #2, all of the proposed lots are located on the eastern portion of the dividing ridge. The Applicants stated at preliminary plat review that all of the proposed development on lot #2 would be graded to discharge to the east. The existing development on lot #1 discharges stormwater to the west. This was not reviewed because the development predates this application.
32. The Applicants have provided a stormwater treatment design with plans, a narrative, ANR workbook and worksheet forms, infiltration tests, soil test pit logs, and modeling. The Applicants' Stormwater Engineer calculated the proposed impervious area to be just under one acre. The Applicants has

submitted an application to the stormwater division at the Agency of Natural Resources for the required State 3-9050 permit. The proposed stormwater design and treatment includes collecting the stormwater discharge in swales with check dams, to one of two proposed infiltration basins, which would overflow to the northern and western swales on Observatory Road, that discharge to North Road. The Applicants is proposing improvements on to the existing Observatory Road drainage swales by adding check dams and replacing an existing 15-inch diameter steel culvert with a 36-inch diameter HDPE culvert.

33. The proposed stormwater design would infiltrate the entire water quality and channel protection storm events. This infiltration would satisfy the recharge requirements. The modeling indicates that a sufficient portion of the discharge from a post-development 10-year storm event would infiltrate and be retained that the post-development peak discharge of 14.53 cubic feet per second (cfs) would be less than the pre-development peak discharge of 18.69cfs in the 10-year storm event. The Applicants' Stormwater Engineer submitted modeling to show conveyance of the peak discharge for the 100-year storm event.
34. The submitted stormwater plans show directional discharge flow arrows indicating the direction which stormwater will discharge. The Applicants are proposing that the land within the building envelope will be graded to ensure that stormwater will discharge in the direction indicated.
35. A small portion of subcatchment area S8 will discharge directly to the Observatory Road swale and not towards infiltration basin #2. The Applicants' Stormwater Engineer indicated that this portion of subcatchment area S8 is very small and will not have a significant effect on the modeling results.
36. The Applicants have proposed a combination of stormwater infiltration and clustered housing for conformance to low impact design (LID) requirements of Section 6.6.2(5) of the HSR.
37. The Applicants provided a stormwater system maintenance plan which details how the proposed stormwater system shall be maintained. The protective covenants and infrastructure maintenance agreement described in Findings of Fact #40 describes which lots would be responsible for the maintenance described on this plan.
38. The amount of disturbed area clearly exceeds the 10,000 square feet that requires an erosion control plan per Section 6.6.1 of the HSR and the one-acre requirement that requires a State construction general permit for erosion control. The Applicants has proposed on their erosion control plan and details a combination of silt fencing, stone check dams and a stabilized construction entrance, to conform to the erosion control standards of Section 6.6.1 of the HSR. A required post-construction soil stabilization detail is also provided. The details show erosion control matting, which can be applied if required or placed in steeper sloped areas. The plan shows limits of disturbance which are to be limited to the building envelopes, accesses, and for water and wastewater infrastructure.
39. The Applicants shows locations for soil stockpiling. The details show silt fencing on the downside of the stockpile, which is not shown on the plans, but will be required as shown on the detail.
40. The Applicants has provided comprehensive legal language in a document titled "protective covenants and infrastructure maintenance agreement". This document is proposed to be included in the deed for each lot and includes a description of maintenance requirements for the community and specific lots for the shared accesses, stormwater infrastructure, drainage direction, governance of the association, required water testing, clearing limitations, the requirement to place structures in the building envelopes, the protection of wildlife areas, vegetative screening for lots #7 & 8, lighting restrictions

and easement areas. Blank spaces have been provided to accurately describe plans and decision documents.

41. An existing underground electric line, placed to provide service to the existing residence on lot #1, is proposed to be utilized and extended to provide power to proposed lots #2 through #8. The existing and proposed underground power lines are shown on the submitted site plans. The survey PL-1 has the required utility note stating the utility line locations may change due to conditions like ledge.
42. No cultural features were identified in this application.
43. No street lighting is proposed in this application. The only outdoor lighting will be building-mounted lights; however, no details were provided regarding the number or type of these lights. Per section 5.29 of the HZR, each dwelling unit may have up to four outdoor lights that don't comply with the outdoor lighting standards, as long as the brightness of each light is less than 1200 lumens. Any lights beyond this must comply with the standards, and would require further review. Further, the subdivision is located in close proximity to a night sky observatory run by the Vermont Astronomical Society on the adjacent Town-owned property. To adequately address the concerns of the Vermont Astronomical Society, 'to minimize the light trespass and glare on nearby properties and roads, to reduce energy use', and to keep the rural nature of the development, the Applicants have agreed to have all lighting fixtures be downcasting and shielded. This requirement is a part of the protective covenants and infrastructure maintenance agreement described in Findings of Fact #40.
44. During the review of this application, the Conservation Commission expressed concerns regarding the width of the wildlife corridor, ensuring that the wildlife corridor will be able to function as intended, and that sufficient setback was provided to the vernal pool.
45. During the review of this application concerns were received from the Public regarding building visibility, forest clearing, the master plan, potable water availability, potable water quality, potable water interference with existing wells, proximity to contaminated wells, leachfield locations, preserving adequate wildlife habitat & corridor, the viability of the subdivision so near to the contaminated Town landfill, and the potential lighting interference with the Vermont Astronomical Society.
46. The Champlain Valley School District was provided with notices for this application and the preliminary plat application. The Champlain Valley School District was provided with the preliminary plat approval and will be provided with this approval by email.
47. The final plat application was submitted on March 7, 2024, and deemed complete on March 13, 2024. A portion of the application was not compliant. Additional submission and revisions were received as recently as April 10, 2024, which address the non-compliance. This application included the application form and the following documents, which are contained in the document file (09-01-69.100) in the Hinesburg Planning & Zoning office.
  - A cover letter and a narrative dated March 7, 2024. The submittal list in the letter is superseded by the list below.
  - A subdivision letter/project narrative dated March 7, 2024. The bedroom count in the narrative is ignored because it differs from the State permit.
  - State Wastewater System and Potable Water Supply Permit WW-4-5629-1 dated march 24, 2023.
  - Letter from Ecologist Matt Montgomery dated April 21, 2023 on the 100-foot-wide migratory corridor.
  - Resource maps from ANR data dated January 28, 2022, showing possible wetland locations, river corridors, agricultural soils, wildlife habitat, slope analysis and well locations.

- V-Trans Standards A-76 and B-71A
- Letter from Spencer Harris of Vermont Contours, Inc., dated 1/12/24, stating that the leachfield disposal area for the accessory apartment on lot #1 has been constructed in reasonable conformance with the approved plans and is functioning as intended.
- Stone Environmental Inc. professional opinion dated December 15, 2023, on the ability for safe potable water to be provided to the proposed lots and the likeliness of the proposed development would have an adverse impact on the adjacent landfill.
- Three survey plans titled “Eight-Lot Subdivision Survey Plat”, by Barnard & Gervais, LLC, with project number 21375, drawing numbers PL-1, PL-2 & PL-3, and dated 04-04-2024. Plan PL-1 has a location map.
- A plan titled “Overall Subdivision Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number S-1, dated 02-27-2023, and with a latest revision date of 04-04-2024. This plan has a location map.
- A plan titled “Lots 2 & 3 Site Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number S-2, dated 02-27-2023, and with a latest revision date of 04-04-2024.
- A plan titled “Lot 4 Site Plan & Water Supply Details”, by Barnard & Gervais, LLC, with project number 21375, drawing number S-3, dated 02-27-2023, and a with latest revision date of 04-04-2024.
- A plan titled “Lots 5 & 7 Site Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number S-4, dated 02-27-2023, and with a latest revision date of 04-04-2024.
- A plan titled “Lots 6 & 8 Site Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number S-4, dated 02-27-2023, and with a latest revision date of 04-04-2024.
- A plan titled “Lot 2 Wastewater System Details and Notes”, by Barnard & Gervais, LLC, with project number 21375, drawing number D-1, and dated 02-27-2023.
- A plan titled “Lot 3 Wastewater System Details and Notes”, by Barnard & Gervais, LLC, with project number 21375, drawing number D-2, and dated 02-27-2023.
- A plan titled “Lot 4 Wastewater System Details and Notes”, by Barnard & Gervais, LLC, with project number 21375, drawing number D-3, and dated 02-27-2023.
- A plan titled “Lot 5 Wastewater System Details and Notes”, by Barnard & Gervais, LLC, with project number 21375, drawing number D-4, and dated 02-27-2023.
- A plan titled “Lot 6 Wastewater System Details and Notes”, by Barnard & Gervais, LLC, with project number 21375, drawing number D-5, and dated 02-27-2023.
- A plan titled “Lot 7 Wastewater System Details and Notes”, by Barnard & Gervais, LLC, with project number 21375, drawing number D-6, and dated 02-27-2023.
- A plan titled “Lot 8 Wastewater System Details and Notes”, by Barnard & Gervais, LLC, with project number 21375, drawing number D-7, and dated 02-27-2023.
- A plan titled “Existing Stormwater Management Site Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-1, dated 03-07-2024 and with a revision date of 04-04-2024. This plan shows the subcatchment areas and soil types in the project area and overall property.
- A plan titled “Proposed Stormwater Management Site Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-2, dated 03-07-2024 and with a revision date of 04-04-2024. This plan shows the proposed drainage paths and treatment.
- A plan titled “Proposed Infiltration Basin Site Plans”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-3, dated 03-07-2024 and with a revision date of 04-09-2024.
- A plan titled “EPSC Stabilization Site Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-4, dated 03-07-2024 and with a revision date of 04-04-2024.
- A plan titled “Stormwater Details”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-5, and dated 04-09-2024.



- A plan titled “Erosion Prevention & Sediment Control Details”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-6, and dated 03-07-2024.
  - A plan titled “Stormwater System Maintenance Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-7, dated 03-07-2024 and with a revision date of 04-04-2024.
  - Existing and proposed stormwater modeling for the channel protection (Q1), and ten-year storm events, and the proposed water quality storm event. Printed April 9, 2024
  - Stormwater narrative, location map and soils map for the PR&R eight-lot subdivision. Submitted March 12, 2024
  - Stormwater workbook, submitted April 9, 2024.
  - Stormwater worksheets, submitted March 12, 2024.
  - Stormwater infiltration tests, dated 7/10/2023.
  - Stormwater soil test pit log, dated 7/10/2023.
  - Proposed stormwater modeling for the 100-year storm event printed April 9, 2024.
  - Draft Protective Covenants and Infrastructure maintenance agreement received on April 10, 2024.
  - Draft Association Bylaws received on April 5, 2024
  - Email from Renee Mobbs from July 31, 2023, confirming that the proposed subdivision is a master plan for the entire property.
  - Letter from Renee Mobbs with attached recorded documents showing the Applicants’ allowed use of the Observatory Road property for access for the proposed subdivision.
  - Email letter from the Applicants to the Town Manager, dated February 10, 2023, with legal agreement with the Applicants’ legal opinion on the Applicants’ rights to use the Observatory Road right-of-way.
  - A plan titled “Slope Analysis”, by Barnard & Gervais, LLC, with project number 21375, drawing number FIG-1, and dated 07-18-2023.
  - Email from the Applicants’ designer describing the road & driveway grades dated June 30, 2023.
  - Town driveway permit evaluation for the proposed shared accesses. Two documents.
  - GIS plans by Staff titled Site Map and Resource Map dated 4/25/2022.
  - Email from Kate Kelly, chair of the Conservation Commission, dated April 10, 2024, recommending specific plantings that could be utilized to provide screening of the wildlife corridor, and expressing some stormwater and wetlands concerns.
  - Email from Andrew Wood, Habitat Protection Scientist from the Vermont Department of Fish and Wildlife, on the required width of wildlife corridors.
  - Letter from Denise and Raymond Bouchard, dated March 29, 2024, expressing concern that the proposed development would adversely affect wells in the area.
48. The following members of the DRB were present for the final plat subdivision hearing on April 2, 2024, constituting a quorum: Dennis Place, Jon Slason, Ted Bloomhardt, John Lyman and Michael Webb. The following members of the DRB were present for the final plat subdivision hearing on April 16, 2024, constituting a quorum: Dennis Place, Dick Jordan, Jon Slason, Ted Bloomhardt, John Lyman and Michael Webb. See the official meeting minutes for a list of others present at the meeting.
49. The April 2, 2024 public hearing was warned in *The Citizen* on March 14, 2024.

## **CONCLUSIONS**

1. The Applicants has submitted all information required by the HSR and HZR for the aforementioned applications.

2. The Applicants have provided surveys as described in Findings of Fact #4 and #41 that satisfy the requirements of Sections 4.2.1 and 6.9 of the HSR.
3. The proposed number of units in this proposed development as described in Findings of Fact #5 conform to what is allowed per Section 2.4 of the HZR.
4. Since this development will be a full buildout of the property, the Applicants has satisfied the master plan requirement of Section 4.5.5(3) of the HZR.
5. The proposed list of dimensional waivers listed in Findings of Fact #7 & #8 are reasonable and approvable per Section 4.5.6(4) of the HZR.
6. The proposed greenspace described in Findings of Fact #9 conforms to the PUD standards of Section 4.5.7 of the HZR.
7. The proposed development as a master plan has proposed to cluster the overall development in an area that allows for better access, is near similar sized properties and allows for maintaining harder to reach areas to remain undeveloped demonstrates suitability and compatibility for the area as required in Sections 5.1.1 and 5.1.5 of the HSR.
8. No cultural features have been identified in this review. The proposed development conforms to Section 5.1.3 of the HSR.
9. Maintaining a large portion of the property as undeveloped forested area shows conformance with Section 5.1.4 of the HSR that the proposed lots will have sufficient open space for recreation.
10. The size of the overall proposed development will not create an unreasonable amount of new traffic in conformance to Section 5.1.6(1) of the HSR.
11. By demonstrating legal rights to utilize Observatory Road, widening the road for safe two-way traffic, creation of 50-foot right-of-ways, making accommodations for steeper grades, proposing entrances that meet of the B-71 standard, and proposing a protective covenants and infrastructure maintenance agreement, as described in Findings of Fact #10 through #16, and #40, the Applicant has demonstrated conformance to the safe access requirements of Section 5.1.6 (2) of the HSR and the development on a private right-of-way requirements of Sections 4.4 and 5.7.1 of the HZR.
12. The Applicants agreeing to test for PFAS and VOCs, including Methylene chloride, in addition to the contaminants required to be tested in Wastewater System and Potable Water Supply Permit WW-4-5629-1, the notice that would be provided to potential buyers, the findings from the independent hydrogeologist and the proposed protective covenants and infrastructure maintenance agreement described in Findings of Fact#17 through #20, and #40, the Applicants have demonstrated conformance to Sections 5.1.8, 5.1.9, 6.7.2 and 6.8.3 of the HSR.
13. Protecting the wildlife corridor, the upland forest area, the wetlands and the vernal pool with clearing limits and with the protective covenants and infrastructure maintenance agreement as described in Findings of Fact #21 through #28 and Findings of Fact #40, demonstrates conformance to Section 5.1.10 of the HSR for forest preservation and Section 5.1.2 of the HSR for natural features protection.

14. The request as described in Findings of Fact #29 to allow for flexibility with energy conservation requirements per Section 5.1.12 of the HSR to preserve more forested area in this development is justified and reasonable.
15. The proposed stormwater treatment described in Findings of Fact #30 through #37, satisfy the stormwater requirements found in Section 6.6.2 of the HSR.
16. The proposed erosion control design described in Findings of Fact #38 & #39 conform to the standards of Section 6.6.1 of the HSR. Conformance to this and the work described in Conclusion #15, would provide conformance to Section 5.1.7 of the HSR.
17. The protective covenants and infrastructure maintenance agreement described in Findings of Fact #40 adequately provides the maintenance requirements required in several portions of the Town regulations.
18. The lighting concerns raised by the Vermont Astronomical Society has been adequately addressed by the Applicants as described in Findings of Fact #43. Beyond the special downcast and shielded light fixtures, building-mounted outdoor lighting should be limited in number and brightness to no more than four lights per dwelling unit with each light no more than 1200 lumens.

### **ORDER**

Based on the Findings of Fact and Conclusions set forth above, the Hinesburg DRB gives final plat approval to the proposed 8-lot major subdivision subject to the conditions listed below.

1. In accordance with State statute, the survey mylar, containing a date and signature of approval of the Development Review Board, of this subdivision shall be recorded in the Hinesburg Land Records within 180 days (or 270 days if permitted by the Zoning Administrator pursuant to the Subdivision regulations, section 7.5) of this approval and before any property is transferred or zoning permits issued for this proposed development.
2. The deeds with the protective covenants and infrastructure maintenance agreement described in Findings of Fact #40 shall be recorded prior to the issuance of any building permits on these lots.
3. Prior to the issuance of a zoning permit for the first structure that will require potable water with a well on one of these lots, the landowner shall drill and test the well for the contaminants listed in Findings of Fact #18. Should the well contain any contaminants, mitigation of these contaminants or a new well shall be drilled and tested prior to the issuance of a building permit.
4. A certification by an appropriate professional that Observatory Road has been widened as described in Findings of Fact #12 from North Road to the driveway located at 107 Observatory Road with compacted gravel to a minimum depth of 12-inches and in conformance to this approval prior to a certificate of occupancy being issued for any development on lots #2 through #8.
5. A certification by an appropriate professional that Observatory Road has been widened as described in Findings of Fact #12 from the driveway located at 107 Observatory Road to the shared access of lots #2 and #3 including the proposed emergency vehicle turnaround described in Findings of Fact #14 in the area that extends past the shared access with compacted gravel to a minimum depth of 12-inches and in conformance to this approval prior to a certificate of occupancy being issued for any development on lots #2 & #3.

6. A certification by an appropriate professional that the shared access as shown on the plans, including the proposed emergency vehicle turnaround described in Findings of Fact #14 that utilized the driveways of proposed lots #7 & #8 has been built with compacted gravel to a minimum depth of 12-inches and in conformance to this approval prior to a certificate of occupancy being issued for any development on lots #4 through #8.
7. Necessary stormwater system components shall be installed to properly capture runoff prior to issuance of a zoning permit for any development on lots 2-8. A certification by an appropriate licensed professional that the stormwater system discharge from the proposed lot is draining in the direction shown on the plans, documents and as described in this approval, and that all downstream infrastructure has been satisfactorily constructed from that specific lot to the culvert at the northern end of Observatory Road prior to the issuance of a certificate of occupancy for any development on the proposed lot. Downstream infrastructure includes, but not exclusively, grading, drainage swales, riprap, check dams, drainage culverts, pretreatment swales and infiltration basins.
8. The stormwater system shall be maintained as shown on the stormwater maintenance plan submitted by the Applicants.
9. All erosion control measures located downhill of the proposed development as shown on the plans and details shall be placed prior to the proposed development on these lots. The areas exposed during construction shall be treated in a manner consistent with the erosion control plans. Silt fencing located downhill of the soil piles as shown on the details shall be placed prior to the soil stockpiling and shall remain until the excess soil is removed.
10. All structures shall be located in the building envelopes as shown on the survey plat.
11. The building envelopes shall be staked by an appropriate licensed professional, if requested by the Zoning Administrator, prior to a building permit being deemed complete and/or prior to a request for a certificate of occupancy.
12. Clearing shall be limited to the building envelopes, accesses, wells, septic systems, stormwater treatment and utilities. Clearing in the wildlife corridor and upland forest areas shall be prohibited. The Landowners can manage the forest as long as it is consistent with maintaining the forest canopy, core wildlife habitat and healthy vigorous tree growth. **SOME BETTER LANGUAGE MAY BE SUBSTITUTED AND/OR ADDED PRIOR TO THE HEARING.**
13. Plantings to screen the wildlife corridor on lots #7 & #8 described in Findings of Fact #25 shall be placed prior to the issuance of a certificate of occupancy for these lots and shall be perpetually maintained and replaced when needed.
14. The wildlife corridor and upland refuge habitat shall be maintained in their natural state. Dead or diseased trees may be removed, but shall be replaced with suitable native tree species if necessary to maintain the forest canopy and corridor integrity.
15. Utility service shall be provided with underground lines as described on the plans. The proposed utility locations may be modified slightly when installed, due to unforeseen site constraints.
16. All exterior lighting shall comply with the protective covenants and infrastructure maintenance agreement described in Findings of Fact #40, Conclusion #18, and the outdoor lighting provisions in Section 5.29 of the HZR.

17. No further subdivision of this property shall occur without review and approval of the Hinesburg DRB. This subdivision is to be a master plan for the entire property.
18. All blasting shall be done by a licensed, insured contractor, utilizing all current industry safety standards. Any blasting or pounding shall occur only between the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday and not on holidays. Neighbors of any blasting and pounding to take place shall be given as much notice as possible.
19. The hours of construction shall be from 7:00am to 6:00pm, Mondays through Saturdays.
20. This project shall be completed, operated, and maintained as set forth in the plans and exhibits as approved by the DRB and on file in the Town Office, and in accordance with the conditions of this approval. Deviations may be made from these plans if they are:
  - a. Approved by the designer, or equivalent, and
  - b. In conformance with the intent of this decision, and
  - c. Determined by the Zoning Administrator that they are not significant enough to require a formal revision to the DRB decision

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For Development Review Board

April 16, 2024  
Date

Board Members participating in this decision: Dennis Place, Dick Jordan, Jon Slason, Ted Bloomhardt, John Lyman and Michael Webb.

Vote: X-X

**30-day Appeal Period:** - An “interested person”, who has participated in this proceeding, may appeal this decision to the Vermont Superior Court, Environmental Division within 30 days of the date this decision was signed. Participation shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. See V.S.A. Title 24, Chapter 117, Section 4465b for clarification on who qualifies as an “interested person”.

Notice of the appeal, along with applicable fees, should be sent by certified mail to the Vermont Superior Court - Environmental Division. A copy of the notice of appeal should also be mailed to the Hinesburg Planning & Zoning Department at 10632 VT Route 116, Hinesburg, VT 05461. Please contact the Court for more information on filing requirements, fees, and current mailing address.

**State Permits:** - It is the obligation of the Applicants or permittee to identify, apply for, and obtain required state permits for this project prior to any construction. The VT Agency of Natural Resources provides assistance. Please contact the regional Permit Specialist at 879-5676 (111 West St, Essex Jct., VT 05452) for more information.

All new residential and/or commercial construction including additions, alterations, renovations, and repairs are subject to either the Vermont Residential Building Energy Standard (RBES) - 21 V.S.A. § 266, or the Vermont Commercial Building Energy Standard (CBES) - 30 V.S.A. § 53. A certificate of occupancy cannot be issued until the required RBES or CBES certification has been filed in the town records.