

ARTICLE 5. DEVELOPMENT REVIEW

As Amended & Adopted by the Warren Select Board January 31, 2006

Section 5.1 Applicability

(A) Any use or structure requiring conditional use approval shall not be issued a zoning permit by the Administrative Officer until the Development Review Board grants such approval in accordance with the Act [§§4414(3),4460], and the following standards and procedures.

Section 5.2 Conditional Use Review Process

(A) **Sequence of Review.** Subdivision review and approval, where required, generally shall precede conditional use review however, in accordance with the Act [§4462], conditional use review may occur concurrently with final subdivision review under Article 6 if all application and procedural requirements pertaining to each respective review process are met. For the development of a parcel that has received prior subdivision approval, the Development Review Board shall incorporate all conditions of subdivision approval applicable to that lot under conditional use review. In the event that a condition of conditional use approval is inconsistent with a condition of subdivision approval, the more restrictive condition shall apply. An amendment to an approved subdivision shall be required by the Board only as necessary to ensure consistency.

(B) **Application.** An applicant for conditional use approval shall submit one (1) original and five (5) complete copies of a site development plan (site plan map copies may be 8.5" x 11" or 11" x 17" reductions, providing they are to scale), to include the information described in Table 5.1, and any applicable fees, to the Administrative Officer for consideration at the next available regularly scheduled meeting of the Development Review Board. A potential applicant may request an informal meeting before the Development Review Board.

- (1) **Flood Hazard Area Overlay District.** In addition to the above requirements, applications for development within the Flood Hazard Area Overlay District shall also include the following information:
 - (a) the location, on the site development plan, and associated elevations of all structures, roads, and water supply and wastewater facilities in relation to the channel, floodway, and base flood elevations;
 - (b) a completed FEMA "Elevation Certificate" prepared by a registered surveyor, engineer, architect or other official authorized by the state to certify building elevations, for any building constructed after the publication of the town's Flood Insurance Rate Maps;
 - (c) where flood-proofing is proposed (as allowed only for nonresidential buildings), a completed FEMA "Flood-proofing Certificate" prepared by a registered professional engineer or architect who is authorized by the state to certify flood-proofing design and construction;
 - (d) a hydraulic and hydro-geologic analysis for any development located within the floodway; and
 - (e) a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

Table 5.1 Conditional Use Application Requirements

Required Application Information:
(1) Name and address of owner(s) of record of the property; name, address and interest of the applicant, if different than the owner(s) of record; name and address of the person or firm preparing the application and related plans; date of the application and related plans; proof of notification of all owners of adjoining lands in accordance with Section 9.8.
(2) A plan drawn to scale prepared by a licensed engineer, surveyor, land planner, or as otherwise approved by the Development Review Board showing the following: (a) north arrow and scale; (b) legal property boundaries for the property; (c) existing and proposed features, to include topography, land use, existing vegetation, natural and critical habitat areas, floodplains and wetlands; designated Meadowland and other zoning district boundaries; structures (building footprints), signs, walls and fences; historic sites; roads, driveways, easements and rights-of-way, and utilities; (d) traffic and pedestrian circulation within the site; location and dimension of parking, loading and snow retention areas; access to neighboring properties and public roads; and, sidewalks, pathways and trails in the vicinity.
(3) Site location map showing the location of the project in relation to nearby town highways, adjoining parcels and uses and zoning district boundaries.
(4) Proposed landscaping and screening plan, to include planting details (size, location and species).
(5) Grading and drainage plan (showing areas of cut and fill and proposed drainage patterns and provision for stormwater management).
(6) Description of proposed water supply and wastewater disposal, and the location of an existing water supplies located on the site which serve other parcels.
(7) Preliminary building elevations for new or altered structures, including an indication of the exterior facade design, window treatment and roof and siding materials.
(8) Proposed lighting plan, including the design and location of all exterior lighting.
(9) Phasing schedule for completion of all proposed development and site improvements.
(10) Estimate of traffic to be generated by the project and the impact of such traffic on area roads.
The Development Review Board may require additional information depending upon the scope and location of the proposed conditional use, including but not limited to the following:
(11) Photographs of the site
(12) Forest management, tree removal and vegetation management plans
(13) Stormwater management and erosion control plans
(14) Visual impact analysis
(15) Community service impact assessments (analysis of fiscal costs and benefits to the town)
(16) Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)
(17) Open space management plan
(18) Site reclamation plan (for proposed projects involving extraction)
(19) Habitat impact assessment (identification of critical wildlife habitat, including wildlife travel corridors, analysis of potential impact and proposed mitigation measures)
(20) Other information or studies necessary for the Board to conduct a comprehensive review

(C) **Waivers.** The application shall not be considered complete until all of the application materials listed on Table 5.1 have been submitted. The Development Review Board may waive one or more of the listed items in the event they determine the item(s) to be unnecessary for the comprehensive review of the application. Such waiver shall be issued, in writing, at the time that the application is accepted and deemed complete by the Board.

(D) **Referral & Notification Requirements.** In addition to public hearing notice requirements for conditional use review, in accordance with the Act [§4424], the following shall also apply for development applications within the Flood Hazard Area Overlay District:

- (1) Prior to the issuance of conditional use approval or a zoning permit, a copy of the application and supporting information shall be forwarded to the State National Flood Plain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section. An approval or permit may be issued only following the receipt of comments from the state, or the expiration of 30 days from the date the application was mailed to the state, whichever is sooner.
- (2) Adjacent municipalities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to the issuance of any approval or permit for the alteration or relocation of a watercourse. Copies of the notification shall also be sent to the Administrator of the Federal Insurance Administration.

(C) **Review Procedure.** In accordance with the Act [§4464], upon receipt of a complete application the Development Review Board shall schedule a public hearing, to be warned and held in accordance with Section 9.8, at the next available scheduled meeting. The Board may recess the convened hearing to require the submission of additional information from the applicant, or to allow for the submission of information from other parties. The Board shall act to approve, approve with conditions, or disapprove an application for conditional use review, within 45 days of the date of hearing adjournment; and shall issue a written decision in accordance with Section 9.8(E), to include findings, any conditions deemed necessary to ensure compliance with the standards set forth below, and provisions for appeal. Failure to act within the 45-day period shall be deemed approval, effective the 46th day.

Section 5.3 Conditional Use Review Standards

(A) **General Standards.** Pursuant to the Act [§ 4414(3)], conditional use approval shall be granted by the Development Review Board only upon finding that the proposed development shall not result in an undue adverse effect on any of the following:

- (1) **The capacity of existing or planned community facilities or services.** The Board shall consider the demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (e.g., school capacity, emergency services, recreation facilities). In making such a determination, the Board will consider any capital program or budget in effect at the time of application. Conditions may be imposed regarding the timing and phasing of development to minimize the impact on community facilities and services; or the applicant may be required to contribute funds, facilities and or physical improvements toward the provision of new or expanded facilities to mitigate the impacts of the proposed development.
- (2) **Character of the neighborhood or area affected,** as defined by the purpose or purposes of the zoning district in which the project is located, and specifically stated policies and standards in the

Warren Town Plan. The Board shall consider the design, location, scale and intensity of the proposed development and/or use, relative to the use and character of adjoining properties and other properties likely to be affected by the proposed use; and shall consider the proposed development's compatibility with the purpose and character of the affected zoning district as defined in Article 2 of these regulations, the Warren Town Plan, and the testimony of affected property owners and other "interested persons" as defined herein. Proposed activities that would adversely affect the character of the neighborhood, area or district shall not be approved unless the adverse impacts can be avoided or mitigated through changes to the location, design, scale, operation, composition and/or intensity of the proposed development or use.

- (3) **Traffic on roads and highways in the vicinity.** The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency and use of affected public roads, bridges, and intersections. The Board will rely on accepted transportation standards in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists or unacceptable levels of service for local roads, highways and intersections (e.g., a reduction in existing level of service below "C" for the design hour), unless such conditions or levels of service can be mitigated by the applicant through physical improvements to the road network and/or traffic management strategies.
 - (4) **Bylaws and ordinances then in effect.** Proposed conditional uses must conform to all municipal bylaws and regulations in effect at the time of submission of the application, including conformance with the policies of the Warren Town Plan and compliance with conditions of prior permits or approvals, including subdivision approval.
21. **The utilization of renewable energy resources.** The Board will consider whether the proposed development will interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or by eliminating nearby property owners' access to such resources.

(B) **Specific Standards.** In addition to the general standards set forth above, the Development Review Board may impose specific conditions or require project modifications to ensure the following:

- (1) **Building Design.** The design and location of structures will be compatible with their proposed setting and context, as determined in relation to zoning district objectives and requirements, existing site conditions and features, and adjoining structures and uses. Conditions may be imposed with regard to siting, density, setbacks, height, massing, materials and/or orientation, to ensure compatibility.
- (2) **Traffic Circulation & Access.** The number and size of curb cuts shall meet the standards set forth in Section 3.1. In appropriate instances, including the presence of compatible adjacent uses, areas characterized by congestion and frequent and/or unsafe turning movements, or parcels having direct access to more than one public road, the Board may require provision for shared access between adjoining properties or may limit access to the property to a side street or secondary road. Requirements for shared access shall be made either at the time of conditional use approval if similar provision has been made on contiguous parcels, or contingent upon future development of neighboring properties.
- (3) **Bicycle & Pedestrian Access.** Pedestrian circulation within the site, and access through the site to adjacent properties and along public roads, may be required. Such access may take the form of sidewalks, walking and/or bicycle paths, or other facilities depending upon the property's location, site conditions and proximity to other facilities. Bicycle racks shall be required for commercial and

public uses intended for general public access. In addition, adequate access from the parking area and sidewalks to the building(s) that are open to the general public shall be provided for people with disabilities.

- (4) **Parking & Service Areas.** Parking and service areas will be provided in accordance with the requirements of Section 3.10. Nonresidential parking and service areas shall be located to the side or rear of buildings, unless otherwise approved by the Board due to existing site limitations. Driveway connections to parking areas on adjacent properties, or provision for future connection to adjacent properties, shall be required where feasible. In the event that such connections allow for shared parking between properties, the overall parking requirements may be reduced pursuant to Section 3.10. Requirements for shared parking shall be made either at the time of conditional use approval if similar provision has been made on contiguous parcels, or contingent upon future development of neighboring properties.
- (5) **Outdoor Storage & Display.** The Development Review Board may limit or prohibit outdoor storage or display of goods, supplies, vehicles, equipment, machinery or other materials. Secured, covered areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving outdoor display or storage, the Board may place conditions on the area and location of such storage or display, and may require appropriate screening.
- (6) **Landscaping & Screening.** Proposed landscaping and screening (which should include a mix of shade and street trees, shrubs, planting beds and ground covers) shall be designed to:
 - (a) preserve and incorporate existing vegetation and enhance unique landscape features;
 - (b) be suited to existing site conditions and be integrated with adjacent properties;
 - (c) screen parking areas from view;
 - (d) establish a consistent streetscape and the planting of street trees, especially in village centers and along Route 100, the Sugarbush Access Road and German Flats Road, and,
 - (e) not obstruct scenic views or road visibility.

A three-year landscaping maintenance plan and/or a bond or other surety to ensure installation and maintenance may be required as appropriate and incorporated as a condition to approval.

- (7) **Protection of Natural Resources.** Proposed development shall not have an undue adverse effect or impact on important natural resources or fragile features located on the parcel, including wetlands, steep slopes, rivers and streams, critical wildlife habitat and habitat diversity, groundwater source protection areas, and/or flood plains identified in the Warren Town Plan or through field investigation. The Board may require the following protection measures to ensure the protection of natural resources and fragile features:
 - (a) the establishment of buffer areas;
 - (b) permanent protection through conservation easements or other deed restrictions in accordance with Section 7.4;
 - (c) the designation of building envelopes to ensure that activities incidental to the operation of the conditional use, including clearing and yard area, do not adversely impact identified resources; and/or
 - (d) the preparation and implementation of management plans for protected resources and associated buffer areas.
- (8) **Erosion Control.** Erosion and stormwater will be managed in accordance with Sections 3.4 and 7.5.

- (9) **Surface Water Protection.** Streams, rivers, ponds and wetlands shall be protected in accordance with Section 3.13.
- (10) **Lighting.** Lighting shall meet the standards set forth in Section 3.9.
- (11) **Performance Standards.** All conditional uses shall meet the standards set forth in Section 3.11.
- (C) **District Standards.** In addition to the standards set forth above, the following standards shall apply to all applications for conditional use review within the appropriate district.
- (1) **Lincoln Peak Growth Center.** Conditional uses within the Sugarbush Village Commercial (SVC), Sugarbush Village Residential (SVR) and German Flats Commercial (GFC) Districts shall only be approved within an approved Planned Unit Development in accordance with the standards set forth in Section 8.4. The Board may waive this requirement in instances involving:
- (a) the construction of temporary small structures (less than 1,500 square feet) which are not placed on a permanent foundation; or
 - (b) alterations to existing buildings and facilities that would not impact the overall settlement pattern or character of the district, or would increase the floor space of an existing building by 1,500 square feet or greater; or
 - (c) construction or alteration of on-mountain ski facilities, including lifts, snowmaking equipment and maintenance facilities associated with the operation of an alpine ski resort.

A determination to waive the standards set forth in Section 8.4 shall not exempt a proposed project from compliance with the standards set forth in Subsection (A) and (B), above. Other conditional uses located within an approved PUD shall be reviewed in accordance with the standards set forth in Subsections (A) and (B), above, and in accordance with a phasing schedule and other conditions of the prior PUD approval.

- (2) **Warren Village.** Within the Warren Village Commercial (WVC) and Warren Village Historic Residential (WVR) Districts, development shall reinforce a traditional, compact village development pattern characterized by pedestrian scale and orientation, traditional densities and setbacks, a mix of uses, well defined streetscapes, sidewalks to facilitate pedestrian circulation, and a well-defined edge to the built environment. While building design is not required to reflect any one architectural style or era, the following standards apply to new and expanded structures:
- (a) Buildings should front toward and relate to streets, both functionally and visually, and not be oriented toward parking lots. The front facade should include a main entry-way, pedestrian access and appropriate front yard landscaping. The Board may impose a maximum setback to achieve a consistent streetscape; drive-through lanes and drive-up windows are specifically prohibited.
 - (b) Building design should be compatible with historic buildings identified as “contributing structures” on the Warren Village Historic District nomination to the National Register of Historic Places. Buildings are not required to reflect a specific architectural style or era, although building design shall reflect the following:
 - (i) the exterior design of buildings, including the arrangement, orientation, texture and materials, shall be compatible and harmonious with surrounding contributing structures; and,

- (ii) the scale and massing of buildings, including height, width, street frontage, roof type and facade openings, shall be compatible and harmonious with surrounding contributing structures. Buildings serving special civic, social or cultural functions, including places of worship, may be designed to serve as prominent focal points within the Village.
- (3) **Meadowland Overlay District** Within the Meadowland Overlay (MO) District, development shall conform to the standards set forth in Article 2, Table 2.13.
- (4) **Forest Reserve District** Within the Forest Reserve (FR) District, development shall conform to the standards set forth in Article 2, Table 2.1.
- (D) **Flood Hazard Overlay District Standards.** The Development Review Board may impose specific conditions or require project modifications for development within the Flood Hazard Overlay (FHO) District in accordance with the following standards:
- (1) Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are specifically prohibited within the floodway.
 - (2) All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities; and to provide adequate drainage to reduce exposure to flood hazards.
 - (3) Structures shall be:
 - (a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
 - (b) be constructed with materials resistant to flood damage;
 - (c) be constructed by methods and practices that minimize flood damage; and,
 - (d) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (4) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - (5) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
 - (6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - (7) New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.
 - (8) The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
 - (9) Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection (8).

- (10) Existing buildings to be substantially improved for nonresidential purposes shall either meet the requirements of subsection (8), or be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications, and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- (11) All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (12) Recreational Vehicles placed on sites within Zones A1-A30, AH and AE, as designated on the FIRM maps, shall either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, or (3) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of 44 CFR 60.3(c)(6).