

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



PROJECT: 6012

SUBJECT PROPERTY: 990 Mountain Road; #07-019.000

PROPERTY OWNER & APPLICANT:

Kocisko Holdings Corporation Inc.
990 Mountain Road
Stowe, VT 05672

APPLICATION:

The property owner, Kocisko Holdings Corporation Inc., (herein referred to as the "Applicant"), requests conditional use approval to construct a 48' x 24' porte-cochère on the southern side of the existing Mountain View Building at the Grey Fox Inn. The open deck area above the porte-cochere will be available for use by lodging guests. The subject parcel, consisting of ±7.2 acres and located at 990 Mountain Road (#07-019.000), is primarily within the Highway Tourist (HT) Zoning District with rear portions within the Rural Residential II (RR2) district and Flood Hazard Overlay District. The parcel contains an existing lodging facility, associated improvements, and ancillary uses.

The subject parcel is generally bound to the north by Mountain Road, to the west by a ±4-acre parcel currently owned by Tarwood NV Incorporated containing a commercial use(s), to the south by a ±14.75 acre parcel currently owned Peter & Dana Percy, and to the east by a ±6.6 acre parcel currently owned by Howard & Howard Inc. The application has been reviewed by the Stowe Development Review Board (DRB) as conditional use under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018).

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.)

An application for conditional use review was filed by Kocisko Holdings Corporation Inc., on May 7, 2019. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the DRB was scheduled for June 4, 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 16, 2019. 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 June 4, 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:

- Terry Kocisko, 990 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, received 5/7/2019;
2. Proposed site plan prepared by Grenier Engineering, Sheet 1 of 2, dated 5/16/2019;
3. Lighting Cut-Sheets Lithonia Lighting L1 light (3 pages), no date;
4. Lighting Cut-Sheets Bell Lighting L2 light (3 pages), no date;
5. Exterior Isometric Views Architectural Renderings, prepared by Kim Brown Projects, Sheet A-1, dated 5/6/2019;
6. Glass House View Architectural Renderings, prepared by Kim Brown Projects, Sheet A-2, dated 5/6/2019;
7. Revised Carport Plan- Ground Floor Architectural Drawings, prepared by Kim Brown Projects, Sheet A-3, dated 5/6/2019;
8. Ground Floor Architectural Drawings, prepared by Kim Brown Projects, Sheet A-4, dated 5/6/2019;
9. Second Floor Deck Plan Architectural Drawings, prepared by Kim Brown Projects, Sheet A-5, dated 5/6/2019;
10. Front & Right Elevations Architectural Drawings, prepared by Kim Brown Projects, Sheet A-6, dated 5/6/2019;
11. Front & Right Elevations Architectural Drawings, prepared by Kim Brown Projects, Sheet A-7, dated 5/6/2019;
12. Section 1 Architectural Drawings, prepared by Kim Brown Projects, Sheet A-8, dated 5/6/2019;
13. Email Comments from John Grenier, dated 6/4/2019.

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 approval 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:

1. **Zoning District.** The subject parcel contains approximately ± 7.2 acres with direct access to the Mountain Road, a state-maintained highway. The parcel is primarily located in the Highway Tourist (HT) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). Rear portions of the parcel are also within the Rural Residential II (RR2) district and Flood Hazard Overlay District (FHO); no development is located within the FHO.
2. **Lot Area, Lot Width.** The ± 7.2 -acre parcel is located in the HT district, requiring a minimum lot area of one (1) acre. The provided site plan shows the frontage of the parcel along Mountain Road

in the HT district, which requires a minimum lot width of 180'. No changes to lot area or lot width are proposed under this application.

3. **Setbacks.** Required minimum district setbacks for the HT are front (50'), side (50') and rear (50'). The existing building is entirely within the HT district. The Applicant proposes to construct a 48' x 24' porte-cochere on the southern side of the existing Mountain View Building. The proposed improvement is in the center of the parcel outside of all required setbacks.
4. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. According to the site plan, the parcel contains a ±9,000 sf Grey Fox Inn, and ±4350 sf Mountain View Building, and a ±1440 single story lodging building. These existing improvements equal ±14,700 sf or approximately ±4.7% lot coverage. The total proposed improvements equal ±15,852 or 5.05% lot coverage.
5. **Use.** The subject building contains an existing lodging facility and ancillary uses (i.e. restaurant). No changes of use are proposed under this application.
6. **Density.** No changes or increases in density are proposed.
7. **Height.** The maximum building height in HT is 28' feet. The regulations define building height as the "Vertical distance measured from the average elevation of the proposed finished grade at the front or rear of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the highest ridge and its contiguous eave for other types of roofs. On sloping sites the height will be measured on the uphill side." The porte-cochère measures approximately 12' in height.

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. **Section 3.7(2)(A)(1) – 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. No Municipal Department review forms returned indicated that the proposed development would have any 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 to construct a 48' x 24' porte-cochere on the southern side of the existing Mountain View Building. No changes or increases in use are proposed under this application. The proposed improvement is not expected to generate an increase in the number vehicle trips.

Conclusion: The Board concludes the proposed porte-cochere will not impact traffic 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 HT zoning district. The purpose of the HT district is "To control development along the portion of the "lower"

Mountain Road between designated growths centers in a manner that encourages continued moderate-density commercial and residential land uses while maintaining high quality development and site design.”

Conclusion: The proposal will not adversely affect 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 applicable Conditional Use criteria. 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 the Stowe Zoning Regulations, as adopted October 9, 2018.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** 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.

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

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 Applicant proposes to construct a 48’ x 24’ porte-cochere on the southern side of the existing Mountain View Building. No changes of use or other site improvements are proposed. The parcel is previously developed.

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 to construct a 48’ x 24’ porte-cochere on the southern side of the existing Mountain View Building.

Conclusion: The Board concludes the project, if completed as conditioned, will not result in undue water, noise, or air pollution.

15. **Section 3.7(2)(B)(3) – Access Management:** The parcel is served by Mountain Road. No expansions or improvements are proposed to the existing curb cut are proposed under this application.

Conclusion: The Board concludes no changes to the existing access are proposed under this application.

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Mountain Road. No changes are proposed to the existing access.

Conclusion: The Board concludes no changes to the existing access are proposed under this application.

17. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 14 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The Applicant proposes to construct a 48' x 24' porte-cochere on the southern side of the existing Mountain View Building. The porte-cochere will provide for a covered area for guest entering the building and is designed to allow two lanes of vehicle travel. The open deck above will provide additional outdoor space for use by lodging guest. No changes to the number or location of parking spaces are proposed under this application. During the hearing the Board made note that the Fire Department had not commented on the application. The Applicant provided testimony regarding the proposed circulation pattern and existing driveways.

Conclusion: The Board concludes the porte-cochere will provide an area for guest loading and unloading of vehicles and open deck space above. No changes to the number of parking spaces or circulation patterns are proposed under this application.

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 porte-cochere will provide an area for guest loading and unloading of vehicles, with open deck space above. No additional changes to existing pedestrian circulation or access improvements are proposed under this application. The proposed porte-cochere will provide access to the building entrance.

Conclusion: The Board concludes the proposed site layout, including the existing pedestrian circulation and access improvements, represents safe and adequate pedestrian access and circulation.

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. No changes to the existing landscaping are proposed under this application.

Conclusion: The Board concludes that no changes to the existing landscaping and screening are proposed under this application.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant request approval to construct 48' x 24' porte-cochere on the southern side of the existing Mountain View Building. The Applicant's Engineer provided written testimony regarding the existing drainage patterns stating the following:

The structure will be constructed over existing impervious cover (i.e. gravel parking lot). At this time no landscaping changes are being requested but will be in the future. As you know any change to the landscaping will come before the board again for review. No changes now or in the future with respect to drainage are planned as part of this deck project or landscaping. Runoff in front of the Mountain View Building sheet flows across the parking lot and splits in the center of the building and flows to the east and west and around the building. Sheet flow is directed to the flat lawn area behind the Mountain View Building. There is a small tributary that flows though the site, and runoff does discharge to the seasonal stream. The width of the vegetated buffer varies but runoff from this building and associated parking passes though a minimum of a 50 buffer. Runoff around the east side of the building flows out

onto the lower lawn. The runoff would eventually reach the west branch which is 500' away. In general no drainage patterns will change as a result of this construction and there are no drainage issues associated with this building that will be exacerbated as a result of this project.

Conclusion: The Board accepts the written testimony and the Applicant's engineer and concludes that the existing drainage patterns will not change as a result of the proposed project.

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 these 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 HT Standards:** In addition to the conditional use criteria of these regulations, the DRB shall find that proposed development is designed in a manner that promotes an overall high quality of design and construction and, where appropriate, incorporates traditional building materials.

Conclusion: The Applicant proposes to construct a 48' x 24' porte-cochere on the southern side of the existing Mountain View Building. The Board finds no other site plan improvements are proposed under this application. Does not apply.

Section 4: Specific Use Standards

22. **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 will consider the guidelines outlined in Section 4.8(2)(A-F). The Applicant proposes to construct a 48' x 24' porte-cochere on the southern side of the existing Mountain View Building. The proposal involves the installation of two (2) types of outdoor light fixtures. Underneath the porte-cochere a number of recessed light fixtures are proposed. Thirty-nine (39) lighting fixtures [Fixture L2] are proposed along the perimeter of the 2nd floor deck, above the porte-cochere. These fixtures are proposed to be on a timer. The proposed light fixtures are shielded and cut-off. During the hearing the Applicant testified for safety and security concerns, the existing lighting is illuminated until 6:00 AM and that it is his intention for the proposed lighting to be on until 6:00 AM as well. He noted that hotel management handles noise complaints and concerns of guests.

Conclusion: The Board concludes the proposed outdoor light fixture will provide safe and adequate lighting for the intended and existing uses.

23. **Section 15- Parking Regulations-** See discussion above.

DECISION

Based upon the foregoing Findings of Fact, in RE: **6012** the Board finds (6-0-1) 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 conditions of previous approvals, except as amended herein, remain in full force and effect.
3. All outdoor light fixtures shall be cut-off fixtures and 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.
4. The proposed lighting shall not be illuminated beyond 6:00 AM.
5. No music or commercial food service shall be played or served on the open deck area. This specifically does include catered special events for lodging guests.
6. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
7. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
8. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
9. 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.
10. 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.

11. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that it has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
12. 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.

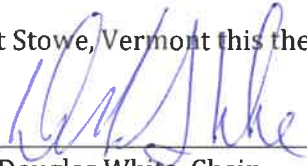
Voting favor: D.White, D. Clymer, A. Volansky, T.Mumley, T. Hand, C.Walton

Voting to deny: None

Abstain: M. Diender

Dated at Stowe, Vermont this the 17 day of June 2019

By:


Douglas White, 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.