

TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 5999

SUBJECT PROPERTY: 4527 Mountain Road; #11-103.000

PROPERTY OWNER & APPLICANT:

Castine Mountain Road LLC
PO Box 323
Stowe, VT 05672

APPLICATION:

The Applicant, Castine Mountain Road LLC (herein referred to as the "Applicant"), requests conditional use review to construct an attached three-bedroom dwelling unit and garage on the northern end of the former motel building. The additional dwelling unit is proposed to be connected to the existing onsite septic system and private potable water source. As proposed, the dwelling unit and garage will be constructed towards the front of the property, outside of the minimum required setbacks. The parcel contains an existing seven-unit multi-family dwelling shown as buildings #1 & 2 on the provided site plan and an approved duplex (building #3). Multi-family dwellings are a conditional use in the UMR district.

The subject parcel, consisting of ± 4.2 acres and located at 4527 Mountain Road (#11-103.000), is in the Upper Mountain Road (UMR) Zoning District, the Fluvial Erosion Hazard Overlay, and Flood Hazard Districts. The property is served by Mountain Road, a state highway maintained by the Vermont Agency of Transportation. The subject parcel is bound to the north Mountain Road, to the west by a ± 4.6 -acre parcel owned by VTRE Investments LLC, to the east by ± 4.75 -acre parcel owned by Montchilly Inc. (Northern Lights Lodge), and to the south by the West Branch of the Little River. The application has been reviewed by the Stowe Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of conditional use review.

The Development Review Board's procedural history and relevant findings are attached.

REVIEW PROCESS:

(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)

This application was previously warned under Project #5949, but later withdrawn at the request of the Applicant. An application was resubmitted by Applicant Nick Lizotte on April 9, 2019 and accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane. The application was referred to the Development Review Board for a public hearing.

A public hearing of the DRB was scheduled for May 21, 2019 and warned by the Zoning Director in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on May 2, 2019 and posted at the Town Office, Library, and Police Station. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on May 21, 2019 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Applicant Nick Lizotte, Castine Mountain Road LLC, PO Box 323, Stowe, VT 05672
- Mike Seaberg & Shannon Hillpot, 4441 Mountain Road, Stowe, VT 05672
- Jen Burnett, 4515 Mountain Road, Stowe, VT 05672

The following materials were submitted in support of the application and entered into the hearing record:

1. Town of Stowe Development Application, dated 4/9/19;
2. Site Layout Plan 'VTRE Investments LLC Addition of Building #4' Sheet C-1, prepared by McCain Consulting INC, dated 1/25/2019; [last revised 1/25/19]
3. Landscaping Plan 'VTRE Investments LLC Addition of Building #4' prepared by McCain Consulting INC, Sheet L-1, dated 1/25/2019; [last revised 1/25/19]
4. Honeywell Lodge Chalet Unit prepared by Justin Bourne, Sheet A1, proposed floor plans, dated 11/28/2018;
5. Honeywell Lodge Chalet Unit prepared by Justin Bourne, Sheet A2, North & West Elevations, dated 11/28/2018;
6. Honeywell Lodge Chalet Unit prepared by Justin Bourne, Sheet A3, South & East Elevations, dated 11/28/2018;
7. Comments from Ed Pierce, Permit Coordinator (VTrans), email dated 4/29/2019;
8. Email comments from Nick Lizotte, Re: 4527 Mtn Rd. Septic, dated 4/29/2019;
9. Written comments from Michael Seaberg and Shannon Hillpot, dated 5/21/2019;
10. Lighting Cut-Sheets from Lamps Plus,
11. Revised Honeywell Lodge Chalet Unit prepared by Justin Bourne, Sheet A2, North & West Elevations, dated 1/24/2019;

The DRB continued the hearing to a time and date certain, July 2, 2019 at 5:00 PM. In advance of the continued hearing the following information was provided:

12. Site Layout Plan 'Castine Mountain Road LLC' prepared by McCain Consulting Inc. Sheet C-1, dated 6/21/2019;
13. Build Out Plan 'Castine Mountain Road LLC' prepared by McCain Consulting Inc. Sheet C-2, dated 6/21/2019;
14. Email from Nick Lizotte, Re: 4527 Mountain Road, dated 6/6/2019;
15. Written Testimony from Michael Seaberg and Shannon Hillpot, dated 7/2/2019.

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

FINDINGS OF FACT & CONCLUSIONS OF LAW: The Applicant's request for conditional use review was reviewed by the Stowe Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) including the following:

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density

- Section 15- Parking Regulations

During its review of the application, the Board made the following Findings of Fact and Conclusions of Law:

Dimensional Requirements:

1. **Zoning District.** The subject parcel contains ± 4.2 acres with direct access to the Mountain Road in the Upper Mountain Road (UMR) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** The ± 4.2 -acre parcel is located in the UMR district. The provided site plan shows the lot containing over $\pm 303'$ of frontage along the centerline of Mountain Road. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in UMR are front (50'), side (50') and rear (50'). The Applicant seeks approval to construct an attached dwelling unit and garage. The provided site plan labels the required 50' setbacks. The proposed attached dwelling unit and garage appears to be located outside of the required setbacks. Section 15.6 provides further setback requirements for driveways and parking facilities. The regulations require a minimum 10 ft setback in UMR for driveway and parking facilities. Section 3.10 outlines minimum setbacks from watercourses and requires a minimum 50 ft setback including a vegetation buffer be left in an undisturbed state. The proposed improvements appear to be located outside of all required setbacks.
4. **Maximum Building Coverage.** The maximum building coverage in UMR is 8%. The Applicant provided the existing lot coverage and proposed lot coverage. The total existing lot coverage equals approximately 182,952 sf or 6.4%. The total proposed lot coverage equals approximately 182,952 sf or 7.4%.
5. **Use.** The parcel contains two existing attached buildings. Building #1 is under construction and contains an unfinished rebuilt owner's quarter's containing one dwelling unit. Building #2, a former motel, was renovated under Project 5489 to contain five (5) multi-family units. Building #3 as shown on the site plan received DRB approval for the construction of a duplex, however relevant conditions of approval to issue the permit have not been fulfilled to date. Multi-family dwellings are a conditional use in the UMR district. The Applicant proposes to construct an attached three-bedroom dwelling unit and garage on the northern end of the former motel building.
6. **Height.** The maximum building height in UMR is 28' feet. The Applicant seeks approval for the construction of an additional attached dwelling unit with a garage. The proposed building will be approximately 19' 3" in height, thus within the district height requirement.
7. **Density.** In the UMR district, two-family and multi-family dwellings are allowed at a density of three (3) units per acre. The subject parcel contains ± 4.2 acres which allows 12.6 two-family and multi-family dwelling units. The parcel contains six (6) existing dwelling units in the former motel and owner's quarter's building. Two (2) additional dwelling units are within the approved duplex. The Applicant proposes one (1) additional unit attached to the existing multi-family dwelling for a total of nine (9) existing, approved, and proposed dwelling units. Density remaining is ± 1.2 acres. The existing and proposed density calculations are provided on the plans and are in conformance with Table 6.3.

Section 3.7(2)(A) – Standards of review (Conditional Use Applications): The Development Review Board must determine that the use will conform to the following set of standards and will not result in an undue adverse effect on the following:

8. **Capacity of existing or planned community facilities and services:** Staff requested comments on the proposal from respective Town departments including the Department of Public Works, Fire Department, Stowe Electric, Police Department, EMS, and Parks and Recreation. The Applicant requests approval for the construction of an attached dwelling unit and garage on the northern portion of the former motel building. The parcel contains an existing five (5) unit multi-family dwelling shown as building #2 on the provided site plan, an owner's quarters shown as building #1, and an approved duplex (building #3). During the hearing, the Applicant confirmed his proposal to connect the proposed dwelling unit to the existing on-site septic system and an on-site private potable water source. The Applicant testified that the existing septic system is designed to accommodate a 45-unit lodging facility at 50 gpd per unit. The Board notes that connection to the existing on-site systems conflicts with a prior approval (Project 5768), in which the Board approved with conditions, the connection of the existing building and proposed duplex to the municipal water system, eliminating the private potable water source. The Board notes should the Applicant pursue previously approved Project 5768, an amendment may be necessary.

No Municipal Department review forms returned indicated that the proposed development would have any undue adverse impact on existing or planned community facilities and services.

Conclusion: The Board concludes the proposal will not result in an undue adverse effect on the Town's existing or planned facilities or services.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant requests approval for the construction of an attached dwelling unit and garage on the northern portion of the former motel building. The parcel contains an existing five (5) unit multi-family dwelling shown as building #2 on the provided site plan, an owner's quarters shown as building #1, and an approved duplex (building #3). The Applicant did not provide the estimated number of vehicle trips. Under current ITE standards a dwelling unit is expected generate no more than ten (10) additional trip ends per day, representing a nominal increase in traffic on each of the roads and highways in the vicinity.

Conclusion: The Board concludes the proposal represents a nominal increase in traffic on roads and will not create an undue adverse impact on traffic on roads and highways in the vicinity.

10. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the UMR zoning district. 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 Applicant requests approval for the construction of an attached dwelling unit and garage on the northern portion of the former motel building. The parcel contains an existing five (5) unit multi-family dwelling shown as building #2 on the provided site plan, an owner's quarters shown as building #1, and an approved duplex (building #3). Adjacent to the subject parcel are other nearby residential and lodging uses.

Conclusion: The Board concludes the proposal will not result in an undue adverse effect on the character of the area as defined under the town's zoning regulations.

11. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under the Conditional Use standards. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. No other known or identified municipal bylaws or ordinances apply to this project.

Conclusion: The Board concludes the proposal is in conformance with applicable provisions of the Stowe Zoning Regulations, as adopted October 9, 2018.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant requests approval for the construction of an attached dwelling unit and garage on the northern portion of the former motel building. The parcel contains an existing five (5) unit multi-family dwelling shown as building #2 on the provided site plan, an owner's quarters shown as building #1, and an approved duplex (building #3). No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

Conclusion: The Board concludes the project is not expected to interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources.

13. **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 areas.** The project is located in the UMR, Fluvial Erosion Hazard, and Flood Hazard Overlay districts. No development is proposed within the Fluvial Erosion Hazard or Flood Hazard Overlay districts. No known or identified historic sites are located on the parcel. The parcel is previously developed. According to the ANR Natural Resources Atlas there are no rare or endangered species or deer wintering areas on the parcel. The parcel does contain inventoried wetlands and hydric soils.

Conclusion: The Board concludes the proposal will not adversely affect the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

14. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant requests approval for the construction of an attached dwelling unit and garage on the northern portion of the former motel building. The parcel contains an existing five (5) unit multi-family dwelling shown as building #2 on the provided site plan, an owner's quarters shown as building #1, and an approved duplex (building #3). During the hearing the Board heard testimony regarding the proposed construction schedule and work hours. The Applicant testified construction activity would be limited to Monday -Friday from 8:00 AM- 5:00 PM, non-holidays. The Applicant also confirmed his proposal to connect the proposed attached dwelling unit to the existing on-site septic system and an on-site private potable water source and testified that the existing septic system is designed to accommodate a 45-unit lodging facility at 50 gpd per unit. Utilizing the existing septic system and potable water source will require review by the State of Vermont Department of Environmental Conservation.

Conclusion: The Board concludes the project, if constructed and maintained as approved, will not result in undue water, noise, or air pollution. As a condition of approval, the Applicant will be required to submit a copy of the State of Vermont Wastewater System & Potable Water Supply Permit (WW Permit) prior to the issuance of a Certificate of Occupancy.

15. **Section 3.7(2)(B)(3) –Access Management:** The project is served by the existing private driveway off Mountain Road. 24 VSA §4416 requires proposals involving access to a state highway provide a letter of intent from the Agency of Transportation confirming that the Agency has

reviewed the proposed site plan and is prepared to issue an access permit under 19 VSA §1111. Staff requested comments from Ed Pierce, VTrans Permit Coordinator. Mr. Pierce provided comments dated 4/29/2019 indicating that the property has a §1111, however there were compliance concerns with the prior §1111 permit issued.

Conclusion: The Board concludes that the existing access and proposed driveway improvements are adequate for the intended and existing use(s).

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by an existing private driveway shared by the other buildings on the property. No changes to the existing access are proposed under this application.

Conclusion: The Board concludes that the existing access is sufficient for the intended and existing use(s).

17. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require that parking be provided per the requirements of Section 14 and be designed to minimize the off-site visibility of parking areas through the location, landscaping and screening of such areas. The Applicant requests approval for the construction of an attached dwelling unit and garage on the northern portion of the former motel building. The parcel contains an existing five (5) unit multi-family dwelling shown as building #2 on the provided site plan, an owner's quarters shown as building #1, and an approved duplex (building #3). Table 15.2 outlines the minimum parking requirements and requires two (2) parking spaces for multi-family dwelling units. The provided site plan shows the general location of the driveway, proposed driveway, and existing parking areas. The Applicant proposes one (1) additional multi-family dwelling unit for a total of nine (9) existing, approved, and proposed dwelling units. Table 15.2 requires two (2) parking spaces for each duplex and/or multi-family dwelling unit larger than 400 sf. The provided site plan shows the location of twenty (20) surface parking spaces in the front of the former motel building. Additional parking is provided for in the garages (two additional garage parking spaces in building #1 and two additional garage parking spaces proposed under this application). The proposed driveway appears to be ±20' in width, the parking spaces appear to be 9' x 18', both in compliance with Section 15.2.

Conclusion: The Board concludes the existing and proposed circulation and parking improvements represents adequate access and circulation for the intended and existing use(s).

18. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided. The proposed site plan does not depict any internal sidewalks or other pedestrian improvements. This portion of Mountain Road (VT Route 108) does not contain sidewalks. No additional pedestrian improvements are proposed under this application.

Conclusion: The Board concludes the existing site layout, including pedestrian circulation and access, represents safe and adequate pedestrian access and circulation for the intended and existing use(s).

19. **Section 3.7(2)(B)(7) – Landscaping and Screening:** The regulations require landscaping details and screening of garbage collection areas, outdoor storage, commercial ventilation systems over two square feet; loading and unloading areas and other outdoor utilities, including solar installations, be provided as part of proposed site development plans. The Applicant provided a landscaping plan (Sheet L-1) prepared by McCain Consulting Inc. During the May 21st hearing, the

Board voiced concerns over notations on the provided site plan and requested a phasing plan be provided. Given the information originally provided, it was unclear what improvements were being proposed under the application and what improvements were approved under prior applications. Prior to the July 2nd hearing, the Applicant provided updated plans showing the improvements proposed under this application highlighted by a bolded black circle (Sheet C-1) and removed notations that were not applicable to the proposed project. Within the highlighted area, the Applicant is proposing 4' landscaping mound located parallel to Mountain Road with two (2) blue spruces planted in front of the landscaping berm. Two (2) existing white pines are labeled to be removed. During the hearing the Board heard considerable testimony regarding the existing drainage and soil conditions which restrict the ability to maintain landscaping in the area adjacent to Mountain Road. The Applicant testified that soil erosion and sediment clog the existing culverts and road salt and gravel prevent landscaping from long-term survival.

Section 4.6(3)(C)(1) provides the following general requirements: *"Shade trees shall be of sufficient size to achieve the desired effect, but in no event shall they be smaller than 2.5" - 3.0" caliper (trunk diameter), measured at a height of five (5') feet, or, in the case of coniferous trees, a minimum of 8' - 10' in height. The DRB may require the planting of larger diameter trees upon consideration of the site conditions."* A planting schedule with proposed sizing was not been provided. As a condition of approval, the Applicant will be required to submit a planting schedule as required under the regulations.

No exterior mechanical equipment is shown on the elevation drawings. During the hearing the Applicant testified that no exterior mechanical equipment is proposed, and the buildings design will screen existing exterior utilities on the former motel building. Underground electrical service is shown to exist on the site.

The proposed site plan does not show the location of any dumpsters. During the hearing the Applicant testified trash would be stored inside the storage/garage area of the proposed dwelling.

Conclusion: The Board finds the existing soil and drainage conditions restricts the long-term survival of landscaping in the area along Mountain Road. The proposed placement and design of the attached dwelling unit will break-up the mass of the existing linear motel building and provides screening of the rear lot improvements. The Board concludes the proposed landscaping and screening plan, together with the design and placement of the proposed building, meets the standards outlined in Section 4.8.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction as follows:

- A. Site construction will be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
- B. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, will be stabilized.
- C. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters. All development involving the disturbance of more than one-half acre shall submit an erosion and sediment control plan that

incorporates the State of Vermont erosion prevention and sediment control practices before a zoning permit is issued.

- D. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless in application materials include erosion control measures that are adequate to ensure compliance with (A), (B) and (C) as noted above, taking into account winter and spring conditions.
- E. All development must provide for an adequate stormwater drainage system to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
- F. All development that creates more than 1/2 (one-half) acre of additional impervious surface must provide for an adequate stormwater drainage system to ensure that stormwater runoff is not increased beyond the boundaries of the project as determined by the standards used for the State of Vermont stormwater management permits. Such development shall submit a stormwater management plan prepared and sealed by a registered engineer before a zoning permit is issued.

The Applicant provided the total existing and proposed impervious surface calculations. Proposed impervious surfaces equal 21,419.5 sf (with buildings 1, 2, 3, and parking). Proposed impervious surfaces equal 24,543.5 sf (with buildings 1, 2, 3, and 4, and parking). Additional impervious surface area was reported to be ±0.19 acres. A relocated ditch is shown on the site plan between the subject parcel and the adjacent parcel at 4583 Mountain Road.

Conclusion: The Board concludes the proposed improvements will not create more than ½ acre of impervious surfaces. As a condition of approval, the Applicant will be required to follow the standards outlined in Section 3.12.

21. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the Board shall be guided by the following standards when reviewing all site development plans in the designated zoning district. These standards apply to all site development plans, including those involving new construction, expansion, alteration or change of use. The Board may waive the specific requirements of this section when it is found that mitigation through design, screening or other mitigation will accomplish the objectives outlined for the designated districts.
- 1. Additional HT, RR, MOD, UMR Standards: Within the Highway Tourist (HT), (Rural Residential (RR), Meadowland Overlay (MOD) and **Upper Mountain Road (UMR)** Districts, site plans shall re-enforce efficient traffic circulation, preserve such important landscape features as open fields, scenic vistas, natural and cultural focal points and a well landscaped highway corridor.

To help achieve these objectives, the following standards shall apply:

- a. **Front Yard Treatment:** A continuous strip not less than twenty (20') feet deep, measured from the edge of the highway right of- way, shall be maintained between the street line and the balance of the lot, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. In addition, no portion of the front yard may be used for storage or for any purpose except as provided herein.

- b. **Parking:** Parking shall be located in the rear and/or side of all commercial and multi-family residential properties, except as provided under Section 14.3 of the regulations. Projects involving the upgrade and expansion of motels and lodges built prior to January 1, 1997, and designed with outside access to individual rooms fronting on parking areas, may continue locating parking within front yards.
- c. **Driveway Access:** Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
- d. **Additional UMR Standards:** In addition to the conditional use criteria of the regulations, the Board shall find that proposed development is designed in a manner compatible with area's rural character. At a minimum the Board will consider:
 - Adequacy and appropriateness architectural design and visual context of the project. Generally, architectural designs shall reinforce the rural landscape of the district through contextual scale and orientation of the buildings within the site and should reflect vernacular Vermont residential and agricultural building styles and incorporate, where appropriate, traditional materials; and
 - Buildings should generally be designed with a pitched roof and be of a mass and scale compatible with neighboring properties and the site.

The Applicant requests approval for the construction of an attached dwelling unit and garage on the northern portion of the former motel building. The plan shows the location a of 4' landscaped mound located parallel to Mountain Road with two (2) blue spruces planted in front of the landscaping berm. The proposed building is designed to contain a low-pitch gable roof (19'3") with windows and a main entrance door on the north elevation.

Conclusion: The Board concludes the proposed dwelling and attached garage have been designed in a manner compatible with the areas rural character and are consistent with the defined purpose of the UMR district. As designed and proposed, the dwelling unit will break-up the linear massing of the former motel building. The Applicant proposes a 4' landscape mound parallel to Mountain Road with evergreen trees to provide screening. Where appropriate, the Board waived the specific requirements when it was found that mitigation though design, screening or other mitigation has accomplished the objectives of the UMR district.

Section 4: Specific Use Standards

22. **Section 4.6 Landscaping Standards.** See discussion above.

23. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the Section 4.8(A-C). When reviewing lighting plans pursuant to Section 4.8, including proposed gas station canopy or apron lighting, proposed illumination of building façades or parking area lighting, the DRB shall consider appropriate levels and distribution of illumination. In determining appropriate levels of illumination, the Board considers the guidelines outlined in Section 4.8(2)(A-F). The Applicant provided the manufacturer cut sheet for the proposed building mounted light fixture and revised architectural drawings showing the location and placement of the building mounted lighting.

Conclusion: The Board concludes the proposed outdoor light fixture will provide safe and adequate lighting for the intended use and is in conformance with Section 4.8.

Section 7- Flood Hazard District

24. The property is bordered to the west by the West Branch of the Little River and contains lands within the Flood Hazard District. No development is proposed within this area. Any future development, as defined under Section 7 of the regulations as, “*any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials*” will require review and approval under the regulations in effect at the time of application. During the hearing the Applicant testified that a Letter of Map Amendment (LOMA) has been approved by FEMA removing portions of the property from the Special Flood Hazard Area.

Section 11- Fluvial Erosion Hazard Overlay District

25. The property is bordered to the west by the West Branch of the Little River and contains lands within the Fluvial Erosion Hazard Overlay District. The Fluvial Erosion Hazard Overlay District boundary is shown on the provided site plan. No development is proposed in this area. Any future development, as defined under the regulations as “*the division of a parcel into two or more parcels, the construction, reconstruction, conversion, alteration, relocation, enlargement or demolition of any building or other structure, the construction of any pond or of any mining, excavation or landfill, and any change in the use of any building or other structure or land or extension of the use of the land*” will require review and approval under the regulations in effect at the time of application.

DECISION

Based upon the foregoing Findings of Fact, in RE: **5999** the Board finds the proposal meets the Stowe Zoning Regulations, as adopted on October 9, 2018, subject to the following conditions of approval:

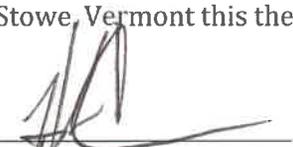
1. The project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator’s attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.
2. All relevant prior conditions of approval, unless amended herein, remain in full force and effect.
3. Prior to the issuance of a zoning permit, the Applicant shall file the following documents with the Zoning Administrator:
 - A written project phasing schedule as testified during the hearing to include construction of Building #4 not to begin until the Certificate of Occupancy is issued for Building #1, followed by the construction of the previously approved duplex (Project 5768) as shown as Building #3. The zoning permit for Building #4 (Project 5999) shall not be issued until the Applicant has secured a Certificate of Occupancy for Building #1 from the Zoning Administrator.
 - A revised landscaping plan and planting schedule which meet the minimum sizing as required in Section 4.6.

4. All outdoor lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.
5. Exterior lighting fixtures shall not exceed 2,000 lumens (equivalent to a 150-watt incandescent bulb).
6. Construction hours shall be limited to Monday-Friday from 8:00 AM to 5:00 PM. Construction shall not be conducted on federal holidays.
7. All mechanical systems shall be located or screened in a manner that they are not visible from the public right-of-way.
8. Landscaping shall be installed as shown in provided plans prepared by McCain Consulting and amended herein. Any dead and dying plants and trees as shown on said plan shall be replaced within one (1) year of death.
9. The 50 ft buffer along the river shall be left in an undisturbed state with the exceptions outlined in Section 3.10.
10. All garbage and recycling collection shall be stored inside the garage/storage area or in a common screened collection area approved by the Zoning Administrator.
11. No parking is allowed in the proposed turn-around area.
12. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
13. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
14. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
15. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided to ensure compliance with the provisions of Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
16. An adequate stormwater drainage system must be maintained to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
17. Any future development, as defined under Section 7 of the regulations within the Flood Hazard Overlay District, will require review and approval under the regulations in effect at the time of application.
18. Any future development, as defined under Section 16 the regulations within the Fluvial Erosion Hazard Overlay District, will require review and approval under the regulations in effect at the time of application.
19. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that is has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations. Prior to the issuance of a Certificate of Occupancy, the Applicant shall provide a copy of the State of Vermont Wastewater Permit and all landscaping and proposed improvements as shown in the highlighted area on plans prepared by McCain Consulting, Sheet C-1, dated 6/21/2019, shall be completed and installed.
20. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting favor: D. Clymer, P.Aumand, C.Walton, A. Volansky, T.Mumley, M. Diender

Voting to deny: None

Dated at Stowe, Vermont this the 16 day of July 2019

By: 

DRB Chair

NOTICES:

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #5 (802-505-5367) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke a permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.