The Town of Warren
Development Review Board
Minutes of Meeting
Wednesday April 13, 2005

Members Present: Peter Monte, Lenord Robinson, Virginia Roth

Others Present: Ron Hunkins, Ken Friedman, Lenore Budd, Zeke Church, Bill White, Francis Moran, Patty Weston, Glenn Thomas, Trafton Crandall, Cindy Carr, Don Swain, Eric Brattstrom, Dottie Kyle, Miron Malboeuf, Ruth Robbins.

Agenda:

I. Call meeting to order 7:00pm
II. **#2005-05-SD** submitted by LandPlan Inc. & Lincoln Ridge LLC on behalf of Ward Properties seeking approval of a 20-Lot subdivision of 170+/- acres application for Final Plan Approval (Article 6.4). In conjunction with this application, **#2005-05-CU** submitted by the applicants seeking a Conditional Use Permit to use a 39 acre section of the parcel located in the Forest Reserve District for outdoor recreation, encompassing the use of existing logging trails and new trails to be cut in the district, for hiking, cross country skiing and downhill skiing. The property is located on Inferno Road in the Rural Residential/Forest Reserve Districts. This project requires review under Article 6, Subdivision Review, and Article 7, Subdivision Standards, of the Warren Land Use & Development Regulations.

III. Other Business
a) Review and approve minutes from April 6, 2005
b) Sign Mylar for Colpitts 3-lot subdivision, (decision signed February 9, 2005 by Eric, Lenord & David)
c) Discuss schedule for May 2005

I. Call the Meeting to Order

The meeting was called to order by Mr. Monte at 7:07 pm.

TOWN OF WARREN, VT
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Claire E. Fuller
assistant TOWN CLERK

II. #2005-05-SD & #2005-05-CU submitted by LandPlan & Lincoln Ridge LLC on behalf of Ward Properties.

The following documents were submitted at the meeting:

1) Letter sent to Peter Monte, Chair, from Peter & Melna Hall, dated March 29, 2005. The letter expressed their continuing concern over the potential loss of water with the drilling of wells for this project.
2) Letter from Zeke Church of the Sugarbush Property Group, Inc. regarding the consideration of negotiating access to the project through South Village.
3) Detailed drawing from LandPlan Inc. showing the access road off of Inferno Road, dated 4/13/05

Mr. Monte started the discussion by stating the three hottest issues of public interest would be the West Hill Road Ext. access, point of entrance off of Inferno Road and the water supply. He went on to ask if any of the neighbors who had water/well concerns had talked with/ employed a hydrologist for a second opinion as was discussed at the last meeting. Mr. Brattstrom stated that he had contacted the State, and in further conversation with Mr. Swain, found that the idea of placing fewer but larger well(s) at a higher elevation was not going to be as good an alternative as he thought. With that information in hand, he had not pursued anything further.

Mr. Monte said that he thought there were other neighbors to the project that had expressed a concern and were planning to get a second opinion. At this point both Mr. Hunkins and Mr. White spoke up saying that they had concerns as well. Specifically, Mr. White stated that he had experienced a "strain" on his water system during holiday weeks, where he noticed a significant reduction in water pressure. He also noted that he had a deep well, but low volume of water. Mr. Hunkins asked what recourse any of the neighbors would have if the wells went dry? Mr. Monte responded he wasn't sure – that it was something the Board would have to consider. He went to say that the evidence that the hydrologist report done for the applicant indicated that there would not be a problem, that the distance was adequate. So far this is the only professional evidence we have to go on.

Mr. Monte then asked if there was any other comment from the public. Hearing none, he asked Mr. Swain if Mr. Hoffer, their hydrologist, would be testifying tonight. Mr. Swain aid, no but that he would be at the Act 250 hearing. Mr. Swain went on to say that they would defer to the State as to whether or not monitoring would be necessary. In response to Mr. And Mrs. Hall's letter, Mr. Swain said he had spoken with Mr. Wernike as well, who had suggested to the Halls that they might find it worthwhile to determine the water level in their well prior to construction. Mr. Swain wanted to make it clear that should the Hall's do that, it would not be the responsibility of the applicant.

Mr. Monte stated that the Board did defer proceedings so that the neighbors could get a second opinion from a hydrologist and that does not appear to have happened. Mr. Monte went on to say that if they still wanted to do so, the Board would consider the information but that they needed to act now.

The Board then turned their attention to the road issue(s). Mr. Monte asked Mr. Swain to update the Board on the meeting with State representatives from the AOT regarding the entrance off of Inferno Road, as well as recommendations to improving West Hill Road Ext.

Mr. Swain initially spoke to the West Hill Road Ext. issue. He said that Steve Butcher, Warren Road Commissioner, suggested to options: 1) to apply to the Select Board to improve the road, or 2) apply to the Select Board to "throw up" the class four classification so that it would be considered a private road and improved to private road standards, either 14 or 16 feet. Mr. Swain said that Mr. Butcher indicated that if it remained a town road it should be improved to a class three level. Under the private road classification, any road improvements would be under the DRB and Fire Dept. direction. Mr. Monte noted that research done by Mr. Malboeuf showed that when the KB Profit Sharing Trust received permission from the town for the subdivision off of West Hill Road Ext. (in 1993) that the class four section was to be 16 feet wide. Mr. Monte commented that he didn't think it made any difference to the DRB as to how the road was classified. What was of concern was that the road be maintained be the proper width and grade for emergency vehicle access.

Mr. Brattstrom commented that he thought there would be a problem in reclassifying the road as it would invite more use with any improvements made and would change the character of the neighborhood. He went on to say that that was the point in having a gate and that a gate could be used successfully that would not hinder emergency vehicle access. Mr. Friedman added that he had done some research and found three towns that had gated road situations that had their Fire Department's approval. Mr. Monte stated that if the gate area wasn't plowed, that any type of gate wouldn't work. He went on to say that enforcement of maintaining the gate area was really the issue, especially in the long term.

Mr. Brattstrom felt that the proposed improvements at the intersection of West Hill Ext and West Hill Road would not make enough of a difference in solving the existing problem and that it was a lot to go through if they were just talking about emergency access. Ms. Kyle asked if a stop sign might not make it a safer intersection. Mr. Monte replied that stop signs were not under the jurisdiction of the DRB. Mr. Malboeuf also added that the Select Board approved the proposed improvements with no mention of added a stop sign. Mr. Robinson expressed that in his opinion the proposed improvements would be good and improve sight lines.

The Board then moved on to discuss the entrance off of Inferno Road. Mr. Church, representing South Village, submitted a letter stating that South Village was not in favor of allowing access through part of their property as they felt it was an unsafe option. Mr. Monte then asked Mr. Swain to summarize the State Engineer's observations of the access off of Inferno Road. Mr. Swain stated that he looked at three points of access: LandPlan's proposed access, access across from Rumble Road and the Sect Board's decision of across from Coleman Road. Mr. Swain that the State engineer said that based on the primary criteria of safety, that the Rumble Road location was the least desirable, the Coleman Road location had less than desired sight line to the south but acceptable to the north, and that the applicants proposed access was the best. Mr. Malboeuf quickly stated that that was not what was said. Mr. Swain continued and added that the statement was that there was not much difference between the proposed and the Coleman Road location, with pros and cons on both. Mr. Monte asked if the Select Board representative who was at the site visit indicated whether or not their decision might change. The answer was no.

Mr. Monte then asked if the Conservation Commission still had any concerns regarding the access and crossing of wetland areas. Mr. Crandall answered by stating that the further south the access came, the greater the impact on wetland areas. Mr. Swain responded by showing on a current design that retaining walls had been added to address the wetlands issue. Ms. Weston asked if a bridge would be a better solution instead of using fill. Mr. Swain pointed out that it was possible but not a practical option due to having to go around a corner. Mr. Crandall mentioned that the Conservation Commission has recommended the use of large oversized culverts that would provide adequate water transport as well as small wildlife movement. Mr. Monte asked if the Conservation Commission wanted absolutely no encroachment on the wetlands or just steps taken to lessen the effect. Mr. Crandall replied that in keeping with the Town Plan any and all steps should be taken to minimize any impact. Mr. Swain pointed out that the State permit would also include conditions as to how to treat the wetland areas as well as the Army Corp. of Engineers.

In summarizing the Inferno Road issue, Mr. Monte stated that the Board's only response seemed to be either 1) agree with the Select Board's decision or 2) issue a decision to locate the access elsewhere and potentially kill the project. It was brought up that should the applicant succeed in negotiating an agreement with South Village, that the Select Board would entertain that as a better option. Mr. Church reiterated that South Village's position was that access at that point would be unsafe and would create a hazard. Mr. Monte asked if anyone felt that the Coleman Road location, approved by the Select Board, was totally unacceptable. Mr. Hunkins spoke up and stated that the project was like trying to fit a size twelve boot into a size six shoebox. It was a bad location with bad sight lines.

Mr. Monte then turned the discussion to the other issues that the Conservation Commission had raised. Mr. Swain started with asking for clarification on how the Board was going to evaluate these issues. He pointed out that the Conservation Commission refers to the Town Plan, which may suggest to "prohibit" something, where the current zoning regulations will allow providing the impact is minimized. Mr. Monte said that the zoning regulations, which were the more recent of the two documents, would be their standard.

Mr. Swain then through the Conservation Commission's letter and indicated how the applicant had addressed the concerns. He also stressed that the issues raised by the Conservation Commission would also be addressed, probably more stringently, by two other levels of review: the Army Corp. of Engineers and the State ANR. The first item was impact on wetlands. Mr. Swain then pointed out on the plans where an interior road had been shifted, setbacks had been increased the inclusion of additional culverts. Mr. Crandall commented that the changes were appreciated and that they appeared adequate in addressing the Commission's concerns in this area.

The next area of concern brought up by the Conservation Commission was the treatment of steep slopes. Mr. Crandall stated that the main concern was the amount of cutting and clearing on slopes of 25% or greater. The Commission also wanted to recommend a set back of 25 feet from any 25% slope, even though the current ordinance does not call for it. Mr. Monte asked if the covenants for the project addressed that. Mr. Swain replied, yes, there was a provision for a required density of remaining trees, and that no clearing can be done until a forest management person comes out and renders his/her opinion. Mr. Swain went on to say that there would be only selected thinning on the slopes of 25% or greater. There is no provision for the cutting of trees within the building envelopes. Mr. Crandall asked if the density of trees could be increased. Mr. Swain said it was currently 25 trees per acre, and Mr. Crandall asked if it was possible to make it 35 or 40. It really depended, said Mr. Crandall, on the size, caliber, age and type of the tree.

On the topic of "scenic views" Mr. Swain noted that it wasn't covered too extensively in the zoning ordinance, but is talked about in the Town Plan. The issue he felt was important was the view from private land versus view from public land. Mr. Swain provided photographs he had taken from various public vantage points looking at the proposed development site. He went on to say that the zoning ordinance specifically used the term "public vantage points" (page 76). A review of the photographs led to a discussion of possible screening recommendations: house colors, non-reflective glass, outdoor lighting restrictions, dwelling size restriction, non-reflective roofs. Mr. Swain indicated that most of the items did not seem to be a problem. There was some discussion regarding what colors would be acceptable, the definition of "total square footage" as to what that included, the details of the lighting ordinance. Mr. Malboeuf stated that the building size restriction was to minimize the visual impact of the structure. Ms. Carr said they would take a look at what might be the expectation of size might be for the type of second home that they were marketing.

Mr. Monte then went through the original laundry list of issues. On the issue of the neighbor's obtaining a second opinion on the water situation, Mr. Monte said they needed to let the office know within one week as to whether or not they would be doing such.

Ms. Carr stated that an agreement had been reached informally with Summit Ventures as to access but that the legal document was not yet done. She did have a letter from Mr. Ackland that she said she could provide in the meantime.

Ms. Budd spoke to the issue of the Catamount Trail and said that they were still trying to work out the details. Every effort was being made to try to locate the tail so as to minimize encroaching on any of the homeowner's privacy. Ms. Carr said that the main concern was trail users parking. Ms. Kyle added that in the past trail users have utilized she parking lot, which had never been a problem. Ms. Carr said that the inclination of the Lincoln Ridge members was to issue permission versus an easement. Ms. Carr also mentioned that the possibility existed for use by Catamount of the Mirabel property, providing the purchase offer was agreed to.

Mr. Malboeuf brought up that the Conditional Use application had yet to be discussed, though he didn't feel it would be time consuming. Mr. Monte suggested we warn the Conditional Use application again for the next meeting. He went to say that unless the neighbors wanted to submit their own hydrologist's report and had additional information regarding the gate issue, that at the next meeting the DRB would deliberate in public but be closed to any additional public comment, unless a question came up from a Board member.

MOTION by Mr. Monte to continue the review of application # 2005-05-SD & #2005-05-CU for Final Plan Approval until Wednesday May 25, 2005 at 7:00pm. **SECOND** by Mr. Robinson. **VOTE**: unanimous, motion passed.

III. Other Business

a) Minutes from March 23, 2005 were signed.
b) The Colpitts mylar was signed
c) **MOTION** by Mr. Monte to reopen deliberations on application #2005-01-PRD, Chisel Tooth Group, to alter his vote on Article 7.9 Utilities, from ***NAY*** to ***YEA***. **SECOND** by Mr. Robinson. **VOTE**: unanimous, motion passed. **MOTION** by Mr. Monte to close deliberations on application #2005-01-PRD. **SECOND** by Mr. Robinson. **VOTE**: unanimous, motion carried.

Mr. Monte adjourned the meeting at 9:47pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

Peter Monte May 25, 2005
Peter Monte date

Lenord Robinson May 4 05
Lenord Robinson date

Virginia Roth May 4 2005
Virginia Roth date