

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **James Barnes of Hermitage Inn Real Estate Holding Company LLC**

Agent(s) Mailing Address: **Robert Fisher, Fisher & Fisher Law Offices PC, P.O. Box 621, Brattleboro, VT 05302**

Owner/Applicant(s) Mailing Address: **P.O. Box 2210, West Dover, VT 05356**

Address of the subject property: **183 Gatehouse Trail, Wilmington, VT 05363**

Tax Map #**HAYSTACK.SKI**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2013-039

Description of Case per Public Notice:

Application # 2013-039; owner: Hermitage Inn Real Estate Holding Company LLC; Agent, Robert Fisher. Application being made for Subdivision review to allow subdivision of a lot into two lots of 2.55 and 255 acres; Zoning Ordinance Section 6.B; location: 183 Gatehouse Trail.

Notice for a public hearing was published in the Valley News on: **5/10/2013**

Notice was posted in three public places on: **5/10/2013**

A copy of the notice was mailed to the applicant on: **5/10/2013**

A copy of the notice was mailed to the abutters on: **5/10/2013**

The public hearing was held on: **6/3/2013 and 6/17/2013**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Environment Court.

Appeal period for this Case expires on: July 26, 2013

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having

been heard.)

Alice Herrick, Zoning Administrator
Robert Rubin, Witness
Benjamin Joyce, Witness (6/17/2013 only)

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation. The initial hearing was commenced on June 3, 2013 and was recessed until June 17, 2013.

EXHIBITS:

- Application (two pages)
 - A Abutters List (three pages)
 - B Proposed Subdivision Prepared for the Hermitage Inn Real Estate Holding Company, Base Lodge Parcel, Joyce Land Surveying, April 12, 2013 (marked "DRAFT") Subsequently withdrawn and replaced by Exhibit D
 - C Drawing of the Base Lodge
 - D Proposed Subdivision Prepared for the Hermitage Inn Real Estate Holding Company, Base Lodge Parcel, Joyce Land Surveying, April 12, 2013.
 - E Warranty Deed including easement provisions
1. The subject property is in the Commercial District of the Town of Wilmington. In several DRB decisions, the most recent being Case No. 2012-108, the lot has been approved for construction of a Base Lodge. For reasons relating to obtaining financing for the project, Applicant is seeking to subdivide the lot into two parcels, one being 2.55 acres (the site of the base lodge) and the other being 255 acres.
 2. The resulting subdivision would result in the 2.55 acre site being situated in the midst of a private ski resort containing structures (townhouses, condos, etc.) and infrastructure (roads, parking, etc.) for the resort's members and others. Provisions will be necessary to ensure access for all, including deeded rights of way and easements.
 3. A portion of Chamonix Trail and a proposed bridge and tunnel are included in the 2.55 acre site. Applicant testified that there will be a deeded right of way and easement 50 feet in width so that the resort's property owners can have access to this infrastructure and the Base Lodge (Exhibit E).
 4. There is no provision for parking in the Base Lodge parcel. Current plans call for 352 parking spaces on the larger parcel and a deeded parking easement providing for shared use of the parking lot (Exhibit E). A subdivision site plan (Exhibit D) shows that a portion of the parking lot is situated on land owned by the Cold

Brook Fire District #1. Applicant testified that all of the parking lot will be on its own land and that no part of the parking lot would be on Cold Brook Fire District land.

5. There is a 40 foot set-back requirement for buildings constructed in the Commercial District. Applicant testified that there would be a 42 foot set-back on the north side of the building, 56 feet on the west side, 47 feet on the south side and 60 feet on the east side. These measurements were taken from the Base Lodge's roofline, which encompasses all of the building and the attached decks and balconies. An uncovered circular exterior staircase/walkway will be constructed of stone and concrete.
6. There is a requirement that all buildings on a lot not exceed 25% of the lot area. Applicant testified that the square footage of the lower basement, containing the largest floor area of the building, is 23,619 square feet and that the entire lot is 111,078 square feet, resulting in lot coverage of 21.3%.

II. The Board CONCLUDES:

With regards to the request for a subdivision with right-of-way approval the Board concludes that this proposal **will** conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

Section 6: Permitted Uses and Minimum Requirements of Districts

B. Commercial Districts

2. Minimum Requirements in Commercial Districts.

Lot Size: A lot used for such building or structure shall be at least one acre in area, except that accessory uses shall also be permitted on such lot.

Set Back: A building shall be placed on a lot at least forty (40) feet from the public road limits and forty (40) feet from any other property line.

Frontage: Each lot which abuts upon a public road shall have at least one hundred fifty (150) feet frontage on such public road. No land development may be permitted on lots which do not have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. [Subchapter 7, §4412(3)]

Coverage: The total ground floor area of all buildings on a lot shall not exceed twenty-five per cent of the lot area.

The Board finds that:

1. The lot size exceeds one acre and the building covers less than 25% of the lot.
2. The frontage on a public road (Chamonix Trail) exceeds 150 feet and easements and right of ways exceed 20 feet.

3. The proposed building meets the set-back requirements and coverage requirements of the Ordinance.
4. There are deeded rights of way and easements affording access to roads, tunnels, bridges and parking.
5. The stone and masonry walkway and stairs are not attached to the building and provide an exterior access from one level to another. It is not subject to setbacks requirements as it is essentially a landscape feature.

III. CONDITIONS:

This is granted subject to the following restrictions, requirements, limitations or specifications:

1. That a Right-of-Way of at least 28 feet in width (24 feet wide with two feet wide shoulders) providing access to the Base Lodge parcel over land of Hermitage Inn Real Estate Holding Company LLC, Lot #HAYSTACK.SKI, shall be included in the deed for the 2.55 acre piece and shall be designed to meet standards set by the Wilmington Road Standard Ordinance (Condition 10 in DRB Case # 2012-051). A copy of the deed shall be submitted to the Zoning Administrator within 10 days of recording the deed in the Wilmington Land Records.
2. All of the 352 space parking lot shall be sited entirely on Applicant's property.
3. The 2.55 acre parcel shall continue to be considered part of the Haystack Ski Area Base Tract and, as such, be covered by any and all applicable conditions in previous cases regarding the Base Tract.

Thus, the Development Review Board does **approve** the application for **Subdivision approval to allow creation of a 2.55 acre piece in the Commercial District.**

If unused, this Approval expires 1 year from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval **does not relieve you**, as applicant, from obtaining any and ALL applicable

State and other local permits.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Andrew Schindel
Nicki (Polly) Steel

OPPOSED:

None

For the Board: Polly Steel, Chairperson

Date: 6/26/2013

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.