





7. Under the provisions of the Zoning Ordinance, this application was reviewed as an approval of a PUD, transfer of development rights and a conditional use.

**SECTION 12.3(3 & 4) – PLANNED UNIT DEVELOPMENT STANDARDS:**

8. **Section 12.3.3(A) – Perimeter Setback.** The proposed PUD would be Lot 3 of the Buchanan parcel. A double setback is proposed for the complete parcel as shown on the overall site plan .

**Conclusion:** Double setbacks on the perimeter are provided.

9. **Section 12.3.3(B & C) – Internal Setback.** No subdivision is proposed at this time.

**Conclusion:** This provision is not applicable.

10. **Section 12.3.3(D) – PUD size.** The parcel is 37.11 areas. At least three acres is required.

**Conclusion:** The PUD is over 3 acres.

11. **Section 12.3.3(E) – Density.** 21.5 acres is zoned UMR and 15.61 acres is zoned RR 2. A density chart on the site plan has been submitted. One acre of UMR density is proposed to be transferred via a TDR to 3314 Mountain Road. After the TDR transfer a total of 72 multi-family units are available in density. The applicant is proposing to construct 72 multi-family units.

**Conclusion:** Adequate density is available for the project.

12. **Section 12.3.3(F) – Multiple Zoning Districts:** The PUD is in the UMR and RR 2 Districts as discussed above. The available density is discussed above.

**Conclusion:** The total allowable density will be in used in the UMR District.

13. **Section 12.4 – Open Space:** A total of 23.5 acres is proposed to be designated as open space. The open space consists of wetland areas and steep slopes.

**Conclusion:** An adequate open space has been proposed. A recorded plan shall be recorded as per Section 12.2 indicating the open space area before a zoning permit is issued.

**Section 3.13 – Transfer of development rights (TDR):**

14. **Section 3.13 (6) Administration** – The applicant is requesting approval to transfer one acre of density from Lot 2, one acre from Lot 3 (lot proposed for multi-family development) and one acre from the Griffiths parcel. All density is being transferred to 3630 Mountain Road. The sending density is all from areas zoned UMR and the receiving area is zoned Mountain Road Crossroads (MRC). A chart has been provided documenting the density calculations. The chart indicates that the remaining density on the sending lots is adequate for the existing and proposed development.

**Conclusion:** There is adequate density for the proposed TDR's. The Board will require, as a condition of approval, that a density reduction easement, an agreement regarding use of development rights, and a recordable plat shall be executed and recorded in a form acceptable to the Zoning Administrator.

**3.7(2)(A) – Standards of review (Conditional Use Applications):** Pursuant to the requirements of the Stowe Zoning Ordinance, all Conditional Use Applications are reviewed under the requirements of Section 3.7(2)(A):

15. **Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services:** No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on their respective departments. The development is proposed to be connected to municipal water and sewage systems which are located along Mountain Road. The Select Board will need to grant an allocation for the development. Once accepted, a connection permit will be issued and any final engineering regarding connections will be addressed at that time. The Fire Department requested certain conditions in their email of 5/12/15.

**Conclusion:** The project will not have an undue adverse impact on municipal services if the conditions listed in the Fire Department email are satisfied.

16. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The parcel is proposed to have direct access onto Route 108 using the existing Griffiths parcel driveway location. The driveway itself will be rebuilt. A traffic impact assessment was completed by the applicant's engineering using the VTRANS analysis criteria and data. The results indicate that traffic exiting the project site will experience LOS E during peak times with an approach delay of 39 seconds/vehicle and the southbound on Mountain Road will experience LOS A with an approach delay of 8 second/vehicle. The assessment concludes that the project will not create adverse traffic congestions or unsafe conditions at its proposed Mountain Road/Project driveway intersection or on nearby roads and intersections. A VRANS letter of Intent has been issued.

**Conclusion:** The change of use is not anticipated to adversely affect traffic in the area.

17. **Section 3.7(2)(A)(3) – The character of the area affected:** The vicinity has a mix of residential and commercial uses. The parcel previously had a ski dorm which is now closed. The purpose of the UMR District is "To control development along the "upper" Mountain Road in a manner that allows for residential, recreation and low-density commercial uses of property while preserving the rural character of the landscape, discouraging strip development and promoting the ongoing viability of existing land uses." The Site Section Study shows that from Mountain Road only the top portions of the buildings would be visible if there were no trees on the site. The landscaping plan shows that at least 100 feet of trees will remain on the southern boundary line in the area of the buildings. Based upon the site section the buildings would not be visible from Mountain Road if the trees are left in place.

**Conclusion:** The proposed use will not adversely affect the character of the area. The Board will require, as a condition of approval, that the trees within the 100-foot setback near the buildings shall not be cut except for forest management purposes and except for the stormwater detention basin. Any cutting shall require approval of the Board.

18. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** Multi-family residential uses are allowed within the UMR District and applicable parcel setbacks are met. The applicant proposes buildings that are 40'3" in height as defined by the Zoning Regulations. A building height of 28 feet is permitted. Under Section 12.2, Board may modify applicable area and dimensional requirements of the underlying district. The Site Section Study shows that from Mountain Road only the top portions of the buildings would be visible if there were no trees on the site. The landscaping plan shows that at least 100 feet of trees will remain on the southern boundary line in the area of the buildings. Based upon the site section the buildings would not be visible from Mountain Road if the trees are left in place. The Site Section also shows that the applicant could move the building into the slope whereby the height would be reduced in the rear and the standard height restriction could be met.

**Conclusion:** The proposed use conforms to the regulations and ordinances in effect. The requested height waiver is granted since the buildings are not visible form a public road.

19. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The development will not restrict the ability to use renewable resources.

**Conclusion:** The proposed use will not adversely effect the utilization of renewable energy resources.

**Section 3.7(2)(B) – Other Standards of Review:**

20. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural area.** There are extensive wetlands and steep slopes on this site. These areas are included within the proposed open space area. There are no historic sites on the parcel.

**Conclusion:** The project will not have an undue adverse effect on the effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

21. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The residential use is not anticipated to generate any significant water, noise or air pollution compared to other uses in the area. All buildings and parking areas are at least 100 feet from any adjacent properties. This 100-buffer will remain wooded.

**Conclusion:** There will be no undue water, noise or air pollution resulting from this project with the proposed construction noise restriction.

22. **Section 3.7(2)(B)(3) –Access Management:** The existing access will be maintained. According to the Traffic Impact Assessment there is adequate sight visibility at the project access. The Vermont Department of Transportation (VTRANS) regulates curb cuts within this section of Route 100. Title 24 V.S.A. 4416 requires that any proposed town site plan review that involves access onto a State highway, shall include a letter of intent from VTRANS confirming that they are prepared to issue an access permit under 19 V.S.A Section 1111. A VTRANS letter of intent has been submitted. The driveway to the Winter Ski Academy will be relocated as per the drawings. Bethany McDermott from the Winter Academy testified that an agreement between the parties was in place. The agreement addresses construction, a permanent access easement, and shared maintenance.

**Conclusion:** Adequate access management has been provided.

23. **Section 3.7(2)(B)(4) – Shared Access:** The reconstructed driveway will be shared with the new development, the Griffiths parcel and the Winter Ski Academy. Easements and maintenance agreements will be in place.

**Conclusion:** Adequate shared access is proposed.

24. **Section 3.7(2)(B)(4) – Circulation and Parking:** 112 new parking spaces are proposed and additional space is reserved for 32 more spaces if needed. A total of 144 spaces are required. Section 14.3(1) allows a reduction of 30% for uses requiring more than 100 spaces, or a reduction of up to 43 spaces for this project.

**Conclusion:** Adequate parking is provided and the waiver of spaces is granted.

25. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The applicant does not propose any pedestrian circulation except for sidewalks along the parking lots.

**Conclusion:** No further pedestrian circulation is required.

26. **Section 3.7(2)(B)(7) – Landscaping:** A landscaping plan has been prepared. The dumpster area is proposed to be screened.

**Conclusion:** Adequate landscaping has been provided.

27. **Section 3.7(2)(B)(8) – Stormwater Management:** Additional impervious surface area is being created with this project. A stormwater management narrative and plan has been submitted. A stormwater detention pond is proposed to regulate flow. The stormwater treatment practices on the project were designed in accordance with the 2002 Vermont Stormwater Management Manual according to the report. The stormwater discharge runs through culverts owned and maintained by VTRANS. According to the narrative, the post-development discharge rates are less than the pre-development discharge rate and the requirements of the VSMM practices and VTRANS are met. VTRANS approval is required for the stormwater running through the culverts and a state stormwater permit will be required.

**Conclusion:** Adequate stormwater management can be achieved with construction of a stormwater retention system.

28. **Section 3.7(2)(C)(3) – UMR Standards** There is no frontage along a public road except for the driveway access. Parking is located to the rear and side of building B. Parking will not be visible from Mountain Road based upon the site section.

**Conclusion:** The requirements of Section 3.7(2)(C)(3) are not applicable or are met.

#### **Section 4.8 – Outdoor Lighting**

29. **Section 4.4(2) – Lighting plan:** Cut sheets for lighting have been submitted. All lighting is either downward lighted or recessed.

**Conclusion:** The lighting as proposed is adequate.

#### **DECISION**

Based upon the foregoing Findings of Fact, in **RE: 5124 (Bitter)**, the Board took the following action:

A motion was made by Mr. Walton and seconded by Mr. Diender to approve the application with the following conditions:

1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required.
2. A recorded plan shall be recorded as per Section 12.2 indicating the open space area before a zoning permit is issued.
3. A density reduction easement, an agreement regarding use of development rights, and a recordable plat shall be executed and recorded in a form acceptable to the Zoning Administrator.
4. The trees within the 100-foot setback near the buildings shall not be cut except for forest management purposes and except for the stormwater detention basin. Any cutting shall require approval of the Board.
5. The items in the email from Mark Sgantas dated 5/12/15 shall be incorporated into the final design and construction.

Voting in favor: Mr. Diender, Mr. Clymer, Mr. Lizotte, Mr. Walton, Mr. White and Mr. Hand. Voting to deny: Mr. Collotta Voting to abstain: None Absent: Mr. Mumley

The motion carries 6-1; the application is approved.

Dated at Stowe, Vermont this the 23<sup>rd</sup> day of June 2015

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Douglas White", written over a horizontal line.

Douglas White, Chair

Any interested person may appeal this decision to the Vermont Environmental Court within thirty (30) days in accordance with 24 V.S.A. § 4471.