

TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
THURSDAY MARCH 5, 2009

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Members Present: Peter Monte, David Markolf, Lenord Robinson, Jeff Schoellkopf and Chris Behn (arr. 7:20).

Others Present: Shelia Getzinger, Jeff and Tracy Lynn, Laura Crandall, David Olenick, Dick King, Dino Valadakis, Ron Zschaler, Jason Lisai, Margo Wade, Cindy Carr, Virginia Roth, Miron Malboeuf and Ruth Robbins.

Agenda: Call meeting to order, 7:00 pm

- 1) Applications, 2009-03-CU: Conditional Use, Reauthorization of Prior Lapsed Use, Inn.; 203 Powderhound Rd: The applicants, Lynn & Lynn LLC, request Conditional Use Review for a proposed change of use to Inn (Article 10) for their property (Parcel ID 100002-001) in the Access Road Commercial District. This application requires review under Article 2 (Table 2.9, ARC) Access Road Commercial District; Article 3, §3.10, Parking, Load and Service Area Requirements, §3.11, Performance Standards, Article 4, Specific Use Standards, §4.10, Lodging Facilities, and Article 5, Development Review of the Warren Land Use and Development Regulations
- 2) Application 2008-13-SD/PRD, Subdivision/PRD Amendment: 2008-13-CU, Preliminary Plan Review, Final Plan Approval, PRD & Conditional Use Review & Approval (continued from February 5th, 2009): Summit Ventures NE LLC (dba Sugarbush Resort) requests permission to amend approved permits as follows: This application is an amendment to #2005-01-PUD and #2005-01-CUD, issued by the Town of Warren Development Review Board on May 13, 2005 and amended September 21, 2005, for construction of Phases 1B and 1C of the Lincoln Peak Base Area Redevelopment Project in the Sugarbush Village Commercial (SVC) zoning district in the Town of Warren. The applicant requests the creation of two new parcels and dissolution of a previously approved parcel and is requesting approval for a 4 lot subdivision. This project, located in the Sugarbush Village Commercial District (Parcel ID#250010 & 250012) requires review under Article 6, § 6.3 Preliminary Plan Review., Article 5, Development Review, Article 7, Subdivision Standards & Article 8, Planned Unit & Planned Residential Development of the Warren Land Use and Development Regulations.
- 3) Deliberative Session: Reconsideration /Rehearing (continued from January 21st, 2009) of the Warren Development Review Board Decision, signed October 22nd, 2008 in RE: Appeal of the Administrative Officer's Determination letter: Don & Susan Simpson have appealed the Administrative Officer's letter of August 15th, 2008 which required the land owners to file for an Accessory Dwelling permit (Article 4. § 4.1) for a camper trailer on their property located 493 Prickly Mountain Road (parcel id.#210013-000) in the Rural Residential District. The camper trailer is connected to the existing septic system. This appeal requires review under Article 9, §9.5, Appeals, of the Warren Land Use and Development Regulations.
- 4) Other Business
 - a. Review & Sign Minutes from January 21st, 2009,
 - b. Review DRB Schedule March – April 2009 Schedules

Mr. Monte called the meeting to order at 7:04 pm.

- 1- Applications, 2009-03-CU: Conditional Use, Reauthorization of Prior Lapsed Use, Inn; 203 Powderhound Rd: The applicants, Lynn & Lynn LLC, request Conditional Use Review for a proposed change of use to Inn (Article 10) for their property (Parcel ID 100002-001) in the Access Road Commercial District.

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Attorney Olenick was representing the Lynns, owners of the Powderhound, who are seeking a Conditional use permit to allow the addition of operating the building as an inn, a use that had been allowed and utilized several years ago but had lapsed. He continued to state that since it had been operated as an inn previously the impact was known, that there was ample parking, dinning would continue for non guests as well, the exterior would remain as is and is residential in character and the use was consistent with the Town Plan. There was some input submitted by the Powderhound Association which Mr. Olenick thought was best addressed between the Association and the owners, not a matter for the DRB. Mr. Olenick also noted that the property was subject to the standards under Act 250 and was currently operating under an Act 250 permit.

Attorney Getzinger who was representing the Powderhound Association stated that the Association had no objection to the facility being used as an inn but did have concerns about the intensity of the use as an inn as it relates to the wastewater system and water. Mr. Monte asked if the applicant had a figure of the maximum occupancy for the inn. Mr. Olenick said no, but that in the past it had been used as a seven room inn. Mrs. Lynn said that how the rooms were configured could give you as many as ten or eleven or as few as six. She continued to say that as the current owners they had no immediate intention to operate the facility as an inn but wanted to have it as an option going forward.

Mr. Monte asked if there was a way to back into the maximum number by using the allowed flows under the wastewater permit. Mr. Olenick said that the Act 250 / water permit, which goes back almost thirty years, shows an allocation of 5100 total gallons of septic capacity. That permit indicates a 90 seat restaurant, a manager's apt., a number of bar seats and 52 one bedrooms which represents the condos. Mr. Olenick said that in order to accommodate the inn rooms, seating in the restaurant would have to be reduced but that 5100 gallons would be adequate.

Mr. Monte asked if the applicant was looking for a "fluid" permit that would allow for a "mix & match" of restaurant seats and inn rooms depending on the owners desire at the time. He continued to say that he wasn't sure they could do that as it would be hard to monitor and enforce. Mr. Olenick said that he did not know what any future owner might want to do and was hoping to permit it as an inn which allows up to fifteen bedrooms. The question was asked if there was room for fifteen rooms, and if so, what would the maximum number of restaurant seats be for the maximum number of bedrooms was utilized. Mrs. Lynn said that though they were permitted for 90 restaurant seats, they currently did not have or use that many, though one could.

Mr. Monte then asked the other members of the Board how they felt about a "mix & match" permit. Mr. Markolf asked if that didn't contradict the Act 250 permit by doing it that way. Mr. Monte replied that they had to start somewhere and that it may require an amendment to the Act 250 permit. Mr. Schoellkopf said he was a little uncomfortable leaving the restaurant capacity open due to parking. Mr. Monte replied that he thought that was a good reason to have a set allocation of how the space(s) are used so that the appropriate parking is also available. Mr. Olenick said he did not think that parking would be an issue, but noted that the Board would need numbers to confirm that.

After considerable discussion going over different numbers and configurations of usage it was suggested that the application as presented seemed to be based on too many assumptions and if wrong, all parties would have wasted a lot of time. Additional conversation took place about the number of rooms, beds, if parking was sufficient, number of restaurant seats and the corresponding number of gallons used for the wastewater permit compliance. Mrs. Roth, who was representing the potential buyer, stated that her client wanted to have 30 beds and had no problem in less seats in the restaurant. She also noted that they most likely would not be serving three meals a day which the wastewater permit was based on.

With different numbers being bandied about by both the applicant (the current owners) and those by an agent for the potential buyers, it was suggested that further review be postponed so that more definitive numbers could be presented. It was also offered that the Board could go through

the criterion that was not affected by the number of rooms/restaurant seats/parking spaces. Mr. Monte also asked if they shouldn't have a more "scientific" site plan with dimensions clearly indicated and the parking spaces done accurately. Mr. Markolf said they should really just look at the criteria to make sure there were not any other issues to be addressed.

MOTION by Mr. Monte that the application conforms with the criteria for use as an inn if the parking requirement is demonstrated to be satisfied. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

The Board members then went through the Conditional Use criteria where Mr. Olenick requested that the final site plan NOT be done by a licensed engineer. The applicant will provide a clear and acceptable parking plan on the final site plan. A lighting plan will also be indicated on the site plan.

MOTION by Mr. Monte that this hearing be continued to the DRB meeting scheduled for March 19, 2009 at 7:00 pm. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

- 2- Deliberative Session: Reconsideration /Rehearing (continued from January 21st, 2009) of the Warren Development Review Board Decision, signed October 22nd, 2008 in RE: Appeal of the Administrative Officer's Determination letter.

MOTION by Mr. Monte to continue the deliberation of the Simpson Appeal of the Administrative Officer's Determination letter until March 19, 2009 at 7:00 pm. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

- 3- Application 2008-13-SD/PRD, Subdivision/PRD Amendment: 2008-13-CU, Preliminary Plan Review, Final Plan Approval, PRD & Conditional Use Review & Approval (continued from February 5th, 2009): Summit Ventures NE LLC(dba Sugarbush Resort) requests permission to amend approved permits as follows: This application is an amendment to #2005-01-PUD and #2005-01-CUD, issued by the Town of Warren Development Review Board on May 13, 2005 and amended September 21, 2005, for construction of Phases 1B and 1C of the Lincoln Peak Base Area Redevelopment Project in the Sugarbush Village Commercial (SVC) zoning district in the Town of Warren.

Ms. Wade went over with the Board the documents submitted for this meeting. As requested by the Board, the traffic consultant from VHB, Nick Sanders, submitted a summary letter going over the concerns discussed at the last hearing as well as a suggested pavement marking and signing plan. An updated Traffic Management Plan for the resort area dated March 5, 2009 was submitted also with a "Short and Long Term Pedestrian Access Plan for Parking Lots F&G aka the 22 acre site. The pedestrian access plan is in response to the lack of a pedestrian walkway having been installed as required in the existing permit due to issues around the stream crossing and water quality. A letter from Sugarbush to the Warren Fire Department in response to the WVFD's letter of January 6, 2009 and a letter from the MRVPD were also included. Lastly, an updated site grading plan for Phase 1C dated December 12, 2008 was also given to the DRB.

Mr. Lisai pointed out that in the updated traffic management plan they had added more detail and clarification by indicating both mid-week and weekend/holiday plans. Jitney/shuttle schedules were also included. Mr. Lisai also pointed out that prior to going forward with the construction phase of 1C West and again for Phase 1C East, updates to this plan would be provided to the MRVPD, the Town of Warren and the Act 250 District Commission. Mr. Monte said he did not see where it tells what the frequency of the shuttle service is. Mr. Lisai replied that it was "continuous shuttle service". Mr. Lisai continued to elaborate by saying that on a normal weekend two jitney would be running and on busier weekends there would be three jitneys operating. Ms. Wade also noted that the MadBus can be looked at as a supplement to moving

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people between the lots as well. One thing that was noticed was that the actual hours of operation were not included. A revised version with that information will be provided.

Ms. Wade then went over the Pedestrian Access Plan, a plan that has been augmented since the January meeting and according to Ms. Wade has been complied with by the employees. Mr. Lisai told the Board he had actually made a point of parking in the 22 acre lot and taking the jitney just to see how it operated. Mr. Lisai spoke to the long term plan and said he had spoken with someone from the state water quality division who said he'd be willing to sit down with the interested parties to discuss the feasibility of a pedestrian path along Inferno Road between the four-way intersection at the Sugarbush Access Road and the Snow Creek driveway.

Mr. Monte stated that the internal operational steps may be ok in the short term when it is employees only, but at some point, if the average "civilian" is parking there then there is still the potential for a dangerous situation. Short of the installation of the pedestrian pathway, Mr. Monte said that one option would be to send guests over to North [Mt. Ellen] or have a rent-a cop stationed there. Ms. Wade suggested that for those days when they need to use the 22 acre site for guests, they will provide extended hours for jitney service until the pathway has been built. He also said a possible solution would be a phone that would allow guests to call for transportation.

Though additional signage is a good mechanism, it does not solve the problem and having a jitney situated in a location where guests coming out of Timbers or Castlerock Pub can't miss it is a better avenue to pursue. Mr. Lisai noted that later at night, the open jitney may not be the safest vehicle to use. Instead he would propose the use of one of the resort's vehicles. Mr. Monte asked how recognizable that type of vehicle would be and with the logo on the vehicle should not be a problem. Mr. Schoellkopf asked what kind of time frame these interim solutions would be in force – when was the pathway suppose to be done by. Mr. Lisai replied that once the additional parking being utilized at the "heli lot" disappeared with the construction of Phase 1C, then there would be a higher use of the 22 acre lot for guests.

Ms. Wade said that the letter to the WVFD completed the discussion with the Fire Dept. as it relates to Phase 1B. They have yet to finalize issues on 1C and most likely won't until they are closer to going forward with that phase. Mr. Lisai said that there would be some hydrants added with the construction of phase 1B which the Fire Dept. is aware of. [Same number as for the original A4 but modified locations] Mr. Malboeuf brought up the issue about hydrants that are run off of domestic water supplies have to be non-draining as per State specifications. This type of hydrant is not preferred by the fire dept. but will be dealt with. Mr. Lisai also said that one of the hydrants would be off of the Clay Brook gravity snowmaking line but would require some training with the Fire Dept. due to the heavy pressure of that line.

The Board then reviewed the Updated Site Grading Plan for Phase 1C which also showed 1B. There are still some corrections that need to be made, i.e. the removal of a stone wall, before final submittal. The second page of the site plan shows the alignment of the fire lane between 1C West and 1C East with a crossing of Hotel Brook to help connect with Sugarbush Village. Mr. Monte asked about year-round paths. Mr. Lisai stated that their position was that 95% of their business is in the winter months and they were going to focus their efforts where their guests were and where it is appropriate, where it is effective and where it helps with physical connectivity we'll have paths, sidewalks, natural paths etc. But building year round paths in areas where there is no business and no economic sustainability behind that we do not intend to do that and that is very consistent with our discussions in 2005 and 2002. We need to focus our financial efforts on the project in that particular location and do not intend to build paths to nowhere. With that being said, an integral component of our base area redevelopment and expansion is to make sure as we are progressing through this area that we are physically connecting Sugarbush Village to our base area development.

Mr. Monte asked why the connectivity issue seemed to be limited to just the 1C phase and should it be dealt with now with phase 1B. Mr. Markolf said he thought the concern was with the

construction of Phase 1C and it's perception of blocking Sugarbush Village. Mr. Monte said that he was prepared to deal with the connectivity issue when Phase 1 C was brought before the Board in its final form. Mr. Lisai showed a very elementary plan that shows how people travel through the resort and to the village. Mr. Zschaler noted that historically previous plans have had more emphasis on inter-connective pathways and he was concerned that with the building of 1C West that the visual connection between the resort and the village would be lost due to the size and height of the building.

Mr. Lisai stated that they would improve the connectivity as the expansion progressed – that they could not do it all at once. He said that since things could change, they did not want to build infrastructure for one plan only to have that plan several times before it actually gets done. Mr. Monte said that it could be more than just the pedestrian access issue but the overall layout puts a barrier between the resort and the village instead of clear connectivity. Mr. Schoellkopf pointed out on the site plan areas where he thought there were opportunities for future pathways of various kinds. Unlike Mr. Zschaler's viewpoint, Mr. Schoellkopf did not think that Phase 1C presented a barrier.

Mr. Monte said that since there was such a prospect for change that the Board could deal with the connectivity once the final 1C phase plans were presented. That as long as they were not violating the Town Plan by at this point giving conceptual approval for financial purposes that it was ok. Mr. Monte then asked those in attendance who had businesses or lived in the village if the DRB approved what was before them would it contrary to the spirit of the Town Plan. Mr. Zschaler said that though the Town Plan may be open to interpretation, that historically back to 1996, other applicants have demonstrated a desire to create a real definitive connection to the base area. He continued to say that if ways were put in so that movement could take place between the village and the base area without one having to get into their car then that would be good. Mr. Lisai said that it came down to where in the development of the base area it made sense to invest in certain infrastructure creation.

MOTION by Mr. Monte that prior to construction of Phase 1 C the applicant is subject to submitting for review and approval by the DRB the final detailed plans for 1) landscaping, 2) grading, 3) erosion control plan, 4) lighting plan and 5) a pedestrian walkway(s) plan that provides connectivity between the base area and Sugarbush Village. **SECOND** by Mr. Schoellkopf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that prior to the construction of Phase 1C the applicant must demonstrate to the satisfaction of the DRB that the final design provides for adequate fire safety measures to be implemented. **SECOND** by Mr. Schoellkopf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that within 30 days of the execution of this approval the applicant submit an interim plan that provides for pedestrian safety on Inferno Road until such time as the now required pathway can be constructed, A final signage plan must be submitted as well. **SECOND** by Mr. Behn. [Discussion: any signage on / in town right's of way or markings on town roads must be approved by the Town Select Board] **VOTE:** all in favor, the motion passed.

MOTION by Mr. Behn that the Board approves the subdivision request as follows: parcel 1B which is the underlying parcel under Clay Brook; parcel 1C which underlies the Kids Ski School building; and Lot 1D which underlies Phase 1C. The balance contains the rest of the resort, Parcel 15. This is subject to the approval of a final mylar reviewed and signed by the Board. **SECOND:** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Markolf that Article 5 Development Review, Section 5.3 Conditional Use (A) General Standards, is satisfied by the applicant. **SECOND** by Mr. Monte. **VOTE:** all in favor, the motion passed.

TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING - 3/5/09

MOTION by Mr. Monte that the Board approves the applicants request to amend their current permit subject to the conditions already voted on herein. This approval is also subject to any and all conditions in the current permit which are not changed by this amendment, and subject to such further conditions the Board may impose upon review of the Inferno Road pedestrian interim plan, the road signage plan and traffic management plan. This approval is subject to the project being constructed as per the plans reviewed by the Board and submitted by the applicant. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

Mr. Monte adjourned the meeting at 10:28 pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

DEVELOPMENT REVIEW BOARD

Peter Monte 4/9/09
Peter Monte date

Chris Behn date

David Markolf 4/9/09
David Markolf date

Lenord Robinson 4/9/09
Lenord Robinson date

Jeff Schoellkopf date

TOWN OF WARREN, VT
Received for Record 419 2009
at 9:30 o'clock A M and Received in
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Robert Goss
TOWN CLERK