

**Town of Dover**  
P.O. Box 428  
West Dover, VT 05356  
(802) 464-8720

**DOVER DEVELOPMENT REVIEW BOARD**  
**NOTICE OF DECISION**  
**Application 19-RT110C-01**

**A. PROCEDURAL HISTORY & APPLICANT REQUEST**

1. Landowner: Boulder Ridge REO, LLC
2. Applicant: Michael S. McGillion, Esq.
3. Brief Description of Request: Various site plan revisions to conform the PUD project to requirements of the Vermont Wetlands Rules and changes to the landscape plan to conform to a request from the Vermont Agency of Natural Resources, in accordance with Sections 380 & 385, and Article 7 of the Dover Zoning Bylaw (the "Bylaw" herein).
4. A copy of the application was received by the Zoning Administrator on December 21, 2018
5. On January 8, 2019, a copy of the Notice of Hearing was mailed to the Applicant, along with a sample letter and abutter's list for notifying all abutters.
6. Public notice of the hearing was posted at the following locations on January 8, 2019:
  - a. Dover Town Clerk's Bulletin Board
  - b. Dover Town Meeting Room Bulletin Board
  - c. Dover Free Library & Dover Elementary School via email
  - d. East Dover Post Office via regular mail
  - e. Town of Dover website: [www.doververmont.com](http://www.doververmont.com)Public notice of the hearing was also published in the Deerfield Valley News on January 10, 2019
7. At the outset of the hearing, the Chair afforded all persons wishing to establish status as an interested party the opportunity to do so; no requests for Interested Party status were made or granted.
8. A public hearing was opened and closed on February 7, 2019. A complete list of exhibits and attendees is included in the meeting minutes. Minutes, application materials and exhibits are available for viewing by the public in the Dover Town Office through the Zoning Administrator.

**B. FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

Based on the application, testimony, exhibits and other evidence, the Dover DRB finds and concludes as follows:

1. The property is located at 386 Route 100 in West Dover, VT, and is located in the

Vacation Zone (Resort Overlay) (VAC) under the Dover Zoning Bylaws.

2. The project, known as Boulder Ridge, was previously approved in 2006 as a 50-unit Planned Unit Development, comprised of twenty-five (25) duplex buildings and a community/maintenance building. The project has not been fully built out and only 8 buildings presently exist on site.
3. The hearing was properly warned.
4. All abutters were notified by the Applicant.
5. The Applicant, Attorney McGillion, and engineers Corey Frehsee and Ham Hodgman of Stevens Associates, were properly sworn prior to providing testimony.
6. "Planned Unit Development" is a conditional use in the VAC District. Pursuant to the General Standards for Conditional Use in Bylaw Section 380, the Board concludes that the proposed revision of certain project plans to conform with the current Wetlands Rules, and to conform with a request from the Agency of Natural Resources for additional screening for the bear corridor, as proposed in the Application, has no undue adverse effect on, and therefore satisfy, the following:
  1. The capacity of existing or planned community facilities.
  2. The character of the area affected, as defined by the purpose or purposes of the VAC District, which are: to support resort related residential and mixed-use commercial development. Development shall be located near existing resort areas and services that are readily accessible by the Town's existing road system.
  3. Traffic on roads or highways in the vicinity.
  4. The current Bylaw and other Town ordinances.
  5. Utilization of renewable energy resources.
7. Pursuant to the Specific Standards for Conditional Use in Bylaw Section 385, the Board finds and concludes as follows:
  1. The lands under consideration do not fall within a Flood Hazard Zone; therefore Article 5 is not applicable.
  2. There are no relevant sections of Article 6 to be considered.
  3. The standards of Section 385.2, 385.3, 385.4, 385.5 and 385.6 are not applicable to this Application.
8. The Applicant is requesting revisions to the previously approved project site plans for the purpose of bringing the plans into conformance with requirements of the Vermont Wetland Rules.

9. The project site plans, approved in 2006, characterized the wetland in question as a “Class III” wetland and provided a 25 foot buffer zone around the wetland as delineated. More recently, the Agency determined that the involved wetland was a Class II Wetland, as defined by the Vermont Wetland Rules, and authorized 26,871 square feet of wetland buffer impact in connection with the project.
10. To bring the PUD into conformance with the Wetland Permit and Rules, which require a 50 foot buffer zone around Class II wetlands, unless otherwise authorized, the footprints of the buildings containing units 41-50 -- a total of 5 (five) buildings -- along with a section of a road interior to the development, have been shifted to the west, away from the wetlands and wetlands buffer. These changes are reflected in the following revised project site plans: C-3 Layout Plan, C-4 Grading & Drainage Plan, C-5 Utilities Plan and C-17 Landscape Plan.
11. The project’s wetland buffer impact is further mitigated by a “development restriction” contained in a Quitclaim Deed. This development restriction prevents the construction of additional structures on that portion of the involved land described in the Quitclaim Deed and associated documents.
12. This proposed westerly shift of buildings and roadway does not alter the number or general layout of the buildings within the Planned Unit Development.
13. At the request of the Agency of Natural Resources, additional screening for the bear corridor has been added to the revised landscaping plan.
14. The overall parking count is reduced from 137 spaces to 126 spaces. This still meets the minimum parking requirements for the PUD.
15. Pursuant to the General Development Standards for PUDs in Bylaw Section 720 & 725, the Board finds and concludes that this Application proposes no changes that materially alter, or that would have an undue adverse impact on, the previously approved PUD.


### **C. DECISION**

Based on the evidence presented and the Board’s Findings of Fact and Conclusions of Law, by a vote of 5-0-0, the Board approves the site plan and landscape plan changes to conform to the revised Vermont Wetland Rules and a request from the Agency of Natural Resources, with the following conditions:

1. A Copy of Individual Wetland Permit and Determination No. 2018-082 (the “Wetland Permit”), issued to the Owner on or about November 16, 2018, by the State of Vermont, Agency of Natural Resources, shall be supplied to the Zoning Administrator for inclusion in the PUD file.

2. A copy of the Quitclaim Deed from Boulder Ridge REO, LLC, to Boulder Ridge REO, LLC, dated October 15, 2018, and recorded in Book 351, at Pages 201-202 of the Dover Land Records (including any associated map) shall be supplied to the Zoning Administrator for inclusion in the PUD file.
3. The PUD shall be constructed, operated and maintained in a manner consistent with the development restriction contained in the Quitclaim Deed referenced above, which shall not be changed without the prior approval of the DRB.
4. The PUD shall be constructed, operated and maintained in a manner consistent with revised project plans, approved herein, the terms and conditions of this approval, and the application, plans and exhibits on file with the DRB.
5. Except as otherwise provided herein, or reflected in the revised plans approved in conjunction herewith, all other aspects of the previously approved PUD, and all terms and conditions of approval related thereto, shall remain binding and full force and effect.

Respectfully submitted,



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Sarah K. Shippee  
Chairperson, Dover Development Review Board

**March 14, 2019**

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Date

**NOTICE: This decision may be appealed to the Environmental Division of Vermont Superior Court by an interested party who participated, by offering oral or written testimony, evidence or a statement of concern regarding this application before the DRB. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.**

**NOTICE: State permits may be required for this project. Call 802-282-6488 to speak to the regional Permit Specialist before beginning any construction.**