

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



PROJECT: 6032

SUBJECT PROPERTY: 112 Mansfield Base; #14-002.000

PROPERTY OWNER: VR US Holdings II
5781 Mountain Road
Stowe, VT 05672
[Through long-term lease with VT Dept. of Forests, Parks, and Recreation]

APPLICANT: John Schnee [same as above]

APPLICATION:

The Applicant, John Schnee (herein referred to as the "Applicant") on behalf of property owner VR US Holdings II, requests conditional use approval to construct a 150 ft covered pedestrian walkway on the north, eastern, and south sides of the Gondola Base Terminal at 112 Mansfield Base. The project involves the construction of an 8' wide asphalt walkway connecting to the covered building walkway and minor drainage improvements. The subject parcel is part of a designated SKI-PUD comprised over ±3188 acres originally approved by the Stowe Planning Commission on May 5, 2003 under S-03-05 recorded in Map Book 14 pages 2-17. The roadways, utilities, infrastructure, and related items were later approved by the Planning Commission as part of the SKI-PUD amendment (S-03-05). Most recently, the SKI-PUD was amended under Project 5757 to include an additional 2.87 acres for a total of ±3188 acres. 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.)

An application for conditional use review was filed by Applicant John Schnee on May 28, 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 July 2, 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 June 13, 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 July 2, 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:

- Rob Apple, Spruce Peak Realty LLC, 7320 Mountain Road, Stowe, VT 05672

- John Schnee, Director of Resort Operations, 5781 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 5/28/2019;
2. Proposed Site Plan- Stowe Gondola Barn Improvements, Sheet C1.0, prepared by Civil Engineering Associates, Project 19133, dated May, 2019;
3. Plans and Elevations, Sheet A100, prepared by Freeman French Freeman, Project A1912, dated 5/20/2019;
4. Foundation and Floor Framing Plans, Sheet S100, prepared by Freeman French Freeman, Project A19204, dated 5/20/2019;
5. Roof Beam and Rafter Framing Plans, Sheet S101, prepared by Freeman French Freeman, Project A19204, dated 5/20/2019;
6. Axonometrics, Sheet S300, prepared by Freeman French Freeman, Project 19204, dated 5/20/2019;
7. General Notes, Sheet S000, prepared by Freeman French Freeman, Project 19204, dated 5/20/2019;
8. Special Instructions, Sheet S001, prepared by Freeman French Freeman, Project 19204, dated 5/20/2019;
9. Sections and Details, Sheet S200, prepared by Freeman French Freeman, Project 19204, dated 5/20/2019;
10. Sections and Details, Sheet S201, prepared by Freeman French Freeman, Project 19204, dated 5/20/2019.

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 Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted on 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 13- Planned Unit Development

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

1. **Zoning District.** The subject parcel is located in the Rural Residential 5 (RR5) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted on October 9, 2018).
2. **Lot Area, Lot Width.** No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** The parcel is part of a SKI-PUD approved. Setback requirements within a SKI-PUD are outlined under Section 13.6(4)(B) and require the distance between conditional uses be not less than permitted by VT Department of Fire Safety. The proposed covered walkway on the Gondola Building will not encroach on other buildings within the vicinity.

4. **Maximum Building Coverage.** Does not apply to the RR5 district.
5. **Height.** Within a SKI-PUD there is no maximum building height (Section 13.6(G) states “maximum building height by review of each individual building.”) The provided drawings show the proposed height of the covered walkway- the covered roof will not increase the overall building 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:

6. **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 were received.

Conclusion: The Board concludes the proposal, if constructed as approved, will not result in an undue adverse effect on the Town’s existing or planned facilities or services.

7. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant seeks approval to construct a 150 ft covered pedestrian walkway on the north, eastern, and south sides of the Gondola Base Terminal at 112 Mansfield Base. The project involves the construction of an 8’ wide asphalt walkway connecting to the covered walkway and minor drainage improvements.

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

8. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the RR5 zoning district with indirect access to Vermont Route 108. The general purpose of the Rural Residential district is as follows:

- A. *To maintain the natural and scenic qualities which create and preserve the best possible environment for residential development.*
- B. *To promote the preservation of adequate open space through carefully planned cluster types of development.*
- C. *To encourage agricultural productivity of good farmlands and of forest resources.*
- D. *To permit the establishment of recreational and resort facilities when compatible with the primary purpose of a residential environment.*

The specific purposes in RR 3 and RR 5:

- A. *To eliminate undue demand for new or extended municipal services in outlying areas which would cause a burden on the town.*
- B. *To maintain the rural character and beauty of the existing neighborhoods.*
- C. *To discourage intensive development in areas where slopes or soil conditions dictate otherwise.*

The project is located at the base of Spruce Peak and Mount Mansfield within a previously developed ski resort. The base of the resort consists of a number of buildings including the Village Green/Ice Rink, Adventure Center, Alpine Club, retail, Spruce Camp, Over Easy Gondola, Stowe Mountain Lodge, spa, Building C, underground parking, Pavilion, Lower Mountain Cabins, Slopeside Townhomes, Village Townhomes, Performing Arts Center, Building D, Parking Garage, Golf Cottage, and associated parking areas. The resort area is surrounded by mountainous terrain, portions of which are within the Vermont State Forest. The Applicant seeks approval to construct a 150 ft covered pedestrian walkway on the north, eastern, and south sides of the Gondola Base Terminal at 112 Mansfield Base. The project involves the construction of an 8' wide asphalt walkway connecting to the covered walkway and minor drainage improvements.

Conclusion: The Board concludes the proposal will not adversely affect the character of the area as defined under the Stowe Zoning Regulations (as adopted on October 9, 2018).

9. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** Applicable bylaws include the Stowe Zoning Regulations as adopted on October 9, 2018. No changes to existing municipal water or sewer connections are proposed. No other municipal bylaws or ordinances apply to this project.

Conclusion: The Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted on October 9, 2018. No other municipal bylaws or ordinances apply to this project.

10. **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:

11. **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 proposed project is located at the base of Spruce Peak and Mount Mansfield within a previously developed ski resort. The Applicant seeks approval to construct a 150 ft covered pedestrian walkway on the north, eastern, and south sides of the Gondola Base Terminal at 112 Mansfield Base. The project involves the construction of an 8' wide asphalt walkway connecting to the covered walkway and minor drainage improvements.

Conclusion: The Board concludes the proposed project 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.

12. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant seeks approval to construct a 150 ft covered pedestrian walkway on the north, eastern, and south sides of the Gondola Base Terminal at 112 Mansfield Base. The project involves the construction of an 8' wide asphalt walkway connecting to the covered walkway and minor drainage improvements.

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

13. **Section 3.7(2)(B)(3) – Access Management:** The proposed project is served by Mansfield Base with indirect access to Vermont Route 108. No changes to the existing curb cut are proposed under this application.

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

14. **Section 3.7(2)(B)(4) – Shared Access:** The existing Gondola Building is served by Mansfield Base with indirect access to Vermont Route 108. Mansfield Base provides common and shared access to other resort related buildings.

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

15. **Section 3.7(2)(B)(5) – Circulation and Parking:** No changes to existing parking and circulation are proposed under this application. These provisions do not apply.

Conclusion: This provision does not apply.

16. **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 Applicant seeks approval to construct a 150 ft covered pedestrian walkway on the north, eastern, and south sides of the Gondola Base Terminal Building. The proposed walkway will improve existing pedestrian access and circulation.

Conclusion: The Board concludes the proposed improvements will provide safe and adequate pedestrian access and circulation.

17. **Section 3.7(2)(B)(7) – Landscaping and Screening:** No changes to proposed.

Conclusion: These provisions do not apply.

18. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant seeks approval to construct a 150 ft covered pedestrian walkway on the north, eastern, and south sides of the Gondola Base Terminal at 112 Mansfield Base. The project involves the construction of an 8' wide asphalt walkway connecting to the covered walkway and minor drainage improvements. The provided site plan shows the location of proposed stormwater improvements including a stone lined swale and infiltration trench.

Conclusion: The Board concludes the proposed improvements will not cause an undue adverse impact on neighboring properties, town or state highways or surface waters.

19. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the DRB 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 DRB 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.
- f. Additional RR Standards: Within the Rural Residential (RR) Districts the following is required:
 - i. Treatment of front yard and driveways for all conditional uses in the RR districts: A continuous strip not less than twenty (20') feet deep shall be maintained between the street line and the balance of the lot in all RR Districts, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. Not more than fifty (50%) percent of the required front yard may be used for driveways and parking. No portion of the required front yard may be used for storage or for any purpose except as above provided. Exceptions to these standards may be granted by the DRB in cases involving pre-existing buildings and/or uses when undue hardship is likely to exist. Cases will be reviewed on an individual basis, taking into account the unique features/circumstances of a site while still providing proper landscaping.

Conclusion: The provisions of this section do not apply.

23. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting be installed in accordance with the standards outlined in Section 4.8. The covered walkway includes recessed lighting under the canopy. No additional lighting is proposed.

Conclusion: The Board concludes the proposed outdoor lighting is in conformance with Section 4.8, has been designed to minimize spill into the night sky, and is appropriate for the intended use and site location.

DECISION

Based upon the foregoing Findings of Fact, in RE: **6032** the Board finds (7-0) 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. 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.
4. 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.
5. 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, T.Mumley, P. Aumand, C. Walton, M. Diender, A. Volansky

Voting to deny: None

Abstain: 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.

