

Mountain Reach Development
NOTICE OF DECISION

Goshen Planning Board

September 26, 2006 (Corrected December 27, 2006)

Introduction

This decision relates to the application by Mountain Reach Development Group, LLC, to construct a 26 unit open space condominium development with associated on-site and off-site improvements. The property consists of two recorded lots, tax map 412, lots 30 and 31 on Old Province Road, Goshen, NH, with a total of 29.6 acres. This property is land that has been locally known as the “Dorr Property.” The property is located in the Goshen residential and agricultural zoning district.

The Town of Goshen Zoning Ordinances, particularly section III M Scenic Ridgeline and Hillside Overlay Provision and section VII Open Space Developments, as well as the Subdivision Regulations and Site Plan Review Regulations are pertinent to this application.

This Notice of Decision is divided into five sections.

- I. **Finding of Fact:** consists of a list of all documents and other relevant findings considered part of the application package.
- II. **Reasoning of Decision:** serves to explain how the Planning Board determined the application met or failed to meet the standards in the Town of Goshen ordinances and regulations. All referenced documents are considered part of the Record of Decision and are incorporated by reference in their entirety.
- III. **Motion:** consists of a motion, which will be made by the person reading this document at a Public Hearing.
- IV. **Conditions Precedent:** consists of a list of conditions that must be met by the applicant before any approval is final. No site work may be initiated until the Goshen Planning Board determines that all conditions in the **Conditions Precedent** section have been met.
- V. **Conditions Subsequent:** consists of a list of conditions on how the project will be implemented.

In the following, the term “Town” refers to the Town of Goshen, “applicant” refers to Mountain Reach Development Group, “development” refers to the Mountain Reach development, “Mountain Reach” refers to the Mountain Reach development project, “Board” refers to the Goshen Planning Board, “park” and “state park” refer to Mount Sunapee State Park, DES refers to New Hampshire Department of Environmental Services, DRED refers to the New Hampshire Department of Resources and Economic Development, SRKGC refers to the Sunapee-Ragged-Kearsarge Greenway Coalition, UVLSRPC refers to the Upper Valley Lake Sunapee Region Planning Commission, “trail” refers to the deeded easement for a trail on the development tract, “paths” refers to the formal proposed gravel surface paths on the development.

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I. FINDING OF FACT

Goshen Planning Board voting members present for the reading of the Notice of Decision for the Mountain Reach application are: Chairperson John Wirkkala, Vice-Chairperson Allen Howe, Richard Moen, Select Board Representative James Carrick, and alternate Planning Board member Jonathan Purick. Other Board members who participated in the hearing process were Judith Filkins and alternate members John Scranton and Carl Wideberg.

The Board convened a Public Hearing on the Mountain Reach development proposal on eleven days, all occurring in 2006. The Public Hearing dates were: January 10, April 4, May 2, May 30, June 6, June 27, July 11, July 25, August 1, August 29, and September 5.

In addition, site visits associated with the Mountain Reach development proposal occurred on two dates:

- April 22, 2006 – the purpose being to gain an overview of the development site, and
- August 19, 2006 – the purpose being to examine proposed off-site improvements to Old Province Road.

The following individuals provided oral testimony for Mountain Reach Development Group LLC (MRDG) during the hearing process:

- Pam Perkins, Richard Reeves, and Mark Loehr, MRDG Partners;
- Richard Uchida and Carley McWhirk of Hebert and Uchida, Legal council to MRDG;
- Roger Wells of Wells Appel Land Strategies, Planning and Landscape Architects for MRDG;
- David Eckman and Roger Appleton of Eckman Engineering LLC, Engineering and Survey Services for MRDG;
- Jay Tucker of Old Hampshire Designs, Building Designer for MRDG; and
- Kim Hazarvartian of Transportation Engineering, Planning and Policy (TEPP), LLC, Traffic Engineer for MRDG.

Others who provided testimony for Mount Reach in written form only are included in the list of submittals in Table 1 below.

Other individuals provided oral or written testimony during the hearing process:

- Robert Bell, abutter;
- Jeffrey Perrino, Old Province Road resident (also representing abutter Joseph Perrino);
- Lars Nelson, Old Province Road resident;
- Paul Killion, Old Province Road property owner;
- Bill Bartlett, visual abutter from Newport;
- Wendell (Bud) Berry, visual abutter from Newport;
- Rick Shepard, Town Fire Department Chief;
- Dan Peterson, Town Forest Fire Warden;
- Clark Wamsley, Town Fire Department;
- Beatrice Jillette, Chair of Goshen Conservation Commission;

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- Richard Ambler, Town Zoning Board of Adjustment alternate member;
- Linda Janicke, Town resident;
- Jolyon Johnson, President, Friends of Mount Sunapee,
- Tom Elliott, representing Friends of Mount Sunapee; and
- Gerry Gold, representing the SRKGC.

Submittal Items

Table 1 below includes an overview of all submissions related to this development proposal. Those items presented in ***bold italics*** represent the applicant’s development proposal as it stands at the time this Notice of Decision was prepared and provide the basis for this decision and subsequent conditions.

Table 1. Finding of Fact, Mountain Reach Development.

Item No.	Submission	Date
1.	<i>Traffic Impact Assessment, Proposed Condominium Development prepared by Stephen Pernaw and Company</i>	12/2005
2.	Drainage and Hydrology Report for Mountain Reach a Proposed 9 Building (27) Unit Condominium Project, prepared by Eckman Engineering	12/15/2005
3.	Declaration of Condominium, Mountain Reach, Draft; Including Exhibit C Bylaws and Exhibit D Rules and Regulations	12/16/2005
4.	Site Plan Package	12/19/2005
5.	Mt. Reach Development Fiscal Impact Analysis by Gerald I. Coogan, AICP	12/19/2005
6.	<i>Application for Major Subdivision by Mountain Reach Development Group LLC for 27 Condominium Units on Tax Map 412, Lots 30 & 31 on Old Province Road in Goshen, NH (Note: project plan was reduced to 26 units in March, 2006)</i>	12/19/2005
7.	Correspondence from Attorney Richard Uchida regarding Mountain Reach Development Group	12/19/2005
8.	<i>Memorandum from Heather Hermann, NH Natural Heritage Bureau, to Peter Spear regarding Review by NH Natural Heritage Bureau request dated 12/14/2005 (attachment to Spear letter)</i>	12/20/2005

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Table 1. Finding of Fact, Mountain Reach Development, continued.

Item No.	Submission	Date
9.	<i>Letter from Peter W. Spear to the Chairperson of the (Goshen) Conservation Commission regarding the impact of Mountain Reach condominiums on wildlife on the proposed development site, Goshen, NH: NRCS File #750.04 (Included as part of the 12/27/2005 application package)</i>	12/25/2005
10.	<i>Site Specific Soil Map Report, Mountain Reach Parcel, prepared by Carex EcoSciences, dated 09/14/2005, and labeled as revised 12/13/2005</i>	12/27/2005
11.	Mountain Reach “Introduction & Application Summary” booklet, undated, submitted with application package on 12/27/2005	12/27/2005
12.	Application for Open Space Development of Section VII of the Goshen Subdivision Ordinance by Mountain Reach Development Group LLC for 27 Condominium Units on Tax Map 412, Lots 30 & 31 on Old Province Road in Goshen, NH (<i>Note: Application was revised on March 17, 2006, for 26 units</i>)	12/27/2005
13.	Application for Scenic Ridgeline/Hillside Development of Section III (M) of the Goshen Subdivision Ordinance by Mountain Reach Development Group LLC for 27 Condominium Units on Tax Map 412, Lots 30 & 31 on Old Province Road in Goshen, NH (<i>Note: Application was revised on March 17, 2006, for 26 units</i>)	12/27/2005
14.	<i>Application for Site Plan Review by Mountain Reach Development Group LLC for 27 Condominium Units on Tax Map 412, Lots 30 & 31 on Old Province Road in Goshen, NH (Note: project plan was reduced to 26 units in March, 2006)</i>	12/29/2005
15.	Mountain Reach 8-page project description handout to Board and public	01/10/2006
16.	<i>Application for Open Space Development, revised, for 26 condominium units</i>	03/17/2006
17.	<i>Application for Subdivision and/or Building Permit Within Scenic Ridgeline or Hillside Areas, revised</i>	03/17/2006

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Table 1. Finding of Fact, Mountain Reach Development, continued.

Item No.	Submission	Date
18.	Mountain Reach Development “Site Plan Package, 12/19/05, Density, Open Space, & Steep Slopes Review Submittal, March 17, 2006” with some revised plan sheets and some new plan sheets, including Conceptual Subdivision Plans CS-1 and CS-2, and Conceptual Subdivision Slope Overlay Plans CS-3 and CS-4, showing potential conventional subdivision density	03/17/2006
19.	Mountain Reach Development Conceptual Subdivision Plan and Slope Overlay	03/17/2006
20.	Floor plan and elevations of Triplex building, by Old Hampshire Design 2006	04/26/2006
21.	Mountain Reach Development Open Space Plan Alternatives 1-4 and Site Sections F and D-C	05/25/2006
22.	Memorandum from Mountain Reach Development c/o Wells Appel regarding Request for Alternate Site Plans and Evaluations.	05/25/2006
23.	Mountain Reach Development Typical Quad (Four-Plex)	05/30/2006
24.	Site Plan maps C-1 and C-2 on a single sheet; C-1 showing Plan No. 5 layout with slope overlay and C-2 showing layout with open space <i>Note: This plan has been superseded; however, it is the plan that was submitted to the Goshen ZBA for its application for special exception for building on steep slopes.</i>	05/30/2006
25.	Mountain Reach Development Sketch of Open Space Plan Alternative No. 5	06/02/2006
26.	Memorandum from Mountain Reach Development c/o Wells Appel regarding Alternate Plan No. 5	06/06/2006
27.	<i>Exterior Material List; Lighting Specifications with exterior Hubbardton and Cross Creek example wall sconces; example photos of a stone pillar with sign; color drawings of triplex east, west, north, south elevations, and proposed rail fence details</i>	06/27/2006
28.	Letter from Attorney Richard Uchida to Town of Goshen Planning Board, extending the deadline for application deliberation for an additional 30 days in addition to the 180 days of extension that were granted on January 10 th	07/05/2006

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Table 1. Finding of Fact, Mountain Reach Development, continued.

Item No.	Submission	Date
29.	<i>Mountain Reach Development Declaration of Condominium, By-Laws, Rules and Regulations, and Conservation – Open Space Easement Deed (To be revised)</i>	07/18/2006
30.	Mt. Reach Development Fiscal Impact Analysis, <i>revised</i> , by Gerald I. Coogan, AICP (<i>Note: This report was withdrawn from the application package by mutual agreement of the applicant and the Board on August 1, 2006</i>)	07/20/2006
31.	Mountain Reach Development Site Plan Package, revised	07/24/2006
32.	Mountain Reach Site Rendering, Proposed Fence Details (resubmitted from 06/27/2006), and Phasing Plan, undated, submitted 07/25/2006	07/25/2006
33.	Memorandum from Mountain Reach Team c/o Wells Appel regarding items requested by Chairperson John Wirkkala, Friday July 21, 2006.	07/25/2006
34.	Mountain Reach Development Open Space Plan Rev 2 and Tree Clearing Plan Rev 2	07/31/2006
35.	<i>Site Distance Assessment for Old Province Rd. and Brook Rd. Intersection prepared by Transportation Engineering, Planning and Policy LLC</i>	08/01/2006
36.	<i>Memorandum from Attorney Richard Uchida to H. Bernard Waugh regarding Goshen Planning Board/Mountain Reach Development preliminary draft of a list of conditions for condo docs.</i>	08/01/2006
37.	Letter from Attorney Richard Uchida to Town of Goshen Planning Board extending the deadline for application deliberation to September 13, 2006	08/01/2006
38.	Mountain Reach Development Proposed Reconstruction of Old Province Road	08/17/2006
39.	Mountain Reach Development Revised Stone Entry Sign depiction	08/28/2006
40.	Mountain Reach Development revised Maintenance/Trash/Storage Area drawing, using existing buildings	08/28/2006

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Table 1. Finding of Fact, Mountain Reach Development, completed.

Item No.	Submission	Date
41.	<i>Mountain Reach Development [Utilities] Plan, with color-coded phasing indicated, labeled Rev 1, 7/24/06, submitted 8/29/2006 (Latest Rev date of August 2006 was not placed on plan sheet)</i>	08/29/2006
42.	Mountain Reach Development Site Plan Package also had a Review Submittal (Note: New Rev numbers and dates were not recorded on the individual plan sheets)	08/29/2006
43.	Mountain Reach Development Site Slope Overlay labeled Rev 1, 7/24/06	08/29/2006
44.	Mountain Reach Development Open Space Plan Rev 3	09/05/2006
45.	<i>Mountain Reach Summary Report presented by Roger Wells</i>	09/05/2006
46.	<i>Mountain Reach Site Photos of sites for Buildings A through H and Maintenance Sheds, September 2006</i>	09/05/2006
47.	<i>The Clean Solution™ An Alternative Septic System</i>	09/05/2006
47a.	<i>Letter from Attorney Richard Y. Uchida to Town of Goshen Planning Board extending the deadline for application deliberation to September 27, 2006.</i>	09/06/2006
48.	<i>Memorandum from Attorney Richard Uchida to H. Bernard Waugh with revised Mountain Reach Development Declaration of Condominium, By-Laws, and Rules and Regulations</i>	09/18/2006
49.	<i>Letter from Goshen Select Board to Goshen Planning Board Chairperson, John Wirkkala, outlining the Select Board decision on the applicant's proposal to upgrade Old Province Road</i>	09/18/2006
50.	<i>Site Plan Approval Package. Note: This package was submitted to the Goshen Planning Board on 9/22/06. The package includes some new plan sheets, some revised plan sheets, and some plan sheets that were submitted unchanged from previous submittals. However, the original and/or revision dates on some plan sheets are incorrect and will need to be corrected.</i>	09/22/2006
51.	<i>Drainage study entitled "Application for Mountain Reach, A Proposed 8 Building (26 Unit) Condominium Project," prepared by Eckman Engineering</i>	09/22/2006

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Other Findings of Fact

The site proposed for development has several inherent development challenges including 15 to 25% and greater slopes, prominent visibility from and access to the Mount Sunapee State Park and ski resort, visibility from public highways, and a rural location which is currently served by inadequate infrastructure (i.e., Old Province Road).

The Board conducted a site visit on April 22, 2006. The Board identified several outstanding or sensitive natural and man-made features for conservation within the open space. These included: a) the dense softwood stands in the area of proposed building "A" (Table 1, Item No. 50, Open Space Plan L-6, submitted to the Board on 9/22/06) and along the eastern portion of the property; b) oak stands in the northern section of the property; c) the large rhododendrons near the existing entrance; and d) stone walls. Scenic views were also identified as a concern. Specifically, proposed building "A" was cited as having a significant impact on views from the state park and the SRKG trail. Site visit photos were taken by Peter Dzewaltowski, UVLSRPC, to help the Board visualize impacts.

The Board conducted a site visit on August 19, 2006, to examine the applicant's proposed improvements to Old Province Road and to examine the intersection with Brook Road. The Board observed that while a few large trees would be removed to widen the road, some of these trees were already in decline. The tree removal plan along Old Province Road seemed reasonable to the Board. The Board thought that painting a short centerline on Old Province Road at the intersection with Brook Road might benefit traffic turning left off Brook Road by better delineating the turning radius. The Board concluded that paved cartway width, shoulders, and proposed ditches and other drainage structures would be an improvement over existing conditions.

The existing dwelling on the tract could not be maintained given the applicant's development objectives.

II. REASONING OF DECISION

Open Space Subdivision – Zoning Ordinances Section VII

Area and Dimensional Requirements

A minimum overall tract size of 12 acres is required (Section VII.D); the Mountain Reach tract is over 29 acres. The Board finds that proposed building configurations meet all open space setback requirements, and buildings will comply with the height limitation of 35 feet (Zoning Ordinance Section III.D.3).

Density

Because of the fact that the application was accepted prior to the posting of the hearings for the 2006 Goshen Zoning Ordinance Amendments, this application is "grandfathered" in terms of the overall density on a lot for multi-unit buildings. The applicable conventional subdivision standards are thus a minimum of three acres per building, up to three dwelling units per building, and a density on a lot of not more than one dwelling unit per acre (Zoning Ordinance of March

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2005, Section III.B.3 and III.B.4). Although the Board accepted the final application as complete in December of 2005, the Board did at later hearing dates go through extensive “design review” of this proposal.

The open space subdivision density ordinance Section VII.E specifies that “*The overall maximum number of dwelling units in an open space subdivision shall not exceed that which would be permitted for a conventional subdivision on the same tract...*”

The applicant provided a conceptual plan for a conventional subdivision (Table1, Item No. 18). That conceptual layout depicted eight buildings with three dwelling units each and one building with two dwelling units with each building situated on at least three acres. This yielded a total of twenty six dwelling units. Thus the Board determined that 26 units would be the maximum allowed for this open space subdivision. It should be noted that the Ordinance does not require a specific conventional subdivision plan to be evaluated for actual approval purposes, nor does it require the size of the dwelling units on the hypothetical conventional plan to be the same as those of the actual proposal.

The proposal includes multi-family residential condominium dwelling units in buildings ranging from two to four units. The Board agreed to make an exception (Zoning Ordinance Section VII.E) and allow some four unit buildings as it was determined to enhance overall open space. The plan shows three buildings with 4 dwelling units, four buildings with 3 dwelling units, and one building with 2 dwelling units (Table 1, Item No. 50, Site Plan Approval Package, 9/22/2006).

The proposed land use will not serve transient populations, such as would a hotel or timeshare.

Open Space

The applicant has shown (Table 1, Item No. 50, Site Plan Approval Package, Open Space Plan L-6 and L-7, submitted to the Board on 9/22/06) that 66.2% (19.62 acres) of the total tract will be conserved as open space. This exceeds the 65% standard in the ordinance (Section VII.F). The applicant will execute a conservation easement deed to the Town, which will be reviewed by the Town’s attorney at the applicant’s expense. This open space plan was chosen by the Board as being preferred to at least four other layouts sketched by the applicant’s consultant, Roger Wells, in response to the Board’s concerns with the original layout, as described below.

Open Space Evaluation

Open space was evaluated in terms of its quantity, quality, and configuration through an analysis of alternatives based on the provisions of Section VII.G of the Zoning Ordinance.

The Board considered options to lessen the extent and impact of the interior private access road on open space. Goshen Fire Department comments related to apparatus access and guidance from the National Fire Prevention Code largely contributed to the road’s final loop design. The Board considered that safety was the primary concern in design of the interior road.

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Reconfiguration of the development to improve the quality of open space resulted in some buildings encroaching onto 15-25% slopes. The Board concluded that the effects of impacting these areas could be outweighed by the improved quality of open space, so long as the impact on the steeper slopes was evaluated by the Zoning Board as part of the special exception process. The applicant stated that the total impact on 15-25% slopes would be less under the revised layout when both buildings and road construction were considered.

The Board encouraged the applicant to seek a special exception from the Zoning Board of Adjustment (ZBA) for the placement of building on slopes between 15-25% (Zoning Ordinance Section III.B.6). The ZBA has granted a conditional special exception. This revised open space layout necessitated the revision of many of the initial submittals and is the basis for many of the conditions of approval (e.g., the revised alteration of terrain application, landscaping plan).

The Board considered the final proposed open space primarily of value as wildlife habitat and secondarily for recreational use. According to information provided by Heather Hermann, NH Natural Heritage Bureau (Table 1, Item No. 8, 12/20/2005 memo to Peter Spear, Natural Resource Consulting Service), their databases do not show the occurrence of sensitive species near the project area. However, a negative result does not mean sensitive species are not present. The December on-site evaluation by Peter W. Spear, Wildlife Biologist (Table 1, Item No. 9, 12/25/2005 letter to Goshen Conservation Commission) revealed no sensitive animal or plant species either, but the timing by his own admission was not optimal. Mr. Spear observed nine deer beds and wrote that: *“Deer use the denser portion of the site for bedding”* and *“Deer show special attention to the seasonal nut crop, especially the reliable production of red oak acorns”*.

The amount of open space is too small for viable forestry or agriculture activities. Given that the nearby park is a mixture of undeveloped land and highly developed land consisting of ski slopes, preservation of some forest land on this tract may be beneficial to the overall ecological viability of this vicinity. The open space configuration does maintain a vegetated buffer to the state park.

Because of the nature of the lot configuration and slope characteristics, the development deeply intrudes into the tract. While this creates some fragmentation of open space, sizeable contiguous areas to the north and west remain. These areas have stands of dense softwoods and oaks, which are important to wildlife. The proposed plan requires the preservation of existing trees within the open space and the applicant will attempt to relocate some of the large rhododendrons during site landscaping.

Meadows and open fields, an important natural feature and wildlife habitat, are rapidly disappearing in this area of NH. Through use of a limited mowing cycle to be specified in the conservation easement, the existing meadow will be maintained as a meadow in perpetuity. Peter W. Spear, Wildlife Biologist, in a 12/25/2005 letter to Goshen Conservation Commission (Table 1, Item No. 9), recommended mowing at *“...three-year intervals to maintain meadowland”*.

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The open space is available to the residents of the development for low-impact, non-motorized recreation. In addition, the conservation easement will contain a provision for a public trail corridor for pedestrian use only. This corridor along the western boundary (Table 1, Item No. 50, plan sheets L-6 and L-7, 9/22/2006) provides the option of a public trail linkage on the SRKGC trail. In a letter to the Board dated 07/25/2006 Gerry Gold, Chairman, Trails Committee, SRKGC, encouraged the Board to “...welcome and accept the offer of a public accessible walking/hiking trail on the former Dorr Property at the top of Old Province Road.” The applicant has also volunteered to provide an extension of the above trail corridor along the northern boundary of the tract to provide a linkage to the park (Table 1, Item No. 50, plan sheet L-7, 09/22/2006).

Configuration of the open space development in terms of building location and screening also minimizes the impacts on views from public vantage points.

Driveway

All driveways for this development will connect to a private access road and not a Town or State road and thus do not require driveway permits. However, the development will modify an existing driveway to create a major entrance to serve the development. This major entrance will comply with standards of the Town’s Driveway Regulations Section 4B.

Other Structures

Although discussed, this application does not include a ski hut, club house, community center, or swimming pool. While a pool, new storage and maintenance building, and community room are not part of this application; their development is not precluded subject to a full site plan review approval by the Board at some future time.

The sheds existing on the tract will be retained and used for maintenance buildings and trash storage. They will be refurbished to the extent necessary for this purpose using materials similar in nature and color to those of the dwelling units.

A pump room for community water supply will be attached to the southwest corner of the existing building that the applicant has designated as the maintenance building. The pump room is a 10’ x 10’ structure that will be constructed with the same building materials as the dwelling units.

Park Access, Paths, Fence

The Board received a 07/28/2006 letter from Jolyon Johnson, President, Friends of Mount Sunapee, with an attachment prepared by Tom Elliott, which included several questions and opinions about the development as it relates to the park. These documents were considered by the Board and reviewed by the Town’s attorney.

Public testimony from the Friends of Mount Sunapee stated concerns regarding the potential of a ski hut and access to the state park. The idea of a ski hut was withdrawn; no ski hut is part of this proposal.

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The Board does not encourage, condone or otherwise have an opinion regarding private access to the state park. This is beyond the jurisdiction of the Board unless related site development changes the land use or has the potential to cause an impact under the jurisdiction of Subdivision and Site Plan Review regulation. The Board has received a letter to the developer's attorney, Richard Uchida, from Commissioner George Bald of DRED dated Sept. 14, 2006, which grants the developer access to the state park across the common boundary, so long as it is understood that there is no preferential treatment.

If paths providing a cross-boundary connection to the state park are constructed within the open space or elsewhere on this development, no fees can be levied against development residents, their guests, or other users for access via the development to the park.

The ownership and purpose of the existing chain linked fence proximate to the state park ski lift terminus is uncertain.

The Board has no information that park and ski facility access via the Class VI portion of Old Province Road is sanctioned by DRED, although that it occurs is well known. Therefore, the Board has requested a written clarification from the Commissioner of DRED regarding policy related to access to the state park from the Class VI portion of Old Province Road.

Ridgeline/Hilltop Review

The Board determined that the development invokes the Scenic Ridgeline and Hillside Overlay Provision of the Zoning Ordinance (Section III.M). Profiles and a view shed analysis provided by the applicant depicted a stand of trees behind the structures which will prevent any structure from standing directly against the skyline or horizon from any vantage point one-half of one mile or more away.

Section III.M.2 specifies that a healthy screen of trees must be maintained surrounding structures to break up the façade from view unless the structure is located in a field or clearing that existed prior to March 11, 2003. The large open field depicted on the existing features plan existed before March 11, 2003.

Subdivision and Site Plan Review

The Board may deny site plan approval for a proposed development under specified conditions (Section V.A). The applicant has volunteered to bear all costs to upgrade substandard off-site infrastructure (Old Province Road), as well as costs for construction and maintenance of on-site infrastructure and services for public health and safety (e.g., cisterns, in-home sprinklers, wells, sewage disposal systems, refuse and recyclable disposal). The Board concluded the development was not premature based on the criteria of Site Plan Review Section V.A.

Materials for all new structures are designed to blend the buildings into the natural landscape per Site Plan Review Section XI.A and structure plans comply with Site Plan Review Section XI.B.

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Lighting plans comply with Zoning Ordinance Section V.L and Site Plan Review Regulations Section XI.C and will be certified by the Goshen Building Inspector, or a designee of the Select Board, before a certificate of occupancy is granted.

The Board determined that the signage area would only include the sign itself and not the pier onto which the sign will be attached. Thus the sign area will be less than or equal to 6 square feet and in compliance with Section V.E.

Roads, Interior Streets, Parking, and Pedestrian Traffic

The development is served by a private access road that intersects with Old Province Road. The applicant has volunteered to pay all costs associated with the improvement of Old Province Road from the development to Brook Road. Improvements shall include road reconstruction and alignment to improve sub-base, drainage, and its alignment with Brook Road to improve sight distances (Table 1, Item No. 50, plan sheets OS-1 through OS-13, 9/22/06). Care shall be taken to save those trees with potential for survival given the agreed alignment (Table 1, Item No. 50, plan sheets TR-1 and TR-2, 9/22/06). The stone wall on the South side of the road is a scenic asset and should not be removed.

The Board determined that the applicant's planned improvements to Old Province Road are adequate given existing site constraints and that street improvement for Old Province Road meets the standards in the Subdivision Regulations Section 4.18. The development does not contribute sufficient traffic to change the classification of any surrounding road, including Old Province Road.

Parked vehicles at the end of Old Province Road for access to the park and the SRKGC trail create problems for snowplows and other road maintenance equipment. Regardless of whether or not any future parking spaces are provided in this location, the applicant will incorporate a paved road maintenance equipment hammerhead as part of the Old Province Road construction (Table 1, Item No. 50, plan sheets B-2, OS-12, 09/22/06). The applicant has also proposed gravel surface parking for four vehicles adjacent to the road maintenance equipment hammerhead (Table 1, Item No. 50, plan sheets B-2, 9/22/06). This proposal was discussed with and found acceptable by the Select Board and Road Agent (Table 1, Item No. 49).

The Board considered options to lessen the extent and impact of the interior private access road. Goshen Fire Department comments related to apparatus access and guidance from the National Fire Prevention Code largely contributed to the road's final loop design. The Board accepted the private access road as presented, as it met the local road standards for grade and had adequate cartway width (Subdivision Regulations, Section 4.17, Standards for Street Design). The minor local road right-of-way standard of 50 feet was waived by the Board as being excessive for this interior private road.

The subdivision plan provides 78 total residential parking spaces, which satisfies Subdivision Regulations Section 4.20 and Zoning Ordinance Section III.B.1.

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No neighboring pedestrian facilities exist to which a sidewalk connection would make sense. Internal pedestrian circulation will use the private road, which is an acceptable alternative to sidewalks given expected traffic volumes and speed. Interior paths will be constructed that go through the central section of the development to interconnect some portions of the development (Table 1, Item No. 50, plan sheets C-3, C-4, 09/22/2006).

It is the board's intent that a public trail will exist within the deeded open space of this development. Pedestrians currently use Old Province Road as it is a link in the SRKGC trail. Adequate shoulder width (2 feet) will be provided on Old Province Road to accommodate pedestrians and, when the Town desires, the public trail corridor within the open space will be opened to the public to potentially redirect SRKGC traffic away from Old Province Road.

Utilities

The development will be served by onsite community well and septic. Pending state approval of plans, this satisfies Subdivision Regulations Section 4.22 in this regard. All new utility service will be underground. New electric infrastructure will be underground in accordance with Site Plan Review Regulations Section XI.R, and the applicant has agreed to remove any existing electrical poles that are not in use.

Underground fuel storage tanks will comply with Site Plan Review Regulations Section XI.M, so long as all State regulations pertaining to such tanks are met.

The applicant proposes Clean Solutions technology for sanitary sewer treatment. It is recognized that the system requires ongoing planned maintenance and inspection to work effectively at preventing pollution. The applicant has agreed to provide such necessary servicing. The applicant will need state subdivision/site specific approval from the DES to satisfy the requirements of Subdivision Regulations Section 4.15.

Stormwater Management and Sediment and Erosion Control

Due to the size of disturbance, the project will require a DES alteration of terrain permit. DES approval will satisfy the requirements of the Subdivision Regulations Section 4.23 and Site Plan Review Regulations Section XI.L. The applicant's studies conclude that the post-development discharge of surface water in cubic feet per second based on both a 10-year and a 25-year storms will not exceed the pre-development discharge to three of the four abutting properties. The estimated increase in the post-development runoff for the fourth property is minimal with an increase in discharge of less than ¼ of one percent (Table 1, Item No. 51).

Trees and Landscaping

Landscaping plans comply with Section 4.27 of the Subdivision Regulations and Section XI.F of the Site Plan Regulations. Landscaping shall be located and maintained to break-up the masses of each building thereby helping shield them from prominent public views such as Route 103 (Table 1, Item No. 50, plan sheets L-2 and L-3, 9/22/06).

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Fire Protection

Fire protection provisions comply with the Subdivision Regulations Section 4.28 and the Site Plan Review Regulations Section XI.K. The Goshen Fire Department has reviewed Mountain Reach plans and has verbally endorsed the plans; written approval is required.

Noise

Excessive noise is not expected with this development once construction has been completed. The requirements of Section XI.N of the Site Plan Review Regulations shall apply.

Other Findings

Abutter testimony noted a rock pile near the site entrance and the possibility that it has historical significance. The rock pile was found to be on the neighboring property.

The development is proposed to be phased according to the submitted phasing plan complying with Subdivision Regulations Section 4B.01

III. MOTION

Motion by Allen Howe that the Board conditionally approve the Mountain Reach development proposal as specified in the above Finding of Fact and subject to the following Conditions. Seconded by Rich Moen.

IV. CONDITIONS PRECEDENT

The following conditions must be met prior to the final signing and recording of the plans.

Conditions Requiring a Planning Board Hearing

1. The applicant shall present for Board approval a Town Driveway Permit for a major entrance consistent with Section 4B of the Town Driveway Regulations.
2. The applicant shall present for Board approval a written endorsement by the Goshen Fire Chief supporting the Fire Protection Plan. The Fire Chief may request the State Fire Marshal to review the proposal and provide suggestions for any advisable revisions. The Board reserves the right to require plan amendments according to the Fire Marshal's comments.
3. The applicant shall present for Board approval plans for the three existing "sheds" on the property, in accordance with Site Plan Review Regulations Section VII.C.3.
4. The applicant shall present to the Board a proposed conservation easement deed to the Town, consistent with Section VII.F of the Ordinance, which is consistent with the submitted Open Space Plan (Table 1, Item No. 50, plan sheets L-6 and L-7, 9/22/06), which provides for public nonmotorized access and makes provisions for a trail corridor,

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as set forth in the "reasoning" section above, and which provides, at the Town's option, for its administration and enforcement to be delegated to a third party. The easement shall be reviewed for consistency with this Notice of Decision by the Town's attorney, at the applicant's expense, prior to final plan approval.

5. The applicant shall present to the Board condominium documents, including the Declaration, By-Laws, and Rules and Regulations, consistent with all of the provisions of this Notice of Decision, as set forth in the "reasoning" section above, to include provisions for inspection and maintenance of all common infrastructure including roads, drainage and fire protection infrastructure. The above condominium documents shall be reviewed by the Town's attorney for consistency with this Notice of Decision and the Goshen Zoning Ordinance and applicable site plan and subdivision regulations, at the applicant's expense.
6. The applicant shall present to the Board for approval a review by the UVLSRPC consultant of final construction plans for the development for consistency of plans with this Notice of Decision. Material differences or inconsistencies between the final construction plans and the final Notice of Decision will require additional Board consideration. Also, material differences or inconsistencies between the submissions of 09/22/2006 and earlier submissions will require future Board approval.
7. The applicant shall present to the Board for approval an estimated timetable and cost estimate for construction and completion of infrastructure, landscaping, and improvements to Old Province Road; and an estimated timetable for construction and completion of buildings. The sufficiency of the project's bonding proposal shall be reviewed, at the applicant's expense, by a Professional Engineer employed by the Town and licensed in the State of New Hampshire.
8. The applicant shall present to the Board for approval a proposal for signage that identifies the deeded open space boundary.

Conditions Requiring Administrative Action Only (no Board Hearing will be required)

9. The applicant shall present to the Board an approved State of NH Well and Community Water Supply Plan.
10. The applicant shall present to the Board an approved Site Specific Permit from DES.
11. The applicant shall present to the Board an approved State Subdivision Permit from DES.
12. The applicant shall present to the Board the Goshen Zoning Board of Adjustment final approval for the already conditionally-approved special exception to place buildings on slopes between 15-25 percent.
13. The applicant shall present to the Board condominium documents approved by the State Attorney General.
14. The applicant shall present to the Board an approval by the Goshen Select Board and Road Agent of proposed improvements to Old Province Road.

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15. The applicant shall present to the Board approval by the NH Department of Transportation District 2 for the alteration of the intersection of Old Province Road and Brook Road.
16. The applicant shall present to the Board a State Driveway Permit for the improvements to the Old Province Road and Brook Road intersection.
17. The applicant shall present to the Board two suitable mylars, one for recording at the registry of deeds and one for the Town of Goshen.
18. The applicant shall present to the Board evidence of acceptable bonding or other security for completion of on-site and off-site roads, drainage, and utility infrastructure, as well as for reclamation and landscaping of all disturbed areas prior to the issuance of a building permit. The Town's attorney will review the security instrument for legal considerations, at the applicant's expense.
19. The applicant shall present to the Board a minimum of 5 blue/blackline copies of the revised plat, including all checklist corrections and any corrections as noted during this hearing.

The deadline for satisfying conditions precedent shall be one year. Per Section VI.H a new site plan application is required, if the applicant has not complied with all Site Plan Review pre-implementation conditions of approval within one year. If compliance is not confirmed by the deadline date and a written request for extension is not submitted by that date, then this conditional approval shall expire.

V. CONDITIONS SUBSEQUENT

Construction

1. The development will be constructed in substantial conformance with the plans listed in this Notice of Decision, including all of the features and conditions noted in this decision, provided however that the Board may, following a hearing, grant approval for any material alterations (Site Plan Review Regulations Section XII).
2. The legal boundary line between the park and the development and ownership of the existing chain link fence proximate to the state park ski lift shall be established in consultation with DRED prior to reconfiguration or removal of the existing fence.
3. All exterior lighting, including temporary construction or security lighting is to be hooded and down-lit.
4. The development entrance sign, which will be attached to a stone pier, shall not exceed six square feet.
5. No "topping" of trees will occur. All new woody plantings shall be native species or horticulturally improved varieties of the same. Only organic herbicides, pesticides, and fertilizers will be used within the development. These will be applied only by appropriate professionals, and will not be stored on-site.

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6. Certificates of occupancy may be issued for individual units prior to the issuance of a Certificate of Completion (Site Plan Review Regulations, Section XIV.B) provided that appropriate infrastructure improvements are constructed for support of residential use, as detailed in conditions below. Refer to the color-coded phasing plan superimposed on a Utilities plan sheet submitted to the Board on 8/29/06 (Table 1, Item No. 41).
7. The trash collection area will be screened from view by a combination of fence and hedge.
8. Noise from the construction shall comply with the Site Plan Review Regulations Section XI.N. However, at times that blasting takes place, a noise level above 75 DBA is permitted, provided that one week advance written notification is provided to abutters.
9. No blasting shall take place anywhere within the open space easement for any purpose at any time.
10. The Trash and maintenance areas (trash dumpster enclosure, paved area and fenced perimeter) will be included in Phase One as well as the pump house and will be completed prior to the certificate of occupancy of the first dwelling unit. The storage-maintenance area will be completed and landscaped by the time of the last certificate of occupancy in Phase Three.
11. The applicant will incorporate a paved road maintenance equipment hammerhead and gravel surface parking for four vehicles adjacent to the road maintenance equipment hammerhead as part of the Old Province Road construction. Blacktopping dates will conform to NH Department of Transportation specifications.
12. The off-site improvements to Old Province Road will be constructed in Phase One and Phase Three. Prior to the issuance of the last Phase One dwelling unit certificate of occupancy, a hammerhead at the upper end of Old Province Road must be constructed, Old Province Road must have had the required trees removed, the required drainage structures and devices installed, and the primary and secondary gravel base courses installed.
13. Before the issuance of the first certificate of occupancy in Phase Three, the Old Province Road rough asphalt base course must have been installed. Before the issuance of the last certificate of occupancy in Phase Three, the final Old Province Road asphalt wearing course must have been installed.
14. The applicant will reimburse the Town for the reasonable costs for a professional building inspector as well as a Certified Professional in Erosion and Sediment Control or a Professional Engineer licensed in the State of New Hampshire (“Monitor”) to inspect the site from the start of alteration of terrain activities until the site is in full compliance with the Site Specific Permit (“Permit”) and Goshen regulations and permit decision.
15. During this period, the Monitor shall inspect the subject site once a week during construction, and if possible, during any ½ inch or greater rain event (i.e. ½ inch of precipitation or more within a 24 hour period). If unable to be present during such a storm, the Monitor shall inspect the site within 24 hours of this event.

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16. The Monitor shall provide technical assistance and recommendations to the Contractor on the appropriate Best Management Practices for Erosion and Sediment Controls required to meet the requirements of RSA 485-A:17, all applicable DES permit conditions, and Goshen Regulations and permit conditions.
17. Within 24 hours of each inspection, the Monitor shall submit an email report to the Town Select Board Chair, Planning Board Chair, the applicant, and DES. (At the outset of the project the contact people at DES are Denise M. Frappier at dfraappier@des.state.nh.us and Craig Rennie at crennie@des.state.nh.us. These contacts may change over the course of the project.)
18. The Monitor shall meet with DES and a designated Town official to decide upon a report format. The report format shall be reviewed and approved by DES and the Town prior to the start of construction.
19. Prior to beginning construction, the contractor's name, address, and phone number shall be submitted to DES via email (see above) and the Town.
20. Straw bales will be used for silt fencing in place of hay bales, which can introduce invasive weed species.
21. With the exception of off-site improvements, on-site ground disturbance is prohibited that cannot be graded and seeded by September 15 of any construction year. All site work must be completed by September 15, 2010.

Operations

Infrastructure Maintenance

22. All on-site infrastructures shall be maintained by the condominium association at its own expense.
23. All stormwater infrastructure including detention basins, drainage swales, and velocity dissipaters, and fire protection infrastructure including fire ponds, cistern, hydrants and force mains will be inspected and reported upon to the Goshen Building Inspector and applicant or condominium association every 2½ years by a professional engineer licensed in the State of New Hampshire and at the condominium association's expense. These reports are to identify any needed maintenance or repairs. The engineer will prepare a maintenance program for the infrastructure to which the condominium association will adhere.
24. Septic system inspection and maintenance, according to the manufacturer's specifications, will likewise occur as described above approximately every 2½ years and evidence of compliance will be presented to the Town Building Inspector and applicant or condominium association.
25. All reporting requirements shall include an assessment of infrastructure condition, identify needed repairs or improvements, and recommend any necessary change in maintenance procedures. In terms of fire protection, the report shall additionally include a certification that the permitted quantity of water is available within the Pond and

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cisterns and that hydrants, cistern and forced mains work properly. Report format will be determined by the inspector, applicant and Town.

26. If it is found by the inspecting engineer that less frequent inspections are acceptable, then the association may apply to the Board in writing to amend the frequency of inspection.
27. The Condominium Association is responsible for all maintenance and repair required by site inspections.
28. A signal – such as a prominently visible light or an alarm – shall be triggered at any time that a septic system pump fails to operate.
29. All trash and recyclables collected for disposal will be stored in the confines of the dumpster and disposal shall be in conformance with the Trash Disposal Plan. No trash and recyclables or construction debris from the development will be taken to the Town Transfer Station. No trash and recyclables shall be left outside the confines of the residential buildings or the maintenance area. Trash and recyclables will be stored within individual units, collected, consolidated in the dumpster facility proximate to the maintenance building, and removed from the development by a private company for processing and disposal at a state approved solid waste facility. Recycling will be promoted and accommodated in this disposal plan. Construction debris will also be disposed of by a private company.
30. The applicant shall remove any existing electrical poles and lines that are not in use.

Open Space Management

31. The conditions established in the final easement declaration for the deeded open space shall supplement those listed below. The deeded open space document shall have precedence over the items listed below, should a conflict exist.
32. The Town shall have the right to assign any of its powers and rights under the easement deed to another qualified party after receiving such rights from the developer.
33. The bounds of the deeded open space shall be permanently marked. Displays with maps of the open space boundaries and use restrictions will be provided to each resident and will be displayed on-site at locations specified in the conservation easement document.
34. Use of open space may be for: 1) informal pleasure of the development residents for non-motorized, low-impact activities; 2) accessing ski trails on Mount Sunapee, as permitted in writing by DRED; and 3) deeded space for a public pedestrian-only trail corridor, which will be opened to the public when the Town desires.
35. If private paths for access to the park from this development are constructed, the Board is willing to allow the use of motorized snow grooming equipment on the portion of those paths proposed within the open space easement in the southeast corner of the development.
36. If paths providing a cross-boundary connection to the state park are constructed within the open space or elsewhere on this development, no fees shall be levied against

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development residents, their guests, or other users for access via the development to the park.

37. Prohibited in the restricted open space are: 1) motor vehicles for recreation of any kind; 2) snowmaking equipment; 3) bicycles, 4) horses and other domestic animals with the exception of dogs under direct control of their owner; 5) agriculture or rearing of livestock; 6) disturbing stonewalls; and 7) cutting or removal of trees, shrubs, or other plants without permission from the Town Select Board or third party administrator of the deeded conservation easement or as otherwise provided in the easement document.
38. The existing meadow will be maintained as a meadow in perpetuity by mowing no more frequently than once a year nor less frequently than once every three years. Mowing will occur no earlier than the last week of August to protect ground nesting birds. All mowing bounds shall be permanently marked. Periodic power mowing (as specified above) of the meadow is permitted, as well as occasional use of motorized equipment for repair and maintenance of paths and trails.

Other Conditions

39. Two hard copies and one electronic copy of "As Built" plans are to be submitted to the Board upon completion of the project. In accordance with the Site Plan Review Regulations Section VII.D and Subdivision Regulations Section 4.09.D, the applicant's bond or other security shall not be released until the Planning Board certifies that construction is in reasonable accordance with the Board's final approval. The applicant reserves the right to request that the amount of the bond or other security may be reduced, as construction phases are completed.