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Town of Underhill Selectboard
Town of Underhill
P.O. Box 32
Underhill Center, VT 05490

Re: Petition to Reclassify Portion of Town Highway 26 as a Trail

Dear Selectboard:

I am submitting this letter to explain why I think that the public good, necessity and convenience would not be served by reclassifying a segment of Town Highway 26 ("TH26"), a/k/a New Road (the "Segment") from a Class 3 or Class 4 town highway to a legal trail. Currently, TH26 is a Class 3 town highway roughly to the entrance of the old town dump, and then Class 4 northward all the way to Irish Settlement Road.

The Selectboard is considering reclassifying the following segment of TH26 as a legal trail:

Approximately 4000 feet of New Road from a Class 3/Class 4 to a Trail, starting just North of the Town Garage entrance for approximately 4000 feet to a point approximately 70 feet southerly of the south line of lands now or formerly of Fuller; said point being bounded on the east by lands now or formerly of Demarest and on the west by the Town of Underhill.

Thus, the question before the Selectboard is whether this section of Class 3 and 4 town highway should be discontinued as a town highway and, instead, reduced to an unmaintained legal trail. I do not think that the public good, necessity and convenience would be well served with such a reclassification.

TH26 has long been a town highway of some importance, historically providing the flattest route available from the northern stretches of Irish Settlement Road to church and the village. As with many Vermont roads, the course of TH26 sought a level route and traveled along the valley of a waterway, namely the headwaters of Crane Brook and the brook itself.

The roadbed for TH26 is well-established and has clearly been maintained over time. Along the Segment, culverts continue to exist where they have not been removed since 2001. In addition, prior to the town's ownership of the land to the west of TH26, the land on both sides of the Segment was held in common ownership. The landowner historically maintained the land around the Segment, including the dismantling of beaver dams when necessary to keep the road clear.

Since the town ceased its maintenance efforts along the Segment (which, from my perspective, was improper), culverts have fallen into disrepair or have been removed. Beaver dams have reestablished themselves, and have resulted in the largest beaver pond growing substantially in size.

The town's efforts to restrict vehicular use on the Segment, while encouraging recreational users from elsewhere to use the Segment, has led to less supervision and care by the Town at the same time the number of strangers using the Segment "recreationally" has increased. Given the lack of maintenance and oversight, and the Segment's remote location, many users regularly trespass onto adjoining private lands, notwithstanding the fact that they are posted, and dump litter and larger items of garbage along the Segment.

This condition has been exacerbated as the lack of maintenance has predictably led to expansion of beaver ponds and drainage issues along the Segment. In fact, this condition has resulted, in the last few years, in the surface of the beaver pond actually being several feet higher than the nearby roadbed in some locations. These conditions further inspire users of the

Segment (including bikers, ATV users, and the like) to detour off the roadbed and onto the adjoining, private lands, including the unauthorized use of private, posted logging roads.

Meanwhile, reclassifying the Segment as a legal trail and preventing its vehicular use would deny David Demarest any practical, public highway access to his property. It is my understanding that this is contrary to law. Only 70 feet of road frontage would exist at the southernmost end of Fuller Road. The easterly side of TH26/Fuller Road over this short 70-foot stretch is steep and impassable, providing no useable access to the interior of the Demarest land. Thus, reclassifying the Segment as a legal trail would render the Demarest parcel functionally landlocked.

The abutting landowners north of the Town Garage and south of the Demarest property on the eastern side of TH26 will have a portion of their property functionally landlocked, as a stream and wetland divides their properties. The portion of their properties to the west of the stream can only be accessed from TH26. In addition, the Twin Oaks, L.L.C. property which is on the Class 3 portion of TH26 would lose their current road access (there are a few rocks blocking the entrance).


Discontinuing this 4,000-foot stretch of TH26 as a public highway would also require all taxpaying landowners along TH26 north of the Town Garage to detour for several miles in order to access their land from Underhill Center and points south via the northern approach along Fuller Road.

In the final analysis, the current classification of the Segment appropriately balances the interests of landowners, the town, and the public at large. Class 4 highways only require minimal maintenance, involving little commitment from the town. That minimal level of maintenance, however, is crucial for preserving this community asset. Maintaining the Segment as a public highway preserves meaningful access along its route for landowners and other members of the public. This improved access also allows for better supervision of conduct along the Segment and on the adjoining lands. Maintaining a public highway allows more direct access from the south, preventing unnecessary travel. Any private improvements to a Class 4 highway would need a Section 1111 permit, consistent with how Class 4 highways are treated elsewhere in town. Any use of the town highway

would have to be consistent with the general public's right of access along the Class 3/ Class 4 highway.

Therefore, I urge the Selectboard to conclude that the public good, necessity and convenience would not be served by reclassifying the Segment.

Very truly yours,


Jeffrey Moulton