

TOWN CLERK

***AN AMENDMENT TO EXISTING PERMITS #2005-01-PUD/CU ISSUED MAY 13, 2005 AND AMENDED SEPTEMBER 21, 2005. THE PERMITS ISSUED IN 2005 WERE AMENDMENTS TO THE PREVIOUSLY APPROVED PERMITS #2002-01-CU/2001-01-CU-AM & 2002-14-PUD/2002-PUD-AM.***

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Summit Ventures NE, LLC dba Sugarbush Resort, submitted an application requesting an amendment to their existing permit for the Lincoln Peak Base Area Redevelopment Project. The existing permit, of which The Clay Brook Building [A2/A3] has been built and the Gate House (base lodge) has been replaced, includes approval for the construction of a Family Center [Building A4] and a residential building comprised of 39 residential units known as Building B1.

This requested amendment changes the Building A4 "Family Center" to a three building Skier Services village referred to as Phase 1B and replaces Building B1 with Phase 1C, an 80 unit residential condominium situated in two connected buildings with underground parking. Phase 1B will consist of an Adult Ski School and Rental building with some limited retail; a Children's Ski School with two residential units on the upper level; and a Discovery Center building to house real estate offices. The total square footage of Phase 1B is 32,500 +/- and for Phase 1C approximately 180,000 +/- square feet. It is the applicant's desire dependent on receipt of permits to commence the construction of Phase 1B in the spring of 2009 and depending on market conditions look to develop Phase 1C in either 2010 or 2011.

Included in Phase 1C will be the last phase of the restoration to the Hotel Brook along with replacement and relocation of the Village Chair lift with a new fixed-grip triple chair and modifications to the beginner terrain in the area of Easy Rider and Out to Lunch trails. This application also includes a subdivision request for the creation of two new lots for the Children's Ski School building and for the Phase 1C residential buildings. A previously approved lot from the approval for The Lodge is being removed.

The current 2005 permit approved May 13, 2005 was amended in September 2005 to allow the following: the order of construction sequence, relocating the existing temporary buildings to the Building A4 foot print, and some minor modifications to the Clay Brook Building. This requested amendment #2008-13-SD/PRD/CU requires review under Article 5 - *Development Review* and Articles 6 & 7 - *Subdivision Review* and Article 8 - *Planned Unit Development Review* of the WARREN LAND USE & DEVELOPMENT REGULATIONS.

Duly warned hearings were held as follows:

Sketch Plan Review on Wednesday December 3, 2008. Members Present: Peter Monte, David Markolf, Jeff Schoellkopf, Lenord Robinson and Chris Behn (arr. 7:52). Others Present: Dino Valadakis, Ron Zschaler, Adam Cook, Chris Kathan, Julie Beth Hinds, Jason Lisai, Win Smith, Margo Wade, David Blythe, Miron Malboeuf and Ruth Robbins.

Preliminary Plan Review on Wednesday January 7, 2009. Members Present: Peter Monte, David Markolf, Lenord Robinson and Chris Behn (arr. 7:38) Others Present: Brian P. Lavery, Matt Groom, Dino Valadakis, Ron Zschaler, Jason Lisai, Julie Beth Hinds, David J. Blythe, Andy McMann, Alex Maclay, Margo Wade, Win Smith, Burt Bauchner, Miron Malboeuf and Ruth Robbins.

Preliminary Plan/Final Plan Review Thursday February 5, 2009: Members Present: Peter Monte, David Markolf, Chris Behn and Lenord Robinson. Others Present: Margo Wade, Jason Lisai, Win Smith, Nick Sanders, Dino Valadakis, David Blythe, Miron Malboeuf and Ruth Robbins.

Continuation of Final Plan Review/Approval Thursday March 5, 2009: Members Present: Peter Monte, David Markolf, Lenord Robinson, Jeff Schoellkopf and Chris Behn (arr. 7:20). Others Present: Dino Valadakis, Ron Zschaler, Jason Lisai, Margo Wade, Cindy Carr, Miron Malboeuf and Ruth Robbins.

The minutes from these hearings are also to be considered as part of the record for this decision.

## *Findings of Fact & Conclusions of Law*

### **I. General Findings:**

**NOTE:** IN ADDITION TO ALL EXHIBITS SPECIFICALLY REFERENCED BELOW, THIS DECISION WILL BE BASED ON ALL OTHER INFORMATION AND EXHIBITS PRESENTED BY THIS APPLICANT FOR THE PREVIOUSLY APPROVED APPLICATION ENTITLED LINCOLN PEAK BASE AREA REDEVELOPMENT PROJECT, APPLICATION # 2005-01-PUD/CU AS WELL AS THE PREVIOUS APPLICATION TITLED *THE LODGE AT LINCOLN PEAK* AND THE EXHIBITS AND INFORMATION SUBMITTED BY THE AMERICAN SKI COMPANY [SRHI] FOR IT'S APPLICATION ENTITLED *THE GRAND SUMMIT HOTEL* AND ANY ACT 250 SUBMITTALS PERTINENT TO THIS APPLICATION.

#### **A. Documents submitted for this application:**

##### Application binder documents [December 16, 2008]

- 1) Preliminary Plan Review Project Description
- 2) Conditional use Application
- 3) Subdivision, PRD & PUD Application
- 4) Permit Fee Schedule
- 5) Notice to individual abutters and condominium associations & proof of mailing
- 6) PUD Worksheet
- 7) Subdivision site plan by Charles Grenier dated 12/12/08

##### Site Plans:

- 8) Illustrative Plan, IP101 dated 12/12/08
- 9) Connectivity Plan, CN101 dated 12/12/08
- 10) Comparison Plan, CP101 dated 12/12/08
- 11) Existing Conditions Plan, XP101 dated 12/12/08
- 12) Overall Site Plan, LS101 dated 12/12/08
- 13) Landscape Plan, PP101 dated 12/12/08
- 14) Lighting Plan, LP101 dated 12/12/08
- 15) Snowmelt and Snow Storage Plan, SS101 dated 12/12/08
- 16) Typical Site Details, LS501 – LS504 dated 12/12/08
- 17) Typical Planting Details, PP501 – PP502 dated 12/12/08

##### Grading/Erosion Control Plans:

- 18) Site Grading Plan Phase 1B, Sheet S-1 dated 12/12/08
- 19) Site Grading Plan Phase 1C West, Sheet S-2 dated 12/12/08
- 20) Site Grading Plan Phase 1C East, Sheet S-3 dated 12/12/08
- 21) Erosion Control Plan Phase 1B, Sheet S-4 dated 12/12/08
- 22) Erosion control Details, Sheet S-5 dated 12/12/08

##### Architectural Plans:

- 23) Discovery Center Floor Plans/Roof Plan, A2.01 dated 12/12/08
- 24) Discovery Center Exterior Elevations, A4.01 dated 12/12/08
- 25) Adult Ski School/Rentals first Floor Plan, A2.01 dated 12/12/08

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- 26) Adult Ski School/Rentals Second Floor Plan, A2.02 dated 12/12/08
  - 27) Adult Ski School/Rentals Roof Plan, A2.03 dated 12/12/08
  - 28) Adult Ski School /Rentals Exterior Elevations, A4.01 dated 12/12/08
  - 29) Adult Ski School /Rentals Exterior Elevations, A4.02 dated 12/12/08
  - 30) Children's Ski School First Floor Plan, A2.01 dated 12/12/08
  - 31) Children's Ski School Second Floor Plan, A2.02 dated 12/12/08
  - 32) Children's Ski School Third Floor Plan, A2.03 dated 12/12/08
  - 33) Children's Ski School Roof Plan, A2.04 dated 12/12/08
  - 34) Children's Ski School Exterior Elevations, A4.01 dated 12/12/08
  - 35) Children's Ski School Exterior elevations, A4.02 dated 12/12/08
  
  - 36) Phase 1C Residential Building Parking Floor Plan, A2.P01 dated 12/12/08
  - 37) Phase 1C Residential Building First Floor Plan, A2.01 dated 12/12/08
  - 38) Phase 1C Residential Building Second Floor Plan, A2.02 dated 12/12/08
  - 39) Phase 1C Residential Building Third Floor Plan, A2.03 dated 12/12/08
  - 40) Phase 1C Residential Building Fourth Floor Plan, A2.04 dated 12/12/08
  - 41) Phase 1C Residential Building Fifth Floor Plan, A2.05 dated 12/12/08
  - 42) Phase 1C Residential Building Roof Plan, A2.06 dated 12/12/08
  - 43) Phase 1C Residential Building Exterior Elevations, A4.01 dated 12/12/08
  - 44) Phase 1C Residential Building Exterior Elevations, A4.05 dated 12/12/08
  
  - 45) Project Comparison: Lincoln Peak Base Area Redevelopment Project – Phases 1A, 1B, 1C vs. Lodge at Lincoln Peak.
  
  - 46) Water Quality Remediation Plan Clay Brook and Rice Brook Watersheds prepared by VHB Pioneer dated 10/15/08.
  
  - 47) Stormwater/EPSC Plan prepared by VHB Pioneer dated 12/15/08.
  
  - 48) Status Report and Plan for Restoration of Hotel Brook prepared by VHB Pioneer dated 12/15/08.
  
  - 49) Water supply and Wastewater Capacity for Phase 1B and 1C Developments prepared by VHB Pioneer Dated 12/15/08.
  - 50) ANR Indirect Discharge Permit, Permit # ID-9-0013 dated 6/10/05.
  - 51) ANR Indirect Discharge Permit, Permit # ID-9-0260 dated 4/1/07.
  - 52) State of Vermont, Water Supply Division, Project #E-1616, WSID# 5281, PIN# BR95-0089.20, dated 8/18/05.
  
  - 53) Traffic Impact Study prepared by VHB dated 12/15/08.
  
  - 54) Municipal/Fiscal Impact Analysis prepared by Northern Economic Consulting, Inc. dated 12/15/08
  
  - 55) Copies of Town permits.
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**Additional Submittals:**

Sketch Plan Review:

- 56) Conditional Use and Subdivision Applications, Project Narrative, Site Plan, Elevation sketches and Floor Plans dated November 10, 2008.
- 57) Copy of Act 250 application for amendment to permit LUP#5W1045-15D, as amended dated 12/18/08.

58) Notice to abutters and proof of mailing dated 12/20/08.

Preliminary Plan/Final Plan Review documents:

- 59) Letter from Warren Fire Dept. to DRB re: Sugarbush Resort, Lincoln Peak Base Area, Phases 1B & 1C dated 1/6/09.
- 60) Email from Joel Adams, requesting Interested Party Status, dated 1/7/09.
- 61) Email from Burt Bauchner, Warren Select Board Chair, to Miron Malboeuf, regarding Sugarbush Lincoln Peak Expansion dated 1/7/09.
- 62) Letter from Tom Barefoot, Mad River Valley Ambulance Service Board, re: Proposed Sugarbush Development, dated 1/7/09.
- 63) Memo from Ray Weston, Town Road Foremen, dated 1/8/09.
- 64) Additional Act 250 Application document submittals, dated 1/20/09 [Ability to serve letter from Green Mtn. Power & Site plan of design & observed capacities of Base area parking lots].
- 65) Answers to questions posed to Sugarbush at the MRVPD Steering Committee's 1/15/09 meeting in regards to the Lincoln Peak Base area Redevelopment Project Phases 1B and 1C Act 250 application dated 2/2/09.
- 66) Correspondence between Sugarbush & Friends of the Mad River submitted 2/5/09.
- 67) Green Mountain Power ability to serve letter dated 1/6/09.
- 68) CVRPC letter to Ed Stanak submitted 2/5/09.
- 69) VT ANR Water Quality Letter to VHB Pioneer dated 1/30/09.
- 70) Pizzagalli Pre-Construction Project Schedule for Phase 1B dated 1/19/09.
- 71) Updated Phase 1C elevation drawings dated 1/30/09.
- 72) VHB submittal, Figures 1A, 1B, 1C & 1D re: intersection of Sugarbush Access Rd/Inferno Rd/Sugarbush Village Rd. submitted 2/5/09.
- 73) Copy of VHB submittal to Act 250 application of supplemental materials: Revised elevations for Phase 1C prepared by Oz Architecture; Letter from Warren Fire Dept. dated 1/6/09; Stormwater Plan Substitution request approval letter for Phase 1B from the VT Dept. of Environmental Conservation dated 1/30/09; Town of Warren Municipal Impact Questionnaire dated 2/10/09; and Town of Warren School Impact Questionnaire dated 1/28/09.
- 74) Phase 1C Elevations with the corresponding floor elevations and ridge elevations noted with cover sheet dated 3/4/09 from Margo Wade.
- 75) Traffic letter from VHB dated 2/20/09.
- 76) Sugarbush Resort Traffic Management Plan dated 3/5/09.
- 77) Short & Long Term Pedestrian Access Plan for parking lots F&G (22 acre site) dated 3/5/09.
- 78) Letter from Sugarbush Resort to Adam Cook, Warren Fire Dept. dated 3/5/09.
- 79) Letter from MRVPD dated 2/3/09.
- 80) Updated Site Grading Plan for Phase 1C West (also shows 1B) dated 12/12/08.
- 81) Letter to District 5 Environmental Commission from John Snell of Sugarbush Village Condominiums dated 3/1/09.
- 82) Letter to Edward Stanak, District 5 Coordinator Environmental Commission from the Warren Planning Commission dated 3/2/09.
- 83) Memo to Warren DRB and Warren PC from David J. Blythe for Mountainside Condominium Association dated 3/17/09.
- 84) Copy of filing with Act 250 by Mountainside Condominium Association for Party Status under Criterion 10.
- 85) Letter to Peter Monte, Chairman Warren DRB from Jason Lisai, VP of Planning & Development Sugarbush Resort dated 4/2/09 requesting Phase 1C be withdrawn from application.

**Documents Submitted for the previous Permits, including the permit which this document seeks to amend can be found listed in an appendix [Appendix D] at the end of this document.**

## **B. Other Findings**

1. In 1998, the Applicant's predecessor, Sugarbush Resort Holdings, Inc. ("SRHI") received the required permits from the Warren Planning Commission and Warren Zoning Board of Adjustment to construct a project referred to as the *Grand Summit Hotel* ("GSH"). SRHI had previously received all necessary permits from the Town in 1997. The 1997 permits were appealed. SRHI revised and resubmitted plans for the GSH project in January 1998. The Planning Commission reviewed and granted Site Plan and Planned Unit Development permits for the GSH project in February 1998. This plan was never constructed and in 2002 a new owner of the resort, Summit Ventures NE, LLC, came before the Warren Development Review Board [DRB] with a revised project seeking Subdivision, PUD and Conditional Use approval. This project was known as the *Lodge at Lincoln Peak* which gained approval on May 28, 2003. The Lodge at Lincoln Peak plans also never came to fruition and Summit Ventures returned to the DRB in 2004 with a revision of their plans titled *Lincoln Peak Base Area Redevelopment Project*. This application sought to amend the permits issued for The Lodge at Lincoln Peak and approval was granted May 13, 2005.
2. No site visits were conducted in regards to this application other than a site specific demonstration done by the Warren Director of Public Works and members of the Warren Fire Department to determine the ability of Fire Dept. vehicles to be able to negotiate the turn at the intersection of the Sugarbush Access Road, Inferno Road and the Sugarbush Village Road.
3. The current project as applied for is within the construct of the existing PUD in terms of certain impacts relevant to the Board's consideration.
4. Pursuant to 24 V.S.A. § 4462(b), 24 V.S.A. § 4467, 24 V.S.A. § 1206, 1 V.S.A. § 810(4), V.R.E. § 201 and the Board's Rules of Procedure, the Applicant requested that judicial notice be taken of the application materials and decisions issued for the final SRHI project in 1998, Under V.R.E. § 201(d), the Board takes judicial notice of those aspects of the Applicant's Project that remain unchanged from the previously approved GSH project which have conveyed to the Lodge at Lincoln Peak so amended herein.
5. This requested amendment differs from what is currently approved as follows:
  - a) The approved Family Center, Bldg. A4, is now proposed as three (3) smaller buildings to house skier services and is referred to as Phase 1B.
  - b) The three buildings will be the Adult Ski School and Rental Building, The Children's Ski School Building and the Discovery Center Building.
  - c) The proposed three buildings total 32,500 square feet where as the approved Family Center Building was 45,000 square feet. The Adult Ski School and Rental building will be a two-story building and will house ticket and season pass functions, a coffee shop, adult/private ski school and ski school related support functions, staff lockers, public rest rooms, the rental and repair shop, and retail space.
  - d) Applicant eliminated Building B-1 from the planned development. The Board notes that the Board's prior approval for Building B-1 has expired.

- e) The Children's Ski School building will be three stories of which the top story will house two residential units. It will also house the children's ski school programs for children ages 3 through 12 years and ski school related functions such as staff lockers, rest rooms [public and program/private] retail, food service and food storage areas.
  - f) The Discovery Center will be a two-story building and will house a general resort information area and the real estate sales center for resort development.
6. The submitted application for this amendment included plans for Phase 1C, two connected residential structures located near the northwest corner of the main parking lot for Lincoln Peak, near the location of the formerly-proposed residential building known as B1. At the request of the applicant, the Board has eliminated Phase 1C from consideration in this proceeding.
  7. The applicant wishes to commence construction in the spring of 2009 and complete construction by December of 2009.
  8. With the construction of Phase 1B, the existing "temporary structures" would be removed.
  9. This amendment calls for additional subdivision of the 57 acre ski area base lot. Parcel 15 is the underlying lot designation for the 57 acre parcel. Lot 1B is the designated lot that the Clay Brook building sits on. Lot 1C is the designated lot that the Children's Ski School Building with two residential units on the top floor will sit on.
  10. The applicant provided an updated report from VHB Pioneer in the area of traffic impact and the Water Quality Restoration Plan for Rice Brook and Clay Brook. In its findings the DRB relies on the evidence presented by experts who testified on the previous applications as well as the testimony from VHB Pioneer on this application. The DRB lacks the technical resources to evaluate certain aspects of the project with full confidence including adequacy of erosion control plans, sufficiency of structural elements for support, etc. The DRB is aware, however, that the project will be subjected to rigorous review by the State's Department of Labor and Industries (for public building permit and review by the fire marshal) and by the State Agency of Natural Resources for Agency permits, including a construction general permit, and individual permit, and indirect discharge permit, and as a party offering comments on relevant criteria during the Act 250 Land Use Permit processes. Under present practices, the State will provide the Town with copies of any notices of violation of State permits, so the Town will have the ability to monitor applicant's compliance. The DRB will rely on the State Agency's technical expertise and the rigorous State's Agency review of this project for assurance on certain findings and conclusions stated below.
  11. The applicant has completed the work for which the 2005 approval required the applicant to post a \$400,000 bond for the completion of landscaping, pedestrian path network, storm water management, and utility lines.

### **C. Wastewater Disposal, Water Supply & Utilities**

1. The Applicant's predecessor, SRHI also applied for and received a permit for the construction of the wastewater treatment facility associated with the GSH project in 1997 and 1998 from the Warren Planning Commission and the Zoning Board of Adjustment. Those approvals expired in March of 2002. The Applicant submitted a new application on

November 20, 2002 for the wastewater treatment facility. The wastewater facility has no material changes from the 1997 and 1998 applications and complies with all current conditional use regulations in Article 5 of the Town of Warren Land Use & Development Regulations.

2. On January 29, 2003 the Board issued Conditional Use Review Permit #2002-02-CU/2002-90-ZP for the approval of a 66,000 gallon-per-day ("gpd") wastewater treatment facility, associated wastewater disposal fields with a permitted disposal capacity of 38,500 gpd, mechanical building, and parking lots H and I, located on 22+/- acres off the east side of Inferno Road in the Vacation Residential District. The wastewater treatment and disposal system has been approved by the Vermont Agency of Natural Resources under Permit #ID-9-0260-1, and will be amended only to relocate collection lines. The approvals for the wastewater treatment facility located on the 22-Acre site remain in effect. No material changes have been made to this aspect of the project as approved under Conditional Use Permit #2002-02-CU/2002-90-ZP issued January 29, 2003 for the approval of a 66,600 gallon-per-day ("gpd") wastewater treatment facility, associated wastewater disposal fields with a permitted disposal capacity of 38,500 gpd, mechanical building, and parking lots H and I, located on 22+/- acres off the east side of Inferno Road in the Vacation Residential District. The wastewater treatment and disposal system has been approved by the Vermont Agency of Natural Resources under Permit #ID-9-0260-1, and will be amended only to relocate collection lines. Should any of the above change significantly in the judgment of the Zoning Officer, this permit will subject DRB review.
3. The potable water supply sources remains unchanged from the Lodge project, which was unchanged from the prior GSH. The applicant is in the process of amending applicable State permits to allow connection of the Lodge wells to the existing Mt. Water Company system rather than creating a new and separate water system to supply water to the new residential buildings. The Mt. Water Company currently services the existing base area facilities. Relocation of those skier services into the new Family Center (Building A4) and rebuilt Gate House base lodge (Building A1) necessitates minor updating of existing water supply State permits. [permit #2005-01-PUD/CU]
4. The applicant has been able to move and swap some water flows around from the original plan and with a credit at Mountain Wastewater will use Mtn. Wastewater for the Adult Ski School/Rental building and the Discovery Center of Phase 1B. The Children's Ski School building of Phase 1B will go to the 22 acre site wastewater facility. The water supply for the project is adequate.
5. All utilities for the Project will be located underground, including power, propane supply lines, telephone, fiber optics and television cable. Electrical power and telecommunications will be coordinated with Green Mountain Power and Waitsfield Telecom. Wherever feasible, utility corridors will be shared with other utilities, roads and parking lots so as to minimize unnecessary clearing. The water supply line corridors will also serve as pedestrian nature trails.

#### **D. Parking, Traffic, Roads & Pedestrian Access**

1. The Applicant's traffic consultants had determined that the 1A Clay Brook Project would result in lower traffic impacts in comparison with the Lodge project.

2. All traffic mitigation measures recommended by the traffic consultant in both the 2003 report and 2005 addendum will be incorporated into the 1A Clay Brook project.
3. The 1A Clay Brook Project proposes 1529 total base area parking spaces, of which 68 are located under the Clay Brook Building and 39 are located under the proposed Building B1. The Lodge project proposed 1619 total base area parking spaces, of which 139 were underground. The DRB believes that the overall amount of parking provided is sufficient and that the layout of the parking is well designed given the site limitations. [as of permit #2005-01-PUD/CU]
4. With the submission of the applicant's request in 2008 to amend their permit in order to substantially change the A4 Family Center and 1B Residential Building, the Board spent significant time discussing parking and traffic as it related to the proposed Phase 1B and Phase 1C. With the withdrawal of Phase 1C for consideration by the Board, discussion and findings of parking and traffic as they relate to the proposed development of Phase 1C are not cited in this document and the Board withdraws those findings relating to Phase 1C.
5. The applicant stated that the construction of just Phase 1B would not affect parking and that traffic flow would be improved with a designated drop off area for the children's ski school.
6. Traffic was discussed as it occurs at the intersection of the Access Road, Inferno Road and Sugarbush Village Road. Specifically, the possibility of a right-turn only lane on the Access Road going west up to the resort was considered. Testimony was given [2/5/09] by Mr. Sanders of VHB Pioneer that stated that a right-turn lane was not recommended. Instead, he proposed additional "way finding signage" and more defined road striping on the approaches to the resort.
7. The applicant proposed as a "safety valve" for those few days of the year when traffic at the Access Road, Inferno Road and Sugarbush Village Road intersection might impede safety personnel, that the roadway by the CB1 building west of Lot E could accommodate the passage of fire dept personnel or fire trucks. The Resort will provide proper snow plowing and will reconfigure the parking for this accommodation.
8. Condition #4 in Conditional Use Review Permit #2002-02-CU/2002-90-ZP requires that the delivery of chemicals to the new wastewater treatment facility be coordinated with similar deliveries to the existing Mountain Wastewater Treatment facility and in accordance with the traffic safety conditions of Land Use Permit #5W0103-3.
9. The main roads, major parking lot ingress/egress routes and the Village Parking Lot will be paved, all other parking lots and roadways will remain crushed stone (slate, granite) and gravel. [permit # 2005-01-PUD/CU]
10. The Village Parking Lot is not included in the present Subdivision therefore the Applicant will remain the owner of the lot and be responsible for the maintenance.
11. Shuttle service will be provided for employees and customers parking in Lots G, H and I during all shifts when employees and/or guests are directed to use these lots. [permit # 2005-01-PUD/CU]
12. The recreation/pedestrian pathways are set forth in Exhibits #1 and #2 of the 1A Clay Brook Project. Pedestrian pathways on the applicant's property will link the Sugarbush Inn/Club Sugarbush complex to the Lincoln Peak pathway network as depicted on the plans. Due to safety concerns, a pedestrian pathway from lots H and I [ the 22 acre site ] to the base area has been required in the existing permit as amended through 2005. The applicant stated that

the construction of that pathway has been delayed because of unexpected environmental concerns, including water quality issues because of the walkway's proximity to Clay Brook, the existing culvert is undersized, and there are difficult grades and erodible soil types. The applicant also stated that they felt the creation of the pathway should be shared with the Town. Interim measures have been employed by the applicant to help provide safe passage between the parking area [ now designated as Lots F & G] and the Base area. With rare exception, only resort employees park in this parking area. Employees have been instructed to use the jitney or the pathway through Snowcreek. There is currently no directional signage for the path through Snowcreek. The jitney runs during the hours that employees typically arrive and leave but doesn't take into account the late night departure from Timbers or Castle Rock Pub. The applicant stated that typically those employees would park closer to the resort because late shifts begin after the main lots have begun to clear. Testimony confirmed that employees do not regularly walk along Inferno Road to get to or from Lots F and G.

13. Once a pedestrian path is constructed along Inferno Road [between Lots F & G to the Base Area], the path material will be a combination of wood chip, surepack, gravel, packed snow and concrete depending on use and location.
14. The Applicant will allow and encourage abutting property owners to connect to the proposed network, at the expense of the abutting owners. The project's pathways, and the allowance for connection with other properties, will provide for safe and improved pedestrian traffic in the project area and surrounding neighborhood, and will establish a new and valuable recreational amenity for the public.
15. The intersection of Inferno Road, Sugarbush Access Road and Sugarbush Village Road will be re-configured to improve traffic flow and minimize congestion. Resources Systems Group has analyzed this proposal (see Lodge Exhibit #14a). An addendum to the report was submitted as Exhibit #8 evaluating traffic considerations based on the 1A Clay Brook Project. Both the 2003 report and the 2005 addendum considered the ski season traffic for 2002 traffic data, the build year (2005), and five years subsequent to the build year (2010). Both the 2003 report and the 2005 addendum demonstrates that the project's roadway designs conform to the general design and analysis procedures documented in the Highway Capacity Manual, the Vermont Agency of Transportation's (VTrans) Traffic Impact Study and Review Guide, the Vermont Pedestrian and Bicycle Facility Planning and Design Manual, and A Policy on Geometric Design of Highways and Streets.
16. It is expected that the 1A Clay Brook Project will generate 52 net new trips in the PM peak hour of the ski season. The proposed roadway network and the existing public highway connections have sufficient capacity to accommodate traffic during peak ski periods.
17. The applicant will retain a ski trail to connect the Village Lot and ski area, and to traverse the Hotel Brook, as shown on the approved plans. [permit # 2005-01-PUD/CU].

#### **E. Landscaping, Lighting & Signage**

1. The landscaping and lighting plans is set forth in Exhibits #2 and Lodge Exhibit 11b. [as designated for permit #2005-01-PUD/CU]
2. The proposed lighting for the Project is reduced from the Grand Summit Hotel project and complies with §3.9, Outdoor Lighting Standards of the Warren Land Use & Development Regulations. [as designated for permit #2005-01-PUD/CU]

3. Directional and/or informational signage will be located at the Village Road/Main Parking Lot intersection and the Village Road/Village Parking Lot intersection and will replace and/or supplement existing signage. (Lodge Exhibit # 30, as designated for permit #2005-01-PUD/CU)
4. The Applicant will allow the existing sign at the bottom of the Village Parking Lot to remain in place on the Applicant's property. Maintenance responsibility for the sign will remain with the Village businesses that utilize the existing sign.
5. Project signs are a part of the comprehensive base area signage plan. All signs are consistent in design and materials using natural materials of stone and wood. The signage within the project receives consistent treatment to make a harmonious presentation, and will contribute to safe and efficient traffic flows.

#### **F. Stormwater Control, Erosion, & Natural Resource Protection**

1. The 1A Clay Brook Project will impact 0.75 acres of Class III wetlands. The Lodge project proposed to impact 0.93 acres of Class III wetlands. The Agency of Natural Resources and the District #5 Environmental Commission will address these impacts in the approval of the Clay Brook Project.
2. The Applicant will maintain a 50-foot wide undeveloped/vegetated buffer along Clay Brook. The Rice Brook buffer will remain unchanged from the GSH project and varies in width.
3. Applicant will maintain vegetated buffers of 75-feet on the north side and 90-feet on the south side along the Sugarbush Access Road up to entrance to Parking Lot G and Inferno Road respectively.
4. Applicant has been working with the Agency of Natural Resources to develop a Water Quality Remediation Plan for the entire Sugarbush Resort with the intent to remove Rice Brook and Clay Brook from the State of Vermont's listing of impaired streams in this particular watershed. Sedimentation caused by runoff into these brooks from the existing parking lots at the Resort is the major cause of impairment to these streams. The project design for 1A Clay Brook includes increasing setbacks from the streams (compared to the existing lots) and use of new vegetative drainage swales, and improved storm water retention basins. These parking lot improvements will significantly diminish the sedimentation runoff, and therefore, it is expected to significantly improve the quality of these streams.
5. A Snow Management Plan has been outlined in the Stormwater Management Narrative by Pioneer Environmental Associates in Lodge Exhibit #16b, which remained substantially unchanged under the Clay Brook project. [ as designated for permit #2005-01-PUD/CU]
6. The State of Vermont standards for regulation of stormwater pollution have become more stringent since the Grand Summit Hotel project was permitted in 1998. The 1A Clay Brook Project will meet the new stricter standards. The Applicant has received the final Stormwater Discharge Permit #1-1581, dated May 7, 2003. Based on the scope of

changes to the stormwater plans, the ANR has determined the 1A Clay Brook Project does not result in sufficient changes to require an amended Stormwater Discharge Permit.

7. The Applicant has submitted updated plans for the Construction General Permit (NOI#1069/CGP#3-9001) and the Individual Stormwater Discharge Permit (#CP105) from the Agency of Natural Resources. The ANR has determined that the project may progress as permitted under the CGP and determination on the CP should be made shortly. The Applicant has submitted the updated plans to the Army Corps of Engineers. [ permit #2005-01-PUD/CU]
8. The Applicant proposes to restore an approximately 793 foot section of the so-called Hotel Brook, including 420 feet that are currently running through a culvert. The restored stream section will be crossed by either bridges or bottomless arch culverts to provide a natural stream channel. Stream buffers will be incorporated into the restoration plan. The updated plans for the Hotel Brook restoration plan will be reviewed and approved by the Agency of Natural Resources and the District Environmental Commission prior to construction. [as of permit #2005-01-PUD/CU]
9. The restoration of Hotel Brook is approximately 45% done and the restoration plan will continue as the applicant's permits from ANR require. [as of application #2008-13-SD/PRD/CU]. Should the State require any modifications to the current Hotel Brook restoration plan then an amendment to this permit must be submitted to the DRB.
10. The applicant has been able to present their Phase 1B Stormwater Management & Erosion Control plan as a substitution in their current permit and the State has accepted that substitution.

### **G. Building Design, Fire Protection & Municipal Services**

1. Building A2/A3 (Clay Brook) [now referred to as 1A Clay Brook] will include an underground parking garage accommodating 68 vehicles.
2. Buildings A-2 & A-3 [now referred to as 1A Clay Brook] will be fire rated as Type 2-B structures; combination of steel and concrete, non-combustible construction and fully sprinkled. The Gate House will be an all new, fully sprinkled, wood frame building.
3. The buildings will have a sprinkler system throughout all floors, parking garage and attic spaces. Control valves for the sprinkler system will be accessible by the fire department. There will be standpipes within the building as shown in the plans. If the applicant cannot have hoses stationed at each standpipe location, then the applicant will provide adequate storage adjacent to the standpipes for the Warren Fire Department to store fire hoses.
4. The water supplies for the sprinkler system employs a large storage facility that feeds both domestic water and fire protection water. The storage and flow requirements for fire protection meet or exceed the requirements of the VT Department of Labor and Industry. Locations of hydrants will be a mechanism to access the snow making water system in the event of a fire. There is adequate water for fire protection and domestic water use.

5. Fire hydrant locations have been identified as per the Warren Fire Department's recommendations and will be incorporated into the plans. A total of six hydrants will be located within the redeveloped base area. Four hydrants will be supplied by the domestic water system and two hydrants will be supplied by the snowmaking/Clay brook system. [permit #2005-01-PUD/CU] With the applicant's 2008 project amendment, the site plan shows the same number of hydrants but modified locations, all of which have been reviewed with the Warren Fire Department. One of the hydrants would be off of the Clay Brook gravity snowmaking line and will require training by the applicant with the Fire Dept. due to the heavy pressure of that line.
6. In accordance with code, two means of egress are provided once persons exit a unit. The primary safety design focus is getting people out of the building with a secondary focus on protection of the property. Multiple sets of fire stairs will be provided as means of egress.
7. The DRB requests but expressly does not impose a condition that the applicant will provide the Warren Fire Department with the ability to have radio equipment up at the mountain as the Department requests.
8. Upon completion of the project, the applicant will designate various employees to undergo training supplied by the Warren Fire Department and will assure that this training is passed on to future employees.
9. Not later than the completion of the project, the applicant will provide the Warren Fire Department with their updated emergency management/evacuation plan.
10. Before beginning construction of the Clay Brook Building, Applicant must file with Warren Fire Department, plans for the Clay Brook Building that show that the parking garage can be isolated and that pedestrian passage to and from the locker room does not require passage through the garage area in case of emergency.
11. Before beginning construction of Phase 1B, Applicant must receive the written approval of the Warren Fire Department for the final plans for the fire hydrants, sprinklers and any other safety measures. On motion of the Applicant, the DRB will hear and decide any disputes that the Applicant and Fire Department cannot resolve on these issues.
12. The Warren Fire Department has reviewed the 1A Clay Brook project plans for compliance with fire safety requirements and has expressed their support for the project. A letter from the Warren Fire Department, dated April 14, 2005 is included as part of this finding. [ permit #2005-01-PUD/CU]
13. Services deliveries (laundry, food service, solid waste, etc.) are accommodated at the service area located on the south side of Building 1A Clay Brook. Distribution is handled internally.
14. The height of the building(s) as measured in accordance with Article 3 §3.6 of the Warren Land Use & Development Regulations are as follows:
  - Building A1 (Gate House Lodge) = 43 feet
  - Building A2/A3 (1A Clay Brook) = 73 feet
15. The following data outlines the breakdown of residential units:
  - a. Building A2/A3 (1A Clay Brook) – Unit Type and number of units:
    - Studio – 2
    - One bedrooms – 10

- Two bedrooms – 27
  - Three bedrooms – 15
  - Four bedrooms – 6
  - Total number of units – 60
  - Total Pillows – 386
16. The Children's Ski School Building in Phase 1B of this permit includes two residential units of three bedrooms each. The addition of six bedrooms will not create any additional burden to the traffic/parking criteria.
  17. The number of units approved for construction includes 60 hotel/condominium units and associated commercial units located in the 1A Clay Brook building. The project is considered a Planned Unit Development under Article 8 of the Warren Land Use & Development Regulations. The total number of units added by this project does not exceed the maximum allowable density for the entire 57+/- acre PUD.
  18. The building's exterior lighting will focus on areas of entrance, common space, emergency exits and areas of pedestrian travel within the base area. The plaza will incorporate low level and pedestrian scale lighting. The exterior lighting does not illuminate the entire exterior of the building or include spot lighting pointed at the building. All exterior lighting will conform to the lighting standards of the Warren Land Use and Development Regulations.
  19. All lodging units in 1A Clay Brook will have gas fireplaces. All of the lodging units will have balconies; the balconies are not included in the number of the required egresses. The appropriate number of rooms will be handicapped accessible based on ADA code. [as of permit #2005-01-PUD/CU]
  20. The current construction cost of the 1A Clay Brook Project [as approved under permit #2005-01-PUD/CU] is estimated at \$45 million and would generate an estimated \$149,992 in municipal taxes. The municipal cost of services the project will demand from the Town of Warren is estimated at \$2,052. Therefore the proposed Project represents a net gain to the municipal budget estimated at \$147,940 (Exhibit #6).
  21. Phase 1B is estimated to cost approximately \$10 million dollars at today's prices.
  22. The Economic & Fiscal Impact Analysis was prepared by Northern Economic Consulting, Inc for the Lodge project (Lodge Exhibit #20), The Lincoln Peak Base Area Redevelopment Project – 1A Clay Brook phase ( Exhibit 9B) and The Lincoln Peak Base Area Redevelopment Project - Phase 1B. Their review determined that through the year 2010, six school children are projected to be added to the school system as a result of the Lodge project. Based on the fact that Warren's school enrollment levels have been declining for many years the school has the physical capacity to absorb these students. Due to Act 68 and the new school funding laws, many school districts would be happy to see new students added to the system to offset the decline in local school enrolments. Because the current Project's scope is reduced in size from the Lodge project and because the basic demographic and economic conditions are essentially unchanged from 2003, Northern Economic Consulting has concluded the impacts of the 1A Clay Brook project will be less in scope that the estimates made for the Lodge project and easily accommodated by the Town of Warren and the region. This analysis has been updated by Northern Economic Consulting, Inc. December 15, 2008 and is included in the application submittals. Though the Board accepts the revisions and finds the conclusions to be accurate, the information of the Municipal Impacts of the Town of Warren for Phase 1B and Phase 1C is co-mingled and will be required to be segregated.

23. The applicant will construct all structures and infrastructure in compliance with all applicable Local, State and Federal codes for public buildings and public safety in effect at the time of construction.
24. The Applicant has committed, as per agreement with the Mad River Valley Planning District Steering Committee, to contribute up to \$76,000 toward local affordable housing projects.

## II. Conclusions of Law

### A. Pursuant to ARTICLE 3 – **GENERAL REGULATIONS**, based on the above Facts and Findings and subject to the conditions set forth below, the Board concludes:

- §3.2, 3.3, 3.5, 3.8, 3.16, (Conversion or Change in Use, Equal Treatment of Housing, Existing Small Lots, Non-complying Structures & Nonconforming Uses & the Transfer of Development Rights) the standards are not applicable to the Project.
- §3.1 (Access, Driveway and Frontage Requirements), the Project satisfies the standards.
- §3.4 (Erosion Control & Development on Steep Slopes), the Project satisfies the standards.
- §3.6 (Height & Setback), the Project satisfies the standards.
- §3.7 (Lot & Yard), the Project satisfies the standards.
- §3.9 (Outdoor Lighting), the Project satisfies the standards.
- §3.10 (Parking, Loading & Service Areas), the Project satisfies the standards.
- §3.11 (Performance Standards), the Project satisfies the standards.
- §3.12 (Sign Requirements), the Project satisfies the standards.
- §3.13 (Surface Water Protection), the Project satisfies the standards.
- §3.14 (Storage of Flammable Commodities), the Project satisfies the standards.
- §3.15 (Temporary Uses & Structures), the Project satisfies the standards.

### B. Pursuant to ARTICLE 4 – **SPECIFIC USE STANDARDS**, based on the above Facts and Findings and subject to the conditions set forth below, the Board concludes:

- §4.1 - 4.9, 4.12 - 4.17, (Accessory Dwelling, Adaptive Reuse, Campers & Temporary Structures, Campgrounds, Day Care Facilities, Extraction of Soil, Sand & Gravel, Group Home, Home Based Business, Industry, Mobile Home Park, Ponds, Public Facilities, Salvage Yard, Special Events & Telecommunications Facilities) the standards are not applicable to the Project.
- §4.10 (Lodging Facility), the Project satisfies the standards.
- §4.11 (Mixed Uses), the Project satisfies the standards.

### C. Pursuant to ARTICLE 5 – **CONDITIONAL USE STANDARDS**, based on the above Facts and Findings and subject to the conditions set forth below, the Board concludes:

- §5.3(A)(1)-(5) (General Standards), the Project satisfies the standards.
- §5.3(B)(1)-(11) (Specific Standards), the Project satisfies the standards.
- §5.3(C)(1) (Lincoln Peak Growth Center), the Project satisfies the standards.

- D. Pursuant to ARTICLE 6 – SUBDIVISION REVIEW**, based on the above Facts and Findings and subject to the conditions set forth below, the Board concludes:
- The proposed project satisfies the standards for subdivision review and the Board grants the Applicant's request to review the Project as a Planned Unit Development under Articles 7 and 8.
- E. Pursuant to ARTICLE 7 – SUBDIVISION STANDARDS**, based on the above Facts and Findings and subject to the conditions set forth below, the Board concludes:
- §7.2(A)-(H) (General Standards), the Project satisfies the standards.
  - §7.3 (Protection of Conservation Areas), the Project satisfies the standards.
  - §7.4(A) & (B) (Open Space), the Project satisfies the standards.
  - §7.4(C) & (D), the standards are not applicable.
  - §7.5 (Stormwater Management), the Project satisfies the standards.
  - §7.6 (Community Services & Facilities), the Project satisfies the standards.
  - §7.7 (Roads & Pedestrian Access), the Project satisfies the standards.
  - §7.8 (Water Supply & Wastewater Disposal), the Project satisfies the standards upon receipt of all applicable State permits.
  - §7.9 (Utilities), the Project satisfies the standards.
  - §7.10 (Signs), the Project satisfies the standards.
- F. Pursuant to ARTICLE 8 – PRD & PUD**, based on the above the above Facts and Findings and subject to the conditions set forth below, the Board concludes:
- §8.4(C)(1) – (9) (General Standards), the Project satisfies the standards.
  - §8.4(D) (Lincoln Peak/Sugarbush Village Growth Center Standards), the Project satisfies the standards.

**NOTICE OF DECISION AND CONDITIONS:**

Based on the forgoing Findings of Fact and Conclusions of Law, the application #2008-13-SD/PUD/CU submitted by Summit Ventures NE, LLC requesting the amendment of permit # 2005-01-PUD/CU as further amended September 21, 2005, to substitute the plans for the approved A4 Family Center with plans for a three building Skier Services complex to include the Adult Ski School and Rental Building, The Children's Ski School Building and the Discovery Center Building; this three building skier services complex is known as Phase 1B; is hereby approved and subject to the following conditions:

**I. General Conditions**

Except as expressly modified by this approval, the project shall be constructed and used only in accordance with the terms, plans, procedures and specifications stated in:

- a. The application, as amended;
- b. All exhibits, as amended, furnished by the applicant;
- c. All findings of fact and conclusions stated above in this decision;
- d. The Subdivision Plat to be filed by the applicant within 180 days after this notice of decision, and thereafter to be approved by the DRB.

1. Applicant shall adhere to the Pizzagalli Pre-Construction Project Schedule for Phase 1B dated 1/19/09 and inform the Warren Zoning Administrator in writing [or email] of any revisions to that schedule within seven business days of the change, with only such revisions as are required to adjust to weather requirements or as are allowed by the project's general and individual construction permits from the State of Vermont, Agency of Natural Resources and acquisition of other permits (i.e. Act 250, ANR, etc.) Sequencing shall be coordinated with village businesses and events to minimize disruption. Any material changes to the construction sequence will be reported promptly to the zoning administrator in writing.
2. The applicant must obtain all Local, State and Federal permits required for the construction and use of the project.
3. Within 60-days of the issuance of this permit for the Project, the Applicant will provide to the DRB a bound volume that includes all written and drawn documents relating to this permit. Such approval is limited only to identification of documents and attachments to be included. Any proposed amendments shall be provided in a similar bound volume, the contents of which will be approved by the DRB.
4. Prior to commencement of construction, the Applicant, or appropriate entity, shall provide the Town a letter from the institution(s) providing financing, indicating that financing is in place for all of the construction of Phase 1B, and all improvements associated with the Project and related conditions.
5. If the Zoning Administrator and the Applicant cannot resolve a dispute relating to the bond, the DRB will hold a hearing and resolve the issue.
6. The applicant shall provide to the Development Review Board for their review and approval a revised Municipal Impacts of the Town of Warren report from Northern Economic Consulting, Inc that provides the information as it relates to just the Phase 1B part of the project. This must be submitted to the Board and approved by the Board prior to the commencement of construction for Phase 1B.

## **II. WASTEWATER DISPOSAL, WATER SUPPLY AND UTILITIES**

7. The wastewater treatment facility shall be constructed in accordance with Warren DRB Permit #2002-02-CU/2002-90-ZP and all applicable Agency of Natural Resources permits.
8. All utilities for the Project shall be located underground, including power, propane supply lines, telephone, fiber optics and television cable. The propane storage tank located adjacent to the Snowmaking Control Building will be above ground and screened by a fence. Wherever feasible, utility corridors will be shared with other utilities, roads and parking lots so as to minimize unnecessary clearing.

**III. PARKING, TRAFFIC, ROADS AND PEDESTRIAN ACCESS**

9. Applicant shall comply with all recommendations for safety maximization and congestion minimization contained in the March 7, 2003 Report and February 28, 2005 Addendum from Resources Systems Group which are incorporated herein by reference (see Exhibit #8 and Lodge Exhibit #14a).
10. Applicant shall implement the traffic safety and monitoring recommendations contained in the Resource Systems Group traffic impact study that are incorporated herein by reference. (see Lodge Exhibit #14a, dated January 29, 2003 & March 7, 2003 and Traffic Impact Study by RSG dated February 28, 2005)
11. Applicant shall supply a copy of the Traffic Control Agreement by October 15th annually, to be used in contracting for traffic control at major Rt. 100 intersections, to the Mad River Valley Planning District.
12. The traffic control related conditions contained herein should not be construed as to supersede traffic monitoring and parking count requirements mandated by the 1998 Memorandum of Understanding as updated from time to time.
13. Within 30 days of the execution of this approval the applicant must 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 outlined by Mr. Sanders of VHB Pioneer and any signage on/in the Town's right-of-way or markings on Town roads must have the approval of the Warren Select Board.
- 14.. The following pedestrian paths and sidewalks shall be completed and shall be installed in conjunction with the Project completion:
  - the parking lots and Sugarbush Village lot area paths and/or sidewalks
  - the Sugarbush Inn/Club Sugarbush complex paths
15. All pathways shall be open to the public. Directional signs shall be posted and maintained at appropriate places that designate location of pathways that parallel traveled roadways.
16. All crosswalks shall have appropriate signage and shall conform to VAOT Highway Design Standards.
17. Applicant shall provide to the public a map depicting the pedestrian pathway network.
18. All refuse associated with the operation of the Project will be contained within a gasketed and sealed compactor at the designated service area until removed from the base area.
19. Applicant will work in good faith to manage traffic in the Village Parking Lot to accommodate guests and employees of the Sugarbush Village businesses. With the exception of overnight parking, Sugarbush will allow public access to the Village Parking Lot to provide, to the extent available, space for traditional users in Sugarbush Village. Applicant will, to the extent possible, preclude day skiers from parking in the Village Parking Lot to maximize the number of spaces available to the patrons of the Village.

This condition shall not interfere with any deeded parking rights to the Sugarbush Village Parking Lot, to the extent that any such rights legally exist. Signage will be installed prohibiting unauthorized day-skier, long-term and overnight parking. Managing the delivery schedules to the Sugarbush Village businesses will be the responsibility of those businesses.

- 20 An updated Traffic Management Plan will be submitted to the Town of Warren not later than the completion of the project. [ condition of permit #2005-01-PUD/CU. An updated traffic management plan was submitted 3/5/09]

**IV. LANDSCAPING, LIGHTING AND SIGNAGE**

- 21. All site lighting will employ downward focused fixtures so as to reduce potential glare. Parking lot lights will be on timers and will be managed according to plans (see Exhibit #2 and Lodge Exhibit #11b).
- 22. The condominium association for any and all residential buildings will have the continuing responsibility of maintaining all pathways; landscaping and providing for snow removal within their designated Parcel boundaries. Should the association fail to satisfy its responsibilities, the obligations shall revert to the Applicant. Condominium association maintenance shall be in accordance with all permits and approvals. A copy of the final association agreement will be submitted to the Town of Warren upon the completion of each residential structure.
- 23. All Landscaping will be completed in conjunction with completion of various components of the project. Upon completion of each project component, applicant shall promptly plant trees and shrubs of the size and species specified and in the locations as indicated on the approved plan. Applicant shall replace each of these required plantings if they die, are destroyed, or removed for any reason. Replacements shall be of the same size, species and location designated on the approved plan.
- 24. Additional landscaping will be added to the CB1 employee parking lot to screen the lot from the Access Road to the south. [per permit #2005-01-PUD/CU]
- 25. In coordination with the Construction Sequence and before completion of the project all directional signage shall be installed in coordination with the construction sequence. This approval does not eliminate the applicant’s obligation to get a zoning permit for signs as applicable.
- 26. Applicant shall provide a location for a USFS welcome sign.

**V. STORMWATER CONTROL, EROSION, AND NATURAL RESOURCE PROTECTION**

27. Applicant shall comply with stream protection and erosion control measures as indicated on the application submissions and State of Vermont Department of Environmental Conservation permits.
28. Applicant shall leave not less than 90% of the total buffer area uncut and in a natural state for all buffer areas shown on the approved plans.

**VI. BUILDING DESIGN, FIRE PROTECTION, MUNICIPAL SERVICES**

29. Applicant will allow the Fire Department access to the Phase 1B structures during construction to achieve maximum understanding of the physical and mechanical layout of the buildings.
30. Upon completion of the project, the applicant will designate various employees to undergo training supplied by the Warren Fire Department and will assure that this training is passed on to future employees.
31. Not later than the completion of the project, the applicant will provide the Warren Fire Department with their updated emergency management/evacuation plan.
32. Before beginning construction of Phase 1B, Applicant must receive the written approval of the Warren Fire Department for the final plans for the fire hydrants, sprinklers and any other safety measures. On motion of the Applicant, the DRB will hear and decide any disputes that the Applicant and Fire Department cannot resolve on these issues.

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This Findings of Fact and Restated Notice of Decision shall supersede #2002-14-PUD/2002-1-CU and #2002-14-PUD-AM/2002-1-CU-AM and #2005-01-PUD/CU. Where aspects of the project have significantly changed updated findings and conditions have been included. Where aspects of the project have minimally changed associated findings and conditions have been modified. Where aspects of the project have not materially changed associated findings and conditions have been incorporated into this document.

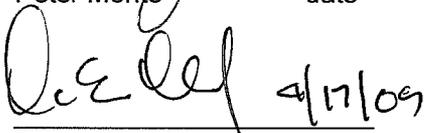
In accordance with Section 6.5 and the Act [§4416], within 180 days of the date of receipt of final plan approval under Section 6.4(C), the applicant shall file 3 copies of the final subdivision plat, **1 mylar copy and 3 paper copies**, for recording with the town in conformance with the requirements of 27 V.S.A., Chapter 17. Approval of subdivision plats not filed and recorded within this 180-day period shall expire. Prior to plat recording, the plat must be signed by at least two authorized members of the Development Review Board.

Approval shall become effective when this decision has been signed by at least three members of the Warren Development Review Board who participated in the final decision. Beginning with the effective dated of the decision, there is a 30-day period during which parties may appeal this decision to the Vermont Environmental Court.

**DEVELOPMENT REVIEW BOARD**

  
Peter Monte                      date      4/17/09

\_\_\_\_\_  
Chris Behn                      date

  
David Markolf                      date      4/17/09

  
Lenord Robinson                      date      apr 17 - 09

\_\_\_\_\_  
Jeff Schoellkopf                      date

TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT & RESTATED NOTICE OF DECISION  
SUBDIVISION/PRD AND CONDITIONAL USE REVIEW  
LINCOLN PEAK BASE AREA REDEVELOPMENT PROJECT  
#2008-13-SD/PRD/CU

*AN AMENDMENT TO EXISTING PERMITS #2005-01-PUD/CU ISSUED MAY 13, 2005 AND AMENDED SEPTEMBER 21, 2005. THE PERMITS ISSUED IN 2005 WERE AMENDMENTS TO THE PREVIOUSLY APPROVED PERMITS #2002-01-CU/2001-01-CU-AM & 2002-14-PUD/2002-PUD-AM*

**APPENDIX D**

List of submitted documents from the existing permit #2005-01-PUD/CU issued May 13, 2005 and amended September 21, 2005. The permits issued in 2005 were amendments to the previously approved permits #2002-01-CU/2001-01-CU-AM & 2002-14-PUD/2002-PUD-AM.

1. The Applicant submitted the following materials:
  - a) Zoning/PUD Permit Applications along with applicable fees;
  - b) Project Description dated February 16, 2005
  - c) Conditional Use/Subdivision/PUD Worksheet
  - d) Abutter notification and proof of mailing, dated February 4, 2005.
  - e) Exhibits:
    - 1) Site Plan of Stormwater Ponds #4 & #5 (02/24/05)
    - 2) Site Plan of Building "CB1" & Parking Lot G (02/24/05)
    - 3) Site Plan of Lots A through F and Building B1(02/24/05)
    - 4) Site Plan of Village Parking Lots (02/24/05)
    - 5) Site Plan of Village Lift Area (02/24/05)
    - 6) Site Plan of Buildings A1 through A4 (02/24/05)
    - 7) Erosion Control Plan Parking Lot G (02/24/05)
    - 8) Erosion Control Plan Lots B through F & Building B1(02/24/05)
    - 9) Erosion Control Plan Buildings A1 through A4 (02/24/05)
    - 10) Stormdrain System & Stormwater Pond Details (02/24/05)
    - 11) Erosion Control Details (02/24/05)
    - 12) Site & Erosion Plan of Parking Lot H & I (03/19/03)
    - 13) Overall Site Grading Plan of Buildings A1-A4 & B1 (02/16/05)
    - 14) Overall Site Grading Plan of Parking Lots D through G (02/16/05)
    - 15) Landscape Plan, Sheets L1.0,L1.1,& L1.2 (02/16/05)
    - 16) Lighting Plan, Sheets L2.0, L2.1, & L2.2 (02/16/05)
    - 17) Base Lodge Drawings #'s A-200,A-201,A-202, A-203, A-400, A-401, A-500, A-501(all dated 2/3/05)
    - 18) Clay Brook Drawings #'s A-150, (dated 2/8/05) A-201, A-202, A-203,A-204, A-205, A-206, (dated 1/26/05) A-400, A-401, A-402, A-501(dated 2/1/05)
    - 19) Family Center Drawings #'s A-150, (dated 2/8/05) A-201, A-202, A-203, A-204, A-400, A-401, A-450, A-451, A-500 (dated 1/24/05)
    - 20) Project Comparison Matrix; Lincoln Peak Base Area Redevelopment vs. Lodge at Lincoln Peak vs. Existing Conditions (dated 2/9/05)
    - 21) Permit #2002-14-PUD/2002-01-CU and Permit #2002-14-PUD-AM/2002-01-CU-AM, dated February 28, 2003 and April 30, 2004 issued by the Warren DRB
    - 22) Traffic Impact Study Addendum for Lincoln Peak Base Area Redevelopment Plan prepared for Sugarbush Resort prepared by RSG, Inc. dated February 28, 2005
    - 23) Memo to Sugarbush Resort from Daniel C. Redondo of Pioneer Environmental Associates, LLC, regarding Act 250 Filing, Hotel Brook Relocation, dated February 24, 2005

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- 24) Study titled "Municipal Impact of the Lincoln Peak Base area Redevelopment Project of Sugarbush Resort" prepared by Richard W. Heaps of Northern Economic Consulting, Inc. dated February 22, 2005
  - 25) Context Plan prepared by SE Group
  - 26) Declaration of Condominium for Clay Brook at Sugarbush Condominium, DRAFT, prepared by Gravel and Shea, dated March 16, 2005. (NOTE: Exhibit "E", Association Bylaws to be attached )
- f) Copy of Act 250 Amendment Application LUP#5W1045-15 & LUP#5W1045-15C submitted by Summit Ventures NE, LLC February 28, 2005
2. The following submittal material, previously presented for the Lodge project, is also being considered with this application and only includes material that was not superceded by more current material.
- a) Zoning/PUD Permit Applications along with applicable fees;
  - b) Request to temporarily waive the submittal requirement that relates to utility locations, rights-of-way and/or easements, dated November 20, 2002;
  - c) PUD Worksheet;
  - d) Abutter notification and proof of mailing, dated November 4, 15 & 26, 2002;
  - e) Exhibits:
    - 1) Overall Mater Plan by SE Group, dated November 11, 2002
    - 2) Zoning Districts by SE Group, dated November 7, 2002
    - 3) Conservation Resources by SE Group, dated November 7, 2002, last revised November 19, 2002.
    - 4) 57 Acre Proposed Use of Space by Sugarbush Resort, dated December 18, 2002
    - 5) Overall Master Plan Showing Sugarbush Parcels by Se Group, dated January 15, 2003
    - 6) Lighting Specifications by SE Group
    - 7) AOT Correspondence, dated December 24, 2002
    - 8) Preliminary Traffic Study results from Resource Systems Group, dated January 29, 2003
    - 9) Final Traffic Analysis from Resource Systems Group, dated March 7/2003
    - 10) Sugarbush Water Quality Plan from Pioneer Environmental Associates, dated 1/29/03
    - 11) Erosion Control and Construction Narrative by Charles Grenier Consulting Engineers, dated March 6, 2003
    - 12) Stormwater Management Narrative by Pioneer Environmental Associates, LLC
    - 13) Economic & Fiscal Impact Analysis by Northern Economic Consulting, Inc., dated February 27, 2003
    - 14) Village Parking Lot Car Count by Sugarbush Resort
  - 15) Parking Calculations by SE Group and Sugarbush Resort, dated March 10, 2003
  - 16) Preliminary Signage Plan by Burley Partnership from the GSH Application
  - 17) Sugarbush Village Parking Lot by SE Group & Sugarbush Resort, 3 pages, dated April 3, 2003
  - 18) Proposed Traffic Management Plan by Sugarbush Resort, dated 4/4/2003
  - 19) Signage Plan by Sugarbush Resort
- f) Indirect Discharge Permit # ID-9-0260 & Wastewater and Disposal permit # WW-5-0938, dated March 7, 2003.
- g) Correspondence between Sugarbush and the DRB (during the Lodge application):
- 1) Letter to DRB regarding applicable regulations that were not in place during the Grand Summit Hotel review process, dated 12/18/02, 1 page.

- 2) Letter from the Resource System Group to Mr. Lisai regarding the changes in traffic flow from the 1996 Grand Summit Hotel review process, dated 12/18/02, 3 pages.
- 3) Memorandum from James A. Caffry, Esq., attorney at law, regarding the scope of Warren Development Review Board authority to reinstate the expired permit #2000-09B-MM, dated 12/18/02, 1 page.
  - 4) Review of Conditions that differ in the PUD versus the Site Plan, submitted 01/13/02, 2 pages.
  - 5) List of Existing Conditions Summit Ventures, NE, LLC wish to retain, going forward with this proposal, submitted 01/13/03, 10 pages.
  - 6) Letter to the DRB regarding the Chemical Delivery to the Wastewater Treatment Facility, submitted 01/15/03, 1 page.
  - 7) Memorandum from the Resource System Group regarding the 5-year traffic evaluation, submitted 01/15/03, 2 pages.
  - 8) Memorandum from Pioneer Environmental regarding the Static water Level at Hotel Wells 1,2,3 &4, Submitted 04/07/03, 2 pages.
  - 9) Applicants Proposed Finding of Facts and Notice of Decision, received 03/19/03, 16 pages.
  - 10) Spreadsheet submitted by Sugarbush listing the items the board has left unresolved during the hearings, dated 3/27/03, 2 pages.
  - 11) Memo to DRB regarding Amendments to the Proposed 03/19/03 Draft Finding of Fact and Notice of Decision PUD and Conditional Use Review, submitted 04/07/03, 5 pages.
  - 12) Right of Way and Easement Deed for the Sugarbush Access, Inferno and Village Roads, received 04/18/03, 5 pages and 1 map.
  - 13) Memo to DRB from Mr. Lisai regarding proposed condition for the bond issue dated 4/18/03, 1 page.
  - 14) Memo to DRB from Mr. Lisai regarding Chez Henri & Backroom Lounge Health Department Licenses, dated 5/8/03, 2 pages
  - 15) Correspondence between the Warren Fire Department and Sugarbush dated May 1, 2003 & May 12, 2003 from Mr. Lisai to Mr. Hartshorn & April 14, 2003 from Mr. Hartshorn to Mr. Lisai.
  - 16) State of Vermont, Board of Health License to Operate Chez Henri restaurant at a maximum capacity of 140 people.
- h) The Board also received the following materials from other sources during the Lodge application process:
  - a) Letter from Ron Zschaler, dated 03/25/03, 3 pages of text, and 11pages of attachments.
  - b) Memorandum from David J. Blythe titled "*Lodge at Lincoln Peak Project, Sugarbush Village Real Estate's Comments on Applicants Proposed Permit Conditions Relating to Parking and Signage*", dated 03/27/03, 3 pages.
  - c) Memorandum from David J. Blythe dated March 27, 2003 titled "*Lodge at Lincoln Peak Project, Mountainside Condominium Association's Proposed Permit Conditions Relating to Ski-Over Access*", 1 page.
  - d) Letter from Henri Borel regarding the ski access to and from Sugarbush Village, dated 03/27/03, 1 page.
  - e) Letter from the Friends of the Mad River regarding their review of the Sugarbush Lodge Plans, dated 04/04/03, 1 page.
  - f) Memorandum from Ron Zschaler regarding the Sugarbush Proposed Traffic Management Plan and Exhibit #26, dated 04/21/03, 2 pages, 12 pages of attachments.
  - g) A letter of support for the Lodge at Lincoln Peak project and its associated infrastructure from the Warren Fire Department Dated May 14, 2003.

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- h) Memorandum from David Blythe dated May 27, 2003 titled Lodge at Lincoln Peak Project; Mountainside Condominium Association's Proposed Permit Condition Relating to Ski-Over Access; 1 page.
- i) Memorandum from David Blythe dated May 27, 2003 titled Lodge at Lincoln Peak Project; Sugarbush Village Real Estate's Comments on Applicant's May 15, 2003 Proposed Permit Conditions Relating to Parking and Signage

3. In addition to the application submittals, the following documents were presented in regards to this application:

- a) Act 250 Notice of Application and Hearing dated March 8, 2005.
- b) Letter to Mr. Monte, Chairman, Development Review Board, Town of Warren, from Mr. Donatelli, Village Edge Condominium owner, dated March 8, 2005, regarding the use of the Sugarbush Village Parking Lot.
- c) March 9, 2005 letter to Peter Monte from the Applicant (mistakenly dated March 27, 2003) addressing outstanding items identified at the February 23, 2005 hearing and outlining additional submittals.
- d) Letter to Development Review Board from Henri Borel of Chez Henri Inc., dated March 15, 2005, stressing the importance of incorporating Sugarbush Village in the development plans.
- e) Letter to Mr. Monte, Chairman, Development Review Board, Town of Warren, from Mr. Zschaler, dated March 16, 2005, regarding adjacent property interest: Village Edge Condominiums #3 & #4 and the parking and traffic as it relates to the Sugarbush Village Parking Lot.
- f) Letter to Mr. Monte, Chairman, Development Review Board, Town of Warren, from Mr. Milanette, Village Edge Condominium owner, dated March 16, 2005, regarding the Sugarbush Village Parking Lot.
- g) *Memorandum of Decision* from the State of Vermont District 5 Environmental Commission regarding the applicant's request to waive the full filing fee, dated March 15, 2005.
- h) Minutes/notes from the meeting between Jason Lisai of Sugarbush Resort and members of the Town of Warren Fire Department, dated March 22, 2005.
- i) Letter from Jason Lisai of Sugarbush Resort, to Alan Hartshorn, Chief, and Adam Cook, President, Warren Fire Department, dated April 4, 2005.
- j) *Memorandum of Agreement and Resolution of Conservation Flow Issue* from the State of Vermont District 5 Environmental Commission dated April 5, 2005.
- k) Letter to Mr. Stanak, Agency of Natural Resources, from Mr. Walsh, Senior Planner, Central Vermont Regional Planning Commission, regarding CVRPC's Act 250 Review Committee's findings on the Lincoln Peak Base Lodge Redevelopment Project, dated April 11, 2005.
- l) Copy of email from Mr. Lisai of Sugarbush Resort to Mr. Malboeuf, Zoning Administrator, Town of Warren, with proposed changes to previous permit for the Lodge, for consideration by the DRB for the new permit for the Base Area Redevelopment, originally emailed April 8, 2005, and finally printed out April 13, 2005, after emailing to Ms. Robbins.
- m) Copy of email communication from Mr. Zschaler to Mr. Malboeuf regarding suggested language for the DRB to consider in preparing the revised permit for the applicant, dated April 13, 2005.
- n) Faxed copy of the above letter (item "h") with the correction of "Mount Ellen" being changed to "Lincoln Peak" dated April 15, 2005.
- o) Faxed copy from Mr. Lisai of a memo from Mr. Cook, President, Warren Fire Department, regarding the Fire Department's initial review of the Lincoln Peak Redevelopment Project, dated April 14, 2005.

- p) Memorandum regarding the Status of Review of Application 5W1045-15D, Summit Ventures: Lincoln Base Area Development, from the State of Vermont, District 5 Environmental Commission, dated April 18, 2005.
- q) Copy of letter to Mr. Stanak, District 5 Environmental Commission, from Ms. Wade, Resort Planner, Sugarbush Resort, regarding the updated Traffic Plan and a copy of the Warren Fire Department letter (see item j), dated April 18, 2005.