

**TOWN OF POMFRET**  
**Zoning Board of Adjustment**  
**Findings and Decision**

**Application #ZP17-25 by Woodstock Resort Corp.** for the construction of new mountain biking trails for seasonal use. The project also includes a request to have an event tent site which would be accessed by the public via the existing chairlift and accessed for event setup purposes via private drive south of the ski area. Events will be for up to 140 people once a month (May through October) between the hours of 8:00 a.m. and 11:00 p.m. (Parcel #0210).

**PROCEDURAL HISTORY:**

1. Woodstock Resort Corp submitted a zoning permit application on October 4, 2017 at the request of the Zoning Administrator (application #ZP17-25) which stated under the description of proposed work: “for the construction of new mountain biking trails for seasonal use. The project also includes a request to have an event tent site which would be accessed by the public via the existing chairlift and accessed for event setup purposes via private drive south of the ski area. Events will be for up to 140 people once a month (May through October) between the hours of 8:00 a.m. and 11:00 p.m.”
2. The application was considered by the Zoning Board of Adjustment (ZBA) at a public hearing on November 9, 2017, which was recessed and reconvened on December 5, 2017. The December 5, 2017 hearing was recessed and reconvened on May 3, 2018. The May 3, 2018 was closed at the conclusion of the proceedings. Minutes of the hearings are available in separate documents.
3. Participating at the November 9, 2017, December 5, 2017, and May 3, 2018 hearings were the following ZBA members: Alan Blackmer (Chair), Michael Reese, Loie Havill, and Shaun Pickett.
4. Participants in the hearings included other Pomfret town officials, representatives of the Applicant, abutters and others.
5. At the outset of the hearing on November 9, 2017, the ZBA afforded an opportunity for persons wishing to achieve status as an interested person under 24 V.S.A. § 4461(b) and 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in the subsection are met. Leigh Pops (abutter) and Hank Paine (by written request) (abutter) were granted status as interested persons. At the outset of the hearing on December 5, 2017, the ZBA afforded an opportunity for persons wishing to achieve status as an interested person and granted interested party status to Jim and Sharlene Kelly (abutter) (by written request). At the outset of the hearing on May 3, 2018, the ZBA afforded an opportunity for persons wishing to achieve status as an interested person. There were no additional party status requests.
6. During the course of the hearing on November 9, 2017, the Applicant submitted the following exhibits to the ZBA:
  - Completed Zoning Permit Application #ZP17-25 dated October 10, 2017.
  - Site plan depicting mountain biking trails and tent site area.
  - Vermont Natural Resources Board Act 250 Application including the following exhibits:

Schedule G; Location Map; Permit Narrative dated September 14, 2017; Trail Maintenance Plan; Forest Management Plan; Gully Road Lease; Ryan Longfield Email; Site Plan; Vermont Agency of Natural Resources Comments; and Pomfret Selectboard Letter dated October 19, 2017.

- Riparian Buffer Management Plan, revised February 20, 2018.
  - Overall Site Plan, dated March 19, 2018.
  - Exhibit 21 and Exhibit 22, submitted to the Zoning Administrator after the close of the May 3, 2018 hearing.
7. During the course of the hearing on December 5, 2017, the Applicant submitted the following additional exhibits to the ZBA:
- Letter from Applicant's engineer, Craig Jewett, P.E. of Otter Creek Engineering, dated December 4, 2017.
  - Updated site plan dated 11/28/17 depicting the accurate tent site, deer wintering areas and wetland areas.
  - State of Vermont Emergency Operations Plan (Base Plan); and Suicide Six Ski Area Lift Evacuation Protocols, Revised December 2016.

### **FINDINGS, CONCLUSIONS, DECISION AND CONDITIONS:**

The uses proposed in application #ZP17-25 are non-conforming uses under Section 7.1 of the Pomfret Zoning Ordinance. As required by Section 11.3 of the Zoning Ordinance, before authorizing a permit for the proposed uses, the ZBA must find that the uses conform with the Pomfret Town Plan and the Pomfret Zoning Ordinance, and further find that the proposed uses will not:

1. Unreasonably burden the town to provide the site municipal services, including, but not limited to: highway maintenance, fire and police protection, and school bus service.
2. Create a health hazard because of inadequacy of water supply and sanitary facilities or for other reasons.
3. Create a pedestrian or vehicular hazard or congestion because of inadequate parking, loading or storage facilities or other factors.
4. Lead to or be subject to flooding, ponding, or soil erosion at the proposed site.
5. Create a public nuisance or adversely affect the character of the area as well as the comfort, convenience and general welfare of the community.

In approving an application for a permit for a non-conforming use, the ZBA may impose such reasonable conditions or performance standards as it may deem necessary to implement the purpose and relevant provisions of the Zoning Ordinance and to safeguard the public welfare. Pomfret Zoning Ordinance Section 11.10.

Based on the application, testimony, exhibits and other evidence the Zoning Board of Adjustment **approves** the application #2017-25 by Woodstock Resort Corp. for the construction of new mountain biking trails for seasonal use. The ZBA also approves the event tent activities and the site which the public would access via the existing chair lift. Event tent setup personnel and event hospitality staff may access the site via Austin Road. Events will be for up to 140 people once a month (May through October). All activity associated with events at the tent site at the top of the chairlift shall cease within one hour after sunset using the Eye on the Sky Vermont Weather Resource as the point of interest ([www.fairbanksmuseum.org/eye-on-the-sky](http://www.fairbanksmuseum.org/eye-on-the-sky)). This includes vacating guests, vendors, caterers and band from the site, extinguishing all lighting and ceasing all noise.

The Zoning Board of Adjustment further orders:


- A. Applicant's proposed uses shall conform to its submissions, plans and representations, including those described in the Minutes and these Findings and Decision, except as modified by the conditions provided for in this Decision.
- B. The proposed uses conform with the Pomfret Town Plan's mixed-use pattern of development in the South Pomfret Village Area. The proposed mountain biking trails are consistent with the Town Plan's goals for recreational development.
- C. Pursuant to Section 11.3 of the Pomfret Zoning Ordinance, the proposed uses, as conditioned by this Decision, conform with the Pomfret Zoning Ordinance and will not:
  - 1. Unreasonably burden the town to provide the site municipal services, including, but not limited to: highway maintenance, fire and police protection, and school bus service.
  - 2. Create a health hazard because of inadequacy of water supply and sanitary facilities or for other reasons.
  - 3. Create a pedestrian or vehicular hazard or congestion because of inadequate parking, loading or storage facilities or other factors.
  - 4. Lead to or be subject to flooding, ponding, or soil erosion at the proposed site.
  - 5. Create a public nuisance or adversely affect the character of the area as well as the comfort, convenience and general welfare of the community.
- D. All unreimbursed ambulance calls relating to Applicant's proposal shall be paid for by Woodstock Resort Corp. to the Town of Pomfret upon receipt of bill from the Town of Woodstock or other ambulance provider.
- E. Hours of operation of the trails during the mountain biking season shall be permitted only from May through October and shall not exceed 10am to 5pm.
- F. Mountain biking operation is approved for the permit request of 7 days.
- G. Mountain biking participants shall be required to stay on the identified marked trails.
- H. A safety patrol shall be active on the biking trails between 10am and 5pm.
- I. Signage shall be prominently placed at all trail and other entrances prohibiting use of the mountain biking trails or other property outside of the hours of operation described in this Decision.
- J. No more than 350 individuals may use the chairlift per week which use shall include mountain biking participants, scenic viewers and others. Any use in excess of the 350 individuals on the chair lift must go before the ZBA for approval. Applicant shall provide records of chairlift and trail use tickets upon request by the Zoning Administrator.
- K. There will be no use of the mountain biking trails during the winter months from November to April.

- L. Events shall be limited to once a month during the months of May through October. Any music or other noisy activities shall cease at 10pm. An "Event" is defined as a wedding, wedding reception, mountain biking event or business meeting.
- M. Sound levels shall not exceed 70 decibels on the Applicant's property and 50 decibels at exterior living areas of area homes and businesses.
- N. All activity associated with events at the tent site at the top of the chairlift shall cease within one hour after sunset using the Eye on the Sky Vermont Weather Resource as the point of interest ([www.fairbanksmuseum.org/eye-on-the-sky](http://www.fairbanksmuseum.org/eye-on-the-sky)). This includes vacating guests, vendors, caterers and band from the site, extinguishing all lighting and ceasing all noise.
- O. Any lighting used at the events tent shall be temporary and shall be fully shielded to prevent cast off to neighbors.
- P. Applicant shall provide access for emergency vehicles at the base lodge.
- Q. There shall be no more than 6 round trips on Austin Road for each Event for which use is limited to individuals and materials involved in operating the Event, including setting up and tearing down the Event.
- R. A company vehicle will be on premises at the top during an Event.
- S. Patrol personnel will be on site at all times during any operation of the Chairlift.
- T. No fireworks are permitted.
- U. All neighbors, abutters of Applicant's property and the Zoning Administrator must be notified in advance of an Event that is scheduled for the Event tent site.

This decision of the Zoning Board of Adjustment regards only the application by Woodstock Resort Corp. for the activities referenced herein on the lands of the Woodstock Resort Corp/Suicide Six Ski Area. The conformity of any other uses or activities on Applicant's property was not considered or addressed in this decision.

Members Alan Blackmer, Michael Reese, Loie Havill, and Shaun Pickett voted in the affirmative.

Dated at Pomfret, Vermont, this 5<sup>th</sup> day of May 2018.



Alan Blackmer, Chair  
Pomfret Zoning Board of Adjustment

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings before the Zoning Board of Adjustment. Such appeal must be taken within 30 days of the date of this decision pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.