



Notice of DRB Decision
Town of Stowe Zoning Office
PO Box 730
Stowe VT 05672

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Please note that there are conditions of approval required to be met before your Zoning Permit can be issued. Once you fulfill these conditions your zoning permit will be sent to you

Please contact the Planning and Zoning Office at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number 6826
Application Date 3/24/2022
Physical Location 0 SPRUCE PEAK
Map ID 14-011.000 Tax ID 25080
Project Description MOVING TWO SECTIONS OF EXISTING OFFICE BUILDING; DEMOLISHING 18' X 29' STRUCTURE
Owner SPRUCE PEAK REALTY LLC
Applicant SPRUCE PEAK REALTY LLC
Applicant Address 7320 MOUNTAIN RD
STOWE VT 05672

APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	5/3/2022	6/2/2022	6/2/2024

Sarah McShane

Zoning Office

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law



PROJECT: 6826

SUBJECT PROPERTY: 69 Hourglass Drive; #14-011.000

PROPERTY OWNER/APPLICANT:

Spruce Peak Realty
7320 Mountain Road
Stowe, VT 05672

APPLICATION:

The Applicant/Property Owner, Spruce Peak Realty (herein referred to as the "Applicant"), requests conditional use review for a project generally described as the relocation of two (2) sections of an existing office building to a location across the roadway and the construction of a total of ten (10) parking spaces along the southern side of Spruce Peak Road and the western side of Tank Farm Road. The relocated office building will be served by Tank Farm Road (a private roadway) with indirect access to Route 108, a highway maintained by the State of Vermont Agency of Transportation.

The subject parcel is located in the RR5 district and is within a designated SKI-PUD 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. Conceptual development of the SKI-PUD, as outlined in the SMR 2000 Spruce Peak Master Plan, was approved by the Development Review Board (DRB) on March 10, 2004 (BA-14-002-25) and included the following project elements:

- 371 residential units in twenty (20) buildings;
- Three (3) retail buildings;
- A multi-story parking garage;
- Amenities including a spa, performing arts center, and a community pool;
- The Spruce Base Lodge;
- Utility tank farm and telecommunications building;
- An 18-hole golf course, club house, and maintenance facility;
- Expanded snowing making pump house;
- The "Tom Lot" snowmaking reservoir;
- Six (6) ski lifts;
- Three (3) new parking lots;
- Two new Spruce ski trails;
- Two mountain maintenance facilities;
- Expanded employee housing at the AIG Dorm.

As noted in previously approved DRB decisions, the SMR 2000 Spruce Peak Master Plan, was the result of several years collaborative planning with representatives from the Town of Stowe and other interested parties. The DRB's decision approving the Master Plan noted that given the relatively large scope of the project, the DRB would first issue a Master Findings of Fact and Conclusions of Law for all criteria that would apply project wide and individual project elements would be reviewed separately with individual Findings of Fact and Conclusions of Law for each element. The Applicant now seeks approval of the project described above and presented in the supporting application materials. The application has been reviewed by the DRB for the purpose of conditional use review under applicable standards of the Town of Stowe

Zoning Regulations (as adopted on October 9, 2018), as well as prior DRB decisions and applicable conditions of approval including the following:

- Project BA-14-002-25 (i.e. SMR 2000 Spruce Peak Master Plan); dated 3/10/2004
- Project 4707 (i.e. approval to extend Phase I construction to 3/10/2024); DRB Decision dated 12/26/2012.

The DRB'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 Spruce Peak Realty on March 23, 2021. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for April 19, 2022 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 March 31, 2022. 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 April 19, 2022 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. Members participating in the review included: Drew Clymer, Peter Roberts, Leigh Wasserman, Mary Black, Michael Diender.

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

- Jeff Nichols, Spruce Peak Realty LLC, 7320 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 3/23/2022;
2. Spruce Peak Realty Office Relocation prepared by Civil Engineering Associates, Sheet C1.00, dated 3/28/2022.

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- *During its review of the application, the DRB made the following Findings of Fact:*

The Applicant's request for conditional use approval was reviewed by the 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
- Section 15- Parking Regulations

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The subject parcel is located within 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.** The Rural Residential 5 (RR5) Zoning District requires a minimum lot area of five (5) acres and 300 ft minimum lot width. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Setback requirements within a SKI-PUD are outlined under Section 13.6(4)(B). The distance between buildings containing conditional uses shall not be less than permitted by the Vermont Department of Fire Safety. The project will require a building permit from the VT Division of Fire & Life Safety.
4. **Maximum Building Coverage.** Does not apply to the RR5 district.
5. **Use.** The Applicant seeks approval to relocate an existing office building. The relocated building will continue to be serve as office use. Allowed uses within SKI-PUDs are outlined in Section 13.6(3). One portion of the existing building will be demolished. The relocated office building will have an estimated floor area of approximately ±2,456 sf.
6. **Height.** No change in building height is proposed.
7. **Section 13.6 SKI – PUD.** There are no proposed changes of total land area/acres in the SKI-PUD.

Section 3.7(2)(A) – Standards of review (Conditional Use Applications): The DRB 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. Upon review of the application, the DRB concludes the following review criteria are not applicable to this application. The project will have no impact on the following standards:
 - Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services;
 - Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity;
 - Section 3.7(2)(A)(3) – The character of the area affected;
 - Section 3.7(2)(A)(4) – Regulations and ordinances in effect;
 - Section 3.7(2)(A)(5) – Utilization of renewable energy sources;
 - 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;
 - Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution;
 - Section 3.7(2)(B)(3) –Access Management;
 - Section 3.7(2)(B)(4) – Shared Access;
 - Section 3.7(2)(C)[Additional RR Standards].
9. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require that parking be provided per the requirements of Section 15 and be designed to minimize the visibility of parking

areas from off-site through the location, landscaping and screening of such areas. The Applicant seeks approval to relocate an existing office building. One portion of the existing building will be demolished. The relocated building will have an estimated floor area of ±2,456 sf. Table 15.2 requires office uses to provide one (1) parking space for every 300 sq. ft. of gross floor excluding storage. The existing office building is presently served by five (5) parallel off-street parking spaces. The Applicant proposes construction of a total of ten (10) parking spaces along the southern side of Spruce Peak Road and the western side of Tank Farm Road. Most recently under a separate permit application, the Applicant provided a copy of the Spruce Peak Parking Affidavit dated 11/4/21 outlining the existing conditions, existing conditions with Treehouse and parking garage proposal, Spruce Peak Masterplan Buildout, etc. During the hearing the DRB requested that an updated parking affidavit be provided to reflect the changes proposed under this application-see conditions of approval.

Conclusion: Based upon the above findings, the Board concludes the proposed circulation and parking improvements represents safe and adequate parking and circulation for the intended use and conform to the applicable requirements set forth in Section 15.

- 10. 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 relocate an existing office building. The compact area of Spruce Peak Hamlet contains sidewalks and paths connecting guests, employees, and other users to the resort area. During the hearing the Applicant confirmed a cinder walkway would be added to connect the building to the corner of the roadway.

Conclusion: Based upon the above findings, the Board concludes the proposed pedestrian circulation and access, represents safe and adequate pedestrian access and circulation for the intended use.

- 11. 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. During the hearing the Applicant confirmed existing landscaping would be transplanted from its present location and replanted around the relocated building.

Conclusion: Based on the above findings, the Board concludes the proposed landscaping and screening are appropriate for the intended use and site location.

- 12. 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. The project area is subject to a State of Vermont Stormwater Permit and Section 3.12 of the zoning regulations. Less than ½ acre of additional impervious surfaces are proposed.

Conclusion: Based on the above findings, the Board concludes, if constructed and maintained as approved, the proposed improvements will not cause an undue adverse impact on neighboring properties, town or state highways or surface waters.

- 13. Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting be installed in accordance with the standards outlined in Section 4.8. During the hearing the Applicant confirmed

an additional outdoor light would be installed by the fuel delivery area on the Tank Farm Road side of the building.

Conclusion: Based on the above findings, the Board concludes the proposed outdoor lighting is in conformance with Section 4.8. All prior conditions of approval, unless amended herein, remain in full force and effect.

DECISION

On a motion by M.Black, seconded by M.Diender, the Development Review Board hereby approves the Applicant's request for conditional use review as outlined in the application dated 3/23/2022 and supplemental materials, subject to the following conditions of approval:

1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Zoning Office and other material representations. 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.

The approved plans, amended herein, include:

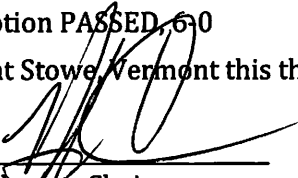
- a. Town of Stowe Development Application, dated 3/23/2022;
 - b. Spruce Peak Realty Office Relocation prepared by Civil Engineering Associates, Sheet C1.00, dated 3/28/2022.
3. All prior conditions of approval, unless amended herein, remain in full force and effect.
 4. Prior to the issuance of the zoning permit the Applicant shall complete the following:
 - a) A revised site plan showing location of ten (10) parking spaces and location of transplanted landscaping and pedestrian walkway;
 - b) An updated parking affidavit reflecting the increase in number of parking spaces;
 - c) Manufacturer specification sheet for the proposed outdoor light fixture.
 5. The Applicant shall obtain all necessary municipal water and sewer allocations, approvals, and connections from the Department of Public Works.
 6. Site construction shall adhere to the standards outlined in Section 3.12(2)(A-E) including:
 - a) The amount of soil exposed at any one time must be kept to a minimum.
 - b) Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, must be stabilized.
 - c) Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.

- d) Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided as outlined in Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
 - e) An adequate stormwater drainage system must be continuously 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.
7. All outdoor light fixtures shall be installed, 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. Outdoor light fixtures shall be on photocells or timers.
 8. 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.
 9. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of a permit, the permittee agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

Voting in favor: Drew Clymer, Peter Roberts, Leigh Wasserman, Mary Black, Michael Diender
 Voting to deny: None

The motion PASSED, 6-0

Dated at Stowe, Vermont this the 3 day of May 2022

By: 
 Drew Clymer, 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.