

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

**PR&R Development LLC, c/o Pat Minor and Renee & Ryan Mobbs
Preliminary Plat Approval for an 8-lot Subdivision, Planned Unit Development
& Development on a Private Right-of-Way
Parcel Number 09-01-69.100**

Based on the documents contained in the “document” file for this proposal, the Hinesburg Development Review Board (DRB) enters the following Findings of Fact, Conclusions and Order.

FINDINGS OF FACT

1. PR&R Development LLC, hereafter described as the Applicant, is requesting preliminary plat approval of an 8-lot subdivision of their 61.26-acre property located in the Rural Residential 1 Zoning District (RR1). The seven proposed lots with new residences would be clustered on the eastern portion of the property, 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. Aside from the Applicant’s home and access, most of the property is currently undeveloped forest. The DRB visited the property on July 19, 2022, prior to the DRB meeting. The Applicants received sketch plan approval on August 2, 2022, which was extended on December 20, 2022. The preliminary plat application was heard on July 18, 2023 and August 1, 2023. Representing the Applicant at these meetings were Renee and Ryan Mobbs, and Pat Minor, and the Applicant’s design team, which included Jason Barnard, Scott Baker and Jeff Olesky, all of whom attended both meetings.
2. 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 Applicant received DRB approval for a subdivision revision, which established a building envelope on the property. On October 5, 2021, the Applicant received a zoning permit for a dwelling on the property, which is the only development on the property.
3. 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 Applicant is proposing a PUD that would conform to the regulations for found in Section 4.5 of the HZR.
4. 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, 617.87-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, which would increase the total frontage to more than 200-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.
5. 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 Applicant 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.
6. Section 4.5.1 of the HZR requires a master plan for the entire property. The Applicant testified at the hearing that this proposed subdivision is a full buildout of the property. Section 4.5.7(1) of the HZR requires no less than 25% of the land be preserved. The Applicant is 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 migratory corridor and upland refuge habitat. 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. For final plat community documents will need to be provided that show this land being protected.
 7. 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 Applicant will need to include maintenance of all of Observatory Road in its shared maintenance of infrastructure agreement.
 8. Concern was raised at sketch plan regarding the legal access to Observatory Road. The Applicant provided legal documentation, as required per Order #3a of the sketch plan approval, which was also confirmed by the Town Manager's Office, that the Applicant could utilize the Observatory Road property for access in this subdivision. In addition, curb cut approvals were obtained by the Applicant from the Town Manager's Office for the proposed accesses to lots #2 through #8.
 9. 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. The shared access for lots #4 through #8 appears to have a proposed turnaround on the plans. There does not appear to be a turnaround for the other lots. The Applicant testified at the hearings that they will provide an emergency vehicle turnaround for the access to proposed lots #2 & #3 as part of a final plat application.
 10. 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. Observatory Road as a shared right-of-way has a width of 60-feet. The two proposed shared right-of ways for lots #2 through #8 would have a width of 50-feet. A 50-foot minimum access to developable lots is required per Sections 5.7.1(1&2) 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.
 11. The existing Observatory Road appears to have grades that are less than 10% and an existing traveled width of 16-18 feet to the Cardinal property driveway, and 14-15 feet beyond that. The new road to access lots #4 through #8 is proposed as a 20-foot wide. The Applicant agreed at the hearing to create a continuous road width for Observatory Road and the shared access for lots #4 through #8 of 18-feet wide, consistent with other low volume rural residential roads from North Road. Observatory Road would be 18-feet wide as far as the proposed shared access for proposed lots #2 & #3, after which it would narrow to the existing driveway width to the existing Mobbs home. The proposed shared access for lots #2 and #3 would have a width of 14-feet.
 12. The two proposed shared right-of-ways, according to the Applicant's 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 plans show all the individual driveways as being designed to be 12-feet in width. The Applicant at the hearing proposed to widen the entire length of the proposed driveway for lot #2 to a consistent 14-feet to allow for better emergency vehicle access.
13. The Applicant has provided legal language for maintenance as required by Section 4.4.1(2) of the HZR and Order 3c of the sketch plan approval. The language is proposed to be included in the deed for each lot.
 14. The DRB expressed concern at the meetings that the Applicant did not provide a mechanism to enforce maintenance of shared responsibilities, such as roads, stormwater, forest management, etc., within the development, such as a homeowner's association or other method. The road maintenance covenants make no mention of the Town's ownership of Observatory Road, public access, limited Town maintenance and snowplowing, and the other property owner (Cardinal) who also utilizes Observatory Road.
 15. The Applicants submitted three survey plats for the entire project area for conformance to Order #2 of the sketch plan approval. PL-1 shows the entire 61.26-acre property and delineates the existing and proposed building envelope for lot #1. PL-2 shows proposed lots #2, #3, and #4, and PL-3 shows proposed lots #4 through #8. Both surveys show bearings and distances of the lot perimeters and the building envelopes with ties to the proposed monuments. Utilities and the standard utility note are provided. The Applicant placed underground utilities on the west and north sides of Observatory Road when developing their residential property, proposed lot #1. Utilities for the other proposed lots would tie into these existing underground lines.
 16. The proposed lots would each have their own wells and septic systems. In conformance to Order #3b of the sketch plan approval and Sections 5.1.8, 5.1.9, 6.7 and 6.8.3 of the Hinesburg Subdivision Regulations (HSR), the Applicant obtained State wastewater system and potable water supply permit WW-4-5629-1. 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. In addition, the permit acknowledges conforming designs for 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.
 17. 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. The Applicant agreed to add testing for PFAS and VOCs, including Methylene chloride, given the types of contamination from the old Town landfill that have shown up in nearby wells.
 18. The Applicant stated at the hearing their belief that the topography of the property mirrored what was occurring underground and that the landfill contamination would not affect their proposed development. However, the opinion of a professional hydrologist qualified to make such a determination was not provided.
 19. Concern was raised that the leachfield for proposed lot #8 extends into the wildlife corridor. The Applicant explained at the hearing that this leachfield was an in-ground system and would not have a vertical height. The Applicant agreed at the hearing to remove the leachfield area from the corridor and extend the corridor further east of the leachfield to the south.
 20. 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 Applicant is proposing to maintain a 100-foot-wide buffer along the northern boundary of the property and along North Road as a forest.
21. The Applicant provided a report, as required per Order 3h of the sketch plan approval, 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.” A portion of lot #8’s proposed leachfield extends into the corridor. Both building envelopes of lots #6 & #8 come very close to the corridor boundary. The Montgomery report also suggested shifting the building envelope of the two northernmost lots (lot 7 & 8) to the south and away from the wildlife corridor as much as feasible.
 22. The Applicant provided a wetland delineation for the eastern half of the property, where the proposed development would be located. The Applicant’s Ecologist located a vernal pool (a class 2 wetland) and a class 3 wetland, which are shown on the surveys and plans. The Applicant modified the proposed lot lines and building envelopes to avoid these features.
 23. For the overall property, the Applicant is 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. The Applicant is proposing to significantly enlarge the building envelope for lot #1.
 24. Based on concerns that there are steep sloped areas (>25%) in the proposed building envelopes, the Applicant submitted a slope analysis plan. The Applicant testified at the hearing that the size of these areas in the proposed building envelopes is small and would not show up on larger scale review.
 25. The Conservation Commission 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.
 26. The Applicant confirmed that there would not be any community lighting and would be fine with restrictions on downcasting and low intensity lighting. They stated the properties of concern would be lots #3 and #4. The Applicant stated that the rest of the proposed building lots are much further distant from the Astronomical Society’s use area.
 27. For conformance to Order #3g of the sketch plan approval, the Applicant has provided a conceptual stormwater treatment design and an erosion control plan. The highest elevations on the Applicant’s 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 discharge through several westerly traveling streams either goes to Beecher Brook or directly to the LaPlatte River.
 28. Most of proposed lot #2 and all of proposed lots #3 through #8 are on the east side of the ridge and would discharge stormwater to the east. The eastern portion of the Applicant’s property has

well-draining soils classified as hydrological soil group (HSG) 'A'. Generally, HSG 'A' soils have infiltration rates greater than 6.0 inches per hour. The proposed stormwater treatment is all located to the east of the ridge and includes swales, some of which with proposed check dams that discharge to infiltration basins, which would have an overflow to Observatory Road near North Road. The Applicant requested that the modeling for the stormwater treatment system, per Order #3g of the sketch plan approval and per Section 6.6.2 of the HSR, be provided at final plat review because of concerns that the proposed layout of the subdivision may change.

29. The Applicant's stormwater Engineer stated the intent of the infiltration basins to fully infiltrate the 10-year storm event and to be able to convey discharge for the 100-year storm event. If the infiltration basins are not able to infiltrate the full 10-year storm event, modeling showing a full infiltration of a smaller storm like the Channel Protection storm event would be required plus modeling that shows the proposed 10-year storms peak discharge would be less than the pre-development peak discharge. To convey the 100-year storm event, the Applicant is proposing to replace an existing 15-inch diameter steel culvert, in poor condition, with a new 24-inch HDPE pipe with flared end sections located on the northern end of Observatory Road.
30. The Applicant's design team stated at the hearing that the proposed impervious is a little more than one acre, that the proposed infiltration basins are sufficiently level to provide the proposed infiltration, and that they would provide conveyance for all the discharge generated on lot #2 to discharge to the east towards the proposed infiltration basins.
31. Section 6.6.2(5) of the HSR requires conformance to low impact design (LID) design standards. The combination of stormwater infiltration and clustered housing should provide conformance to these standards.
32. The Applicant 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. The Applicant shows locations for soil stockpiling. The details show silt fencing on the downside of the stockpile, which is not shown on the plan. The details show erosion control matting, which can be applied if required or placed in steeper sloped areas. A required post-construction soil stabilization detail is also provided. The plan shows limits of disturbance which are limited to the building envelopes, accesses, and for water and wastewater infrastructure. The plans do not provide the total area of disturbance.
33. The Applicant raised concern that meeting the maximum solar exposure for conformance found in Section 5.1.12 of the HSR requirements would require additional tree removal.
34. Concern was raised by an abutting land owner, who lives on Majestic Lane, about the location of the residence on proposed lot #7. The residence on the plan is shown on the slope that is away from this abutting landowner, however the building envelope is shown to extend to the other side of the ridge.
35. Concern has been raised by the Town Manager's Office that prospective purchasers of these lots should be made aware of the existing water contamination from the existing capped Town landfill that has affected the Forest Edge community and the Town Maintenance facility. The Applicant testified at the hearing that they would be required per real estate regulations to inform potential buyers of the nearby well contamination.
36. There was significant public comment involving 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 and the viability of the subdivision so near to the contaminated Town landfill. The school district was informed of this application and will be provided a copy of this decision.

37. To address some concerns from abutting neighbors to the south of proposed lot #1, the Applicant offered to show on the site plans the approximate locations of existing wells near lot #1.
38. The Town, landowners of abutting properties, and some members of the community have expressed their apprehension to the Applicant about this proposed development due to the Applicant's property's proximity to the closed capped Town landfill that has contaminated several nearby wells.
39. The preliminary plat application was submitted on May 18, 2023 and deemed complete June 26, 2023. 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 May 12, 2023.
 - A subdivision letter/project narrative dated May 12, 2023.
 - 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 showing possible wetland locations, river corridors, agricultural soils, wildlife habitat, slope analysis and well locations.
 - V-Trans Standards A-76 and B-71A
 - 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 05-05-2023. 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 revision date of 05-05-2023. 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 revision date of 05-05-2023.
 - 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 with a revision date of 05-05-2023.
 - 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 revision date of 05-05-2023.
 - 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 revision date of 05-05-2023.
 - 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, and dated 05-05-2023. 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, and dated 05-05-2023. This plan shows the proposed drainage paths and treatment.
 - A plan titled “EPSC Stabilization Site Plan”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-3, and dated 05-05-2023.
 - A plan titled “Stormwater Details”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-4, and dated 05-05-2023.
 - A plan titled “Erosion Prevention & Sediment Control Details”, by Barnard & Gervais, LLC, with project number 21375, drawing number SW-5, and dated 05-05-2023.
 - Email letter from the Applicant to the Town Manager, dated February 10, 2023, providing a detailed legal opinion on the Applicant’s rights to use the Observatory Road right-of-way. The Town’s legal review concurred with this opinion
 - Email from the Applicant’s stormwater Engineer describing the design concept for the stormwater treatment system.
 - Email from the Applicant’s designer describing the road & driveway grades.
 - Permit and infrastructure maintenance language to be included in the deeds for each lot.
 - A plan titled “Slope Analysis”, by Barnard & Gervais, LLC, with project number 21375, drawing number FIG-1, and dated 07-18-2023.
40. The following was provided from Town Staff and the Hinesburg Conservation Commission:
- Email from Andrew Wood, Habitat Protection Specialist, Vermont Agency of Natural Resources, to Kate Kelly, chair of the Hinesburg Conservation Commission, dated July 15, 2022.
 - From Staff the Town access permit reviews.
 - From Staff, GIS plans by Staff titled Site Map and Resource Map dated 4/25/2022.
 - Email from Town Manager from July 13, 2023, requesting that prospective purchasers be made aware of the known well contamination in the area with a declaration in the deeds.
 - From the Assistant Town Manager – An email, dated July 21, 2023, describing the testing being performed by the Town in the area of the closed Town landfill. The email raises a concern that the contaminants of concern being found in the landfill area are not listed in the State wastewater approval to be tested in the new wells.
 - From the Town Manager – An email, dated July 26, 2023, clarifying that the Town will not be offering the Observatory Road property to the Applicant and that the Town is not guaranteeing continued maintenance of Observatory Road in the future. Observatory Road is not a Town highway, but rather a property owned by the Town with easements provided to the landowners that utilize the property for access.
 - Email from Kate Kelly, dated July 28, 2023, chair of the Hinesburg Conservation Commission, with four attachments with a recommendation of land to be preserved.
41. The following members of the DRB were present for the review on July 18, 2023, constituting a quorum: Dennis Place, Dick Jordan, Jon Slason, Ted Bloomhardt, John Lyman, Branden Martin and Jeff Daugherty. The following members of the DRB were present for the review on August 1, 2023, constituting a quorum: Dennis Place, Dick Jordan, Ted Bloomhardt, John Lyman, Branden Martin, Mike Webb and Jeff Daugherty. See the official meeting minutes for a list of others present at the meeting.

CONCLUSIONS

1. The Applicant has submitted a timely and complete Preliminary Plat application as required per Section 4.1 of the HSR.
2. The proposed allowable waivers per Section 4.5.6(3) of the HZR that are listed in Findings of Fact #5 appear to be reasonable, and will help facilitate a clustered development plan so as to minimize impacts and development costs. With these waivers, the proposed development would conform to the requirements found on Table 1 of Section 2.4 of the HZR.
3. The Applicant's confirmation that this development would be the master plan demonstrates conformance to Section 4.5.6(2) of the HZR. This project appears to be consistent with the Town Plan in conformance to Section 4.5.6(1) of the HZR.
4. As described in Findings of Fact #6, the Applicant has proposed sufficient greenspace for preservation for conformance to Section 4.5.7(1) of the HZR. Concern was raised by the Conservation Commission that insufficient land may be proposed for conservation. Considering that this development will be the entire master plan, and the Applicant is proposing limitations to development as described in Findings of Fact #22, sufficient land appears to be set aside for preservation of natural features as required in Section 6.10.6 of the HSR.
5. As described in Findings of Fact #8, the Applicant have demonstrated that they have legal access to using the entire Observatory Road property for access.
6. The Applicant's right-of-way over the existing 60-foot-wide Observatory Road property and the proposed shared rights-of-way as described in Findings of Fact #10 appears to show sufficient sized rights-of-way for conformance to the requirements of Sections 4.4.3 and 5.7.1 of the HZR to allow development on the Applicant's property.
7. To demonstrate safe year-round and legal access the Applicant will need to provide an emergency turnaround for the shared access to lots #2 and #3 as described in Findings of Fact #9, upgrade the Observatory Road roadway as described in Findings of Fact #11, and widen the proposed lot #2 driveway as described in Findings of Fact #12. Per the concerns raised in Finding of Fact #14, the road maintenance covenants or other legal documents should recognize the other users/owners of Observatory Road, and outline some mechanism for communication amongst the parties regarding road maintenance. The Applicant will need to provide an updated maintenance agreement for conformance to the safe access requirements of Section 4.4.2 of the HZR and Sections 5.1.6(2) and relevant portions of 6.1 of the HSR.
8. The proposed development appears to be compatible for the area per Section 5.1.5 of the HSR.
9. This proposed development would provide sufficient open space for recreation in conformance to Section 5.1.4 of the HSR.
10. To demonstrate conformance with Sections 5.1.8, 5.1.9, 6.7 and 6.8 of the HSR, all the proposed wells should be tested for the relevant contaminants noted in Finding of Fact #17, and deemed safe prior to the issuance of a building permit that requires water use. Safe drinking water is a requirement for the proposed development to be suitable for the area for conformance to Section 5.1.1 of the HSR. Based on the well contamination described in Findings of Fact #35 and #38, input from a professional hydrogeologist is necessary to ensure that safe drinking water would be available, that the proposed wells would not have an adverse impact on adjacent wells or the Hinesburg Town landfill.
11. The survey, as provided and described in Findings of Fact #15, appears to conform to Sections 4.2, 5.1.2 and 6.9 of the HSR. The Applicant will need to modify, on the survey and the plans,

- the wildlife corridor boundary as described in Findings of Fact #20 & #21, and the shared right-of-way for lots #2 and #3 for a turnaround as described in Findings of Fact #9. The survey and the plans may need to be modified to ensure that the entire proposed stormwater treatment system and all shared infrastructure will have the necessary easements for maintenance.
12. The width of the proposed wildlife corridor as described and modified in Findings of Fact #21 appears to be adequate so long as human interference described in Findings of Fact #25 is limited. Development on lot #7 and #8 should include screening vegetation along the northern edge of the building envelope to minimize the effects of human activity within the wildlife corridor for conformance to Section 5.1.2 of the HSR. The intention is that the managed portion of the property terminates at the edge of the building envelope.
 13. The proposed building envelopes appear to be adequately delineated and avoid the protected natural features described in Findings of Fact #22 and reasonably avoids the steep slopes described in Findings of Fact #24 for conformance to Section 6.10.7 of the HSR.
 14. The building envelopes described in Conclusion #13 along with the agreeing to protect natural features with clearing limits described in Findings of Fact #23 would provide conformance to the requirements of Section 5.1.10 of the HSR. Conditions in a final plat approval should require that all structures, including structures under 100 square feet in area, be placed in the proposed building envelopes in order to retain the remaining forested area.
 15. There appears to be sufficient area for parking on each of the single family lots for conformance to Section 5.5 of the HSR.
 16. The proposed lighting restrictions described in Findings of Fact #26 would appear to satisfy the lighting concerns of the Vermont Astronomical society. These lighting restrictions should apply to the entire subdivision in order to minimize impacts to the night sky. However, more detail on limiting lighting intensity, along with additional deed / association language, should be discussed at final plat. The final plat approval may include a condition that should vehicular lighting from the development negatively impact the observatory, then the Applicant would be required to return to the DRB for additional review and remediation.
 17. The request to delay a full submittal of stormwater plans, narrative and modeling to final plat is acceptable given that the concept on how stormwater treatment would occur and that infiltration is proposed to be the main treatment.
 18. The proposed stormwater treatment described in Findings of Fact #28, #29 and #31 with conditions as described in Findings of Fact #30 could show conformance to Sections 6.6.2 and 5.1.7 of the HSR. The Applicant will need to provide a complete design, a narrative and modeling to show conformance as described. The narrative will need to include the total proposed impervious area. The association and deed language will need to describe maintenance.
 19. The erosion control design as submitted, with proposed updates as described Findings of Fact #32, could show conformance to Section 6.6.1 and 5.1.7 of the HSR. The Applicant will need to show silt fencing on the downside of soil stockpiles on the plans, modify the limits of disturbance to include the lot #8 leachfield, and provide the total area of disturbance at final plat review.
 20. The Applicant's clearing concern described in Findings of Fact #33 is noted. There does appear to be sufficient area on all the proposed lot's building envelopes, especially lot #1, to allow for the siting of residences to take advantage of passive and/or active solar resources in conformance to Section 5.1.12 of the HSR.

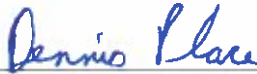
21. The concern raised by the abutting land owner described in Findings of Fact #34 has been adequately addressed by the Applicant via the lot arrangement, building envelope placement, and clearing limits.
22. The Applicant is clearly aware of the existing water contamination from the long-closed capped Town landfill. The Applicant's agreement to ensure that prospective buyers are made aware of this contamination and the need for water testing described in Findings of Fact #17 and #18, also described in Conclusion #10 would provide conformance to the no impact on municipal services requirement of Section 5.1.11 of the HSR. With that said, a final plat application should include requirements for formal notification and/or deed language describing the contamination of the nearby landfill and wells, and a final plat approval should include the requirement that the wells be placed, tested and certified as safe prior to the issuance of a building permit for a structure that requires water and septic use on each of the lots.

ORDER

Based on the Findings of Fact and Conclusions set forth above, the Hinesburg DRB grants Preliminary Plat approval to the proposed 8-lot subdivision PUD subject to the conditions listed below.

1. The Applicant shall provide all the documentation required for Final Plat review as stated in Section 4.2 of the Hinesburg Subdivision Regulations.
2. The Applicant shall provide as part of a final plat review updated plans and documents consistent with the final version of this application, and per changes required by this decision.
3. The Applicant shall update the plans and survey to provide an emergency turnaround for the shared access to lots #2 and #3 as described in Findings of Fact #9.
4. The Applicant shall update the plans to show Observatory Road roadway and the shared right-of-way for lots #4 through #8 as having an 18-foot width as described in Findings of Fact #11.
5. The Applicant shall update the plans to show the proposed widening of the lot #2 driveway to 14-feet as described in Findings of Fact #12.
6. The Applicant shall provide as part of a final plat application an updated maintenance agreement as described in Findings of Fact #13 and #14 (coordination with other users) and Conclusion #16 (lighting) and #18 (stormwater infrastructure). The agreement shall be updated to include the well testing described in Findings of Fact #17 and Conclusion #22.
7. To ensure compliance to Sections 5.1.1 and 6.7.2 of the HSR, the Applicant shall fund an independent hydrogeologist, as permitted by Section 7.2 of the HSR, 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, that the proposed development would not have an adverse impact on the adjacent existing wells or the landfill. The applicant shall be notified as to the choice of the consultant(s) and the estimated cost, which shall be minimized to the extent practical, prior to the independent consultant(s) starting work.
8. The Applicant shall update the plans and survey to reflect the revised wildlife corridor boundary as described in Findings of Fact #21.
9. The Applicant shall provide as part of a final plat application a proposed stormwater treatment design, a narrative and modeling as described in Findings of Fact #27 through #31 and Conclusion #18 as part of a final plat application.

10. The survey and the plans shall be modified to ensure that the entire proposed stormwater treatment system and all shared infrastructure will have the necessary easements for maintenance.
11. The Applicant shall propose specific landscaping to address screening of the lot #7 and lot #8 building envelopes from the wildlife corridor per Conclusion #12.
12. The Applicant shall provide, as part of a final plat application, specific lighting designs and limitations for the overall development, which should be in the proposed maintenance agreement and deeds.
13. The erosion control design shall be updated as described in Conclusion #19.
14. The Applicant will provide the additional well information described in Findings of Fact #37.



Development Review Board

September 5, 2023

Date

Board Members participating in this decision: Dennis Place, Dick Jordan, Jonathan Slason, Ted Bloomhardt, John Lyman, Mike Webb and Jeff Daugherty.

Vote to approve: 7-0

This approval expires one year from the approval date unless a complete final plat application has been submitted or an extension has been granted by the DRB.

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.