

## **Appendix E – Previous DRB Permit Applications**

Town of

*Wilmington*

2 East Main Street -- PO Box 217  
Wilmington, Vermont 05363

802-464-8591 (Voice)  
802-464-8477 (Fax)  
www.wilmingtonvermont.us

November 9, 2005

Certified Mail -- Return Request Required to Applicant  
7004-0550-0000-7345-0998

Robert M. Rubin, President  
1 Cornell Inc.  
PO Box 500  
West Dover, VT 05356

RE: Application: Modify Haystack Master Plan; Development of Base Tract  
DRB Case # #922 Tax Map #: HAYSTACK.SKI  
Appeal Period Expires: DECEMBER 9, 2005

Dear Mr. Rubin:

Your Application for Development Review Board Approval for the above-referenced matter has been approved, with conditions. A copy of the DRB Findings of Fact and Statement of Findings is enclosed for your records. If appropriate, conditions set forth in the DRB approval should be submitted to the Zoning Administrator's office prior to the expiration of the appeal period. Please note there is a thirty (30) day appeal period before this Approval becomes final. That appeal period ends on the date noted above.

Please note, this approval shall not take effect until the date noted above *or* if a notice of appeal is filed with the Environmental Court by such date, it shall not take effect until the Environmental Court issues its final decision.

A Zoning Permit *must* also be issued prior to the commencement of any work in conjunction with your application. Individual Zoning Permits will be required for each item approved in DRB Case # 922. All Zoning Permits have an appeal period of fifteen (15) days before the permit becomes valid. You will receive a letter following the issuance of your Zoning Permit that will state the expiration of Zoning Permit appeal period.

Please call our office prior to taking any further action with this property to confirm that no one has appealed the decision of the Development Review Board or your subsequent Zoning Permit.

If you have any questions please call me 464-8591.

Sincerely,

  
Bonnie L. Lorimer

Zoning Administrator

Encl: Findings of Fact & Statement of Findings

Cc: Interested Parties of Record -- See Attached List

DRB Case # 922  
Applicant: 1 Cornell, Inc.  
Haystack Development - Base Track Area  
Interested Persons of Record

Findings of Fact and Statement of Findings  
Sent 1<sup>st</sup> Class US Mail  
November 9, 2005

Giving Testimony at Hearings	No Testimony Given
Fisher and Fisher 114 Main Street - PO Box 621 Brattleboro, Vermont 05301	Al Sieffert & Nona Monis PO Box 977 - 118 Fannie Hill Road Wilmington, VT 05363
Jacob Brown 53 Abbington Terrace Glenn Rock, NJ 07452 Wilmington, VT 05363	Randy Cushing 696 Commercial Street Weymouth, MA 02189
Peter Wedeen 453 Coldbrook Road PO Box 816 Wilmington, VT 05363	Gail Dieter PO Box 732 West Dover, VT 05356
Regina D'Antuono 10 Fletcher Road Westford, MA 01886	
Andrew Maneggia 70 Stony Road Bolton, CT 06043	
Granville Gargiolo Prudential Committee Coldbrook Fire District 18 Coldbrook Road Wilmington, VT 05363	
Peter D. Van Oot, Esquire Down, Rachlin, Martin, PLLC 80 Linden Street - PO Box 9 Brattleboro, VT 05302-0009	

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: **Robert M. Rubin, Agent for 1 Cornell Inc.**

Applicant(s) Mailing Address: **16-C Harrison Street --- PO Box 500**  
**Keene, NH 03431 --- West Dover, VT 05356**

Address of the entity to be served: **123 Ski Area Access Road**  
**Wilmington, VT**

Tax Map #: **#HAYSTACK.SKI**

A copy of the request is filed in the office of the Board and is referred to as **Case #: 922**

Description of Case  
per Public Notice: **Section of Zoning Ordinance: Section 7. F.**

**Application being made by Robert M. Rubin as Agent for 1  
Cornell Inc., for Conditional Use approval to develop the  
Haystack Ski Area property under Section 7. F, Planned Unit  
Development (P.U.D.) of the Town Zoning Ordinance.**

Notice for a public hearing was published in the Valley News on: **July 14, 2005**

**July 21, 2005**

Notice was posted in one public place on:

**July 11, 2005**

A copy was mailed to the appellant on : **July 11, 2005**

The public hearing was held on: **Aug. 1, 15, 29, Sept. 19 and 29, 2005**

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.

<b>Appeal period for this Case expires on:</b>	<b>December 9, 2005</b>
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A copy of these findings was sent Certified Mail to the appellant on: **November 9, 2005**

Copies were mailed to those persons listed below as having been heard.

In addition to the Applicant/ Agent the following persons were heard by the Board in connection  
with this request:

Speaking for the application: Robert Rubin and Robert Foisie. Consultants for the Applicant were: Bob Harrington, Engineer; Dave Buckley, Ski Area Expert; Jennifer Conley, Traffic Engineer; and Ken and Robert Fisher, Attorneys.

### **INTERESTED PARTIES**

Interested Parties who gave testimony:

Jacob Brown Fannie Hill Rd.  
Peter Wedeen 453 Coldbrook Rd. (Across from entrance)  
Regina Dantuono 15 Haymaker Ln. #6F  
Andrew Maneggia Powderhorn #9G  
Granville Gargolo chair of Prudential Committee  
Deb Purvin through agent Peter Van Oot

People Identified as Interested Parties who gave no testimony:

Al Seifert Fannie Hill Rd.  
Nona Monis Fannie Hill Rd.  
Randy Cushing Powderhorn 6B  
Gail Dieter 102 Fannie Hill Rd.

People who requested but were not given Interested Party status:

Susan Haugwort  
David Paul

### **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 investigation.

### **EXHIBITS:**

- A. Blue Application Book including application and letter of authorization
- B. 1 - 8. Site Map/Plan, Pages 1 to 8
- C. 1 - 9 Large drawings (smaller versions in blue book), 9 pages
- D. Letter from Fire Chief Troy Johnson
- E. Parking Information - 2 pages
- F. Haystack Master Plan
- G. Lease of Land from Town of Wilmington to Haystack
- H. Summary of meetings, cases and units compiled by Building Inspector Al O'Neil. Date unknown
- I. Maps of villages in all three tracts
- J. Feb. 4, 1970 Agreement with Town. ("Agreement") Does not include Appendix B
- K. ZBA Case #97 Feb. 4, 1970
- L. ZBA Case #561 Feb. 1, 1988
- M. ZBA Case #504 Apr. 21, 1986
- N. Approved villages including Base Tract, 1972

- O. ZBA Case #490 May 16, 1985
- P. ZBA Case #535 June 22, 1987
- Q. Book of Haystack information mentioned on page 1 of this application. Not all inclusive
- R. Letter and Table of existing and proposed structures, items requested, cover letter. 5 pages.
- S. 1-4. Overview and Location Plan dated 8/25/05, 4 pages
- T. Letter of Agency for Peter Van Oot and cover letter by Mr. Van Oot.
- U. List of conditional uses for which the Applicant is applying and ones previously approved.
- V. Drawing of gatehouse.
- W. Letter dated 9/2/05 from Vt. Housing and Conservation Board to 1 Cornell.
- X. Addition to Exhibit B7 showing public walking path/access to Town land and Green Mountain National Forest.
- Y. Summary of hard surfaces.
- Z. Memorandum dated 9/19/05 from Peter Van Oot regarding density and coverage.
- AA. Received via FAX -- memorandum plus cover page from Peter Van Oot.

#### **Corrections/Additions to Exhibits Made During Testimony:**

1. S-4 includes a change from B-1 in that townhouse roads will all be looped for better access, especially for emergency vehicles.
2. In Blue Book -- On pages 18 (280 changed to 254 acres), 22 (250 changed to 190 townhouses and 80 changed to 60 townhouses). On page 36 Ken Fisher stated that the area provided for affordable housing was off Gallup Pitch Road, not Old Arc (sic) Road.
3. Exhibit E detailed the Parking Plan for the proposed development. The 230 spaces labeled "day use" would include employee parking. This was further modified in Ex. R (p. 1) and testimony.
4. Exhibit R, Table A does not include a proposed maintenance building and 135 additional employee parking spaces.
5. The Applicant is not planning on putting fencing around Mirror Lake as stated in various exhibits.
6. Exhibit X replaces other maps to show the changes in road layout for townhouses.

#### **HISTORY**

The property under consideration in this application is part of the original Haystack Master Plan (Master Plan) (Ex. F) and is covered in the Agreement between the original Haystack Developers and the Town of Wilmington (Agreement) (Ex. J). This property and additional acreage in the same area are referred to as the Base Tract in those documents. Over the years, there have been modifications to the plans. The most important cases are ZBA cases #97 (Ex. K), #490 (Ex. O), #504 (Ex. M), #535 (Ex. P), and #561 (Ex. L). Ken Fisher stated that Haystack Village West was built in 1965 and is not part of the Master Plan. He said that Haystack owned the southern portion of Fannie Hill Road and had a right of way on the rest of the road.

he number of approved units submitted in Ex. B came from the Haystack Master Plan of 1969. Ken Fisher stated that there was no separate Haystack Agreement with the Town of Dover. In the presented exhibits, they have isolated the number of units that were planned to be built in Wilmington from the units to be built in Dover.

There are two main elements in the Agreement. These elements are that "Sections designated as parcels 1 and 2 on the 'Haystack Master Plan' referred to in Appendix B shall be developed to an average density of not more than two family units per acre, provided further that not more than 40% of the total acreage within parcels one and two is used for family dwelling units." (Ex. J) Ken Fisher stated that he believes that the 2:1 (dwellings to acres) ratio applies to all three tracts covered in the Haystack Master Plan and that subsequent ZBA decisions supported this belief. He also stated that the 2:1 density started with ZBA Case #97 that was signed on Feb. 4, 1970 (Ex. K). Ken Fisher stated that when looking at density and coverage, each tract should be looked at individually. Mr. Peter Van Oot, Agent for Ms Purvin, disagreed with this and stated that the project should be considered as a whole. In Exhibit AA, Mr. Van Oot stated that "the Applicant's project as described by the Applicant to Ms. Purvin will comply with the density requirements of the Agreement..." This supercedes the conclusion of Exhibit Z previously submitted by Mr. Van Oot.

Mr. Ken Fisher stated that there are two types of common land: Village Common Land and other common land. The land shown in the approved villages is Common Land (surrounding Townhouse or Condominium Units), the nature of which cannot be changed. (Ex. A, p. 18) He further stated that recreational land had never been defined but that everything not designated as village common land is recreational land. Recreational land is basically undeveloped.

Four villages, Rushing Creek, High Country Summit, Mirror Lake and Powderhorn (formerly Woodland), have been previously approved for a total of 161 units, needing 80.5 acres under a 2:1 density ratio as contended by Ken Fisher. Actual acreage of the villages is 54.64 acres, leaving a shortage of 25.86 acres. The Applicant has allocated 25.86 acres of its total of 280.89 acres in order to make up this shortage. This land, part in the Commercial District and part in the Residential District, is identified on Exhibit B-2 as "Land Not To Be Developed" and "Land Set Aside To Make Up Acreage For Village Density 26 Acres". The remaining 255.03 acres is sufficient to satisfy a 2:1 density ratio for the 190 town house units, 60 condominium units and 200 hotel units proposed under this application.

Powderhorn Village is not part of this application but was part of the original Master Plan and Agreement. It is part of the Base Tract and was originally known as Woodland Village. It is located off the Main Access Road and is surrounded by property under consideration in this application. Only 27 of the approved 65 units have been built to date.

In 1987, 231 acres were purchased from the U.S. Forest Service by Haystack Associates. In ZBA Case #561 permission was granted to develop 79 of the 231 acres for sewage treatment and the remaining 152 acres "shall be added to the inventory of common land of Haystack." Those remaining 152 acres are part of this application. There are no deed restrictions for the use of the land.

The property covered in this application is in both the Residential and Commercial Districts. However, all the proposed changes and construction are in the Commercial District. (Ex. B-2)

There is no construction planned in the floodway. All residential units will be constructed at 1800 feet elevation or above and the maximum flood elevation is approximately 1770 feet at the entrance road. (Ex. A, p. 35) Commercial development is at a higher elevation than the lowest residential units. The proposed Lower Pump House Building would be one foot above flood plain. The proposed gatehouse will not be in the flood plain or fringe.

### STRUCTURES/CONSTRUCTION

The property under consideration presently has the following structures:

1. Old or "Lower" Base Lodge
2. Out Building next to Old Base Lodge
3. Maintenance Building
4. Snowmaking Building
5. New or "Upper" Base Lodge
6. Mirror Lake Pump Station
7. Cold Brook Withdrawal Pump Station

Buildings 1 through 4 would be demolished. Buildings 5 through 7 would remain.

Additional buildings that would be constructed are (Ex. A, U & R):

- A. Hotel/Base Lodge/Health Spa -- approval needed for location on site and confirmation of number of rooms
- B. 60 Unit Condominium Building
- C. 190 Townhouse units in 2 unit (59 structures) and 4 unit (18 structures) buildings for a total of 77 new structures.
- D. Maintenance/Snowmaking Building -- approval needed for new site and size increase.
- E. Two Snowmaking Pump Stations -- approval needed for replacement/reconstruction/size increase.
- F. Entryway or Gatehouse Building -- approval for location of site.

All proposed structures will meet the necessary 40 foot setback from side property lines and from nearest Town road (Coldbrook Road). The Applicant is requesting that setbacks from interior roads for 11 townhouses be waived.

The townhouses will have *three* 10 feet by 20 feet parking spaces per unit. These spaces will be *adjacent* to each unit. Each unit will have four bedrooms. (Ex. A, p. 7) The Applicant is requesting a waiver for eleven townhouse buildings that would not meet a 20 foot setback from interior roads. It is proposed that they would have a 10-foot setback. This is necessary due to the steep hillside with up to a 20% slope. Exhibit X shows changes to interior roads that will allow a better flow of traffic as the road is now "looped". This configuration will also be better for emergency vehicles. The Applicant was uncertain as to whether there would be a gated restricted access entrance, although a proposed gatehouse is shown in Exhibit V. The gatehouse will be on the main access road uphill from the entrance road to Fannie Hill Road.

The hotel will contain 80 one-bedroom units and 120 two-bedroom units for a total of 200 units

with a total of 320 bedrooms. In the early plans for Haystack, the plans were for a 700-room hotel. This was modified in ZBA Case #490 to 200 suites and 25 rooms.

The proposed hotel will also contain administrative areas, conference facilities, lobby, shops and restaurant/dining facilities. Also included in this building will be a private club with spa and exercise facilities with locker areas. The same building will house a new ski area **base lodge** which will contain administration, day care/ski school, mechanical, eating, rest rooms, retail, ski patrol, tickets sales and guest services. Parking for the hotel is 1.5 spaces per unit. There will be 197 spaces on the surface and 103 spaces in an underground garage for a total of 300 spaces. (Ex. E)

The **condominium** building will have 60 units. Units will have 2, 3 or 4 bedrooms with a total of 170 bedrooms. There will be 2 parking spaces per unit with 64 spaces on ground level and 56 spaces in an underground garage for a total of 120 spaces (Ex. A and E). Page 2 of Exhibit E also shows 6 day use spaces adjacent to the front of the condominium building.

**Mirror Lake** will have a new pump station and its water level will be raised approximately three feet, adding four million additional gallons. This will need further approval from numerous state agencies. Fencing will not be installed around the lake, contrary to information contained in the exhibits. Mirror Lake would be used for recreational uses, although the Applicant was undecided as to whether there would be public access.

All new roads will be designed to standards set by the Wilmington Highway Ordinance. They will be 24 feet wide (paved for 20 feet with two 2 foot shoulders.) The applicant will not be asking the Town to take over the ownership of the roads. Existing roads will be used for access to the hotel/base lodge, activity center ("Zoo") and maintenance and snowmaking buildings. The main access road will be paved.

A new building will be constructed that will contain both **maintenance and snowmaking**. It will replace two separate buildings. Its size will be 50 feet by 200 feet (Ex. R) and will be sited as in Exhibit X between the hotel and the waste water treatment lagoon which is on an adjoining property.

#### USES

Existing, Grandfathered or Previously Approved Uses for this property are (Ex. U):

1. Ski Area and Accessory Uses such as snowmaking and maintenance
2. Base Lodge
3. Hotel with 200 suites and 25 rooms

New Uses Being Requested for This Property Are:

- A. Activity Center, "the Zoo", located in the existing Upper Base Lodge. Requesting use under 7/A.1.(b) (Group Service Uses) and 7/A.9. (Accessory Uses)
- B. Hotel Spa under Accessory Uses for a Permitted Commercial Use (6/B.1.(b)(3))
- C. New Gatehouse Building as an Accessory Use to Ski Area (7/A.9)
- D. Condominium (7/A.2. Multi Family Dwelling)
- E. Townhouses (7/A.2)

### **Use by Public**

The ski area will be private for at least ten years as stipulated in the sales agreement with Mt. Snow and as written in the deed. There will be a maximum of 1500 skiers per day with up to 250 day ski passes sold to Wilmington residents. Mr. Foisie stated that the 1500 skiers per day is down significantly from the top numbers of skiers per day when Haystack was operated as a public ski area. It is not known how the Wilmington passes will be implemented. There will be 230 parking spaces for "Day Use". This area is located near the hotel. Parts of the hotel and base lodge area will be open to the public. There will be a pedestrian walkway running along the side of the hotel that will allow the public to gain access to the hiking trails and leased land for recreational use. This pathway would be open year round. (Ex. X)

### **Public Facilities Impact**

Wilmington Chief of Police Joe Szarejko gave testimony by email to the Chair that he saw no undue impact from the project on his department. The Applicant stated that the development will have its own security force.

Fire Chief Troy Johnson stated in a letter (Ex. D) and in testimony that his department has been meeting with the Applicant and is discussing items such as placement of fire hydrants, alarm and sprinkler systems and equipment needs. He also stated that the West Dover Fire Department is in a mutual aid association with Wilmington and would respond to a fire. West Dover Fire Department has a ladder truck and Wilmington does not. Mr. Rubin confirmed the discussions with the Chief. Both stated that an agreement would be reached that would address concerns of the Wilmington Fire Department.

The Applicant has contacted Deerfield Valley Rescue but has received no response. The Applicant is willing to work with Rescue on any concerns.

The possible impact on local schools will be addressed under Act 250 criteria.

The complex will employ 200 to 300 people. (Ex. A, p. 36) In Exhibit R, there is an addition of 130 parking spaces for employees. The employee parking will be located near the day skier lot, the hotel and hotel parking lot. A shuttle service for employees will be provided. This lot could also be used as an overflow public lot.

The Agreement (Ex. J) stated that 25 improved (water and sewage to the property) acres would be given to the Town for the construction of affordable housing. That land is now owned by the Town. The land is located in the Eastern Tract and is accessed from Gallup Pitch Road but has never been improved with road access, water or sewage. The Applicant has been in communication with Vt. Housing and Conservation Board (Ex. W). The Applicant is proposing to pay \$600 per unit, including hotel units. This would result in \$270,000 available for affordable housing. The Applicant believes that it is not practical to build on the Gallup Pitch site owned by the Town. The Applicant would not be involved in the actual construction of any affordable housing other than giving funds. It believes that organizations such as Brattleboro Area Community Land Trust would have more expertise in constructing affordable housing development.

### **Traffic**

Traffic studies (Ex. A, p. 37-38) project that trips will be less than what was generated when Haystack was at its peak. No other testimony regarding traffic was received.

### **Lighting**

All lighting will be downshielded. All exterior light fixtures for roadway, sidewalk and general area lighting will be "Full Cutoff" fixtures. This will minimize any light pollution. Although there is no final lighting plan the Applicant does not expect poles to exceed 12 feet or that halogen lights would be used.

### **Interested Party Testimony:**

Peter Wedéen said that he has sold/swapped four acres with former Haystack owners and that he had inserted a deed restriction against any building on these four acres acquired by Haystack. When Mt. Snow bought Haystack in 1992 and wanted to expand Mirror Lake, he said that an Act 250 decision denied the lake expansion due to the deed restrictions. He said that the Applicant wants to build a berm on these acres and that this would also violate the deed restrictions.

Regina Dantuono asked a series of questions: Would Powderhorn Village owners be able to use the ski area?; Would there be a reduction in taxes due to the grand list increase?; Had the Town offered incentives to the Applicants?; Would the Applicant (1. Cornell) continue to operate the ski slope?; When does the non-compete clause with Mt. Snow expire, if ever? Ms. Dantuono expressed concerns regarding water run-off resulting from new paved areas. Engineer Robert Harrington stated that the applicant will have to comply with state regulations and no increase in runoff would be allowed. Excess water will go into Mirror Lake or will be put back on the mountain through snowmaking.

Andrew Maneggia inquired about their roads and their maintenance. He also inquired about whether there would be ski access for Powderhorn Village residents.

Jacob Brown also inquired concerning the non-compete clause. He also inquired as to who would repair and snowplow Fannie Hill Road. The road is not owned by the Town.

Granville Gargolo gave testimony throughout the hearing regarding the history of the Haystack development and the definitions of common land.

Mr. Peter Van Oot, agent for Ms. Deb Purvin, submitted both oral and written testimony cited above.

## **II. The Board CONCLUDES:**

The Board concludes that this application and resulting decision are made under the Wilmington Zoning Ordinance in effect at the time of the application on July 11, 2005 and not under the subsequent changes to the Ordinance adopted by the Selectboard on August 17, 2005.

The Board concludes that the application is for property covered by the Haystack Master Plan, the 1970 Agreement and by zoning decisions.

All commercial development is located in the Commercial District and the requested new uses are conditional uses permitted in the Wilmington Zoning Ordinance.

There are other lands in the Golf Course Tract and in the Eastern Tract covered by the Master Plan and Agreement. The Applicant submitted maps and information regarding these lands. Although this information may be useful in future applications, the Board is limiting its decision to the lands in the Base Tract and, specifically, to those lands owned by the Applicant that are part of this application.

The Board concludes that there are confusing and sometimes contradictory meanings for the phrase "common land." There are two definitions under common land in the Wilmington Zoning Ordinance.

1. Land owned or controlled jointly by owners of cluster houses available to them on equal and common basis and for their exclusive use. Such land shall be controlled by a recorded covenant referred to in each deed and approved by the Selectmen

2. However, common land may include land which is not owned or controlled by, or for the exclusive use of the cluster house owners, provided that such land is restricted for a definite period of time to use or uses which have been approved by the Selectmen in writing.

Common land is also referred to in the Agreement. It states:

The balance of the land (common land) in parcels 1 and 2 shall be used only for roads, utility lines, recreational facilities... which facilities shall be for the benefit of lot owners in parcels 1 and 2 ... but not for use by the general public... Haystack will permit access to the undeveloped common land by the public for hunting, fishing, hiking, skiing and snowshoeing.

To avoid confusion, the Board will use the term *Village Common Land* when it meets definition #1 above. It will use the term *Restricted Common Land* when it meets definition #2 above. The third type will be referred to as *Undeveloped Common Land* which allows access to the public as set forth in the Agreement.

The Board concludes that the 25.86 acres that is to be set aside as Restricted Common Land is sufficient to meet a 2:1 density ratio for the villages of Rushing Creek, High Country Summit, Mirror Lake and Powderhorn (formerly Woodland). The remaining 255.03 acres shall be dedicated for the approved 190 townhouse dwelling units, 60 condominium dwelling units and 200 hotel units proposed under this application. At least 100 acres of these 255.03 acres shall remain Undeveloped Common Land. This land is mainly located between the hotel and the land leased from the Town of Wilmington.

The Board concludes that the condition in the Agreement for sewage and water to be supplied for the 25 acres now owned by the Town for affordable housing has never been satisfied. It may be impractical for that parcel to be used for the originally intended purpose. However, the Board finds that this project will have a significant negative impact on housing in Town for low and middle income fulltime residents. The Applicant's proposal to give at least \$600 per unit constructed is necessary to allow the Town to work with state and regional agencies to construct housing for low and middle income Town residents. However, the Board feels that this amount is insufficient and a similar amount per bedroom would be more appropriate.

**Criteria for granting a conditional use permit:**

1. *Proposed use(s) will not adversely impact the capacity of existing or planned community facilities.* The Board concludes that the greatest impacts will be in the areas of affordable housing and in the area of fire safety. To reduce the number and severity of calls, the Board finds that recommendations and agreements regarding fire safety are necessary. With the large number of employees needed, there will be a significant impact on and need for housing for year round and seasonal employees. This need for housing will also impact the housing inventory for other residents in the Town. The use of a private security force will greatly lessen the impact on the police force. However, the added development will certainly increase the amount of calls to the Wilmington Police Department. No testimony was received from Deerfield Valley Rescue but this Board believes that there would also be an increase in the number of calls to Rescue.
2. *The character of the area affected.* The Board concludes that, in the Agreement and in subsequent decisions by the Town, this area was approved 35 years ago for dense commercial and residential development. Therefore, this application is consistent with previously approved plans. Although the development proposed in this application will affect the character of the neighborhood, it is in large part "building out" previously approved uses and structures.
3. *Traffic on roads and highways in the vicinity.* Existing roads have historically handled heavy ski area traffic. The improvements to existing interior roads and building of new interior roads will limit the impact on both Powderhorn and Fannie Hill. The Applicant's statement that it will not ask the Town to take over ownership of interior roads in the future also lessens the impact to the town. The Board finds that Coldbrook Road will not see a significant increase in traffic.
4. *Other by-laws in effect.* The Board finds that the applicant will need to secure other required local and State permits.

**Criteria for a Planned Unit Development (PUD):**

The Board finds that this application falls under the definition of a PUD and that the Haystack development as laid out in the Haystack Master Plan has been reviewed as a planned development. Much of this application is a modification of an already-approved planned unit development.

The Board also finds that criteria for a PUD will only be applied to new uses in this application and to the locations of new structures and the new locations of previously approved structures.

The Board finds that under the Zoning Ordinance PUD requirements, it may grant a waiver for location and spacing for buildings. This would include setbacks from interior roads. The Applicant stated that the required setback from the road was 20 feet. The Applicant is requesting a 10 foot setback for 11 of the townhouses and a 20 foot setback for all other townhouses. The Board finds that the townhouses are located in the Commercial District so that the required setback from a road is 40 feet so that all the townhouses would require a waiver. Sixty-six units need a waiver to allow for a 20 foot setback and 11 units will need a waiver for a 10 foot setback. The Board concludes that the townhouse roads will remain under private ownership, will serve almost exclusively the residents of the townhouses and are not through roads. Modifications were made (Ex. X) to "loop" some of the roads to allow for better traffic circulation and for access of emergency vehicles.

The Board concludes that the testimony given by Mr. Weedon, Mr. Maneggia and Mr. Brown is not under the purview of the Board as they concern agreements (or the lack of agreements) between previous developers and private land owners. The Board concludes that the testimony given by Ms. Dantuono, with the exception of her comments regarding water run-off, are not under the purview of this Board.

The Board concludes that there is no construction in the flood way or fringe that would necessitate the approval of this Board.

#### **Approvals by the Board:**

1. The location of the Hotel/Base Lodge/Health Spa is approved as presented.
2. The location and size of the new maintenance/snowmaking building is approved.
3. The change in use to the Upper Base Lodge to "The Zoo" is granted under Section 7.  
~~A-1(b) Group Services and 7A.9 is granted.~~
4. The use for the Health Spa is granted under Section 6.B.1.(b)(3) Accessory Uses for a Permitted Use (hotel) in a Commercial District is approved.
5. The request for a waiver for interior road setbacks to not less than 10 feet for 11 townhouses and to not less than 20 foot setback for 66 buildings is granted.
6. The location, replacement or reconstruction of the Lower Pump Building is approved as an accessory use to a recreational facility.
7. The location and construction of the new Entry Building (gatehouse) is approved as an accessory to multi-family dwellings.
8. The type and location of new and replacement chair lifts and a storage building in which to store chairlifts is approved.
9. The expansion of Mirror Lake and the upgrading of the Mirror Lake Pump Station are approved.
10. The use, construction and location of a 60 unit condominium building are approved.
11. The use, construction and location of 77 townhouses buildings (190 units) are approved.

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

1. There shall be year round pedestrian access to the "Glebe Land" owned by the Town of Wilmington and to Green Mountain National Forest.

The access shall be as presented in Exhibit X. Public parking as shown in Ex. X shall be maintained year round. Signage shall be erected and maintained that indicates the public parking and access.

2. Placement, size and number of townhouses and roads shall be as presented. There shall be no more than 77 buildings with 190 dwelling units without further application to the Board.

3. Footprints of hotel and condominium building shall be as presented. There shall be no more than 200 hotel units and no more than 60 dwelling units in the condominium building without further application to the Board.

4. All new roads shall be at least 24 feet wide (Paved for 20 feet with 2 foot shoulders) and shall be designed to meet standards set by the Wilmington Highway Ordinance.

5. The Hotel shall have at least 300 parking spaces. The condominium building shall have at least 126 parking spaces. The townhouses shall have at least 3 parking spaces per unit. There shall be at least 130 parking spaces for employees that shall also be used as overflow day parking. All parking spaces shall be at least 10 feet by 20 feet.

6. The 25.86 acres identified in Exhibit B-2 shall be assigned as Restricted Common Land for The Base Tract.

7. There shall be a sum of not less than \$600 per hotel unit, condominium dwelling unit and townhouse dwelling unit given to the Town for affordable housing use. An agreement including but not limited to an amount to be paid for each hotel and dwelling unit and payment schedule to the Town shall be in place on or before the first anniversary of the granting of this application or before the opening of the hotel or the construction of any dwelling unit, whichever comes first.

8. Any newly constructed roads for this project shall remain under private ownership and maintenance.

9. All structures that are being replaced with another building used for the same purpose shall be demolished and removed within 60 days of the completion of the new structure.

10. All exterior lighting shall be downshielded. Pole height shall not exceed 12 feet and no halogen lights shall be used. All exterior light fixtures for roadway, sidewalk and general area lighting shall be "Full Cutoff" fixture. Placement of lighting on site shall be designed to reduce any light pollution from the project.

11. No structures as defined by the Wilmington Zoning Ordinance shall be built in the flood fringe or flood way without further application to this Board.

12. All 77 townhouse buildings shall be allowed to have setbacks of 20 feet from the interior roads. No more than 11 of the 77 townhouses shall have a setback of less than 20 feet from the interior roads. No townhouse building shall have a setback of less than 10 feet.

13. There shall be an agreement between the Town of Wilmington, the Wilmington Fire Department and the Applicant that may contain requirements for fire safety such as, but not limited to, placement of fire hydrants, sprinkler systems, alarms, numbering of units and equipment needs. This Agreement shall be signed by all parties no later than December 31, 2005. This agreement shall not limit the Town, Fire Department or Applicant in engaging in future agreements regarding fire safety and/or equipment.

Thus, the Development Review Board approves the application as listed above for the modification of a planned development including new uses and structures and location of structures, a waiver from road setback and identification of land use.

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.

This approval *does not relieve you*, as applicant, from obtaining any and ALL applicable State and other local permits.

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

Carl Boyd  
Sherry Brissette  
Louis Clark  
Andrew Schindel  
Polly (Nicki) Steel

OPPOSED:

None

ABSTAINING:

ABSENT:

RECUSED:

Polly Steel 1 11/9/05  
For the Board Date  
Polly Steel Chairperson

**DRB Case #922 – Mod A**

Town of

*Wilmington*

2 East Main Street - PO Box 217  
Wilmington, Vermont 05363

802-464-8591 (Voice)  
802-464-8477 (Fax)  
www.wilmingtonvermont.us

June 27, 2006

Certified Mail - Return Request Required to Applicant  
7004-0550-0000-7345-1179

Robert M. Rubin  
Haystack Club  
PO Box 429  
Wilmington, VT 05363

RE: Application: Modification of PUD # 922 (& Master Plan): Changes to Hotel, Condo Bldg, Town house  
location (Upper Mountain Development Area) and re-layout of roads  
DRB Case # #922 Mod-A Tax Map #: #HAYSTACK.SKI  
Appeal Period Expires: July 27, 2006

Dear Mr. Rubin:

Your Application for Development Review Board Approval for the above-referenced matter has been approved, with conditions. A copy of the DRB Findings of Fact and Statement of Findings is enclosed for your records. If appropriate, conditions set forth in the DRB approval should be submitted to the Zoning Administrator's office prior to the expiration of the appeal period. Please note there is a thirty (30) day appeal period before this Approval becomes final. That appeal period ends on the date noted above.

Please note, this approval shall not take effect until the date noted above *or* if a notice of appeal is filed with the Environmental Court by such date, it shall not take effect until the Environmental Court issues its final decision.

A Zoning Permit *must* also be issued prior to the commencement of any work in conjunction with your application. It is *anticipated* that the Zoning Permit will be issued so that the appeal periods of the DRB approval and the actual Permit run concurrently and expire at the same time. You will receive a letter following the issuance of your Zoning Permit that will state the expiration of Zoning Permit appeal period.

Please call our office prior to taking any further action with this property to confirm that no one has appealed the decision of the Development Review Board or your subsequent Zoning Permit.

If you have any questions please call me 464-8591.

Sincerely,

Bonnie L. Lorimer

Encl: Findings of Fact & Statement of Findings

CC: Kevin O'Donnahue, David Dillon, c/o Haystack Club, PO Box 429; Wilmington, VT 05363

Gray Lowe, Mark Hamelin, c/o Haystack Club, PO Box 429 Wilmington, VT 05363

Kenneth V. Fisher, c/o PO Box 624, Brattleboro, VT 05301

Robert Harrington, Harrington Engineering PO Box 248 North Pomfret, VT 05053

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: 1 Cornell, Inc., Robert Rubin, Agent

Applicant(s) Mailing Address: PO Box 429

Address of the entity to be served: 125 Ski Area Access Road  
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 #922-Mod A

Description of Case per Public Notice: Application for amendment to PUD (and Master Plan) approval in DRB Case #922  
Amendment includes changes to Hotel/Base lodge and Condominium structures,  
including minor location

Notice for a public hearing was published in the Valley News on:

May 4, 2006

Notice was posted in one public place on:

April 27, 2006

April 21, 2006

A copy was mailed to the appellant on: April 25, 2006

The public hearing was held on: May 15, 2006

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 27, 2006
---	---------------

A copy of these findings was sent Certified Mail to the appellant on: June 27, 2006

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.)

**Witnesses for the Applicant**

Kevin O'Donnahue, 1 Cornell, Inc.

David Dillon, 1 Cornell, Inc.

Kenneth Fisher, Attorney

Gary Lowe, Architect

Mark Hamelin, Design Director

Robert Harrington P.E.

Troy Johnson, Fire Chief

Sonia Alexander, Town Manager

Bonnie Lorimer, Zoning Administrator

There were no requests for Interested Party status.

## 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 investigation.

### EXHIBITS:

- A. Corporate Resolution
- B. Statement of Purpose
- C. Haystack Club Visual Analysis
- D. Haystack Club Overall Plan Dated 4/24/06 (plot plan)
- E. Condominium Floor Plan
- F. Hotel Floor Plan
- G. Fire Truck Draft Agreement

Applicant is seeking to modify DRB Case #922 with changes to site plan, including relocation/positioning of town house units in the "upper development area of the project", road layout, parking, hotel layout, condominium layout, hotel and condominium unit allocations.

Robert Rubin stated that changes would bring the total hotel units down from 200 to 162 and total hotel bedrooms down from 320 to 318. Changes to the condominium building would bring the number of units up from 60 to 89 and total bedrooms up from 170 to 198. Hotel parking will be 1.5 spaces per unit, totaling 243, with 110 spaces in the underground garage and 133 spaces in the parking area south of the hotel. Condo parking will be 69 spaces in the underground parking garage, 81 spaces in the condo parking lot, and space for 28 cars in the parking area south of the hotel.

The hotel building will be moved forward approximately 100 feet and away from the property line 15 feet. The footprint will be lengthened by 25 feet to 35 feet to allow for more corner units. The modification of the siting will allow for better emergency services access by increasing space on the easterly side (mountain side) of the buildings. (Exhibit D)

David Dillon stated the addition of a 5th story to the buildings would necessitate a change in structure from wood frame to steel skeleton construction, with concrete deck spans making the building safer for fire fighting. (Applicant states that it will also encourage employees to participate in volunteer emergency services and provide employees the latitude to do so, within reason.)

Gary Lowe spoke about the increase of the hotel and condo building's ridge height from 62 feet to 75 feet that an additional story would require. He also stated that the total height of 85 feet above grade was to include a clocktower. The clocktower contains no living space.

Mark Hamelin spoke about the visual impact of the hotel and condo height increase. While the height from grade will increase, the grade elevation will be lower on the topography and the buildings will have an 8 feet to 10 feet net increase in elevation. There will be no additional visual impact from Coldbrook Road. There will be only minimal changes to visual impact from other areas, such as the Mt. Snow Country Club in West Dover.

A graphic was used as evidence. (Exhibit C)

Robert Harrington discussed the topography and how the change would lower the grade elevation of the hotel and condo buildings, reduce the need for blasting and allow access road corners to be less sharp. (Exhibit D)

Kevin O'Donnahue spoke about the Fire Truck Draft Agreement (Exhibit G) and also about the Fire Department Benefit Fund, and how they would work. The Benefit Fund will contribute \$25.00 per/man per/fire for equipment and training for a potential of \$5,000.00 per year, based on average historical, not actual, calls.

Sonia Alexander stated that the Town Manager nor the Selectboard had any objections to the proposed modifications.

Troy Johnson stated his approval of the new design and said that the construction technique was safer for fighting fires. The upper level windows will be accessible by the new fire truck. He was concerned about a second means of egress from the loft areas and indicated that it will be provided for. He had no new reservations with the plan, but would like emergency service access to be 20 feet in width. He also discussed the training agreement.

## **II. The Board CONCLUDES:**

The applicant's request for modifications to site plan, road layout, parking, hotel and condo unit allocations does not substantially differ from previous approval in DRB Case #922.

Modifications to the site plan will move the building further away from the lot line. Lowering the building on the topography will allow for more space between the hillside and buildings. The increased space will provide more room for emergency services.

Modifications to the road layout will be beneficial by making access road corners less sharp allowing better access for emergency services.

Modification to parking will result in a change in parking space to bedroom ratios, .938 percent to .755 percent hotel (down slightly) and .706 percent to .899 percent condo (up slightly) but will still adhere to the 1.5 spaces per hotel unit and 2 spaces per condominium unit approved in the original Case 922. (Exhibit D).

Modifications to the layout of the building will mean an additional story shall be constructed for a total of 5 (five) stories, including lofts. The additional story will bring the overall height of the building to 75 feet, resulting in a net increase in elevation of 8 feet to 10 feet. Visual impact changes should be minimal (Exhibit C). The change in building height is within the capabilities of emergency services (Exhibit G). These changes will not adversely affect any minimum requirements of Section 7E of the Zoning Ordinance.

The Board finds that the application states Section 7F of the Wilmington Zoning Ordinance, as was in place at the time of DRB Case #922. At this time Section 7E is the relevant reference

The Board finds that in Exhibit B the total number of hotel units was incorrectly stated. The correct total is 162 units. The Applicant agreed that 162 is the correct number.

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

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

1. Emergency services access (fire road) shall be of 20 feet (twenty feet) in width.
2. Siting of hotel to be as presented
3. Allocation of units and bedrooms to be as presented in Exhibit B with the corrected number of hotel units to be 162.
4. Allocation of condo parking spaces shall be 178, corrected from Exhibit B. (2 spaces x 89 units)
5. Allocation of parking ( above and underground), to be as presented for the hotel.
6. Applicant shall file with the Wilmington Zoning Department, Vermont, licensed Engineer/ Surveyor stamped and signed " AS BUILT " plans of Buildings, Roads, Lifts, and all other infrastructure as each phase of construction is completed. No further construction shall be started until the AS BUILT Plans have been submitted.
7. Siting of town-houses, with parking, in the "upper development area of the project", to be as presented on plan.
8. Any modification shall require approval of the Development Review Board.
9. If the project is not substantially completed within five (5) years from the issuance of this approval the applicant or any future owner(s) of the property must come before this Board with a new application to complete this project. The new application will be reviewed in accordance with permit regulations and agreements in effect at that time. For the purpose of this condition, "substantially completed" is defined by this Board as having at least 75% of the proposed condominium and town house units ready for occupancy.

Thus, the Development Review Board approves this application for amendment to PUD (and Master Plan) approval in DRB Case # 922.

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.

This approval *does not relieve you*, as applicant, from obtaining any and ALL applicable State and other local permits.

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

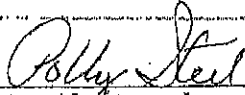
Polly (Nicki) Steel  
Andrew Schindel  
Sherry Brissette  
Carl Boyd  
Thomas Manton

OPPOSED:

ABSTAINING:

ABSENT:

RECUSED:

  
For the Board  
Polly Steel

1 6/27/06  
Date  
Chairperson

**DRB Case #922 – Mod B**

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: 1 Cornell, Inc., Agent: Robert M. Rubin

Applicant(s) Mailing Address: PO Box 429  
Wilmington, VT 05363

Address of the entity to be served: 125 Ski Area  
Wilmington, VT

Tax Map #:

A copy of the request is filed in the office of the Board and is referred to as Case #:922 ModB

Description of Case per Public Notice: Section of Zoning Ordinance: 7 E. Application being made by Robert M. Rubin, Agent for 1 Cornell, Inc., for an amendment to PUD (and Master Plan) approval in DRB Case #922. Amendment includes changes to development of lower mountain area re: Gatehouse location, Condominiums, Town Homes, road layout, add ski lift & tennis courts.

Notice for a public hearing was published in the Valley News on: June 1 & 8, 2006

Notice was posted in one public place on: May 30, 2006

A copy was mailed to the appellant on: May 31, 2006

The public hearing was held on: June 19, 2006

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:	August 6, 2006
---	----------------

A copy of these findings was sent Certified Mail to the appellant on: July 7, 2006

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.)

Bonnie Lorimer, Zoning Administrator  
Troy Johnson, Fire Chief

RECEIVED  
JUL 10 2006

CC: DD/TL

Town of

Wilmington

BY: .....

2 East Main Street - PO Box 217  
Wilmington, Vermont 05363

802-464-8591 (Voice)  
802-464-8477 (Fax)  
www.wilmingtonvermont.us

July 7, 2006

Certified Mail - Return Request Required to Applicant  
7004 0550 0000 7345 4583

Robert M. Rubin  
1 Cornell, Inc.  
PO Box 429  
Wilmington, VT 05363

RE: Application : Modification of #922 Lower/Bottom portion of Development - reduce # of Town House Units, Add Condo Building, Tennis Courts, Ski Lift, relocate Gate House, change interior roads  
DRB Case # #922 Mod-B Tax Map #: #HAYSTACK.SKI  
Appeal Period Expires: August 6, 2006

Dear Mr. Rubin:

Your Application for Development Review Board Approval for the above-referenced matter has been approved, with conditions. A copy of the DRB Findings of Fact and Statement of Findings is enclosed for your records. If appropriate, conditions set forth in the DRB approval should be submitted to the Zoning Administrator's office prior to the expiration of the appeal period. Please note there is a thirty (30) day appeal period before this Approval becomes final. That appeal period ends on the date noted above.

Please note, this approval shall not take effect until the date noted above *or* if a notice of appeal is filed with the Environmental Court by such date, it shall not take effect until the Environmental Court issues its final decision.

A Zoning Permit *must* also be issued prior to the commencement of any work in conjunction with your application. It is *anticipated* that the Zoning Permit will be issued so that the appeal periods of the DRB approval and the actual Permit run concurrently and expire at the same time. You will receive a letter following the issuance of your Zoning Permit that will state the expiration of Zoning Permit appeal period.

Please call our office prior to taking any further action with this property to confirm that no one has appealed the decision of the Development Review Board or your subsequent Zoning Permit.

If you have any questions please call me 464-8591.

Sincerely,

  
Bonnie L. Lorimer  
Zoning Administrator

Encl: Findings of Fact & Statement of Findings  
Cc: Troy Johnson, Fire Chief - hand delivered

No one requested Interested Person status.

## **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 investigation.

The following Exhibits were entered:

- A. Corporate Resolution and Appointment of Agent, R. Rubin
- B. Description of Proposed Changes - 2 pp
- C. List of Abutters - 3 pp
- D. Maps - 3 pp

Robert Rubin spoke for the Application.

Additions to Application: Mr. Rubin stated that the road frontage, which was omitted from the application, is 1316 feet. Although a small part of the parcel is in the flood hazard area, none of the changes being applied for are in the flood hazard area.

The proposed changes are all on the lower part of the mountain. Those changes are:

1. **A new lift.** This lift will run along the Powderhorn property line. It will serve the existing lower mountain ski trails. These trail were originally going to be removed but, with the new configuration of the buildings, will now be used (Ex. B & D).
2. **A second condominium building.** The building will be located slightly uphill from the existing lower base lodge (Ex. D). It will contain 81 units. The existing base lodge will be removed. Although the exact configuration of the units is not decided, the units will have 2 to 4 bedrooms. One wing will be 3 1/2 stories and the other wing will be 5 1/2 stories with a maximum height of 75 ft. It will be below the sight line from Coldbrook Road (Ex. D page 3). There will be two parking spaces per unit for a total of 162 parking spaces. 62 spaces will be above ground and 100 underground.
3. **A reduction in the number of townhouses.** To keep the total number of units at 450, the townhouse units will be reduced on the Lower Mountain to 78. There will be 7 two dwelling unit buildings and 16 four dwelling unit buildings. The Lower Mountain is shown on Exhibit B, page 1 in the square delineated by a heavy dotted line. There will still be 3 contiguous parking spaces for each unit (Ex. B & D). There will still be 9 four dwelling unit buildings and 2 two dwelling unit buildings on the Upper Mountain for a total in the entire project of 118 townhouse dwelling units. The townhouse buildings will also be resited as shown in Exhibit D.
4. **A newly designed and located Gatehouse.** The Gatehouse is redesigned in order to have one lane of traffic going on each side of the building under canopies that project out from the building. A third "by-pass lane" will be available for through traffic, delivery

and construction vehicles, etc. The square footage of 1410 sq. ft. is smaller than the previously approved building. Starting sometime in 2007, the Gatehouse will be manned 24 hours a day. The location has been moved to slightly above where Fannie Hill Road splits off the main access road known as Ski Area Access Road (Ex. D). The Gatehouse is above the flood hazard area. People going to the Powderhorn Village will enter through the Gatehouse.

5. **Reconfigured Roads.** Due to the location of the proposed second condo building and reconfigured townhouses, the roads for the lower area have been redrawn (Ex. D). This will result in fewer roads and less pavement. Access to the entire resort will be from the Ski Area Access Road. The road to the lower townhouses will now end in a cul-de-sac and not intersect with Fannie Hill Road.
6. **Tennis Courts.** There will be three tennis courts located adjacent to the proposed second condo building. There will be 11 parking spaces for the courts (Ex. D).

The public parking area that was located near Coldbrook Road for people using the hiking trail has been eliminated. Public parking for the trail will be near the hotel.

Chief Johnson stated that he did not have any problem with the reconfigured roads or the other proposed changes. He will continue to work with the Applicant regarding the placement of hydrants and other safety concerns.

## II. The Board CONCLUDES:

With the approval of this application the total units are as follows:

Hotel	162 units (approved in #922 Mod A)
Condo Building - Upper Mtn.	89 Units (approved in #922 Mod A)
Condo Building - Lower Mtn.	81 Units (approved in #922 Mod B)
Townhouse Units-Upper and Lower	118 Units (Upper - approved in Original #922 and Mod A and Lower in Mod B)
Total units in all buildings is 450	

The Board notes that on Exhibit D, page 1, there are actually 17 four dwelling unit buildings shown within the Lower Mountain delineation. However, one building is accessed off a road in the Upper Mountain and is counted as an Upper Mountain townhouse building.

The Board concludes that the unit count remains the same as the original Case #922 approval even though the configuration of the kinds of units is different. The changes of the configuration allows for the reduction of road surface. It also results in having ski trails at the bottom of the development. Both of these changes will enhance the visual qualities of the project and is consistent with the character of the neighborhood.

The addition of a ski lift to serve the lower trails will not have an undue adverse effect on traffic, character of the area, or capacity of existing or planned community facilities.

The Board concludes that, although the total number of parking spaces will change, the number of spaces for a condo unit will remain at two and the number of spaces for a townhouse unit will remain at three. The board also concludes that 11 spaces for three tennis courts are sufficient.

Because the total number of hotel, condominium and townhouse units remains at 450, the Board concludes that there will be no greater amount of traffic than presented in the original Case #922.

Given the testimony of the Fire Chief, the Board concludes that the proposed changes will not result in a negative impact on community services or public safety.

The Board concludes that the redesigned Gatehouse is smaller than the original proposal and therefore may even serve to lessen impact. Having three lanes for traffic will facilitate the movement of vehicles. The proposed location, still located outside of the flood hazard area, has little or no impact on the project.

The Board concludes that the removal of the public parking for the hiking trail will not inhibit the public's use of the hiking trail as long as hikers have access to parking near the hotel.

The addition of three tennis courts is consistent with a project of this nature, is allowable in this District and will have minimum impact.

None of the proposed changes has an undue adverse effect on the criteria used for approval.

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

1. The number of units for the second condominium building shall be 81 units.
2. The number of units for the townhouses shall be 78 for the Lower Mountain for a total in the entire project of 118.
3. The locations of the Gatehouse, the second condo building and the townhouses shall be as shown in Exhibit D.
4. The lay-out of interior roads shall be as shown in Exhibit D.
5. There shall be no more than three tennis courts. At least 11 parking spaces shall be provided for the courts.
6. The parking spaces for the second condo building shall be 162 and shall be both above and below ground as listed in Exhibit B.
7. There shall be three parking spaces for each townhouse unit as shown in Exhibit D.
8. The public shall be able to park near the hotel in order to access the hiking trail.

Thus, the Development Review Board approves the application for:

1. A second condominium building.
2. A new ski lift.
3. A reduction in total unit number for the townhouses and changes in the siting of the remaining townhouses.
4. The redesign of the Gatehouse and a relocation of the Gatehouse.
5. Reconfiguration of the interior roads.
6. Three tennis courts.
7. Elimination of public parking near Coldbrook Road.
8. Any modification shall require approval of the Development Review Board

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.

This approval *does not relieve you*, as applicant, from obtaining any and ALL applicable State and other local permits.

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

Carl Boyd  
Sherry Brissette  
Tom Manton  
Andrew Schindel  
Polly (Nicki) Steel


OPPOSED:

None

ABSTAINING:

ABSENT:

RECUSED:

 7-7-06  
For the Board Date  
Andrew M. Schindel Vice-Chairperson

**Application # 2012 – 051**

Town of

*Wilmington*

PO Box 217  
2 East Main Street  
Wilmington, VT 05363-0217

(802) 464-8591  
(802) 464-8477 FAX  
[www.wilmingtonvermont.us](http://www.wilmingtonvermont.us)

July 27, 2012

Robert Rubin  
Haystack Club Operating C., LLC  
PO Box 2210  
West Dover, VT 05356

Re: Application #2012-051 / Tax Map HAYSTACK.SKI / 125 Gatehouse Trail

Dear Mr. Rubin:

Enclosed is your copy of the signed Findings and Decision of the Development Review Board for the above referenced application. Please be sure to read the decision for any conditions or limitations the Board has included. Also note there is a thirty (30) day appeal period before this Approval becomes final. The 30-day Appeal period for this Decision of the Board will expire on August 27, 2012. A Zoning Permit must also be issued prior to the commencement of any work in conjunction with your application. It is anticipated that the Zoning Permit will be issued so that the appeal periods of the DRB Decision and the Zoning Permit will expire at the same time. You will receive the Zoning Permit and a Notice to post on the property for the 15-day Appeal period.

If you have any questions or concerns, please call me at 464-8591.

Sincerely,



Alice Herrick  
Zoning Administrator  
Town of Wilmington

Cc: Interested Parties  
Encl: Findings

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 Rubin, Haystack Operating Co., LLC, PO Box 2210, West Dover VT, 05356

Owner/Applicant(s) Mailing Address: PO Box 2210, West Dover VT, 05356

Address of the subject property: 125 Gatehouse Trail, Wilmington, VT 05363

Tax Map #HAYSTACK.SKI, 001-01-007.000 (Glebe land owned by the Town of Wilmington), HAYSTUTL.000, 02-01-003.000, 02-01-002.000, 02-01-043.000, 02-01-001.000, 02-01-044.000, HSHIGHCO.LND, HSSUMMIT.LND.

A copy of the request is filed in the office of the Board and is referred to as:

Case #: 2012-051

Description of Case per Public Notice:

Application # 2012-051 owner: Hermitage Inn Real Estate Holding Company, LLC, Agent: James Barnes. Application being made for Planned Unit Development review to allow revisions to an existing PUD and subdivision of 9 additional lots; Zoning Ordinance Section 3(e), 7.E, location: 125 Gatehouse Trail.

Notice for a public hearing was published in the Valley News on: 5/18/2012

Notice was posted in three public places on: 5/18/2012

A copy of the notice was mailed to the applicant on: 5/18/2012

A copy of the notice was mailed to the abutters on: 5/18/2012

The public hearing was held on: June 4, June 18 and June 25, 2012

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 Vermont Environment Court.

Appeal period for this Case expires on: August 30, 2012

In addition to the Applicant and 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 Fisher, attorney for Applicant  
Robert Harrington, engineer for Applicant  
Bruce Wyman, witness for the Applicant  
Ken March, Wilmington Fire Chief

Agent Bob Rubin and owner Jim Barnes spoke for the application.

#### 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.

#### EXHIBITS:

Application (three pages)

- A Consulting Affiliates list
- B Deeds of Hermitage Inn Real Estate Holding Company, LLC (three pages)
- C Resolution of Hermitage Real Estate Holding Company, LLC (authorization)
- D General Description of Proposed Amendment Application for Wilmington DRB
- E Summary of requested changes/additions to existing permits (6 pages)
- F Report from Jennifer Conley dated May 10, 2012 on the traffic study
- G Applicant's A-buffers List for Wilmington and Dover properties (6 pages)
- H Haystack & Hermitage Inn plan set by Harrington Engineering, Joyce Land Surveying Corp. and Trinity Engineering, 5/14/12.
  - 1. Updated Master Plan, MP-1, 5/14/12.
  - 2. Site Plan, SP-1, 5/14/12.
  - 3. Single Family Dwelling Conceptual Layout, SP-2, 05/14/12.
  - 4. Proposed Hermitage Lift, SP-3, 05/11/2012.
  - 5. Preliminary Site Plan 10 Unit Building, C-1, 2/13/2012.
- I Photographs of Temporary Sales Office/Rescue Building (4 pages)
- J Elevations for Toboggan Shed, John Guminak Design Services, 12/13/11. (5 pages)
- K A-butter's List for Wilmington properties as provided by Zoning Administrator. (2 pages)
- L-1 Findings for Case 922
- E-2 Findings for Case 922 Mod A
- E-3 Findings for Case 922 Mod B
- M Assignment of Lease with the Town of Wilmington, Oct 21, 2011.
- N Lease agreement with the Town of Wilmington, June 1994.
- O Agreement between the Town of Wilmington and Haystack Club/1 Cornell Inc.

P Letter from Wilmington Water District dated June 13, 2012

Q Description (3 pp) and drawings of Base Lodge. Drawings replaced by Ex. BB.

R Haystack Club Trails and Winter Activities; SP-4, [by Harrington Engineering], no date and description.

S Site Plan, SP-1 [by Harrington Engineering], 05/23/12, revised 6/18/12 to add 3 parking spaces for Glebe land access, showing base area and listing proposed density mix.

T Haystack & Hermitage Inn [by Harrington Engineering]

a. Updated Master Plan, MP-1, 05/24/12, revised 6/18/12 to show construction timing with narrative

b. Site Plan, SP-1, 05/14/12

c. Single Family Dwelling Conceptual Layout, SP-2, 05/14/12;

d. Proposed Hermitage Lift, by Joyce Land Surveying, 05/22/2012

e. Preliminary Site Plan, 10 Unit Building, C-1, by Trinity Engineering, 2/13/2012

U Zoning Study of Land Parcels, 1 Cornell Inc. by Richard Joyce, SP-9, 7/8/05, submitted to show the 26 acres set aside make up acreage for village density.

V Boundary Survey & Subdivision Plat, Rushing Creek Village, Hermitage Road & Fannie Hill Road by Joyce Land Surveying Corp., SP-10, Feb. 10, 2010.

W Letter from Wilmington Fire Chief dated 6/14/12, 2 pp.

X Single Family Dwelling Water & Sewer Plan, & Grading Plan, [by Harrington Engineering], SP-2, 05/23/12, revised 6/18/12

Y Proposed Lift & Trail, by Joyce Land Surveying Corp., 3/11/2012, no revisions

Z Proposed Restoration, by Trinity Engineering, C-1, 5/21/2012, no revisions.

AA Letter from Wilmington Police Chief dated June 22, 2012

BB Haystack Club - Base Lodge by Austin Design, Inc. and John Gurniak Design Services. These replace drawings in Exhibit Q

a. Index of Drawings

b. 1<sup>st</sup> Floor Plan, A3.1

c. 2<sup>nd</sup> Floor Plan, A3.2

d. Basement Plan, A3.3

e. Sub-Basement Plan, A3.4

f. East Elevation, A4.1

CC Cover letter from James Libby, Jr. dated 12/27/06 (1 p) and Affordable Housing Mitigation Agreement between 1 Cornell, Vt. Housing and Conservation Board and Town of Wilmington (9 pp)

1. The subject property is in the Commercial District of the Town of Wilmington. The proposal includes properties identified as Tax Map #s HAYSTACK, SKI, 001-01-007.000 (Glebe land owned by the Town of Wilmington), HAYSTUTL 000, 02-01-003.000, 02-01-002.000, 02-01-043.000, 02-01-001.000, 02-01-044.000, HSHIGHCO.LND, HSSUMMIT.LND

2. Robert Fisher stated that he was at the hearing as the attorney for the Applicant, not

- Condo building approved in #922 A & B with 89 units.
- Townhouses in 2 different areas (Upper and Lower) approved for a total for 118 units in #922 B. (As noted above, 8 units have been constructed to date with 4 more permitted)
- New maintenance and snowmaking building approved in #922. The size and location of these building would remain as approved in #922.
- Two new pump stations in #922. The size and location of these building would remain as approved in #922.
- Not more than 3 tennis courts approved in #922 B. There are no plans to build three tennis courts. Their location is now where the proposed nine lot subdivision will be.

8. Proposed work/changes for the coming year is as follows:

- Remodel rescue shed on Glebe Land. This building will be used for sales and warming hut.
- Construct 12 foot by 24 foot building to be used for storage of ski patrol toboggans at the top of the mountain on Glebe Land.
- Construct access road to go from Chamonix Trail to the upper parking lot. As this lot will serve visitors and employees in the near future, the road will have regular to moderate traffic. In the future, this road will also lead to the hotel. To accommodate future increased traffic, the road will be paved to 24 feet with two foot wide shoulders (28 feet total) and will have guardrails.
- Construction of a vehicular bridge over the Tunnel Ski Trail. This bridge would connect the upper townhouse area with the proposed condominium area. Conditions regarding the height of the area below the bridge have been addressed by the Wilmington Fire Chief in Exhibit W.
- Construction of base lodge. (See below for additional information)
- "Trade in" 81 condo units in the lower area that were approved in #922 Mod B and instead construct nine single-family dwellings on the proposed nine individual lots.
- Change number of units in hotel to 200 units. The exact plans for the hotel are in development.
- Change number of townhouses to 40 units in the upper area and 52 units in the lower area for a total of 92 dwelling units. The units in the upper area will consist of two two-unit dwellings (4 units) and nine four-unit dwellings (36 units).
- Construct a new ski lift that would begin at the Hermitage Inn in West Dover and cross into the Town of Wilmington. (Exhibit Y)
- Construct new ski trail that would be served by the new lift. A portion of the trail would be in Wilmington. (Exhibit Y)
- Replace snowmaking pipe. The pipe would be in the same location but would be slightly bigger in diameter.
- Reroute snowmobile trail so that it no longer goes along Fannie Hill Road.

9. Proposed additional uses are as follows (Exhibit R -- description and map):

- A. Uses that take place entirely in the Town of Dover and do not require

review or approval from this Board:

- (1). Ice skating
- (2). Tubing/Sledding
- (3). Sleigh rides

B. Uses that will take place solely in Wilmington or in both Wilmington and Dover:

(1). Cross country skiing - The trails will be open on weekends and during the week as needed.

(2). Base Lodge/Amenities Center (Exhibit Q - narrative and Exhibit BB - drawings) - Expected opening is November, 2013. Hours of operation will be 7 am to 7 pm Sunday through Thursday and 7 am to midnight on Friday and Saturday. Besides serving as a base lodge for skiing activities (including but not limited to locker rooms, restaurant and bar facilities, bathrooms, ski school, ski patrol rooms, etc.), the building will also serve as an amenity center and include such activities and services as fitness rooms, sales area, entertainment areas, nursery, teen center and spa. Parts of the building will be used for receiving, food delivery and preparation, commissary, mechanical areas, shipping office and general storage. There may be a temporary warming hut erected in this area for the 2012-13 ski season but it is not part of this application.

(3). Snowmobiling - The only snowmobiling by individuals or small groups in the Town of Wilmington will be on VAST trails. There will be snowmobiling off of VAST trails but that will only be in areas near the Hermitage Inn that is located in Dover.

(4). The Applicant is proposing to have not more than two organized snowmobile race weekends per year. These events will occur at the beginning and end of the ski season and will be sited on Haystack Ski Area trails. These races will be open to the public as spectators and be similar to the races that Rock Maple used to run at the ski area.

(5). The existing building at the top of the mountain on the Glebe Land will be repaired and used for sales and a small warming hut. The new building will be used for ski patrol toboggan storage.

10. The original Agreement with the Town of Wilmington established an average density for dwelling units throughout all the areas of the PUD. In case #922 the DRB concluded that "The remaining 255.03 acres shall be dedicated for the approved 190 townhouse dwellings, 60 condominium dwelling units and 200 hotel units proposed under this application. At least 100 acres of the 255.03 acres shall remain Undeveloped Common Land. This land is mainly located between the hotel and the land leased from the Town of Wilmington." There were a total of 450 units approved in #922. Cases #922 Mod A & B changed some of the types of dwelling units but neither case approved more than 450 units. The Applicant would like to change the allotment to the dwelling units listed below (Ex. S):

Hotel	200 units
Condominium	89
Townhouses (Upper:40/Lower:52)	92
9 Single Family Dwelling on 9 individual parcels	9

**Total 390 units**

The Applicant would like to reserve the right to propose, at a future date, an additional 60 dwelling units. The type and location of these units is not defined at this point. This would bring the total units to 450 and that total would not exceed the total approved in Case #922.

11. The public hiking trail leading up along the ski trails to the Glebe Land will remain and will continue to be open to the public. Three parking spaces will be available near the Gatehouse and parking will also be allowed in the upper parking area for people using the trail.
12. On December 31, 2005 an agreement was signed by Robert Rubin for Haystack Club + Cornell Inc. and the Town Manager and the Fire Chief of the Town of Wilmington. (Ex. O) This agreement covered Water Supply, Fire Prevention/Hazard Mitigation, Village Buildings, Fire Equipment and the purchase of a Quint fire apparatus. The agreement also stated that two payments of \$125,000 each were to be paid to the Town on December 1, 2006 and September 1, 2007. These payments were never made. Mr. Rubin stated that Mr. Barnes is willing to make these payments. He requested that the first payment of \$125,000 be due upon receipt of the State Certificate of Occupancy for the Base Lodge and the other payment of \$125,000 upon receipt of the State Certificate of Occupancy for the hotel. Fire Chief March stated that he does not like the Quint and it would not fit into the present firehouse. Also, the price for aerial trucks has increased in the six and a half years since the agreement so that a used big truck in decent condition would cost about \$500,000. At this point, Wilmington has no truck that could reach the top of the Base Lodge although the Town of Dover does. The Wilmington Fire Department can only reach up a maximum of 35 feet using "ground ladders" (individual ladders that are placed on the ground). Chief March also stated that additional training for volunteers and more volunteers will be needed. This need will increase with further Haystack development. Case #922 Mod A makes reference to a Benefit Fund that would contribute "\$25.00 per man per fire for equipment and training with a potential of \$5,000.00 per year, based on average historical, not actual, calls."
13. Wilmington Fire Chief Ken March also submitted a letter dated June 14, 2012 (Ex. W). It referred to a meeting with Mr. Rubin, Mr. Harrington and Mr. Fisher regarding recent changes to the development plan and items concerning fire safety, water supply and access of emergency vehicles. All parties agreed to the general format. The letter stated that if there are any changes by the Applicant, new plans would be given to the Fire Department for review and approval before that construction phase begins.

14. In 2006 the plan was to have two base lodges. The proposal now is to have only one base lodge that would function as a base lodge and amenities center. The Applicant noted that exact plans are not available and that the information regarding square footage on page 1 of the Narrative of Exhibit Q is not correct but page 3 of the narrative is very close. The square footage would be increased to approximately 66,290 square feet of interior space (p. 3 of Narrative of Ex. Q.) There are also exterior porches and balconies that would add another approximately 4500 square feet. Up-dated drawings were submitted in Exhibit BB that replaced the drawings in Exhibit Q. The approximate dimensions of the building are 200 feet by 112 feet. The placement of the Base Lodge is in the same area as the base lodge that was approved in #922. It was noted that the drawing of the footprint in Exhibit S represents the location but not the size of the Base Lodge. The building would include a sub-basement, basement, first floor and second floor. The basement would be a "walk-out" on the downhill side, making it four stories tall on that side and three stories tall on the uphill or mountain-facing side. The roofline would be approximately 60 feet above grade on the easterly side or downhill side and about 48 feet on the westerly or mountain side.
15. There are no architectural plans for the hotel at this time but the Applicant stated that it would be in the same location that was approved under #922. The Applicant will need to come back when plans are further developed. A water park is under consideration but also would be subject to a future application.
16. No recent traffic studies were submitted but Exhibit F is a copy of an e-mail from Jennifer Conley of Conley Associates dated May 10, 2012. Conley and Associates conducted traffic studies in 2005 and 2006 for 200 hotel units and 250 residential units plus 250 day skiers. She stated in the e-mail that "the impacts of that development were significantly less than the traffic generated in the area during the 1980's." She also noted that there has been no traffic growth in the region in recent years.
17. **Parking:** As the townhouses are built, each building will have its own adjacent parking area with three 10 foot by 20 foot spaces per unit. As specified in #922 Mod A, each condominium unit will have two spaces per unit. Until the hotel is built there will be a large parking area near the hotel site that will be used for employee and visitor parking. At this point, the parking area will accommodate at least 250 cars. When the hotel plans are submitted, further information will be submitted regarding this parking area and the number of spaces will be revisited.
18. **Lighting:** Presently, there are lantern style fixtures along the existing roads. The lights are on poles and are no more than 10 feet above grade. The Applicant will continue to use the same fixtures along the new road. Each townhouse unit has two lights on poles in the front yard and newly constructed townhouses will also have two lights. The style will be the same as the ones previously installed. All road and townhouse lighting are on timers to come on during the night time hours.

as the attorney for the Town of Wilmington. DRB members Paul Tonon and Andy Schindel stated that they both have memberships at the Haystack Golf Club but had no financial interest in the Haystack development and would not recuse themselves in this case.

3. DRB member Paul Tonon was unable to attend the June 4 hearing but listened to the tape. He attended the June 18 and 25<sup>th</sup> hearings.

4. The area under consideration is covered by agreements between previous owners of Haystack and the Town of Wilmington, a PUD and many decisions by the Zoning Board (now DRB) going back to 1970. There are other areas such as the golf course and "villages" that are not part of this application but that are included under the agreements, PUD and zoning decisions. The area being considered in this application is referred to as the Base Tract.

5. The most recent DRB cases that address development at Haystack Ski Area Base Tract are DRB Case #922, 922 Modification (Mod) A and 922 Modification (Mod) B. These decisions were issued in 2005 and 2006. Some of the work approved in these cases has been done and some has not been started. There is also approved work that the Applicant is not intending to do. This decision is based on those previous decisions and evidence given as a part of the hearing for this case. Many of the proposed changes are a result of the ski area and surrounding property being purchased by Hermitage Inn Real Estate Holding Company, Inc. in October of 2011. The mountain reopened for skiing during this past ski season (2011-2012). Owner Jim Barnes stated that due to the fact that the Hermitage Inn abuts much of the ski area and already has a clientele it makes sense to have greater connections between the inn and ski area but also results in the need to change some of the aspects of the development.

6. Work that has been done since Case #922, 922 Mod A & B is as follows:

- Lower Base Lodge has been demolished
- Upper Base Lodge has been demolished
- Gatehouse has been constructed.
- Two townhouses with a total of 8 units have been constructed with one more building of four units permitted but not yet constructed
- Sewer and water have been updated
- Snowmaking facilities have been added
- Roads have been paved and lighting has been added
- Some blasting in hotel and base lodge areas has been done

7. Work that was approved in Case #922, 922 Mod A & B but has not been done:

- Maintenance Building to be demolished
- Snowmaking Building to be demolished
- Hotel to be built - it was approved for 4 stories and 200 units in #922 but was changed to 5 stories and 162 units in #922 A & B. Revised plans for the hotel are not available at this time

19. The Applicant's intent is to have the use of the ski trails remain private, although there will continue to be 275 tickets per day available to Wilmington residents. There will be no night skiing. At this point, the Applicant plans to offer skiing on Saturday and Sundays and either Friday or Monday with expanded days during the holiday times. It is possible that these days will be expanded in future years. The public will be able to access the Base Lodge with its amenities, have access to the trail that leads to the Glebe Land and the National Forest and use the amenities at the Hermitage in Dover. When the hotel and possible water park are built they will also be open to the public.
20. Wilmington Police Chief Joe Szarejko submitted a letter dated June 25, 2012 (Exhibit A-A) in which he expressed concerns regarding "security or lack thereof" and the burden of additional calls, especially after hours call-outs. He requested that there be an on-site security force and that one security officer during the evening and night shifts could handle many of the calls at the present level of development. As the project is built out, more security would need to be put in place. Mr. Rubin said that they would have at least one security officer in place by November 15, 2012.
21. **Rebuilding and construction on the Glebe Land:** One existing building will be repaired and used as a sales office and warming hut. Another new building will be 12 feet by 24 feet and used for storage of ski patrol toboggans. The agreement (Exhibit N) states that if there is construction or installation of structures in the watershed area of the Glebe Land then permission must be received from the Town of Wilmington and the Wilmington Water District. Although both the Town of Wilmington and the Wilmington Water District have been informed of the construction, the Applicant stated that the buildings are not in the watershed area (Exhibit H).
22. In the next couple of years the number of employees will remain fairly small. During 2012-13 ski season there will be approximately 30 to 35 employees at the Base Tract at any one time. These employees would include lift operators and other ski area-related jobs such as ski patrol and ski school, as well as sales and warming hut employees. When the Base Lodge is completed, possibly in the 2013-14 ski season, additional employees will be needed. The total number would be about 50 to 60. While there will be a relatively small number of employees for the next couple of years, testimony in Case #922 was that the complex will eventually employ 200 to 300 people.
23. Mr. Harrington stated that the any information and maps in Exhibits Q through Z supercedes the information and maps in the green booklet.
24. The Applicant has submitted an Act 250 application and is in the process of hearings before the Dover Development Review Board.
25. **Construction Timeline -- Exhibit T:** The construction will begin in late summer/early fall of 2012 depending upon receipt of numerous permits. Some of the

major construction planned for 2012 through 2013 are the base lodge, summit building, some or all of the nine single-family dwellings, ski lift and trail and additional infrastructure. The hotel and condominium building are slated for 2014-15 and the townhouses from 2015 to 2020. Infrastructure improvements will continue through 2020.

## II. The Board CONCLUDES

The subject property is an existing Planned Unit Development and requires Conditional Use review for revisions to the PUD and Subdivision review.

1. The Board concludes that the previously approved 450 dwelling units for the Base Tract still meet the requirements of the density required under the original Agreement. The current proposal is for 390 units with an additional 60 units reserved. Although the proposed configuration of the types of units differs from #922 and #922 Mod A & B, the Board concludes that they still meet the necessary criteria and approve the reconfigured types of units, including the nine single family dwellings. The total of the units is 390. The Board concludes that there are still 60 unassigned units that could, at a future date, come before this Board. The total of 450 units meets the density requirements that were confirmed in Case #922. The common land continues to be primarily the 25 1/2 acre lot and the acreage extending up the mountain.
2. The Board concludes that the proposed additional uses are consistent with a ski area and a four-season recreation development and are uses that are allowed under the Wilmington Zoning Regulations in the Commercial District.
3. While the Base Lodge is significantly larger than what has been proposed in previous cases, the number of base lodges has been changed from two to one. Its uses will be consistent with both a ski area and an amenity center. The Board concludes that this is an approvable change.
4. The reconstruction of one building and the construction of another building at the top of the mountain on the leased Glebe Land are accessory buildings to a ski area with residential dwelling units. The Board concludes that both buildings are outside of the Wilmington Water District drainage boundary and do not need written approval from the Town of Wilmington and the Wilmington Water District.
5. The expansion of the ski area in the form of another trail and lift is consistent with growth within a ski area. The Board concludes that these are approvable additions.
6. The vehicular bridge will improve flow of traffic around the Base Tract as it will connect the upper townhouse area to the proposed area for the condominium building. As the condominium building is approved for 89 units and there will also be 40 townhouse units using the road, the Board concludes that the road and the bridge will

carry significant traffic and both the road and the bridge should be wide enough to accommodate this traffic. (See Condition #10 for PUD below) The Board approves this construction.

7. The change of the snowmobile trail off of Fannie Hill Road will increase the safety for both snowmobiles and the vehicular traffic. Snowmobiles on Fannie Hill Road have been a concern for those who live on the road and the Board concludes that this change will result in a significant improvement in safety.

With regards to the criteria for Planned Unit Developments, the Board concludes that this proposal as presented in conformance with the Conditions listed below will conform to the requirements of the Wilmington Zoning Ordinance and will be consistent with the stated purpose of the PUD provisions. The proposal will also continue to meet the intent of the original Haystack PUD and will continue to meet the requirements for density and open space.

With regards to the criteria for a conditional use permit, the Board concludes that this proposal will conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

- A. Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities? The Board concludes that the greatest impact as this project continues to be built out is in the areas of affordable housing, fire safety and police calls and without the conditions cited below, the project would have an undue adverse effect.

With a large number of employees who will eventually be needed, there will be a significant impact and need for housing for both year round and seasonal employees. This need for housing will also impact the housing inventory for other residents in the Town.

The build-out of at least 190 dwelling units, a 200-unit hotel, and a base lodge/amenity center will increase the number of calls to both fire and police. The planning of such things as interior roads, hydrants and the installation of fire safety equipment is necessary to insure that existing town departments can provide for public safety. The heights of the larger buildings (base lodge, condominium building and hotel) could also present serious issues for fire safety and for the equipment that the Wilmington Fire Department presently owns. At this point, the Town of Dover owns an aerial truck but in the future, the Town of Wilmington cannot be sure that Dover will continue to have that truck. The height of any building should not exceed the reach of available fire equipment as this could result in extensive property damage and possible loss of life. Increased fire calls will result in a greater need for volunteers and training. As the build-out continues and a greater number of residential units are built and occupied, the base lodge/amenity center is up and running and eventually the hotel is open, the number of calls to the police will rise. It is reasonable to assume that many of the calls will be in the evening and night hours. The impact on the local police department needs to be minimized. A local on-site security force would lessen the adverse effect of the police department as the private force could

handle many of the more routine calls, especially those that occur in the evening and night hours when the Wilmington Police Department only has one officer on call.

B. Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity? Jennifer Conley in Exhibit F said that the project as private club with limited public access would generate less traffic than the ski area did when it was a public area in the 1980s. The Board agrees and concludes that the changes proposed under this Application will not have an undue adverse effect on the traffic on roads and highways in the vicinity. The Board also notes that although the interior roads such as the main access road and Chamonix Trail with its new bridge are private roads and are conditioned as such, they also serve as quasi-public roads and will carry significant amounts of traffic to the ski area, the hotel with possible water park, townhouses, the base lodge/amenity center and the condominium building. It is important that these major arteries are built in such a manner that will insure the safety of private vehicular traffic. The hotel and the base lodge will also have significant number of trucks delivering items for the use of the restaurants, etc. and these trucks must also use these roads in a safe manner.

C. Will the proposed Conditional Use have an undue adverse effect on the character of the area as defined by the purpose or purposes of the zoning district within which the project is located? The Board concludes that in the original Agreement and in the decisions and agreements made since by the Town, this area was approved 42 years ago for dense commercial and recreational development with accompanying high densities of residential dwellings and accompanying common land. Although at times the ski area has not been open, there are many years in the last 40 years when it has been open. A number of condominiums and private houses have been built in the immediate neighborhood. Although this application will affect the character of the neighborhood as it exists now, it is still a part of previously approved PUD which laid out the general uses and density. The density will not increase from what was originally allowed.

D. Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan? The Town Plan has long recognized the Haystack Ski Area as being a Commercial District and Policy 3 under the goal regarding development states "Encourage higher density commercial growth in the Commercial District." The Board concludes that the "build-out" of the Base Tract supports that goal. The Town Plan also lays out policies and recommendations regarding the importance of affordable housing for the residents of Wilmington. The Conditions listed below will help achieve those policies.

E. Will the proposed Conditional Use comply with other sections of the Zoning Bylaw? The Board concludes that part of the land is in the Flood Hazard Area. However, none of the proposed development is in the Flood Hazard Area.

Therefore, this Application does comply with other sections of the Zoning Bylaws.

### III. CONDITIONS for Planned Unit Development and Conditional Use:

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

1. The allocation of dwelling units shall be:

Hotel	200 units
Condominium	89
Townhouses	92 (40 in Upper Area and 52 in Lower Area)
Single Family	9
Total	390 assigned dwelling units

60 units held in reserve

Potential total of dwelling units in the Base Area shall not exceed 450.

2. Any proposed assignment of the 60 reserved dwelling units or other changes in the type of units in the Base Tract shall require further application to the board.

3. Agreement and payment to town. An updated Agreement shall be written and signed by the Town of Wilmington and the Hermitage Inn Real Estate Holding Company LLC. The Agreement shall include two payments of \$125,000 plus an amount representing the cost of inflation from December 31, 2005 to the date of each payment to the Town of Wilmington for the use of the Wilmington Fire Department. Payment dates shall be agreed upon by the Town of Wilmington and the Hermitage Inn Real Estate Holding Company LLC as part of the Agreement. The monies shall be used by the Fire Department for purchase of equipment and/or vehicles. The Agreement shall also include a structure of fees for training and fire calls similar to the agreement signed on December 31, 2005. A copy of any further agreement with accompanying plans shall be filed by the Applicant with the Zoning Administrator within 30 days of signing.

4. If at any time in the next 20 years the Town of Wilmington does not have access to an aerial truck that would be tall enough to reach the upper stories of the hotel, base lodge or condominium building, the owners of these buildings shall be required to pay for the additional cost of a larger aerial truck as compared to a smaller truck that could reach a three story building.

5. Specifications and conditions laid out in the 6/14/12 letter from Fire Chief Ken March shall be adhered to unless there is a written change or amendment that is signed by both the Fire Chief and a representative of the Haystack Club. A copy of any further agreement with accompanying plans shall be filed by the Applicant with the Zoning Administrator within 30 days of signing.

6. There shall be year round pedestrian access to a hiking trail to the "Glebe Land" owned by the Town of Wilmington and to the Green Mountain National Forest. The public shall be able to park either next to the Gatehouse by Coldbrook Road or in the upper parking lot. Signs shall be erected and maintained that indicate public parking and trail access.
7. The snowmobile races shall be limited to no more than two weekends in any calendar year. The races shall take place on existing ski trails.
8. All other snowmobiling shall be on the VAST trails only and shall abide by the rules regulations and curfew of VAST.
9. There shall be no night skiing without further application to this Board.
10. The new road leading to the upper parking area shall be at least 28 feet wide (paved for 24 feet with 2 foot shoulders) and shall be designed to meet standards set by the Wilmington Road Standard Ordinance. Chamontix Trail and newly permitted bridge and other major access roads shall also be at least 28 feet wide (paved for 24 feet with 2 foot shoulders).
11. There shall be at least one security officer on-site during the evening and night starting no later than November 15, 2012. As further construction occurs, a larger security force shall be employed. Before the opening of the base lodge there shall be an agreement between the Wilmington Police Department and the Applicant regarding the private security force.
12. Any newly constructed roads for this project shall remain under private ownership and maintenance.
13. **Parking:** The condominium building shall have at least 178 parking spaces as previously specified in #922 Mod A. The townhouses shall have at least 3 adjacent parking spaces per unit. At least 250 parking spaces shall be available in the upper parking area. The parking area shall be used by employees, day skiers and visitors. Parking requirements for this upper lot will be updated and may be changed when the plans for the hotel and/or water park are presented to this Board. All parking spaces shall be at least 10 feet by 20 feet. All parking areas shall be maintained and cleared year round.
14. The 25.86 acres identified in Exhibit B-2 in Case #922 shall continue to be assigned as Restricted Common Land for The Base Tract. At least 100 acres of the 255.03 acres shall remain Undeveloped Common Land.
15. The Affordable Housing Mitigation Agreement (Exhibit BB) shall remain in effect and shall be re-signed by the Vermont Housing and Conservation Board, the Town of Wilmington and the Applicant no later than six (6) months after the signing of this decision. If all three parties agree on minor changes those changes

may be made without re-application to this Board. However, any changes shall be filed within 30 days by the Applicant with the Wilmington Zoning Administrator in the form of an amended agreement. Payments for the townhouse units that have already received State Certificates of Occupancy shall be made to the Housing and Conservation Board within 90 days of the signing of this decision. The rate paid per unit shall be in accordance with the Agreement signed in December of 2006.

16. All structures that are being replaced with another building used for the same purpose shall be demolished and removed within 60 days of the completion of the new structure.

17. **Lighting:** Pole height for lighting shall not exceed 12 feet and no halogen lights shall be used. All exterior light fixtures for roadway, sidewalk and general area lighting shall be consistent in design with the lighting fixtures that have already been installed. Placement and type of lighting on site shall be designed to reduce light pollution from the project.

18. No structures as defined by the Wilmington Zoning Ordinance shall be built in the flood fringe or flood way without further application to this Board.

19. All townhouse buildings shall be allowed to have setbacks of 20 feet from the interior roads. In addition, up to 11 of the 92 townhouses may have a setback of between 10 and 20 feet from interior roads. No townhouse building shall have a setback of less than 10 feet.

20. Any emergency services access (fire road) shall be of 20 feet (twenty feet) in width.

21. All buildings, structures and roads shall be sited as shown on Map SP-1 in Exhibit S.

22. Applicant shall file with the Wilmington Zoning Department, Vermont-licensed Engineer/ Surveyor stamped and signed "AS BUILT" plans of Buildings, Roads, Lifts, and all other infrastructure as each phase of construction is completed. No further construction shall be started until the AS BUILT Plans have been submitted.

23. Minor changes to the plans may be approved administratively, significant modification shall require approval of the Development Review Board.

24. Approval for any building construction that is not substantially completed according to the following schedule shall expire and the Applicant shall be required to submit a new application to the Development Review Board for review under the zoning bylaw in effect at that time. For the purpose of this condition "substantially completed" is defined by this Board as having at least 75% of the proposed building(s) ready for occupancy.

Upper Parking Lot	Nov. 30, 2012
Access Road to Upper Parking Lot	Nov. 30, 2012
Sales Office and Toboggan shed	June 30, 2013
Hermitage Ski Lift & Trail	Dec. 31, 2013
Base Lodge/Amenity Center	Dec. 31, 2014
Maintenance & Snowmaking Buildings	Dec. 31, 2014
Hotel	June 30, 2016
Condominium Building	Dec. 31, 2016
Chamonix Townhouses (40)	Dec. 31, 2017
Lower Mountain Townhouses (52)	Dec. 31, 2020

25. Individual zoning permits shall be required for each building within the PUD and shall be issued after payment of the applicable construction fee to the Town of Wilmington.

### III. Regarding the request for subdivision for nine new lots, 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.

### IV. CONDITIONS for Subdivision of nine parcels:

1. Each new parcel shall have no more than one single-family dwelling along with any accessory buildings.
2. The total ground floor area of all buildings on each lot shall not exceed twenty-five per cent of the lot area.
3. All buildings shall meet or exceed the required setbacks for all side, front and rear property lines for a residential building in the Commercial District.
4. All nine parcels shall be at least one acre and the property lines and placement of the single family dwellings shall be substantially as shown in Exhibit X.
5. All newly created nine parcels shall have at least 150 feet of frontage on a public road.
6. The nine new parcels shall constitute nine dwelling units in the assigned 390 dwelling units.
7. The nine new parcels, even when under private individual ownership, shall be considered part of the Haystack PUD and shall be covered by any and all decisions regarding the Base Tract. This includes housing density requirements under that PUD.

8. All driveways shall be a minimum of sixteen (16) feet wide at the public road limits.
9. Permitted development on the nine parcels may be approved administratively; any other proposals shall require approval by the Development Review Board.

Thus, the Development Review Board does approve the application for revisions to a Planned Unit Development in the Commercial District and to allow construction and changes summarized below and for Subdivision approval to allow the creation of nine (9) new lots.

**Summary of approved changes:**

- Remodel rescue shed on Glebe Land. This building will be used for sales and warming hut.
- Construct building to be used for storage of ski patrol toboggans on Glebe Land.
- Construct access road to go from Chaffronix Trail to the upper parking lot.
- Construction of a vehicular bridge over the Tunnel Ski Trail.
- Construction of base lodge/amenity center.
- Trade in 81 condo units in the lower area that were approved in #922 Mod B and construct nine single family dwellings on the proposed nine individual lots.
- Change number of units reserved for hotel to 200 units
- Change number of townhouses to 40 units in the upper area and 52 units in the lower area for a total of 92 dwelling units. The units in the upper area will consist of two two-unit dwellings (4 units) and nine four-unit dwellings (36 units).
- Construct a new ski lift that will begin at the Hermitage Inn in West Dover and cross into the Town of Wilmington.
- Construct new ski trail that will be served by the new lift. A portion of the trail will be in Wilmington.
- Replace snowmaking pipe.
- Reroute snowmobile trail so that it no longer goes along Fannie Hill Road.
- Uses: Snowmobiling, cross country skiing, two weekends of snowmobile races
- Subdivision of nine lots.

**Major work that was approved in Case #922, 922A and 922B that has not yet been done but is still approved:**

- Maintenance Building to be demolished
- Snowmaking Building to be demolished
- Hotel to be built in same location and approximate size as previously approved. Plans for the hotel are not complete at this time and will require further application to this Board. 200 dwelling units have now been assigned to the hotel.
- Upper Condominium building approved in #922 A & B with 89 units.
- Townhouses in 2 different areas (Upper and Lower)
- New maintenance and snowmaking building approved in #922. The size and location of these building will remain as approved in #922.

- Two new pump stations in #922. The size and location of these building will remain as approved in #922.

If unused, individual Approvals expire at the date noted in **CONDITION** for Planned Unit Development and Conditional Use #24 listed above. 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:

Dave Kuhnert

Gil Oxley

Andy Schindel

Nicki (Polly) Steel

Paul Tonon

OPPOSED: None

*Polly Steel*

For the Board: Polly Steel, Chairperson

Date: 7/26/2012

**Appeal Rights:** An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VREC 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.*

**Application # 2012 – 108**

Town of

*Wilmington*

PO Box 217  
2 East Main Street  
Wilmington, VT 05363-0217

(802) 464-8591  
(802) 464-8477 FAX  
[www.wilmingtonvermont.us](http://www.wilmingtonvermont.us)

October 26, 2012

Robert Rubin  
Haystack Club Operating C., LLC  
PO Box 2210  
West Dover, VT 05356

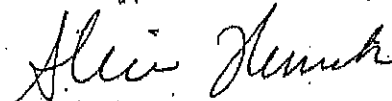
Re: Application #2012-108 / Tax Map HAYSTACK.SKI / 183 Gatehouse Trail

Dear Mr. Rubin:

Enclosed is your copy of the signed Findings and Decision of the Development Review Board for the above referenced application. Please be sure to read the decision for any conditions or limitations the Board has included. Also note there is a thirty (30) day appeal period before this Approval becomes final. The 30-day Appeal period for this Decision of the Board will expire on November 23, 2012. A Zoning Permit must also be issued prior to the commencement of any work in conjunction with your application. It is anticipated that the Zoning Permit will be issued so that the appeal periods of the DRB Decision and the Zoning Permit will expire at the same time. You will receive the Zoning Permit and a Notice to post on the property for the 15-day Appeal period.

If you have any questions or concerns, please call me at 464-8591.

Sincerely,



Alice Herrick  
Zoning Administrator  
Town of Wilmington

Cc: Bill Austin, Austin Associates  
John Guminak, Guminak Design  
Bob Harrington, Harrington Engineering  
Bob Fisher, Esq.  
Linton and Bonita Fluck  
Kelly Pawlak  
Encl: Findings

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 Rubin, Haystack Operating Co., LLC, PO Box 2210, West Dover VT, 05356

Owner/Applicant(s) Mailing Address: PO 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 #: 2012-108

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**Description of Case per Public Notice:**

Application # 2012-108; owner: Hermitage Inn Real Estate Holding Company, LLC; Agent: James Barnes. Application being made for Conditional Use and PUD review to allow construction of a 92,109 sq. ft. base lodge; Zoning Ordinance Section 7; location: 125 Gatehouse Trail.

Notice for a public hearing was published in the Valley News on: 9/28/2012

Notice was posted in three public places on: 9/28/2012

A copy of the notice was mailed to the applicant on: 9/28/2012

A copy of the notice was mailed to the abutters on: 9/28/2012

The public hearing was held on: 10/15/2012

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 Vermont Environment Court.

Appeal period for this Case expires on: November 23, 2012

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

Bill Austin of Austin Associates-- Witness for Applicant  
John Guminak of Guminak Design -- Witness for Applicant  
Bob Harrington of Harrington Engineering -- Witness for Applicant  
Bob Fisher, Esq. -- Attorney for Applicant

Linton and Bonita Fluck -- Interested Parties  
Kelly Pawlak, General Manager of Mount Snow -- Interested Party

#### 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:

#### EXHIBITS:

Application (four pages)

A. A butters List (3 pages)

B. Base Area Site Layout & Grading Plan by Harrington Engineering, Inc. GC-12A, 07/06/12, revised 08/15/12.

C. Plan Set "Haystack Club -- Base Lodge" by Austin Design, Inc., 24 August 2012.

a. Cover

b. Site Plan, A-2.

c. Walk-out Basement Plan, A3.1

d. Sub-basement Plan, A3.2

e. 1<sup>st</sup> Floor Plan, A3.3

f. 2<sup>nd</sup> Floor Plan, A3.4

g. Roof Plan, A3.5

h. Exterior Elevations, A4.1

g. Exterior Elevations, A4.2

h. Exterior Perspectives, A4.3

i. Interior Perspectives, A4.4

j. Building Sections, A5.1

k. Building Sections, A5.2

l. Building Sections, A5.3

m. General Notes, S0.1

n. Sub-basement Foundation Plan, S1.1.1

o. Ski Bridge Foundation Plan, S1.1.2

- p. Walk-out Basement Framing Plan, S1.2.
- q. First Floor Framing Plan, S1.3
- r. Typical Details, S5.1
- s. Details & Sections, S5.2
- D. Plot Plan prepared for Haystack Club "Haystack Ski Area" portion of "Ski Area Parcel" by Harrington Engineering, Inc. and others, Oct. 15, 2012, no revisions.
- E. Deed dated 8/17/2012. 2 pp.
- F. Letter dated 10/12/2012 from Linton & Bonita Fluck

Bob Rubin, Agent for Haystack Club/ The Hermitage Inn Real Estate Company, spoke for the Applicant.

1. The subject property is in the Commercial District of the Town of Wilmington. The property is identified as Tax Map HAYSTACK.SKI. This area under consideration is covered by agreements between previous and present owners of Haystack Ski Area and the Town of Wilmington, a PUD and many decisions by the Zoning Board (now DRB) going back to 1970. There are other areas such as the golf course and "villages" that are not part of the Application but that are included under the agreements, PUD and zoning decisions. The area being considered in the application is part of what is referred to as the Base Tract.
2. A smaller base lodge/amenity center was previously approved on July 26, 2012 in DRB decision #2012-051. The previously approved base lodge/amenity center had interior space totaling approximately 66,290 square feet and exterior porches and balconies totaling approximately 4,500 square feet. The footprint of the building was approximately 260 by 112 feet. The building included a sub-basement, basement, first and second floors. The basement was a "walk-out" on the downhill side, making it four stories tall on that side and three stories on the uphill or mountain-facing side. The roofline was approximately 60 feet above grade on the downhill side and about 48 feet above grade on the mountain side.
3. The Applicant is requesting the following changes to the size of the building:
  - The total interior space would total approximately 78,000 square feet with most of the increased area being in an enlarged sub-basement. The location of the building remains that same. The sub-basement would be completely underground with exterior vehicular traffic access through a tunnel (see below). The basement level will be a "walk-out" on the downhill side making three stories facing downhill. There will be two stories facing toward the mountain. Two clock towers would extend above the roof line and would be visible from all sides.
  - The exterior areas would be increased to about 12,000 square feet. This area would include a first floor stone patio that would go around much of the perimeter of the building. (Ex. C.e. A3.3) The patio would have radiant heat and will be a few inches above grade to accommodate the basement foundation and the radiant heat piping. On three sides of the building the patio would have covered areas measuring about 96, 48 and 48 feet in length and either 16 or 12 feet deep (3,000

square feet or less). There would also be an eight-foot deep covered area along the walk-out portion of the basement. The second story will have a 16 by 48 foot (768 square feet) balcony (Ex. C.f. A3.4).

- The heights of the building have also changed. On the mountain side the top of the clock tower would be about 59.5 feet above grade and the top of the roof would be about 44 feet above grade. On the downhill side the top of the tower would be about 72.5 feet above ground and the top of the roof would be about 57 feet above grade (Ex. C.h. A4.1). The interior of the clock tower would only have one access and, therefore, would not be used by the public. It is possible that it could be used for office space.
  - The footprint of the building would be approximately 224 by 126 feet.
4. The uses of the building would remain essentially the same as those approved in Case #2012-051, except that the day care area will also be used for a children's ski school. There would also be some shifting of the allocation of use areas within the building.
  5. Another new feature would be the addition of a tunnel going from Chamonix Trail into the sub-basement (Ex. C.o. S1.1.2). This 44 by 72 foot long tunnel would not be used by the members or public but would be used only for such things as deliveries and maintenance. It would be lit and have a sprinkler system and dry hydrant. The top of the tunnel will be covered with sod.
  6. The Applicant stated that it has a previous permit from Fire and Safety and that the entire building will have a sprinkler system. It does not believe that it will need further approval under Act 250 for the enlarged building.
  7. The Hermitage Inn Real Estate Company has been meeting with the Wilmington Fire Department and the Wilmington Selectboard to rewrite the agreement as required by Condition #3 in Case #2012-051. An independent evaluator is being used to help formulate the agreement. Engineer Bob Stevens has met with the Wilmington Fire Department regarding placement of hydrants and other fire safety measures. The proposed new heights have not been discussed and there will need to be further discussion regarding placements of firewalls.
  8. The road to the upper parking area is essentially complete. Condition #13 in Case #2012-051 requires that this lot have at least 250 spaces and shall be maintained and cleared year round.
  9. A road would go from the parking lot to a drop-off zone at the south side of the building.
  10. The base lodge area was originally on a separate 10-acre parcel. The parcel was merged with the surrounding parcel on August 17, 2012 (Exhibits E and D).
  11. The Applicant stated that the Chamonix Village area was subdivided in about 2007 in order to delineate the area that would be covered by a Chamonix Village homeowners

association. No evidence was presented to indicate that this subdivision ever came before this Board for approval. However, the measurement of the closest part of the proposed building to the property line shown in Exhibit D is at least 131 feet.

12. Interested Party Kelly Pawlak of Mount Snow stated that Mount Snow has various agreements with previous owners and the Hermitage Inn Real Estate Company and was there to listen to the proposal.
13. A letter was received from Linton and Bonita Fluck and was entered as Exhibit F. The Flucks live at 110 Fanny Hill Road and are abutters and Interested Persons in this case. They expressed concerns regarding some blasting that has occurred and the possible impact on the water pressure and water quality of their well. They would like to be notified about future blasting and have their well assessed to determine "baseline condition". The Applicant stated that the blasting had been going on almost every day for a few months and will be completed in about a week of the date of this hearing. The blasting was approved under the previous case and blasting companies carry insurance that would apply to damage done to surrounding wells. Engineer Bob Stevens said that he would get in touch with the Flucks to discuss their concerns.

## **II. The Board CONCLUDES:**

Although this proposal is quite a bit larger than what was previously approved, much of the additional interior space will not be visible at ground level. Even the tunnel access to the sub-basement will be covered over and, except for the entrance, will not be visible. The top of the tunnel will become usable green space.

When giving the amount of exterior square footage the Applicant counted the stone patio, even the parts of the patio that are not covered. Even though the patio may be slightly raised, the Board concludes that a patio without a roof that is attached to a building is considered landscaping and not part of the square footage of the building. Therefore, the additional exterior square footage is significantly less than the 14,262 square feet the Applicant cited.

The Board concludes that the blasting that concern the Flucks was approved in Case #2012-051. Since that blasting is not part of this approval and the Applicant's testimony was that blasting would likely be done before the issuance of this decision the Board cannot directly address the Flucks' concerns regarding the blasting. However, the Board urges the Flucks to talk directly with the Applicant and/or drilling company and to continue to monitor their well for water pressure and quality.

The Board concludes that the Base Lodge 10 acre (+/-) parcel was legally merged with the surrounding lot.

The Board concludes that there is no evidence that approval for the subdivision of

Chamonix Village was ever asked for or received. It also concludes that, even if the subdivision was not legally created, all setback requirements have been met.

The Board concludes that there are previously approved uses in Case #2012-051 and that there are no additional uses being requested. Although the areas of the uses may have shifted within the interior of the building, this Board continues its approval of the uses.

A ski base lodge/amenity center is a Conditional Use in the Commercial District and the proposed additions requires Conditional Use review. With regards to the criteria for a conditional use permit, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

- A. Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities? In Case #2012-051 this Board expressed concerns regarding affordable housing, fire safety and police calls and placed conditions on its approval to address those concerns. Since most of the square footage increase in the base lodge/amenity center is in the sub-basement that is used mostly for supporting functions (deliveries, maintenance, utilities, etc.) there should be little or no further impact on affordable housing or police call concerns. The Board continues to have concerns about the height of the building and the clock towers with regard to fire safety. The Board will continue to require an agreement with the Town of Wilmington and its fire department so that this concern will be mitigated.
- B. Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity? Since the square footage increase is largely in the sub-basement and the uses remain the same there should be little or no increase in traffic.
- C. Will the proposed Conditional Use have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located? As cited in Case #2012-051 this area has long been approved for intense commercial and residential development.
- D. Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan? As cited in Case #2012-051 the Town Plan has long recognized this area as a Commercial District and has encouraged dense commercial growth in that district.
- E. Will the proposed Conditional Use comply with other sections of the Zoning Bylaw? Although part of the property is in the Flood Hazard Area, the base lodge/amenity center is not in the FHA. There are no other sections of the Bylaw that apply.

The Board concludes that the tunnel and road connecting Chamonix Trail and the sub-basement of the building will help separate delivery and utility truck traffic from club ...

members and the general public and is **approved** as presented.

The road connecting the parking lot and the drop-off zone by the building are also approved as presented.

### III. CONDITIONS:

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

1. All Conditions listed in Case #2012-051 shall remain in effect. This includes, but is not limited to, a signed agreement with the Town of Wilmington regarding fire equipment, training and fire calls (Condition 3), submission of "AS-BUILT" plans (Condition 22) and the number of parking spaces in the upper parking lot (Condition 13).
2. Fire access to and the uses of the clock towers shall be specifically addressed with the Wilmington Fire Chief and the Fire Chief shall sign off on the specific plans.
3. If, in fact, the Chamonix Village parcel was subdivided without the necessary approval an application shall be made to this Board for subdivision. If a subdivision was legally made, a letter and pertinent supporting documentation concerning the subdivision shall be submitted to the Zoning Administrator by the Applicant.
4. The location, size, height and uses of the building shall be substantially as shown in Exhibit C and in the testimony cited above.

Thus, the Development Review Board does approve the application for Conditional Use review to allow expansion of a previously approved Base Lodge in the Commercial District.

If unused, this individual Approval expires on December 31, 2014 as noted in Condition for Planned Unit Development Use #24 in Case #2012-051. 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.

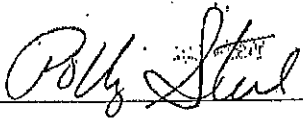
This approval *does not relieve you*, as applicant, from obtaining any and ALL applicable

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:

David Kuhnert  
Gil Oxley  
Andrew Schindel  
Nicki (Polly) Steel  
Paul Tonon

OPPOSED: None

  
\_\_\_\_\_

For the Board: Polly Steel, Chairperson

Date: 10/24/2012

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.*



# **Application for Amendment to Haystack Ski Area Master Plan & Construction Projects for 2013 Season**

## *Amendment to Master Plan*

**Prepared for:**

**The Wilmington Development Review Board**

**May 15, 2013**

**Developer:** Hermitage Inn Real Estate Holding Company, LLC  
PO Box 2210  
West Dover, VT 05356  
Email: [rrubin@hermitageclub.com](mailto:rrubin@hermitageclub.com)  
(Bob Rubin)

**Prepared by:** Harrington Engineering, Inc.  
PO Box 248  
North Pomfret, VT 05053  
email: [heinet@aol.com](mailto:heinet@aol.com)  
(Bob Harrington)

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Application	I
Deeds	II
Corporate Resolution	III
General Description of Proposed Amendment to Master Plan	IV
Projects for 2013 Construction Season and Summary of Projects under this application	V
List of Abutting Property Owners	VI

## APPENDICIES

### Appendix A – Previous DRB Permit Since 2005

- DRB Case # 922
- DRB Case # 922 – Mod A
- DRB Case # 922 – Mod B
- Application # 2012-051
- Application # 2012-108

### Appendix B – Plan Sheets

- MP-1 Overall Master Plan of Hermitage/Haystack
  - MP-1A – Upper Mountain Mater Plan
  - MP-1B – Lower Mountain Master Plan
- C2A – New England Village Homes Site Layout & Grading Plan
  - C3B – Kingsley Water & Wastewater Plan
  - C3C – Mountain Cabins Water & Wastewater Plan
- C4D – Lower Mountain Transfer Lift Erosion Control Plan (Predevelopment & Construction Conditions)

Town of Wilmington  
DRB Case # 2013-044  
Hearing Date: June 17, 2013  
Applicant: Hermitage Inn - Master  
EXHIBIT A

## CONSULTING AFFILIATES

- Robert Rubin, Project Manager  
Haystack Club Operating Company, LLC  
PO Box 2210  
West Dover, VT 05356
- Bob Harrington, Civil Engineer, Permit Specialist  
Harrington Engineering, Inc.  
PO Box 248  
North Pomfret, VT 05053
- David Buckley  
Mountain Operations and Airport Consultant  
PO Box 2210  
West Dover, VT 05356
- Robert M. Fisher, Esq., Legal Counsel  
Fisher & Fisher Law Offices  
114 Main Street  
PO Box 621  
Brattleboro, VT 05301
- Ben Joyce, Surveyor  
Joyce Land Surveying Corp.  
PO Box 115  
Wilmington, VT 05363
- Tina Scharf, Wildlife Biologist  
Consulting Wildlife Biologist  
99 Hall Road  
Lincoln, VT 05443
- Doug Kennedy, Growth Analyst  
Landvest  
One the Green  
Woodstock, VT 05091
- Jennifer Conley, Traffic Engineer  
Conley Associates  
PO Box 484, Toad Road  
Killington, VT 05781-0484
- John Guminak, Tobbogan Shed Designer  
Design Services  
51 Harris Road  
East Dover, VT 05341
- Michael Lew-Smith, Ecologist/Botanist  
Arrowwood Environmental  
1315 Hopkins Hill Road  
Hardwick, VT 05843
- Michael Quinn  
(Haystack Mountain Manager)  
Haystack Club Operating Company, LLC  
PO Box 2210  
West Dover, VT 05356

Town of Wilmington

DRB Case # 2013-044

Hearing Date: June 17, 2013

Applicant: Hermitage Inn - Master

EXHIBIT       B

## **Section I – Application**

1 Town of

Wilmington

For the zoning bylaws, the Town Plan and additional forms go to Wilmington's website at

www.wilmingtonvt.com

**FORM A**

**APPLICATION FOR ZONING PERMIT  
TOWN OF WILMINGTON, VERMONT**

**1. AGENT**

name: last Rubin first Robert M.  
business name (if different from above) \_\_\_\_\_  
mailing address (street or box no.) P.O. Box 2210  
city West Dover state VT zip code 05356  
telephone numbers: business 464-7870 home \_\_\_\_\_ e-mail rrubin@hermitageclub.com

**2. PROPERTY OWNER / APPLICANT**

name: last \_\_\_\_\_ first \_\_\_\_\_  
business name (if different from above) Hermitage Inn Real Estate Holding Company LLC  
mailing address (street or box no.) P.O. Box 2210  
city West Dover state VT zip code 05356  
telephone numbers: business 464-7870 home \_\_\_\_\_ e-mail rrubin@hermitageclub.com  
rmfisher@sover.net

**3. DATE OF SALE** 10/7/2011

**4. PROJECT LOCATION (911 Address):** street number 125 street name Gatehouse Trail

**5. WHAT is the present APPROVED use(s) of the property?** Commercial & PUD  
/ Lot Size: 450+/- Frontage: 1316

**6. WHAT WORK IS PLANNED UNDER THIS PERMIT?** (new construction, additions, Establishment of a permitted use etc.) Please be specific. Application must include number of stories and square footage of gross floor area for all construction. Please use a separate sheet if needed.

Amendment to PUD Master Plan.

See attached construction list for 2013.

Zoning Application

Town of Wilmington  
DRB Case # 2013-044  
Hearing Date: June 17, 2013  
Applicant: Hermitage Inn - Master  
EXHIBIT C

**8. ZONING INFORMATION**In what Zoning District is the Property located? Residential Commercial Historic Review DistrictHow many bedrooms in the dwelling now? N/A How many in this proposal? N/AProposed setbacks: Front: \_\_\_\_\_ Side: \_\_\_\_\_ Side: \_\_\_\_\_ Rear: \_\_\_\_\_ Has an Access Permit been issued? Yes / No / NA  
The zoning requires a minimum setback of 40' to the front property line and 20' to the side and rear lines.Is the property in a Flood Zone? Yes/ No Has Sewer Allocation been obtained? Yes/ No / NA

PERMISSION TO ENTER THE PROPERTY: Signing of this application authorizes the Zoning Administrator and/or Development Review Board to enter onto the premises for the purpose of verifying the information presented.

The undersigned hereby affirms that all information presented in this application and all supporting forms, plans and documents is true, accurate and complete and agree that, if any such information is found to be false or misleading, any permit or other approval granted on the basis of such information shall be deemed null and void.

James R. B... 5/9/13  
 PROPERTY OWNER SIGNATURE DATE APPLICANT SIGNATURE DATE

This information must be submitted with a plot plan and an application fee. Other forms may also be required. Your plot plan must contain all the information listed below. After initial review you will be provided with any other application material that is required, and with information on procedures and additional fees. **INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.** If you have any questions, please call the Zoning Administrator at 802-464-8591. **RETURN APPLICATION TO:** Zoning Administrator, PO Box 217, 97 East Main Street, Wilmington, VT 05363.

Please submit a plot plan with the information listed below if you are requesting approval for one of the following:

- ☐ Construction or addition to a dwelling
- ☐ an accessory structure (for example: deck, garage, shed, pool)
- ☐ Change of Use to a Permitted Use

**9. INFORMATION THAT MUST BE INCLUDED ON PLOT PLAN** (Please see the sample on page 3):

- Name and address of the property owner and address of property.
- Indication of the drawing's scale (example: 1"=20').
- An arrow pointing north.
- The property lines and dimensions.
- Lengths of front, side and rear setbacks from property lines of existing and proposed structures and signs.
- Identification of adjacent streets or other adjacent public property.
- Any easements that cross the property, or other pertinent legal features including sidewalks.
- Location, size and shape of any structures present on the site or proposed for construction, including porches, decks, pools, fences and accessory structures.
- Clear indication of the work to be done, including all changes that are proposed to the physical features of the site or existing structures.
- The location and dimensions of all existing and proposed parking areas and driveways.
- Please include a Floor Plan and a Septic Design for all new dwellings and increases in the number of bedrooms.
- Please use a dark ink for the forms and the plot plan.

**10. OTHER TYPES OF APPLICATIONS:** Applications for Conditional Uses, Development in the Historic Review District, Variances, Flood Hazard and Appeals must fill out different forms, and may require a Site Plan. Additional fees may also be required. Separate forms are also available for Sign and Subdivision proposals.

This permit does not relieve you, as applicant, from obtaining all applicable approvals that may be required from the Town of Wilmington or any State of Vermont Agencies prior to commencing the work planned.

For information on other permits:

Driveway/Right-of-way permits	Dawn Baxter, Administrative Assistant	464-8591
Municipal Sewer System permits for allocation and connection	John Lazella, Chief Operator	464-3862
Sign permits	Alice Herrick, Sign Administrator	464-8591
911 address	Deborah Kingsley, 911 Coordinator	464-8591
Act 250 permits	Springfield office	802-885-8855
Wastewater Management / potable water	Springfield office	802-885-8855
State Wetlands Program	Springfield office	802-476-2678
Dept. of Public Safety	Springfield office	802-885-8883
Agency of Transportation		802-828-2633

Construction Fee (use gross floor area, including unfinished areas with a ceiling height over 4 feet and for basements include what could be typically finishable space only). There is no fee for Accessory structures such as decks and porches that are less than 200 sq. ft. in area.

1-500 sq. ft.	\$ 50
501-750 sq. ft.	\$ 75
751-1,000 sq. ft.	\$100
1,001-2,000 sq. ft.	\$200
2,001-3,000 sq. ft.	\$300
3,001-4,000 sq. ft.	\$400
for every additional 1 to 1,000 sq. ft. of construction; add \$100	


Value of Construction \_\_\_\_\_



For the Zoning Bylaws, the Town Plan and additional forms, go to Wilmington's website at: <a href="http://www.wilmingtonvermont.us/">www.wilmingtonvermont.us/</a>	For Office Use:  Date Received: _____ Application # _____ Date Reserved: _____
--	--

**FORM C**

**APPLICATION FOR CONDITIONAL USE PERMIT  
TOWN OF WILMINGTON, VERMONT**

**1. AGENT**

name: last Rubin first Robert M.

business name (if different from above) \_\_\_\_\_

mailing address (street or box no.) P.O. Box 2210

city West Dover state VT zip code 05356

telephone numbers: business 464-7870 home \_\_\_\_\_ email rrubin@hermitageclub.com

**2. PROPERTY OWNER / APPLICANT:**

name: last Barnes first James R.

business name (if different from above) Hermitage Real Estate Holding Company LLC

mailing address (street or box no.) PO Box 2210

city West Dover state VT zip code 05356

telephone numbers: business 464-7870 home \_\_\_\_\_ email jimbarnes@FMFacilityMaintenance.com  
rrubin@hermitageclub.com

**Property Owner's Deed is recorded in the land records on: 10/7/11**

**DATE OF SALE**

**3. PROJECT LOCATION (911 Address):** street number 125 street name Gatehouse Trail

**4. HOW IS THE PROPERTY USED NOW?** PUD Lot Size: 450+/- Frontage: 1316'

**5. WHAT WORK IS PLANNED UNDER THIS PERMIT?** (new construction or additions, change of use, etc.) Please be specific. Application must include number of stories and square footage of gross floor area for all new construction. Please use a separate sheet if needed.

Lower Mountain Transfer lift; Two Mountain cabins; Six residential homes; two stream withdrawals

**6. THIS APPLICATION IS MADE UNDER THE FOLLOWING SECTIONS OF THE ZONING BYLAW:**

Section 6 (Permitted Uses)/Mountain Cabins;

Section 7 (Planned Unit Development)/New England Village;

Section 7 (Conditional Uses)/1. Snowmaking withdrawals; and 2. Lower Mountain Transfer Lift.

## 7. ZONING INFORMATION

In what Zoning District Is the Property located? Residential Commercial Design Control District

How many bedrooms in the dwelling now? PUD How many in this proposal? N/A

Proposed setbacks: Front: PUD Side: PUD Side: PUD Rear: PUD

Has an Access Permit been issued? Yes / No / NA

Is the property in a Flood Zone? Yes / No (as to where development will occur) Has Sewer Allocation been obtained? YES

The Development Review Board has the responsibility to hear and decide upon applications for conditional use permits. The Development Review Board will evaluate and approve, deny or condition an application based on the conditional use criteria listed below. In granting conditional uses, the Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Bylaw. The Board shall act to approve or disapprove any such requested Conditional Use within forty-five (45) days after the date of the final public hearing held, and failure to do so within such period shall be deemed approval. If you have any questions, please contact the Zoning Administrator at 464-8591.

Describe the Existing Use (s)

The Hermitage Club at Haystack Mountain: operating as a recreational resort, recreational ski area, real estate development, Residential/Commercial/Ski area with 450 residential development units, commercial shop, base area, ski lifts, all as previously permitted under DRB Case #922; #922 - Mod A&B; 2012-051 and 2012-108

Describe the Proposed Use (s)

Same as above

Please include information on:

New construction: 2013; New Transfer ski lift linking lower and upper mountains, two mountain cabins, which will be mini restaurants for planned events with 30-35 seats near the top of the Hayfever lift; eleven large single family homes plus a small chapel in a cluster village on the top of Lower Mountain; and two stream withdrawals in Haystack and Cold Brooks for snowmaking water.  
For further information see 2013 Construction list attached and explained under Section V.

Other Uses on the property

Information specific to the Use, such as hours of operation, number of employees, numbers of customers, parking traffic, exterior lighting and screening:

See plans and attached information.

**CRITERIA FOR CONDITIONAL USES:** The Development Review Board shall make findings on the general standards listed below and may attach conditions as provided for in Section 4414(3) of the Vermont Statutes Annotated (VSA). The Board will evaluate how the proposed development will conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

**A. Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities?** *The portion of this application to be reviewed as conditional uses permitted in a commercial district include: 1. Snow making withdrawals in Haystack and Cold Brook; and 2. Lower Mountain transfer lift. (Reference is made to paragraph A.1.b. on page 4 of current zoning By-Laws). These projects have been previously approved by all parties but permits have expired and need reviewing. These two projects will enhance activities at Haystack Mountain and therefore create an economic boost for the community. All environmental concerns have previously been addressed and permits issued by both the Corps of Engineers and by VT ANR.*

**B. Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity?** *These two conditional uses have no impact on traffic as they are strictly related to mountain operations to make more snow and move skiers from the lower to the upper mountain.*

**C. Will the proposed Conditional Use have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located?** *These proposed conditional uses will have a positive impact on the character of the ski area and community by enhancing skiing conditions at Haystack Mountain.*

**D. Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan?** *The Town plan states that "recreational" and "water impoundments" are conditional use permitted in either district. The withdrawals will impound water; and the ski lift is an upgrade of the existing recreational ski resort, a use that the Town Plan supports. These proposed 2013 projects also comport with the Town Plan's encouraging high density commercial growth in the commercial district as the DRB has previously found.*

**E. Will the proposed Conditional Use comply with other sections of the Zoning Bylaw?** *As has been the case with other properties subject to the Haystack Master Plan, this project must be reviewed under the terms of the Haystack Ski Area, Inc and the Town of Wilmington dated February 5, 1970, and the Town of Wilmington Zoning Ordinance, effective March 5, 1968 and most recently amended May 8, 2001. Under the terms of these documents, and with the approval of the Development Review Board, the project meets the requirements of the Town's zoning. For reference see "APPENDIX A". Appendix sets forth the evolution of the Permits for Haystack Mountain since 2005.*

**8. INFORMATION THAT MUST BE INCLUDED ON PLOT PLAN (Please see the sample on page 5):**

- Name and address of the property owner and address of property.
- Indication of the drawing's scale (example: 1"=20').
- An arrow pointing north.
- The property lines and dimensions.
- Lengths of front, side and rear setbacks from property lines of existing and proposed structures and signs.
- Identification of adjacent streets or other adjacent public property.
- Any easements that cross the property, or other pertinent legal features including sidewalks.
- Location, size and shape of any structures present on the site or proposed for construction, including porches, decks, pools, fences and accessory structures.
- Clear indication of the work to be done, including all changes that are proposed to the physical features of the site or existing structures.
- The location and dimensions of all existing and proposed parking areas and driveways (please indicate whether they are paved or unpaved).
- Existing and proposed landscaping and exterior lighting.
- Please use a dark ink for the forms and the plot plan.

PERMISSION TO ENTER THE PROPERTY: Signing of this application authorizes the Zoning Administrator and/or Development Review Board to enter onto the premises for the purpose of verifying the information presented.

The undersigned hereby affirms that all information presented in this application and all supporting forms, plans and documents is true, accurate and complete and agree that, if any such information is found to be false or misleading, any permit or other approval granted on the basis of such information shall be deemed null and void.

PROPERTY OWNER SIGNATURE DATE APPLICANT SIGNATURE DATE

James R. Barnes, am the owner of property at 125 Gatehouse Trail / Haystack, and I hereby authorize Robert Harrington, Robert H. Rubin, Robert M. Fisher & Ben Joyce to represent me and speak on my behalf before the Development Review Board in the matter of Case # 2013-\_\_\_\_\_. Date: 5/9/13

All applications must be submitted with a plot plan and an application fee. Other forms may also be required. Your plot plan must contain all the information listed on page 3. After initial review you will be provided with any other application material that is required, and with information on procedures and additional fees. **INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.** If you have any questions, please call the Zoning Administrator at 802-464-8591. **RETURN APPLICATION TO:** Zoning Administrator, PO Box 217, 2 East Main Street, Wilmington, VT 05363

**9. OTHER TYPES OF APPLICATIONS:** Applications for Design Control District, Variances, Flood Hazard, Signs and Appeals must fill out additional forms, and may also require a Site Plan. Additional fees may also be required.

This permit does not relieve you, as applicant, from obtaining all applicable approvals that may be required from the Town of Wilmington or any State of Vermont Agencies prior to commencing the work planned.

For information on other permits:

Driveway/Right-of-way permits	Dawn Sacripante, Administrative Assistant	464-8591
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Sign permits	Alice Herrick, Sign Administrator	464-8591
911 address	Deborah Kingsley, 911 Coordinator	464-8591
Act 250 permits	Springfield office	802-885-8855
Wastewater Management / potable water	Springfield office	802-885-8855
State Wetlands Program	Springfield office	802-476-2678
Dept. of Public Safety	Springfield office	802-885-8883
Agency of Transportation		802-828-2653

Owner's Name Hermitage Inn Real Estate Holding Company LLC **FEE SCHEDULE**

**\*\*\*See email behind this sheet\*\*\***

Fees must be included with the Application. Please make checks payable to the Town of Wilmington. Application Fees are non-refundable. The fees listed below are the most common and do not include all fees. The complete fees schedule is available on the website or in the

Municipal Offices.

Base Application Fee (\$50 + \$13 filing fee) \$63.00

Construction Fee (see fee schedule) \_\_\_\_\_

Development Review Board Hearing Fee (\$75 + \$13 filing fee) \_\_\_\_\_

TOTAL \_\_\_\_\_

**Fee Schedule (based on area of new construction)**

Construction Fee (use gross floor area, including unfinished areas with a ceiling height over 4 feet and for basements include what could be typically finishable space only). There is no fee for Accessory structures such as decks and porches that are less than 200 sq. ft. in area.	1-500 sq. ft.	\$ 50
	501-750 sq. ft.	\$ 75
	751-1,000 sq. ft.	\$100
	1,001-2,000 sq. ft.	\$200
	2,001-3,000 sq. ft.	\$300
	3,001-4,000 sq. ft.	\$400
	for every additional 1,000 sq. ft. of construction:	add \$100

**Floor Area Calculator**

	SQ. FT. NOW	ADDITIONAL SQ. FT.
AREA OF BASEMENT		
AREA OF FIRST FLOOR		
AREA OF SECOND FLOOR		
AREA OF THIRD FLOOR		
AREA OF DECKS AND PORCHES		
AREA OF GARAGE OR SHED		
<b>TOTAL</b>		

Value of Construction  
\_\_\_\_\_

PLOT PLAN to be inserted for part of the application.

"See attached Plan Set"

## Section II – Deeds

Hermitage Inn Real Estate Holding Company LLC					
9-May-13					
Parcel Name	Acreage	Current Deed	Date Received for Record	Town	Survey Status
<b>Hermitage Inn Parcel</b>	90.00	285/110 DLR		Dover/Wilm	Incomplete
Includes former Ratheau parcel (65±ac.)		258/329 WLR			
<b>Fagge Lot 3</b>	28.00	292/561 DLR	01/21/10	Dover	complete
<b>Renehan Parcel D West</b>	1.63	300/277 DLR	02/18/11	Dover	by others
<b>Haystack Village West</b>					
Lot 9	4.62	289/202 WLR	10/21/11	Wilmington	complete
Lot 10	2.53	289/202 WLR	10/21/11	Wilmington	complete
Lot 11	1.79	289/202 WLR	10/21/11	Wilmington	complete
Lot 12	3.23	289/202 WLR	10/21/11	Wilmington	complete
Lot 13	2.20	289/202 WLR	10/21/11	Wilmington	complete
Lot 17	2.06	289/202 WLR	10/21/11	Wilmington	complete
Parcel A-2	3.21	289/231 WLR	10/21/11	Wilmington	complete
Common Land	1.12			Wilmington	complete
Common Land	0.27			Dover/Wilm	complete
<b>Summit</b>	10.01	291/61 WLR	12/27/11	Dover/Wilm	Incomplete
		310/427 DLR	06/20/12		
<b>High Country</b>	15.82	301/67 DLR	3/23/2011		
		291/ WLR	12/27/11	Dover/Wilm	Incomplete
<b>Fawn Ridge</b>	16.54	301/67 DLR	03/23/11	Dover	Incomplete
<b>Old Powderhorn Village</b>	4.84	305/163 DLR	10/28/11	Dover/Wilm	Incomplete
		289/227 WLR	10/21/11		
<b>Haystack Ski Area Tracts</b>		305/126 DLR	10/28/11		
		289/125 WLR	10/21/2011		
Merger Deed (base lodge & ski area)		296/328 WLR	08/17/12		
Former Mt. Snow Parcel	401.02			Dover/Wilm	Incomplete
Haystack Base Lodge Parcel	10.09			Wilmington	Incomplete
Siegel Parcels		289/191 WLR	10/21/11		
Tract 1, Parcel A	18.50			Wilmington	by others
Tract 2, Parcel D	1.08			Wilmington	by others
Tract 3, Easement				Wilmington	by others
Chamonix Village - Interior Lot line withdrawal deed		299/116 WLR	11/15/12		
Chamonix Townhouse Village	12.05	289/179 WLR		Wilmington	Incomplete
Chamonix Townhouse (#101-104, 301-304)		289/163 WLR			
Chamonix Townhouse (#201-204)		289/171 WLR			

Town of Wilmington

DRB Case # 2013-044

Hearing Date: June 17, 2013

Applicant: Hermitage Inn - Master

EXHIBIT D

<b>Cold Brook Road Utilities &amp; Infrastructure Parcel</b>		289/230 WLR	10/21/11	Dover/Wilm	Incomplete
<b>Access Roads &amp; Infrastructure Parcel</b>		289/231 WLR		Dover/Wilm	Incomplete
<b>Wilmington Leased Land Assignment</b>	252.00	147/188 WLR	06/21/94	Wilmington	Incomplete
		290/467 WLR	12/08/11	Wilmington	
<b>Handle Village</b>					
Lot 2	0.25	289/245 WLR	10/21/11	Wilmington	by others
Lot 5	0.50	0.00	10/21/11	Wilmington	by others
Lot 6	0.25	0.00	10/21/11	Wilmington	by others
Lot 8	1.00	0.00	10/21/11	Wilmington	by others
Lot 9	1.00	0.00	10/21/11	Wilmington	by others
Lot 10	1.00	0.00	10/21/11	Wilmington	by others
Lot 11	1.00	0.00	10/21/11	Wilmington	by others
Lot 18	0.25	0.00	10/21/11	Wilmington	by others
Lot 21	0.75	0.00	10/21/11	Wilmington	by others
Lot 22	0.75	0.00	10/21/11	Wilmington	by others
Lot 23	0.75	0.00	10/21/11	Wilmington	by others
Lot 27	0.75	0.00	10/21/11	Wilmington	by others
Lot 28	0.75	0.00	10/21/11	Wilmington	by others
Lot 29	0.75	0.00	10/21/11	Wilmington	by others
<b>Maple Village</b>					
Lot 60	0.50	0.00	10/21/11	Wilmington	by others
Lot 61	0.50	0.00	10/21/11	Wilmington	by others
<b>Sugar House</b>					
Lot 2	0.25	0.00	10/21/11	Wilmington	by others
Lot 18	0.25	0.00	10/21/11	Wilmington	by others
<b>Spruce Valley</b>	3.10	289/251 WLR	10/21/11	Wilmington	by others
<b>Haystack Golf Course</b>	90.75	289/210 WLR	10/21/11	Wilmington	by others
	<b>987.71</b>				

### **Section III – Corporate Resolution**

**RESOLUTION  
OF  
HERMITAGE INN REAL ESTATE HOLDING COMPANY LLC**

I, James R. Barnes, hereby certify that I am the manager of the **HERMITAGE INN REAL ESTATE HOLDING COMPANY LLC**, a Connecticut Limited Liability Company, of Hartford, in the County of Hartford and State of Connecticut, and I certify to the following resolution adopted by the members of said LLC at a meeting that was duly called and held on the 9<sup>th</sup> day of May, 2013, at which a quorum was present and acting throughout:

**BE IT RESOLVED**, that the LLC authorizes Robert M. Fisher, Esq., Robert Rubin, Robert Harrington, ~~Robert Rubin~~, and Ben Joyce to represent the company in land use permitting matters in front of the Dover Development Review Board, the Wilmington Development Review Board and the District 2 Environmental Commission concerning and pertaining to the Hermitage Inn and Haystack Mountain development.

I further certify that the foregoing Resolution remains in full force and effect and that as manager I have the authority to sign all documents and perform all acts required to execute this resolution.

**IN WITNESS WHEREOF**, I hereunto set the name of **HERMITAGE INN REAL ESTATE HOLDING COMPANY, LLC**, a Connecticut Limited Liability Company, this 9<sup>th</sup> day of May, 2013.

In the Presence of:

**HERMITAGE INN REAL ESTATE  
HOLDING COMPANY LLC**

Julie M. Mun  
Witness

James R. Barnes  
By: James R. Barnes, Manager

STATE OF CONNECTICUT  
COUNTY OF Hartford, SS Hartford

At Hartford, in said County and State this 9<sup>th</sup> day of May, 2013, **James R. Barnes**, personally appeared, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of **HERMITAGE INN REAL ESTATE HOLDING COMPANY LLC**, a Connecticut Limited Liability Company.

Before me,

Keri Jaye Fontano  
Notary Public

My Commission Expires:

**Keri Jaye Fontano  
Notary Public  
Expiration 1/31/2018**

Town of Wilmington  
DRB Case # 2013-044  
Hearing Date: June 17, 2013  
Applicant: Hermitage Inn - Master  
EXHIBIT E

## **Section IV – General Description of Proposed Amendment to Master Plan**

# MASTER PLAN

<u>Item #</u>	<u>PROJECT</u>	<u>DESCRIPTION</u>	<u>Permit Time Frame</u>	<u>Construction Time Frame</u>	<u>Comments</u>
1	Base Lodge	New Base Lodge	June 2012- June 2013	June 2012-Dec 2014	
2	Summit Rescue & Warming Hut	Renovation of Existing metal building, add water and sewer, add toboggan shed	June 15 - Sept 15, 2012	Sept 2012 - Dec 2012	COMPLETE
3	Heritage (Tage) Lift	3,000 LF from Heritage Inn to Last Chance Trail	June 2012 - Sept 2012	Sept 2011 - Jan 15, 2013	Lift needed to link Heritage Inn and winter activities with Haystack Ski area slopes and base lodge. COMPLETE
4	Heritage Trail	Completed as Non-Permitted (2011/12)	June 2012 - Sept 2012	Jan 1 2013 - Dec 15, 2013	Trail needed for ski back to Heritage Inn and facilities (Wetlands Reclamation plan - Lower)
5	Access Base Lodge Road from Chamonix Trail to Upper Parking Lot & Base Lodge	Main Southern access point to upper parking and Base lodge.	2006	June to Sept 2012	Needs finish work, paving, etc.
6	Rushing Creek Homes	Single Family dwelling on 7 lots	2006	June - Sept 2012	Lot #5 remaining (no construction to date) Rest COMPLETE.
7	Administration / Rescue	New facility south of proposed base lodge	June 2012- Sept 2012	2014	Construction on hold
8	Temporary Rescue Mobile Unit	Mobile Unit on wheels for Ski patrol, water and sewer	Nov 2012 - March 2013	Nov-12	Needed for Winter Operation of Ski Area 2012-13 Season
9	Windmill Turbine Generator at Summit	Vertical Turbine - 14' diameter by 16' high, battery storage in rescue building	Oct 2013 - March 2013	Aug 15 - Oct 1 2013	Will be main power supply for summit building. Mounted on bull wheel foundation, move 20 FT when new lift.
10	New England Village Residential Homes	30-40 residential homes on Haystack Lower Mountain Area	Jan 2013 - June 2013	June 2013 - June 2015	Anticipated start construction for 2013 season.
11	Lower Mountain Transfer Lift	New Lift from bottom of lower mountain, Mid Station, Terminating above new base lodge on Upper mountain	Jan 2013 - June 2013	July 2013 - June 2013	
12	New 6 Passenger Bubble Chair Lift to Summit of Mountain	In same location of existing OH-NO lift (not being used)	Jan 2013 - June 2014	July 2014 - July 2016	

Town of Wilmington  
 DRB Case # 2013-044  
 Hearing Date: June 17, 2013  
 Applicant: Heritage Inn - Master  
 EXHIBIT F

## MASTER PLAN

13	High Country Homes	40-50 single family dwellings In same location as Summit Meadows, Fawn Ridge and High Country (between Haystack Ski Area and Hermitage Inn lands)	Jan. 2014	July 2014 - July 2016	
14	Snowmaking System Upgrade	Haystack Brook Withdrawal, expansion of Mirror Lake, Cold Brook withdrawal	Jan 2013 - April 2014	June 2013 - Dec 2013	New Snowmaking pump station at Mirror Lake in addition to withdrawals, expansion of Mirror Lake.
15	Snowmobile / Cross Country / Hiking Trails	Lower mountain area along Fannie Hill Road, Cold Brook and Handle Road.	Sept 2012 - Aug 2013	Sept 2013 - Nov 2013	Buffer / Wetlands Violation mitigation, exact location unknown.
16	Mountain Cabins (4 each)	1-Stone, 1-post & beam, 2-log cabins (24'x36' approx.)	Jan 2013 - June 2013	July 2013 - December 2013	Open areas on side of trails.
17	Mountain Coaster (2 person)	Coaster Riding on rail from 3,000 feet elevation to bottom of ski area	Jan 2013 - June 2014	July 2014 - Nov 2014	Year round activity, coaster will be open year round, below 3,000 feet MSL. Exact location of rail to be determined.
18	Cold Brook Fire District #1 Water System Upgrade	Add Well #9 onto system to add 110,000 gallons / day capacity	Feb 2012 - Feb 2013	April 2013 - July 2013	Necessary for additional development. Separate permits to CBFD online by August 1, 2013
19	Cold Brook Fire District #1 Wastewater Treatment Plant Upgrade	Upgrade Phase I description to add 30,000 gallons / day capacity	Feb 2012 - Feb 2013	May 2013 - July 2013	Necessary for additional development. Separate permits to CBFD online by August 1, 2013 - ON HOLD
20	Cold Brook Fire District Tertiary Treatment Plant	Bring wastewater capacity to 110,000 gallons / day	Feb 2012 - Dec 2013	July 2014 - July 2015	Separate permits to CBFD.
21	Mount Snow Airport Expansion Phase I	extend runway from 2,600 feet to 4,400 feet	Jan. 2013 - June 2013	July 2013 - Nov 2013	Separate Act 250 to current owners (Sweet Dreams & Flying Machines), Hermitage Club Is Applicant.
22	Mount Snow Airport Expansion Phase II	extend runway from 4,400 feet to 5,000 feet	Jan 2014 - June 2014	July 2014 - Nov. 2014	Separate Act 250 to current owners (Sweet Dreams & Flying Machines), Hermitage Club Is Applicant.
23	Heliport	Base Area	Jan 2013 - Jan 2015	July 2015 - Nov 2015	
24	Equestrian Center	5 to 10 acres near base lodge	Jan 2013 - Jan 2015	July 2015 - Nov 2015	
25	Hermitage Tubing Chute	Follow Hermitage lift top to bottom.	Jan 2013 - Jan 2015	July 2015 - Nov 2015	
26	Skating Rink	60' X 120'	Jan 2013 - Jan 2014	July 14, 2014 - Nov 2014	
27	Condo Hotels	40 Unit phased buildings, parking garages	Jan 2016 - Jan 2017	June 2017 - Dec 2020	Balance of 450 approved residential units

# MASTER PLAN

28	Chamonix Village Homes	Condos - 2 to 4 unit buildings	2006 - 2015	2006 - 2020	Built as market dictates.
29	Siegel Pond	Addtion Snowmaking Water storage	2014	2015	Pond has been designed, but not Permitted.
30	Outcase 20 MG Snowmaking Pond	Alternative to Siegel Pond and/or Mirror Lake Expansion	2013	2014	Conceptual Stages only.
31	Rateau 5 acre lot	Single Family Home	Mar 2013 - June 2013	July 2013 - Dec 2013	
32	Summit Well	Connect to CBFD Water System	Mar 2015 - July 2015	July 2015 - Nov 2015	

**Section V – Projects for 2013 Construction Season and  
Summary of Projects Under this Application**

## Section V

### The Hermitage Club

#### Projects for 2013 Construction Season

##### 1. Lower Mountain Transfer Lift

This new 3,000 foot quad lift will connect the lower Haystack Mountain with the upper Mountain. The bottom terminal will be in the same spot as the existing double chair "fiddlesticks" lift at the base of the lower mountain. There will be a mid-station for unloading only at the top of the lower mountain. The top terminal will be just uphill of the new base lodge, and positioned to allow skiers to easily traverse to the Barnstormer, Hay Fever and future Bubble Six Pac Lift which service the upper Haystack trails. The total earth disturbance for the eight towers and three terminals is approximately one-third acre.

##### 2. Mountain Cabins

There are two mountain cabins planned for construction this year at the top of the Hayfever Lift. The cabins will be recessed into the tree line just off the trails. These cabins will be only approximately 1200 square feet with post and beam or stone construction. They will be used for events such as family birthday parties or social gatherings of up to 35 people. Small meals and snacks will be prepared and served, and these cabins will essentially be mini restaurants. They will have three employees each. They will be accessed by snow machines, terrain vehicles or by foot. They will have water from a drilled well and the wastewater will be connected to the Cold Brook Fire District System No. 1. The total earth disturbances will be approximately two thirds acre.

##### 3. New England Village Homes

We have planned a village of approximately eleven large residences and a chapel around the top of the Lower Mountain where the original base lodge, maintenance building and parking lots were located. The architecture will be New England Barns, sugar shacks, farm homes, and shed style construction. Most of the mature forest stand will be planned into the siting of these homes. The chapel will be used for small weddings and other social gatherings. We intend to construct six of the homes this season. Water and sewer services will be supplied by Cold Brook Fire District No. 1. The total disturbed area is approximately two acres.

##### 4. Kingsley Home (For Information Only)

This is a new residence just north of the Hermitage Inn located in the Town of Dover. This is being reviewed by the Dover DRB. The home will have a drilled well and will be connected to the CBFD sewer system.

#### 5. Base Lodge Subdivision

We have an earlier application to the Wilmington DRB for situating the Base Lodge on its own 2.5 acre parcel, as a requirement to obtain bank financing for construction of the base lodge this year. This request does not include construction permit.

#### 6. Construct Two Stream Withdrawals for Snowmaking Water

We intend to proceed with the construction of a stream withdrawal from Haystack Brook. A requirement of the State is that we re-construct the existing Cold Brook withdrawal at the same time to bring it up to today's standards. This was permitted by the Wilmington DRB back in ~~2006~~ but never went to construction.

2005

#### 7. Mount Snow Airport (To be submitted to the Wilmington DRB for review in the near future)

We intend to undertake an upgrade of the Mount Snow Airport this year in order to improve its safety and correct deficiencies noted by FAA. This will be handled under a future application to the Wilmington DRB. This work will include extending the runway from the 2600 feet existing south in Wilmington to 4400 feet total length, tree clearing on both sides and new runway lighting.

#### 8. Master Plan Review

We are presently working to address all criteria related to a ten year Master Plan. There are actually two Master Plans: one for the Hermitage and Haystack Mountain (included in this application) and the other for the Airport. Our work includes review meetings with both Dover and Wilmington Fire Departments, review with the Wilmington Water District, traffic analysis and report, growth and impact analysis and report, forest and wildlife management plan, wetlands mapping and Corps of Engineers Permit, Water Quality Remediation Plan regarding enhancement of stream and wetland environment, review of compliance with the local and regional plans, energy analysis and report, waste recycling plan, air pollution permit. Most of these studies take time. However, over the past year and a half we have formulated a basic plan for both the Hermitage Club and The Airport, and would like to review with the Wilmington DRB.

### SUMMARY OF PROJECTS UNDER THIS APPLICATION

1. Lower Mountain transfer lift.
2. Mountain Cabins.
3. New England Village Homes.
4. Construct two stream withdrawals for snowmaking water.
5. Master Plan Review.

## Section VI – List of Abutting Property Owners

Town of Wilmington

DRB Case # 2013-044

Hearing Date: June 17, 2013

Applicant: Hermitage Inn - Master

me  
dress  
y, State Zip

EXHIBIT H

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WESTON, CT 06883

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MEREDITH A BRAWER  
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COB BROWN II &  
LIZABETH OBRIEN  
ABBINGTON TERRACE  
LEN ROCK, NJ 07452

ROBERT MANNARINO  
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SOUTH WINDSOR, CT 06074

WILLIAM & VIRGINIA TENNISON  
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SUSAN D SWICK  
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RAYMOND, ME 04071

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