



Staff Report

Zoning and Land Regulation
Committee

Public Hearing: **October 23, 2018**

Zoning Amendment:
None

Acres: 125
Survey Req. No

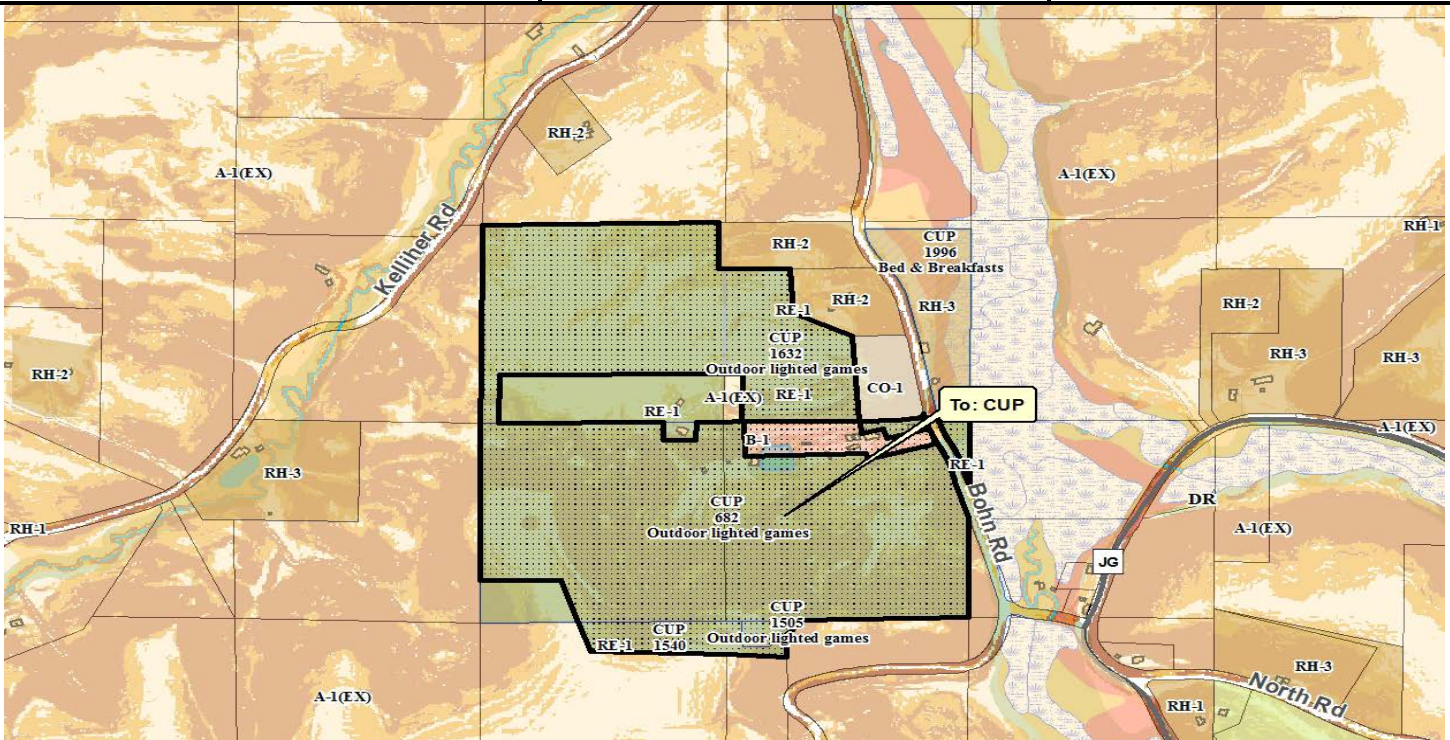
Reason:
**CUP: expand recreational areas
lighted at night**

Petition: **CUP 02441**

Town/sect:
VERMONT, Section 33

Applicant
TYROL PROPERTIES LLC

Location:
3487 BOHN ROAD



Description: Tyrol Properties LLC has recently purchased Tyrol Ski Basin. The new owner would like to install a tubing hill on the north end of the property. The tubing area is proposed to be illuminated at night. Although tubing slides are permitted by right in the RE-1 Zoning District, areas lighted at night need a conditional use permit. A warming hut has also been proposed to facilitate ticket sales, provide rental lockers, and serve snacks and beverages. All of the outside lighting fixtures around the resort will be retrofitted with LED lighting.

History: In 1966, 120 acres of the property was rezoned to RE-1, Recreational Zoning District, in order to start a ski resort. Around 1977, a house (residence for owner/caretaker of the ski hill) was constructed in the center of the RE-1 Recreational Zoning District. In 1988, outdoor lighting was approved allowing the ski slopes to be illuminated and approvals were granted to have a ski lodge (restaurant/bar) on the property. In 1998, an additional 12 acres of land, located in the northeast corner of the property, was rezoned to RE-1 to allow for additional patron parking. In 2000, detailed approvals were granted for the expansion of the business. The approval outlined specific provisions for the allowable uses, lighting, hours of operation, parking, and special events. (See current deed restrictions.) In researching the approvals in 2000, the site plan submitted showed the installation of a tubing hill in the proposed location. The information submitted in 2000 referenced the entire RE-1 area being lighted at night, but the Conditional Use Permit issued in 2000, did not list the entire property.

Observations: The property is located in a hilly area surrounded by woodlands. The ski resort has been operating on the property for over 50 years and has had outdoor lighting for 30 years. Throughout the years, the operation has been slowly expanding to maintain viability. There are three single family residences located within ½ mile of the activity area, two of which were constructed for owners/managers of Tyrol Basin. Bohn Creek is located to the east of the property running along the east side of Bohn Road. The proposed tubing area consists of Class III soils.

Staff Report for Conditional Use Permit No. 2441 (continued)

Proposed Illumination: The entire recreational area will be retrofitted with new LED luminares. The light fixtures are designed with the lighting element tucked inside the housing to direct illumination downward rather than sideways. The additional lighting proposed to be installed by the tubing hill will be positioned at a height of 25 feet and will be directed in the northeast direction. An example of the proposed lighting can be found at the following website: <https://youtu.be/9ZRSUkwJUnw>

Resource Protection: The property is located outside the environmental resource protection area, however, the Town Plan references hilltops as an area of resource protection.

Town Plan: The Town Plan identifies the property within the Agricultural Preservation Area. The plan identifies Tyrol Basin as one of the two largest employers in the Town. Recreational proposals are limited to those uses having minimal impact on the natural environment. Access to a state or county highway is preferred. However, if a town road is involved, the applicant must demonstrate minimal impact to neighbors. If the town road requires improvement, the applicant will be required to pay their share of such improvement.

Staff: It appears that the property is being developed in accordance with the plans that were approved in 2000. The proposed conditional use permit will clarify the areas of the property to be illuminated.

Town: The Town Board may take action on the CUP on November 12th.

In order for an applicant to obtain a Conditional Use Permit, the Zoning and Land Regulation Committee must find that all of the following standards are met for the proposed land use:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
2. The uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
3. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; and
5. That adequate measures have been or will be being taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

Oct 23rd ZLR meeting: The Committee postponed action due to no town action and public opposition. There were concerns regarding light pollution, increased traffic, road conditions, increased noise, safety, the expansion beyond current approvals, conflict with Town plan policies, impact on neighboring streams, and having a negative impact on neighboring property values.

Staff Update:

County Staff had Corporation Counsel review the previous approval that happened in 2000. He noted that the information for CUP #1632 shows that Tyrol Basin received approvals to illuminate the entire property and noted that the entire property was listed in the recorded deed restriction. However, there was a ministerial error in the creating of the conditional use permit document. Corporation Counsel had suggested that a simple solution to the matter would be for the ZLR Committee to direct staff to correct the legal description for CUP #1632 to reflect the correct description without having any other additional approvals. Another option would be to approve the proposed conditional use permit noting the correct legal description.

In speaking with Nathan McGree, the new owner, he understands the concerns raised by the public. He would like to address them by limiting the color temperature of the lighting, having language on the CUP for modifications in the direction of lighting if concerns are raised, and the installation of a fence for safety. See suggested conditions on the next page.

Staff Report for Conditional Use Permit No. 2441 (continued)

Staff has prepared a list of conditions that may be used in order to meet the six standards as listed above and address the concerns raised at the public hearing to allow the conditional use on the property.

1. This conditional use permit will allow the entire property (attached description) to be lighted at night in accordance with the provisions below.
2. Outside light fixtures shall be located in the areas for the existing outdoor activities, the proposed tubing area, and for safety (parking lots and walkways).
3. All lights shall be installed and/or maintained in a manner (including directional LED lights, hoods or shields) so as to minimize direct illumination of adjoining premises and the night sky. No amount of relocation, aiming, or shielding will eliminate direct viewing or reflection of some of the lighting. If a specific fixture can be identified as posing a concern to a neighbor, Tyrol will review and make modifications if possible or reasonable from both an operational and economic (cost) perspective.
4. If current lighting is replaced or new lighting installed, the luminaires shall have a maximum Kelvin color temperature of 4000k.
5. Hours of lighting operation shall be limited to when the facility is open for recreational purposes or special events. However, partial lighting may be continued after closing provided every reasonable effort shall be made to limit lighting to only those areas where maintenance, snow making or grooming are taking place.
6. A safety and privacy fence shall be installed along the top of the tubing hill, near the northeast side of the Reinhold property.

Staff Update: The Town Board approved the Conditional use permit at their November 12th meeting with 6 conditions as noted above. The Board stated that the approval of CUP #2441, with associated 6 conditions, specific to a correction to the legal description associated with CUP #1632 that was approved in 2000 on the basis of the six standards being met.